COMMITTEE ON RULES OF PRACTICE AND PROCEDURE
OF THE
JUDICIAL CONFERENCE OF THE UNITED STATES
WASHINGTON, D.C. 20544

MEMORANDUM

TO: Hon. John D. Bates, Chair
Committee on Rules of Practice and Procedure

FROM: Hon. Rebecca B. Connelly, Chair
Advisory Committee on Bankruptcy Rules

RE: Report of the Advisory Committee on Bankruptcy Rules

DATE: May 12, 2025

I. Introduction

The Advisory Committee on Bankruptcy Rules met in Atlanta on April 3, 2025. The draft minutes of that meeting are attached.

At the meeting, the Advisory Committee voted to seek final approval following publication of amendments to Bankruptcy Rules 1007 (Lists, Schedules, Statements, and Other Documents; Time to File), 3018 (Chapter 9 or 11—Accepting or Rejecting a Plan), 5009 (Closing a Chapter 7, 12, 13, or 15 Case; Declaring Liens Satisfied), 9006 (Computing and Extending Time; Motions), 9014 (Contested Matters), 9017 (Evidence), new Rule 7043 (Taking Testimony), and amendments to Official Form 410S1 (Notice of Mortgage Payment Change). In addition, the Advisory

Committee voted to seek final approval without publication of corrective amendments to Rules 2007.1 (Appointing a Trustee or Examiner in a Chapter 11 Case) and 3001 (Proof of Claim).

The Advisory Committee also voted to seek publication for comment of proposed amendments to Official Form 106C (Schedule C: The Property You Claim as Exempt).

Part II of this report presents those action items. They are organized as follows:

A. Items for Final Approval

1. Rules and Form published for comment in August 2024:

- Rule 3018;
- Rules 9014, 9017, and new Rule 7043;
- Rules 1007(c), 5009, and 9006;
- Official Form 410S1.

2. Technical amendments to Rules not published:

- Rule 2007.1;
- Rule 3001.

B. Item for Publication

- Official Form 106C.

Part III of this report presents two information items. The first is a report regarding the withdrawal of a proposed amendment to Rule 1007(h). The second discusses two suggestions to allow masters to be used in bankruptcy cases and proceedings.

II. Action Items

A. Items for Final Approval

1. The Advisory Committee recommends that the following rule and form amendments and new rule that were published for public comment in 2024 and are discussed below be given final approval. Bankruptcy Appendix A includes the rules and forms that are in this group, along with summaries of the comments that were submitted.

Action Item 1. Rule 3018 (Chapter 9 or 11—Accepting or Rejecting a Plan). The proposed amendments to subdivision (c) would authorize a court in a chapter 9 or 11 case to treat as an acceptance of a plan a statement on the record by a creditor or its attorney or authorized agent. Conforming amendments would also be made to subdivision (a).

Three sets of comments were submitted regarding the proposed amendments. One was based on an erroneous reading of the proposed amendments. It addressed the change or withdrawal of *ob*jections to plans, not *re*jections (i.e. votes).

The second comment was submitted by the National Conference of Bankruptcy Judges. It proposed a wording change to subdivision (c)(1)(B)(i) that would spell out in greater detail how a stipulation might be made. The Advisory Committee, however, concluded that the more succinct wording is preferable. A written stipulation that is filed becomes part of the record, and the amendment explicitly covers statements that are a "part of the record."

The final comment was submitted by Bankruptcy Judge Robert Kressel (ret.). He pointed out that subdivision (c)(1)(B) as published did not apply to individual creditors. That view was apparently based on the provision's reference only to statements by attorneys and authorized agents of creditors. In contrast to subdivision (c)(1)(A), it thus seemed to exclude statements by individual creditors—real people who can represent themselves. The Advisory Committee believed this exclusion was unintended and voted to reword subdivision (c)(1)(B)(ii) as follows: "made by ~~an attorney for or an authorized agent of~~ the creditor or equity security holder—or its attorney or authorized agent." It also revised the second sentence of the Committee Note accordingly.

After the deadline for the submission of comments, Judge Connelly received a letter from the acting Deputy Attorney General regarding the proposed amendments. It was treated as a suggestion and posted on the AO website. The letter explained that the Department of Justice had no objection to the text of the proposed amendments and it endorsed the statement in the committee note that "[n]othing in the rule is intended to create an obligation to accept or reject a plan." The letter was sent to underscore the limits of the proposed amendment. The suggestion that gave rise to the amendment—from the National Bankruptcy Conference—was motivated by a concern that government entities often do not vote on plans, even if they do not object to them. The Department wanted it understood that the increased flexibility in voting methods provided by the amendment, which the Department supports, cannot add a substantive requirement that creditors must vote on a plan or that courts could compel the United States or federal agencies to do so.

With the wording changes made in response to Judge Kressel's comment, the Advisory Committee give its approval to the proposed amendments to Rule 3018(a) and (c).

Action Item 2. Rules 9014 (Contested Matters), 9017 (Evidence), and new Rule 7043 (Taking Testimony). The proposed amendments and new rule would facilitate video conference hearings for contested matters in bankruptcy cases. Currently Rule 9017 makes applicable to

bankruptcy cases Fed. R. Civ. P. 43 (Taking Testimony). Fed. R. Civ. P. 43(a) allows a court to permit testimony in open court by contemporaneous transmission from a different location "for good cause in compelling circumstances." The proposal would (1) amend Rule 9017 to eliminate the applicability of Fed. R. Civ. P. 43 to bankruptcy cases generally; (2) create a new Rule 7043 (Taking Testimony) that would make Fed. R. Civ. P. 43 applicable in adversary proceedings; and (3) amend Rule 9014 to allow a court to "permit testimony in open court by contemporaneous transmission from a different location" for "cause and with appropriate safeguards."

The Advisory Committee received four comments on the proposals and in response to one of those comments approved minor changes to clarify that any testimony in a contested matter would be governed by the rule, not merely testimony in response to motions. First, the Advisory Committee approved a modification of the title of Rule 9014(d)(2), changing it from "Evidence on a Motion" to "Evidence." Second, the Advisory Committee modified the text of Rule 9014(d)(2) to change the phrase "When a motion in a contested matter" to "When resolution of a contested matter" and changed the phrase "the court may hear the motion" to "the court may hear the matter." (The latter change conforms the language in Rule 9014(d)(2) to the same language in Civil Rule 43(c)). Third, in the first sentence of the third paragraph of the Committee Note, the Advisory Committee deleted the phrase "is a motion procedure that."

In addition, in response to comments submitted outside of the publication process by a former Advisory Committee member, the Advisory Committee approved inserting the word "generally" between the words "do not" and "require" in the third paragraph of the Committee Note to reflect the fact that some contested matters might require the procedural formalities used for adversary proceedings.

The Advisory Committee does not believe these changes require republication as they merely clarify that any testimony in the contested matter – whether on a motion or not – is subject to the rule. This is in fact the way that Civil Rule 43(c) has been interpreted even though it refers to a "motion," and therefore no change in substance is made by the modifications. The Advisory Committee considered whether to retain language that is parallel to Civil Rule 43(c) for the sake of uniformity, but decided that more specificity in the text was advisable.

The Advisory Committee approved the new Rule 7043 and the amended Rule 9017 as published and approved the amended Rule 9014 with the noted changes.

Action Item 3. Rules 1007(c) (Time to File), 5009 (Closing a Chapter 7, 12, 13, or 15 Case; Declaring Liens Satisfied), and 9006 (Computing and Extending Time; Motions). These amendments were proposed with the goal of reducing the number of individual debtors who go through bankruptcy but whose cases are closed without a discharge because they either failed to take the required course on personal financial management or merely failed to file the needed documentation of their completion of the course.

The proposed changes consist of the following:

1. *The deadlines in Rule 1007(c) for filing the certificate of course completion would be eliminated.* The Code only requires that the course be taken before a discharge can be issued, and members of the Advisory Committee were concerned that some debtors might be deprived of a discharge merely because they failed to file their certificates by the times specified in the rules. The proposed amendments would delete subdivision (c)(4), which sets out the deadlines for filing the certificate of course completion in chapter 7, 11, and 13 cases. References to the deadlines in Rule 9006(b) and (c) would also be deleted.

2. *Rule 5009(b) would provide for two reminder notices to be sent, rather than one.* This change would allow one notice to be sent early in the case—when the debtor would be more likely to be reachable and still represented by counsel—and another, if needed, toward the end of the case before eligibility for a discharge would be determined.

Two comments were submitted that specifically addressed these rules. One addressed Rule 9006 generally and did not relate to the proposed amendments, and the other was supportive of proposed amendments. The Advisory Committee approved them as published.

Action Item 4. Official Form 410S1 (Notice of Mortgage Payment Change). The amendments to the form were proposed to reflect the amendments to Rule 3002.1(b) regarding payment changes in home equity lines of credit ("HELOCs") that will take effect on December 1, 2025. Rule 3002.1(b)(2) will allow the holder of a HELOC to provide an annual notice of payment change (with a reconciliation amount), instead of notices throughout the year each time there is a change. The proposed amendments to the form will accommodate this option with a new Part 3.

No comments were submitted, and the Advisory Committee gave its approval to the proposed amendments to Form 410S1 as published.

2. The Advisory Committee recommends that the following corrective rule amendments be given final approval without publication. Bankruptcy Appendix A includes the rules that are in this group.

Action Item 5. Rule 2007.1(b)(3)(B) (Appointing a Trustee or Examiner in a Chapter 11 Case). The restyled version of Rule 2007.1(b)(3)(B) includes a sentence that reads: "The report must be accompanied by a verified statement by each candidate, setting forth the candidate's connections with any entity listed in (A)(i)-(vi)." However, Rule 2007.1(b)(3)(A) lists the entities in six bullet points, not as (i) – (vi). Therefore, a technical correction is needed.

The Advisory Committee approved an amendment that would modify the sentence in Rule 2007.1(b)(3)(B) to read "The report must be accompanied by a verified statement by each candidate, setting forth the candidate's connection with any entity listed in (A)." The only change is the deletion of the erroneous references to (i)-(vi).

Action Item 6. Rule 3001(c) (Required Supporting Information). The Advisory Committee received a suggestion from the National Consumer Law Center noting a potentially inadvertent substantive change in Bankruptcy Rule 3001(c) effected by its restyling.

The prior version of Rule 3001(c)(2)(D) allowed a court to impose sanctions "if the holder of a claim fails to provide any information required by this subdivision (c)." Unrestyled subdivision (c)(3) required that certain information be provided relating to claims based on an open-end or revolving consumer credit agreement. Because the information required by (c)(3) was "information required by this subdivision (c)," the sanctions provision in (c)(2)(D) was applicable to that provision of the rule.

The restyling of Rule 3001, however, redesignated former subdivision (c)(2)(D)—the sanction provision—as (c)(3) and limited the availability of sanctions to the failure "to provide information required by (1) or (2)." Former subdivision (c)(3) was redesignated as (c)(4), as a result of which the sanctions provision no longer applies to it. This was an inadvertent substantive change.

The Consumer Subcommittee recommended that the Advisory Committee approve a technical amendment to Rule 3001(c)(3) to correct this substantive change by replacing the current phrase "information required by (1) or (2)" with the words "information required by (c)."

A suggestion was made at the Advisory Committee meeting to have the sanctions provision follow all of the substantive provisions to which it applies. The Advisory Committee agreed with that suggested modification of the subcommittee's recommendation. It therefore approved amendments reversing the order of the provisions in (c)(3) and (c)(4) and modifying the new (c)(4) to read "information required by (c)." It also approved a conforming change to the cross-reference in subdivision (c)(1).

B. Item for Publication

The Advisory Committee recommends that the following form amendment be published for public comment in August 2025. Bankruptcy Appendix B includes the form in this group.

Action Item 7. Official Form 106C (Schedule C: The Property You Claim as Exempt). The Advisory Committee received a suggestion from a chapter 12 and chapter 13 trustee to amend Official Form 106C to include a total amount of assets being claimed exempt. Section 589b(d)(3) of title 28 requires the uniform final report submitted by trustees to total the "assets exempted." Without the amount totaled on the form, trustees must manually add up the amounts on each form to prepare the required final report.

Official Form 106C was revised in 2015 in response to the Supreme Court's decision in *Schwab v. Reilly*, 560 U.S. 770 (2010), which stated that a debtor could list as the exempt value of an asset on Schedule C "'full fair market value (FMV)' or '100% of FMV,'" rather than a specific

dollar amount. So now there are two options on the form under the column for "Amount of the exemption you claim": a specific dollar amount and "100% of fair market value, up to any applicable statutory limit." Because of that unspecified dollar option, no total amount of claimed exemptions is asked for.

The U.S. Trustee Program has promulgated a regulation pursuant to 28 U.S.C. 589b(d) regarding the completion of forms for the trustee's final report. *See* 28 C.F.R. 58.7. The regulation sets forth a list of items to be included in the trustee's distribution report, including "assets exempted."

The statute does not explain "assets exempted." But the U.S. Trustee Program addressed this issue in response to comments received to the proposed regulation. In the interest of setting a uniform standard that is reasonable and would not require the trustee to expend significant additional resources, the Executive Office for U.S. Trustees ("EOUST") defined "assets exempted" as the total value of assets listed as exempt on the debtor's Schedule C, unless revised pursuant to a court order. The instructions to the final reports reflect this definition and note that 28 U.S.C. § 589b(c) requires the rule to "strike the best achievable practical balance between (1) the reasonable needs of the public for information about the operational results of the Federal bankruptcy system, (2) economy, simplicity, and lack of undue burden on persons with a duty to file these reports, and (3) appropriate privacy concerns and safeguards."

Guided by this information, the Advisory Committee understood that assets claimed as exempt on Form 106C are treated as "assets exempted" for purposes of the trustee's final report, subject to any subsequent amendments or revisions pursuant to a court order. It also reasoned that, in light of the EOUST's "attempt[] to balance the reasonable needs of the public for information with the need not to unduly burden the standing trustees who must file the final reports," adding up and reporting just the specific dollar amounts claimed is acceptable. As a result, the Advisory Committee is proposing for publication an amendment to Form 106C to provide a total of the specific-dollar exemption amounts. It also approved for publication the addition of a space on the form for the total value of the debtor's interest in property for which exemptions are claimed.

III. Information Items

Information Item 1. Withdrawal of a proposed amendment to Rule 1007(h). Last August an amendment to Rule 1007(h) (Interests in Property Acquired or Arising After the Petition is Filed) was published for comment. This amendment would have explicitly allowed a court to require the debtor to file a supplemental schedule to list property or income that becomes property of the estate under § 1115, 1207, or 1306—that is, property that "the debtor acquires after commencement of the case but before the case is closed, dismissed, or converted" and "earnings from services performed by the debtor" during that period.

Seven comments were filed addressing this proposed change. All of them were negative. The commenters were the National Conference of Bankruptcy Judges, the National Association of

Consumer Bankruptcy Attorneys, the National Bankruptcy Conference, and 4 individuals. They expressed a number of reasons for opposing the amendment, including that the proposed amendment was unnecessary, it might be seen as endorsing a requirement not imposed by the Code and that is the subject of conflicting case law, it would give no guidance about what would have to be disclosed, and it would lead to greater disuniformity among districts.

The concerns raised by the commenters were similar to the reasons the Consumer Subcommittee initially opposed an amendment that would have required disclosure in all cases of § 1115, 1207, and 1306 property. The comments led the Advisory Committee to conclude that the middle ground proposal that was published did not escape these problems. Accordingly, the Advisory Committee voted to withdraw the proposed amendment and not pursue it further.

Information Item 2. Suggestions to allow masters to be used in bankruptcy cases and proceedings. Two suggestions to amend Rule 9031 (Using Masters Not Authorized) have been submitted to the Advisory Committee, one by Chief Bankruptcy Judge Michael B. Kaplan of the District of New Jersey and the other by the American Bar Association. These suggestions propose amendments that would allow masters to be used in bankruptcy cases and proceedings, a matter that the Advisory Committee has considered several times in the past and declined to propose. At its spring 2024 meeting, the Advisory Committee discussed the suggestions and agreed that they should be considered further.

The consensus at that meeting was that the Business Subcommittee should gather more information before making a recommendation. Specifically, it was agreed that a survey of bankruptcy judges should be undertaken to learn whether the judges thought the rules should allow masters to be used in bankruptcy cases and in what circumstances, if any, they had ever needed such assistance. Carly Giffin of the Federal Judicial Center offered the FJC's services in creating and conducting such a survey.

Dr. Giffin has now completed the survey, and 221 bankruptcy judges (69%) responded. Dr. Giffin reported on the results at the Advisory Committee's April meeting. Among the responses were the following:

- Respondents were asked if they had ever presided over a case or proceeding in which they would have considered appointing a master if the option had been available. More than half (62%) said no, they had not, and just under a third (32%) said yes.
- All respondents were asked for what purposes a master might be useful for bankruptcy judges (whether or not they would consider appointing one). The most frequently cited uses were overseeing large-volume discovery or discovery disputes (71%), providing expertise in rarely encountered areas of the law (57%), overseeing fee disputes or fee awards (48%), and undertaking claims estimation or valuation (44%).
- Respondents were asked their opinion on whether Rule 9031 should be amended to allow the use of masters in bankruptcy cases or proceedings. Nearly half of respondents (44%) said they were neither in favor nor against amending Rule 9031. Just over a third of

respondents (35%) thought Rule 9031 should be amended, and just over a fifth (21%) said Rule 9031 should not be amended.

Upon reviewing the survey results, the Advisory Committee concluded that there was sufficient interest in allowing masters to be used in bankruptcy cases or proceedings that it should continue to consider the Kaplan and ABA suggestions. It identified as next steps researching whether there is any constitutional or statutory impediment to authorizing bankruptcy judges to appoint masters and considering drafts of possible rule amendments to authorize their use.

PROPOSED AMENDMENTS TO THE FEDERAL RULES OF BANKRUPTCY PROCEDURE[1]

Rule 1007. Lists, Schedules, Statements, and Other Documents; Time to File

* * * * *

(b) Schedules, Statements, and Other Documents.

* * * * *

(7) ***Personal Financial-Management Course.*** Unless an approved provider has notified the court that the debtor has completed a course in personal financial management after filing the petition or the debtor is not required to complete one as a condition to discharge, an individual debtor in a Chapter 7 or Chapter 13 case—or in a Chapter 11 case in which § 1141(d)(3) applies—must file a certificate of course completion issued by the provider.

[1] Matter to be omitted is lined through.

* * * * *

(c) Time to File.

* * * * *

(4) [abrogated]~~*Financial Management Course*. Unless the court extends the time to file, an individual debtor must file the certificate required by (b)(7) as follows:~~

~~(A) in a Chapter 7 case, within 60 days after the first date set for the meeting of creditors under § 341; and~~

~~(B) in a Chapter 11 or Chapter 13 case, no later than the date the last payment is made under the plan or the date a motion for a discharge is filed under § 1141(d)(5)(B) or § 1328(b).~~

* * * * *

Committee Note

The deadlines in (c)(4) for filing certificates of completion of a course in personal financial management

have been eliminated. When Code § 727(a)(11), 1141(d)(3), or 1328(g)(1) requires course completion for the entry of a discharge, the debtor must demonstrate satisfaction of this requirement by filing a certificate issued by the course provider, unless the provider has already done so. The certificate must be filed before the court rules on discharge, but the rule no longer imposes an earlier deadline for doing so.

Changes Made After Publication and Comment

The amendment to Rule 1007(h) was withdrawn. In order to avoid renumbering (c)(5)-(7), the notation "[abrogated]" was added to line 19, and the number (4) was retained.

Summary of Public Comment

BK-2024-0002-0006 – Mia Andrade. General statement of support.

BK-2024-0002-0005 – Jacqueline Sadlo. Strongly supports the deletion of Rule 1007(c)(4) and the amendments to Rule 5009(b). These changes will benefit pro se debtors and the nonprofit organizations that assist them. They will also benefit the court system by reducing the number of repeat filings and reopenings due to missed deadlines and procedural complexities.

PROPOSED AMENDMENTS TO THE FEDERAL RULES OF BANKRUPTCY PROCEDURE[1]

Rule 2007.1. Appointing a Trustee or Examiner in a Chapter 11 Case

* * * * *

(b) Requesting the United States Trustee to Convene a Meeting of Creditors to Elect a Trustee.

* * * * *

(3) ***Reporting Election Results; Resolving Disputes.***

(A) *Undisputed Election.* If the election is undisputed, the United States trustee must promptly file a report certifying the election, including the name and address of the person elected and a statement that the election is undisputed. The report must be

[1] Matter to be omitted is lined through.

accompanied by a verified statement of the person elected setting forth that person's connections with:

- the debtor;
- creditors;
- any other party in interest;
- their respective attorneys and accountants;
- the United States trustee; or
- any person employed in the United States trustee's office.

(B) *Disputed Election.* If the election is disputed, the United States trustee must promptly file a report stating that the election is disputed, informing the court of the nature of the dispute and listing the name and address of any candidate elected

under any alternative presented by the dispute. The report must be accompanied by a verified statement by each candidate, setting forth the candidate's connections with any entity listed in (A)~~(i) (vi)~~. No later than the date on which the report is filed, the United States trustee must mail a copy and each verified statement to:

(i) any party in interest that has made a request to convene a meeting under § 1104(b) or to receive a copy of the report; and

(ii) any committee appointed under § 1102.

* * * * *

Committee Note

The second sentence of Rule 2007.1(b)(3)(B) is amended to delete the erroneous reference "any entity listed in (A)(i)-(vi)." There are no clauses (i)-(vi) in (A); the entities are listed in bullet points. Therefore, the sentence is amended to refer to "any entity listed in (A)."

Changes Made After Publication and Comment

Because of the technical nature of the amendment to Rule 2007.1(b), approval is sought without publication.

PROPOSED AMENDMENTS TO THE FEDERAL RULES OF BANKRUPTCY PROCEDURE[1]

Rule 3001. Proof of Claim

* * * * *

(c) Required Supporting Information.

(1) ***Claim or Interest Based on a Writing.*** If a claim or an interest in the debtor's property securing the claim is based on a writing, the creditor must file a copy with the proof of claim—except for a claim based on a consumer-credit agreement under (4~~-~~3). If the writing has been lost or destroyed, a statement explaining the loss or destruction must be filed with the claim.

(2) ***Additional Information in an Individual Debtor's Case.*** If the debtor is an individual,

[1] New material is underlined in red; matter to be omitted is lined through.

the creditor must file with the proof of claim:

(A) an itemized statement of the principal amount and any interest, fees, expenses, or other charges incurred before the petition was filed;

(B) for any claimed security interest in the debtor's property, the amount needed to cure any default as of the date the petition was filed; and

(C) for any claimed security interest in the debtor's principal residence:

(i) Form 410A; and

(ii) if there is an escrow account connected with the claim, an escrow-account statement, prepared as of the date the petition was filed, that is

consistent in form with applicable nonbankruptcy law.

(3) ***Claim Based on an Open-End or Revolving Consumer-Credit Agreement.***

(A) *Required Statement.* Except when the claim is secured by an interest in the debtor's real property, a proof of claim for a claim based on an open-end or revolving consumer-credit agreement must be accompanied by a statement that shows the following information about the credit account:

(i) the name of the entity from whom the creditor purchased the account;

(ii) the name of the entity to

whom the debt was owed at the time of an account holder's last transaction on the account;

(iii) the date of that last transaction;

(iv) the date of the last payment on the account; and

(v) the date that the account was charged to profit and loss.

(B) *Copy to a Party in Interest.* On a party in interest's written request, the creditor must send a copy of the writing described in (1) to that party within 30 days after the request is sent.

(4) ***Sanctions in an Individual-Debtor Case.*** If

the debtor is an individual and a claim holder fails to provide any information required by ~~(1) or (2)~~(c), the court may, after notice and a hearing, take one or both of these actions:

(A) preclude the holder from presenting the information in any form as evidence in any contested matter or adversary proceeding in the case—unless the court determines that the failure is substantially justified or is harmless; and

(B) award other appropriate relief, including reasonable expenses and attorney's fees caused by the failure.

~~(4) *Claim Based on an Open-End or Revolving Consumer-Credit Agreement.*~~

~~(A) *Required Statement.* Except when the~~

~~claim is secured by an interest in the debtor's real property, a proof of claim for a claim based on an open-end or revolving consumer-credit agreement must be accompanied by a statement that shows the following information about the credit account:~~

~~(i) the name of the entity from whom the creditor purchased the account;~~

~~(ii) the name of the entity to whom the debt was owed at the time of an account holder's last transaction on the account;~~

~~(iii) the date of that last transaction;~~

~~(iv) the date of the last payment on the account; and~~

~~(v) the date that the account was charged to profit and loss.~~

~~(B) *Copy to a Party in Interest.* On a party in interest's written request, the creditor must send a copy of the writing described in (1) to that party within 30 days after the request is sent.~~

* * * * *

Committee Note

The text of Rule 3001(c)(4) dealing with required information for a claim based on an open-end or revolving consumer-credit agreement has been moved to (c)(3), and the text of Rule 3001(c)(3) dealing with sanctions in an individual-debtor case for failure to provide required information has been moved to (c)(4). This is a technical amendment reflecting the view that the sanctions provisions should logically follow all the substantive provisions they enforce. The first sentence of (c)(4) (former (c)(3)) is amended to replace the reference to "(1) or (2)" with a reference to "(c)." This remedies an inadvertent substantive change made by the restyled version of the rule that became effective on December 1, 2024. The remedies provisions of Rule 3001(c)(4) (formerly (c)(3)) are intended to apply to all failures to provide information required by (c), including that required by (c)(3) (formerly (c)(4)), which is consistent with the substantive provisions of the rule prior to December 1, 2024. A cross-reference to the provisions governing a claim based on a consumer-credit agreement in (c)(1) has

been changed from "(4)" to "(3)" to reflect the new numbering.

Changes Made After Publication and Comment

Because of the technical nature of the amendments to Rule 3001(c), approval is sought without publication.

PROPOSED AMENDMENTS TO THE FEDERAL RULES OF BANKRUPTCY PROCEDURE[1]

Rule 3018. Chapter 9 or 11—Accepting or Rejecting a Plan

(a) In General.

* * * * *

(3) ***Changing or Withdrawing an Acceptance or Rejection.*** After notice and a hearing and for cause, the court may permit a creditor or equity security holder to change or withdraw an acceptance ~~or rejection~~. The court may permit the change or withdrawal of a rejection as provided in (c)(1)(B).

* * * * *

(c) ~~Form~~ Means for Accepting or Rejecting a Plan; Procedure When More Than One Plan Is Filed.

(1) ***~~Form~~ Alternative Means*.**

[1] New material is underlined in red; matter to be omitted is lined through.

(A) *By Ballot.* Except as provided in (B), ~~An~~ an acceptance or rejection of a plan[2] must:

(~~A~~i) be in writing;

(~~B~~ii) identify the plan or plans;

(~~C~~iii) be signed by the creditor or equity security holder—or an authorized agent; and

(~~D~~iv) conform to Form 314.

(B) *As a Statement on the Record.* The court may also permit an acceptance—or the change or withdrawal of a rejection—in a statement that is:

[2] The phrase "of a plan" was unintentionally left out of the redline version of the rule when it was published for comment. This was a scrivener's error, and is corrected in this version for final approval.

(i) part of the record, including an oral statement at the confirmation hearing or a stipulation; and

(ii) made by the creditor or equity security holder—or its attorney or authorized agent.

(2) ***When More Than One Plan Is Distributed.*** If more than one plan is sent under Rule 3017, a creditor or equity security holder may accept or reject one or more plans and may indicate preferences among those accepted.

* * * * *

Committee Note

Subdivision (c) is amended to provide more flexibility in how a creditor or equity security holder may indicate acceptance of a plan in a chapter 9 or chapter 11 case. In addition to allowing acceptance or rejection by written ballot, the rule now authorizes a court to permit a creditor or equity security holder—or its attorney or authorized agent—to accept a plan by means of a statement on the record, including by stipulation or by oral

representation at the confirmation hearing. This change reflects the fact that disputes about a plan's provisions are often resolved after the voting deadline and, as a result, an entity that previously rejected the plan or failed to vote accepts it by the conclusion of the confirmation hearing. In such circumstances, the court is permitted to treat that change in position as a plan acceptance when the requirements of subdivision (c)(1)(B) are satisfied.

Subdivision (a) is amended to take note of the means in (c)(1)(B) of changing or withdrawing a rejection.

Nothing in the rule is intended to create an obligation to accept or reject a plan.

Changes Made After Publication and Comment

Subdivision (c)(1)(B)(ii) was reworded to clarify that the provision applies to statements by individual creditors and equity security holders, as well as by attorneys and authorized agents. The second sentence of the Committee Note was similarly revised.

Summary of Public Comment

BK-2024-0002-0003 – Robert Kressel. **S**upports the amendments but questions why subdivision (c)(1)(B) does not apply to an individual creditor.

BK-2024-0002-0006 – Mia Andrade. General statement of support.

BK-2024-0002-0010 – National Conference of Bankruptcy Judges. Generally supports the amendments,

but suggests some wording changes to subdivision (c)(1)(B)(i).

BK-2024-0002-0014 – Anonymous. The proposed amendment improperly conflates a plan vote with the filing or withdrawal of an objection. They are not the same. A creditor may choose not to object to a plan but also not vote on it. In a subchapter V case, this might be done so that confirmation is nonconsensual and thus § 1191(b) applies.

PROPOSED AMENDMENTS TO THE FEDERAL RULES OF BANKRUPTCY PROCEDURE[1]

Rule 5009. Closing a Chapter 7, 12, 13, or 15 Case; Declaring Liens Satisfied

* * * * *

(b) Chapter 7 or 13—Notice of a Failure to File a Certificate of Completion for a Course on Personal Financial Management.

(1) ***Applicability.*** This subdivision (b) applies if an individual debtor in a Chapter 7 or 13 case is required to file a certificate under Rule 1007(b)(7). ~~and~~

(2) ***Clerk's First Notice to the Debtor.*** If the certificate is not filed ~~fails to do so~~ within 45 days after the ~~first date set for the meeting of creditors under § 341(a)~~ petition is filed. ~~The~~

[1] New material is underlined in red; matter to be omitted is lined through.

the clerk must promptly notify the debtor that the case ~~will~~ can be closed without entering a discharge if the certificate is not filed ~~within the time prescribed by Rule 1007(c)~~.

(3) ***Clerk's Second Notice to the Debtor.***

(A) *Chapter 7.* In a Chapter 7 case, if the certificate is not filed within 90 days after the petition is filed and the court has not yet sent a second notice, the clerk must promptly notify the debtor that the case can be closed without entering a discharge if the certificate is not filed within 30 days after the notice's date.

(B) *Chapter 13.* In a Chapter 13 case, if the certificate has not been filed when the trustee files a final report and final account, the clerk must promptly

notify the debtor that the case can be closed without entering a discharge if the certificate is not filed within 60 days after the notice's date.

* * * * *

Committee Note

Subdivision (b) is amended in order to reduce the number of cases in which a discharge is not issued solely because a certificate of completion of a personal-financial-management course is not filed as required by Rule 1007(b)(7). When that occurs, a debtor who is otherwise entitled to a discharge must seek to have the case reopened—at added cost—in order to obtain the ultimate benefit of the bankruptcy.

Subdivision (b) now provides for two reminder notices to be sent to debtors who have not satisfied the requirement of Rule 1007(b)(7). The clerk must send the first notice to any chapter 7 or 13 debtor for whom a certificate has not been filed within 45 days after the petition was filed, an earlier date than under the prior rule. Then if a chapter 7 debtor has not complied within 90 days after the petition date and a second notice has not already been sent, the clerk must send a second reminder notice. In a chapter 13 case, as part of the case closing process, the clerk must send a second notice to any debtor who has not complied by the time the trustee files a final report and final account. Both notices must explain that the consequence of not complying with Rule 1007(b)(7) is that the case is subject to being closed without a discharge being entered.

Nothing in the rule precludes a court from taking other steps to obtain compliance with Rule 1007(b)(7) before a case is closed without a discharge.

Changes Made After Publication and Comment

No changes were made after publication and comment.

Summary of Public Comment

BK-2024-0002-0006 – Mia Andrade. General statement of support.

BK-2024-0002-0005 – Jacqueline Sadlo. Strongly supports the deletion of Rule 1007(c)(4) and the amendments to Rule 5009(b). These changes will benefit pro se debtors and the nonprofit organizations that assist them. They will also benefit the court system by reducing the number of repeat filings and reopenings due to missed deadlines and procedural complexities.

PROPOSED AMENDMENTS TO THE FEDERAL RULES OF BANKRUPTCY PROCEDURE[1]

Rule 7043. Taking Testimony

Fed. R. Civ. P. 43 applies in an adversary proceeding.

Committee Note

Rule 7043 is new and, as was formerly true under Rule 9017, makes Fed. R. Civ. P. 43 applicable to adversary proceedings. Unlike under former Rule 9017, Fed. R. Civ. P. 43 is no longer applicable to contested matters under new Rule 7043.

Changes Made After Publication and Comment

No changes were made after publication and comment.

Summary of Public Comment

BK-2024-0002-0004 – Anonymous. Consider Rule 7043 regarding testimony and the impact it may have on debtors who may be unrepresented or lack appropriate resources. The procedural requirements outlined in this rule may be challenging and result in a disadvantage to someone. However, overall these amendments seem to be a necessary step to improving bankruptcy procedures.

BK-2024-0002-0006 – Mia Andrade. General statement of support.

---

[1] New material is underlined in red.

PROPOSED AMENDMENTS TO THE FEDERAL RULES OF BANKRUPTCY PROCEDURE[1]

Rule 9006. Computing and Extending Time; Motions

* * * * *

(b) Extending Time.

* * * * *

(3) ***Extensions Governed by Other Rules.*** The court may extend the time to:

(A) act under Rules 1006(b)(2), 1017(e), 3002(c), 4003(b), 4004(a), 4007(c), 4008(a), 8002, and 9033—but only as permitted by those rules; and

(B) file the ~~certificate required by Rule 1007(b)(7), and the~~ schedules and statements in a small business

[1] Matter to be omitted is lined through.

case under § 1116(3)—but only as permitted by Rule 1007(c).

(c) Reducing Time.

* * * * *

(2) ***When Not Permitted.*** The court may not reduce the time to act under Rule 2002(a)(7), 2003(a), 3002(c), 3014, 3015, 4001(b)(2) or (c)(2), 4003(a), 4004(a), 4007(c), 4008(a), 8002, or 9033(b). ~~Also, the court may not reduce the time set by Rule 1007(c) to file the certificate required by Rule 1007(b)(7).~~

* * * * *

Committee Note

The references in (b)(3)(B) and (c)(2) to the certificate required by Rule 1007(b)(7) have been deleted because the deadlines for filing those certificates have been eliminated.

Changes Made After Publication and Comment

No changes were made after publication and comment.

Summary of Public Comment

BK-2024-0002-0006 – Mia Andrade. General statement of support.

BK-2024-0002-0004 – Anonymous. Comment concerns Rule 9006 generally (needs more flexibility) and does not relate to the proposed amendment.

PROPOSED AMENDMENTS TO THE FEDERAL RULES OF BANKRUPTCY PROCEDURE[1]

Rule 9014. Contested Matters

* * * * *

(d) Taking Testimony ~~on a Disputed Factual Issue~~; Interpreter. ~~A witness's testimony on a disputed material factual issue must be taken in the same manner as testimony in an adversary proceeding.~~

(1) ***In Open Court.*** A witness's testimony on a disputed material factual issue must be taken in open court unless a federal statute, the Federal Rules of Evidence, these rules, or other rules adopted by the Supreme Court provide otherwise. For cause and with appropriate safeguards, the court may permit

[1] New material is underlined in red; matter to be omitted is lined through.

testimony in open court by contemporaneous transmission from a different location.

(2) ***Evidence.*** When resolution of a contested matter relies on facts outside the record, the court may hear the matter on affidavits or may hear it wholly or partly on oral testimony or on depositions.

(3) ***Interpreter.*** Fed. R. Civ. P. 43(d) applies in a contested matter.

* * * * *

Committee Note

Rule 9014(d) is amended to include language from Fed. R. Civ. P. 43. That rule is no longer generally applicable in a bankruptcy case, and the reference to that rule has been removed from Rule 9017. Instead, Rule 9014(d) incorporates most of the language of Fed. R. Civ. P. 43 for contested matters but eliminates the "compelling circumstances" standard in Fed. R. Civ. P. 43(a) for permitting remote testimony. Terms used in Rule 9014(d) have the same meaning as they do in Fed. R. Civ. P. 43. However, consistent with the other restyled bankruptcy rules, the phrase "good cause" used in Fed. R. Civ. P. 43 has been shortened to "cause" in Rule 9014(d)(1). No substantive change is intended.

Under new Rule 7043, all of Fed. R. Civ. P. 43—including the "compelling circumstances" standard—continues to apply to adversary proceedings. An adversary proceeding in bankruptcy is procedurally like a civil action in district court. Because assessing the credibility of witnesses is often required, there is a strong presumption that testimony will be in person.

A contested matter, however, usually can be resolved expeditiously by means of a hearing. Contested matters do not generally require the procedural formalities used in adversary proceedings, including a complaint, answer, counterclaim, crossclaim, and third-party practice. They occur with frequency over the course of a bankruptcy case and are often resolved on the basis of uncontested testimony. Testimony might concern, for example, the simple proffer by a debtor about the ability to make ongoing installment payments for an automobile that is the subject of a motion to lift the automatic stay. Or, as another example, testimony might be given in a commercial chapter 11 case by a corporate officer about ongoing operational costs in support of a motion to use estate assets to maintain business operations.

The need to quickly resolve most contested matters is recognized in existing Rule 9014, by making presumptively inapplicable the disclosure requirements of Fed. R. Civ. P. 26(a)(2) and 26(a)(3) and the mandatory meeting under Fed. R. Civ. P. 26(f). Under Rule 9014, the court has the discretion to direct that one or more of the other rules in Part VII apply when a contested matter warrants heightened process. The court has similar discretion under Rule 9014(d) to deny a request to testify remotely.

Although the amendment to Rule 9014(d) removes the "compelling circumstances" requirement in Fed. R. Civ.

P. 43(a), the court still must find cause to permit remote testimony and must impose appropriate safeguards. In other words, the presumption of in-person testimony in open court is retained, and remote testimony in contested matters should not be routine. In-person testimony would be particularly appropriate in disputed contested matters where it is necessary for the court to determine the witness's credibility. On the other hand, the greater flexibility to allow remote testimony in contested matters could be useful in consumer cases if the matters are straightforward and witness attendance is cost prohibitive or infeasible due to travel, job, or family obstacles.

Changes Made After Publication and Comment

- The heading of Rule 9014(d)(2) was changed from "Evidence on a Motion" to "Evidence."
- In Rule 9014(d)(2) the phrase "When a motion in a contested matter" was changed to "When resolution of a contested matter," and the phrase "the court may hear the motion" was changed to "the court may hear the matter."
- In the first sentence of the third paragraph of the Committee Note, the phrase "is a motion procedure that" was deleted, and in the second sentence of that paragraph, the word "generally" was inserted between the words "do not" and "require."

Summary of Public Comment

BK-2024-0002-0006 – Mia Andrade. General statement of support.

BK-2024-0002-0009 – National Conference of Bankruptcy Judges. The phrase "motion in a contested

matter" in Rule 9014(d)(2) is potentially redundant and confusing. The phrase "motion or contested matter" should be used instead.

BK-2024-0002-0011 – Adam Hiller. In Rule 9014(d)(2) the word "affidavits" should be changed to "affidavits or declarations" because the practice in many jurisdictions is to use unsworn declarations pursuant to 28 U.S.C. § 1746 instead of affidavits.

PROPOSED AMENDMENTS TO THE FEDERAL RULES OF BANKRUPTCY PROCEDURE[1]

Rule 9017. Evidence

The Federal Rules of Evidence and Fed. R. Civ. P. ~~43,~~ 44~~,~~ and 44.1 apply in a bankruptcy case.

Committee Note

The Rule is amended to delete the reference to Fed. R. Civ. P. 43. Under new Rule 7043, Fed. R. Civ. P. 43 is applicable to adversary proceedings but not to contested matters. Testimony in contested matters is governed by Rule 9014(d).

Changes Made After Publication and Comment

No changes were made after publication and comment.

Summary of Public Comment

BK-2024-0002-0006 – Mia Andrade. General statement of support.

BK-2024-0002-0009 – National Conference of Bankruptcy Judges. The reference to Civil Rule 44 should not be deleted.

[1] Matter to be omitted is lined through.

Fill in this information to identify the case:

Debtor 1 _____

Debtor 2 (Spouse, if filing) _____

United States Bankruptcy Court for the: _____ District of _____ (State)

Case number _____

Official Form 410S1

Notice of Mortgage Payment Change

12/25

If the debtor's plan provides for payment of postpetition contractual installments on your claim secured by a security interest in the debtor's principal residence, you must use this form to give notice of any changes in the installment payment amount. File this form as a supplement to your proof of claim at least 21 days before the new payment amount is due. See Bankruptcy Rule 3002.1.

Name of creditor: _____ **Court claim no**. (if known): _____

Last 4 digits of any number you use to identify the debtor's account: ____ ____ ____ ____

Date of payment change: Must be at least 21 days after date of this notice ____/____/_____

New total payment: Principal, interest, and escrow, if any $ _____
For HELOC payment amounts, see Part 3

Part 1: Escrow Account Payment Adjustment

1. **Will there be a change in the debtor's escrow account payment?**

❑ No
❑ Yes. Attach a copy of the escrow account statement prepared in a form consistent with applicable nonbankruptcy law. Describe the basis for the change. If a statement is not attached, explain why: _____

Current escrow payment: $ _____ **New escrow payment:** $ _____

Part 2: Mortgage Payment Adjustment

2. **Will the debtor's principal and interest payment change based on an adjustment to the interest rate on the debtor's variable-rate account?**

❑ No
❑ Yes. Attach a copy of the rate change notice prepared in a form consistent with applicable nonbankruptcy law. If a notice is not attached, explain why: _____

Current interest rate: _____% **New interest rate:** _____%

Current principal and interest payment: $ _____ **New principal and interest payment:** $ _____

Part 3: Annual HELOC Notice

3. **Will there be a change in the debtor's home-equity line-of-credit (HELOC) payment for the year going forward?**

❑ No
❑ Yes.

Current HELOC payment: $_____

Reconciliation amount: + $_____ or
- $_____

Debtor 1 _____ Case number (*if known*) _____
First Name Middle Name Last Name

Amount of next payment (including reconciliation amount) **$_____**

Amount of the new payment thereafter (without reconciliation amount) **$_____**

Part 4: Other Payment Change

4. **Will there be a change in the debtor's mortgage payment for a reason not listed above?**

❑ No
❑ Yes. Attach a copy of any documents describing the basis for the change, such as a repayment plan or loan modification agreement. (*Court approval may be required before the payment change can take effect.*)

Reason for change: _____

Current mortgage payment: $ _____ **New mortgage payment:** $ _____

Part 5: Sign Here

The person completing this Notice must sign it. Sign and print your name and your title, if any, and state your address and telephone number.

Check the appropriate box.

❑ I am the creditor.
❑ I am the creditor's authorized agent.

I declare under penalty of perjury that the information provided in this claim is true and correct to the best of my knowledge, information, and reasonable belief.

✘ _____ Date ____/_____/_____
Signature

Print: _____ Title _____
First Name Middle Name Last Name

Company _____

Address _____
Number Street

_____
City State ZIP Code

Contact phone (_____) _____–_____ Email _____

Official Form 410S1 Committee Note

Committee Note

Official Form 410S1, *Notice of Mortgage Payment Change*, is amended to provide space for an annual HELOC notice. As required by Rule 3002.1(b)(2), new Part 3 solicits disclosure of the existing payment amount, a reconciliation amount representing underpayments or overpayments for the past year, the next payment amount (including the reconciliation amount), and the new payment amount thereafter (without the reconciliation amount). The sections of the form previously designated as Parts 3 and 4 are redesignated Parts 4 and 5, respectively.

Changes Made After Publication and Comment

No changes were made after publication and comment.

Summary of Public Comment

BK-2024-0002-0006 – Mia Andrade. General statement of support.

Fill in this information to identify your case:

Debtor 1 _____
First Name Middle Name Last Name

Debtor 2 _____
(Spouse, if filing) First Name Middle Name Last Name

United States Bankruptcy Court for the: _____ District of _____
(State)

Case number (If known) _____

☐ Check if this is an amended filing

Official Form 106C

Schedule C: The Property You Claim as Exempt

12/26

Be as complete and accurate as possible. If two married people are filing together, both are equally responsible for supplying correct information. Using the property you listed on *Schedule A/B: Property* (Official Form 106A/B) as your source, list the property that you claim as exempt. If more space is needed, fill out and attach to this page as many copies of *Part 2: Additional Page* as necessary. On the top of any additional pages, write your name and case number (if known).

For each item of property you claim as exempt, you must specify the amount of the exemption you claim. One way of doing so is to state a specific dollar amount as exempt. Alternatively, you may claim the full fair market value of the property being exempted up to the amount of any applicable statutory limit. Some exemptions—such as those for health aids, rights to receive certain benefits, and tax-exempt retirement funds—may be unlimited in dollar amount. However, if you claim an exemption of 100% of fair market value under a law that limits the exemption to a particular dollar amount and the value of the property is determined to exceed that amount, your exemption would be limited to the applicable statutory amount.

Part 1: Identify the Property You Claim as Exempt

1. **Which set of exemptions are you claiming?** *Check one only, even if your spouse is filing with you.*
   - ☐ You are claiming state and federal nonbankruptcy exemptions. 11 U.S.C. § 522(b)(3)
   - ☐ You are claiming federal exemptions. 11 U.S.C. § 522(b)(2)

2. **For any property you list on *Schedule A/B* that you claim as exempt, fill in the information below.**

A. Brief description of the property and line on *Schedule A/B* that lists this property	**B.** Current value of the portion you own Copy the value from *Schedule A/B*	**C.** Amount of the exemption you claim *Check only one box for each exemption.*	**D.** Specific laws that allow exemption
Brief description: _____ Line from *Schedule A/B:* _____	$_____	☐ $ _____ ☐ 100% of fair market value, up to any applicable statutory limit	_____
Brief description: _____ Line from *Schedule A/B:* _____	$_____	☐ $ _____ ☐ 100% of fair market value, up to any applicable statutory limit	_____
2.1 **Add the dollar value of all entries from Column B, including any entries for pages you have attached.**	$_____		
2.2 **Add the dollar value of all entries with a specific amount from Column C, including any entries for pages you have attached.**		$_____	

3. **Are you claiming a homestead exemption of more than $214,000?**
   (Subject to adjustment on 4/01/28 and every 3 years after that for cases filed on or after the date of adjustment.)
   - ☐ No
   - ☐ Yes. Did you acquire the property covered by the exemption within 1,215 days before you filed this case?
     - ☐ No

Debtor 1 ______________________________ Case number (*if known*)______________________
First Name Middle Name Last Name

❑ Yes

Part 2: Additional Page

A. Brief description of the property and line on Schedule A/B that lists this property	**B.** Current value of the portion you own Copy the value from *Schedule A/B*	**C.** Amount of the exemption you claim *Check only one box for each exemption*	**D.** Specific laws that allow exemption
Brief description: ________ Line from *Schedule A/B:* ____	$________	❑ $ ________ ❑ 100% of fair market value, up to any applicable statutory limit	________
Brief description: ________ Line from *Schedule A/B:* ____	$________	❑ $ ________ ❑ 100% of fair market value, up to any applicable statutory limit	________
Brief description: ________ Line from *Schedule A/B:* ____	$________	❑ $ ________ ❑ 100% of fair market value, up to any applicable statutory limit	________
Brief description: ________ Line from *Schedule A/B:* ____	$________	❑ $ ________ ❑ 100% of fair market value, up to any applicable statutory limit	________
Brief description: ________ Line from *Schedule A/B:* ____	$________	❑ $ ________ ❑ 100% of fair market value, up to any applicable statutory limit	________
Brief description: ________ Line from *Schedule A/B:* ____	$________	❑ $ ________ ❑ 100% of fair market value, up to any applicable statutory limit	________
Brief description: ________ Line from *Schedule A/B:* ____	$________	❑ $ ________ ❑ 100% of fair market value, up to any applicable statutory limit	________
Brief description: ________ Line from *Schedule A/B:* ____	$________	❑ $ ________ ❑ 100% of fair market value, up to any applicable statutory limit	________
Brief description: ________ Line from *Schedule A/B:* ____	$________	❑ $ ________ ❑ 100% of fair market value, up to any applicable statutory limit	________
Brief description: ________ Line from *Schedule A/B:* ____	$________	❑ $ ________ ❑ 100% of fair market value, up to any applicable statutory limit	________
Brief description: ________ Line from *Schedule A/B:* ____	$________	❑ $ ________ ❑ 100% of fair market value, up to any applicable statutory limit	________

Committee Note

Part 1 of Official Form 106C is amended to add spaces for providing the total amount of column B—current value of the portion of property owned by the debtor—and of column C—amount of the exemption claimed. In adding up the exemption amounts claimed in column C, the debtor should include only those exemptions claimed in specific dollar amounts.

ADVISORY COMMITTEE ON BANKRUPTCY RULES
Meeting of April 3, 2025
Atlanta, Georgia, and on Microsoft Teams

The following members attended the meeting in person:

Alane A. Becket, Esq.
Circuit Judge Daniel A. Bress
District Judge James O. Browning
Bankruptcy Judge Rebecca Buehler Connelly
Jenny Doling, Esq.
Bankruptcy Judge Michelle M. Harner
Sean Day, Esq.
District Judge Jeffery P. Hopkins
Bankruptcy Judge Benjamin A. Kahn
District Judge Joan H. Lefkow
Bankruptcy Judge Catherine Peek McEwen
Professor Scott F. Norberg
District Judge J. Paul Oetken
Damian S. Schaible, Esq.
Nancy Whaley, Esq.

The following persons also attended the meeting in person:

Professor S. Elizabeth Gibson, Reporter
Professor Laura B. Bartell, Associate Reporter
District Judge John D. Bates, Chair of the Committee on Rules of Practice and Procedure (the Standing Committee)
Professor Catherine T. Struve, reporter to the Standing Committee
Ramona D. Elliott, Esq., Deputy Director/General Counsel, Executive Office for U.S. Trustees
Kenneth S. Gardner, Clerk, U.S. Bankruptcy Court for the District of Colorado
Bankruptcy Judge Laurel Isicoff, liaison from the Committee on the Administration of the Bankruptcy System
Carolyn Dubay, Administrative Office
Rakita Johnson, Administrative Office
Scott Myers, Administrative Office
Kyle Brinker, Rules Law Clerk
Carly E. Giffin, Federal Judicial Center
Melissa Davey, Chapter 13 Trustee
Rebecca Garcia, Chapter 12 & 13 Trustee
John Rabiej, Esq., Rabiej Litigation Law Center
Rebecca Roberts, Chapter 13 Trustee
K. Edward Safir, Chapter 13 Trustee

The following persons also attended the meeting remotely:

Dean Troy McKenzie, liaison from the Standing Committee
Professor Daniel R. Coquillette, consultant to the Standing Committee
Tim Reagan, Federal Judicial Center
Molly Johnson, Federal Judicial Center
Shelly Cox, Administrative Office
Bridget M. Healy, Administrative Office
Dana Elliott, Administrative Office
John Hawkinson, journalist
Lisa Mullen, Trott Law
Daniel Steen, Lawyers for Civil Justice
Tracy Updike, Chapter 13 Trustee
Crystal Williams

Discussion Agenda

1. **Greetings and Introductions**

Judge Rebecca Connelly welcomed the group and thanked everyone for joining this meeting. She welcomed a new liaison from the Standing Committee, Dean Troy McKenzie, who is attending remotely.

She noted that District Judge J. Paul Oetken will be leaving the Committee after the September meeting. She also introduced the new Chief Counsel for the Rules Committees, Carolyn Dubay; new members Judge Browning and Alane Becket; and the new Department of Justice member, Sean Day. With regret, she noted that Scott Myers, Rules Counsel, will be retiring after the June Standing Committee meeting, so this will be his final meeting of the Bankruptcy Rules Committee. She expressed the Committee's best wishes on his retirement and expressed the significant loss we will feel.

Judge Connelly thanked the members of the public attending in person or remotely for their interest, and she noted that the meeting would be recorded. She summarized the schedule for the meeting and reviewed meeting etiquette for in-person and virtual attendees.

2. **Approval of Minutes of Meeting Held on Sept. 12, 2024**

Nancy Whaley requested a change to the minutes on p. 42 in the agenda book to more accurately reflect her comments. The revised paragraph would read as follows:

> Nancy Whaley said there was concern under the current rule as to where the trustee was located to conduct the meeting of creditors. Since moving to remote hearings, in their district and in most places throughout the country, trustees have to be in their offices, not in their home offices. However, U.S. trustees around the country have different views on where the trustee has to be sitting. Some trustees do not live within their district. Chapter

7 trustees have to be within the district to be appointed, but chapter 12 and 13 trustees do not.

With that amendment, the minutes were approved.

3. **Oral Reports on Meetings of Other Committees**

(A) ***Jan. 7, 2025, Standing Committee Meeting***

Judge Connelly gave the report.

The Standing Committee approved for publication amendments to Rule 2002 (Notices) to eliminate the requirement that every notice given under Rule 2002 comply with Rule 1005, and Official Form 101 (Voluntary Petition for Individuals Filings for Bankruptcy) to modify the prompt requesting the employer identification number of the filer.

(B) ***Meeting of the Advisory Committee on Appellate Rules***

Since the last meeting of the Advisory Committee on Bankruptcy Rules, the Advisory Committee on Appellate Rules met on Oct. 9, 2024, and Apr. 2, 2025. Judge Bress gave the report.

With respect to the social-security-number privacy issue, the Appellate Committee decided to await developments in the other committees, most specifically the Advisory Committee on Bankruptcy Rules.

The Appellate Committee discussed amicus filings under Rule 29. There was a hearing in Feb. 2025 during which substantial interest in the legal community was apparent. There are three main topics.

First, should a proposed amicus be required to file a motion to get court consent to file an amicus brief (as opposed to just getting the consent of the parties). The purpose of this proposal was to help manage recusal issues. The response to this proposal was negative, due to the additional burden and the fear that courts would deny the motions. Therefore the Appellate Committee will not go forward with this proposal.

Second, should an amicus brief be required to disclose whether a party or its counsel had during the last 12 months contributed or pledged to contribute more than 25% of the total revenue of the amicus group for its prior fiscal year? The thought behind this proposal was to create greater transparency over who is filing the brief. Many comments were received in opposition to this proposal. Concerns expressed included that FRAP 29 already had enough disclosure requirements and that additional limitations would threaten First Amendment rights. The Appellate Committee decided not to move forward on this proposal by a vote of 5-4.

Third, the current rule requires disclosure when earmarked funds are provided by a person who is not the amicus, a member of the amicus, or counsel to the amicus. The proposed

amendments would do two main things: (1) it would require non-member disclosure only for earmarked donations of $100 or more toward the preparation of an amicus brief, and (2) it would require disclosure if someone making an earmarked donation joined as a member within the last 12 months. The Appellate Committee decided to move forward on this proposal.

The Appellate Committee also considered a proposed rule on administrative stays (preliminary stays during consideration of a stay pending appeal). A subcommittee had recommended a proposal to have such stays disposed of as soon as possible and to have administrative stays limited to 14 days. The subcommittee will continue to study the issue based on comments from the Appellate Committee.

(C) ***Meeting of the Advisory Committee on Civil Rules***

Since the last meeting of the Advisory Committee on Bankruptcy Rules, the Advisory Committee on Civil Rules met on Oct. 10, 2024, and Apr. 1, 2025. Judge McEwen gave the report.

The Civil Rules Committee recommended amendments to the following rules to the Standing Committee for publication:

1. FRCP 81(c) to clarify whether and how a party in a removed action must make a jury demand. Bankruptcy Rule 9015(a) adopts by reference FRCP 81(c). No conforming change would be necessary if the amendment becomes effective. The Standing Committee approved this recommendation.

2. FRCP 41(a) to clarify that a plaintiff may voluntarily dismiss one or more claims or the entire action by notice before an answer or summary judgment motion is filed. If one of those events has happened, the amendment provides two other methods for obtaining dismissal of all or part of an action. Bankruptcy Rule 7041 adopts by reference FRCP 41, with the proviso that a complaint objecting to the debtor's discharge shall not be dismissed at the plaintiff's instance without notice to specified parties and on court order. No conforming change would be necessary if the amendment becomes effective.

3. FRCP 45(b) to clarify what "delivering" a subpoena means. Bankruptcy Rule 9016 adopts by reference FRCP 45. No conforming change would be necessary if the amendment becomes effective.

4. FRCP 45(c) to clarify that the court's subpoena power for testimony or to provide discovery extends nationwide so long as a subpoena does not command the witness to travel farther than the distance authorized under FRCP 45(c). This means a person may be commanded to attend within 100 miles to give remote testimony, subject to obtaining court approval under FRCP 43(a). Bankruptcy Rule 9016 adopts by reference FRCP 45. No conforming change would be necessary if the amendment becomes effective. A companion amendment to FRCP 26(a)(3)(A)(i) requires disclosure of the intent to call a witness to testify remotely. Bankruptcy Rule 7026 adopts by reference FRCP 26 for adversary proceedings. No conforming change would be necessary if the amendment becomes effective.

5. FRCP 7.1 to refine the terminology, identifying a "business organization" instead of a "corporation" for purposes of disclosure of financial interests in a party. The proposed amendment would also require disclosure of a direct or indirect interest in a party, meaning not only a parent business organization but also any publicly held grandparent or great-grandparent that owns at least ten percent in the parent or grandparent. The requirement to disclose "indirect" owners of 10 percent or more of a party is to permit judges to assess disqualification when their financial interests may be affected by a litigation. Bankruptcy Rule 7007.1 is the bankruptcy version of FRCP 7.1. Because 11 U.S.C. §101(9) defines "corporation" broadly, no conforming amendment is necessary for terminology, but a conforming amendment to require disclosure of direct or indirect interests in grandparents and great grandparents might be considered.

The Civil Rules Committee also heard the following information items:

1. The committee continues its review of a more flexible standard under FRCP 43(a), including dropping the required "compelling circumstances" for permitting remote testimony. Proposed Bankruptcy Rule 7043 (slated to become effective Dec. 1, 2026, depending on the outcome of the comment period) adopts FRCP 43 for adversary proceedings.

2. The Discovery Subcommittee continues its review of whether a national rule on sealing should be proposed.

3. The committee continues its review of a proposed amendment to FRCP 55 to change "must" to "may" in the provision that states the Clerk must enter a final default judgment under specified circumstances. Bankruptcy Rule 7055 adopts by reference FRCP 55. No conforming change would be necessary if the amendment is proposed and becomes effective.

4. The Cross-Border Discovery Subcommittee has detected little interest in rulemaking aside from inclusion in the pretrial conference subjects.

5. The committee continues to monitor the extent to which districts are complying with guidelines issued by the Judicial Conference of the United States on random case assignment.

Prof. Struve also provided an update on the social-security-number redaction and pro se service and e-filing projects.

(D) ***December 12-13, 2024, Meeting of the Committee on the Administration of the Bankruptcy System (the "Bankruptcy Committee")***

Judge Isicoff provided the report.

Legislative Proposal Regarding Chapter 7 Debtors' Attorney Fees

As previously reported, the Judicial Conference, on recommendation of the Bankruptcy Committee, has adopted a legislative proposal related to chapter 7 debtors' attorney fees. Not much as progressed since the Administrative Office (AO) transmitted the legislative proposal to Congress, most recently in July 2023, although the Bankruptcy Committee understands that the

proposal continues to be reviewed by Congressional staff. Several bankruptcy judges and the AO continue to make themselves available to members of Congress to answer questions raised in connection with this proposal. If Congress enacts amendments to the Code based on this position, conforming changes to the Bankruptcy Rules would be required. The Bankruptcy Committee will continue to update the Advisory Committee on any progress in this area.

Remote Testimony in Bankruptcy Contested Matters

In 2023 the Bankruptcy Committee preliminarily reviewed suggested amendments to the Bankruptcy Rules concerning remote testimony in bankruptcy contested matters. The Advisory Committee published proposed amendments last August, and today will review comments that were received on the proposed changes during the comment period and consider giving them final approval. Judge Isicoff thanked the Advisory Committee and the Committee on Court Administration and Case Management for collaborating with the Bankruptcy Committee on these proposed amendments, both at the committee and at the staff level.

Masters in Bankruptcy Cases

Judge Isicoff was interested to read the materials in the agenda book about the suggestion to allow appointment of masters in bankruptcy cases. This is an area in which the Bankruptcy Committee was historically very engaged. She will be interested to hear the Federal Judicial Center's report on its survey of bankruptcy judges. The Bankruptcy Committee continues to be available to evaluate this issue at any stage requested by the Advisory Committee or the Standing Committee.

4. **Intercommittee Items**

(A) ***Report on the Work of the Pro-Se Electronic Filing Working Group***

Professor Struve gave the report and thanked those who have participated in the project.

The project on service and electronic filing by self-represented litigants ("SRLs") has two basic goals. As to service, the goal is to eliminate the requirement of separate (paper) service (of documents after the case's initial filing) on a litigant who receives a notice of filing through the court's electronic-filing system or a court-based electronic-noticing program. As to filing, the idea is to make two changes compared with current practice: (1) to presumptively permit SRLs to file electronically (unless a court order or local rule bars them from doing so) and (2) to provide that a local rule or general court order that bars SRLs from using the court's electronic-filing system must include reasonable exceptions or must permit the use of another electronic method for filing documents and receiving electronic notice of activity in the case.

During the fall 2024 advisory committee discussions, the Bankruptcy Rules Committee decided that it was not ready to endorse either aspect of this program for adoption as part of the Bankruptcy Rules. As to the service proposal, in bankruptcy proceedings specifically, there could be multiple self-represented entities, both debtors and creditors. This could create confusion when these entities may not know who must receive paper service. As to the filing proposal there were

several concerns, including that determining the time of filing might be complicated if there were alternatives for electronic filing.

By contrast, the Civil, Appellate, and Criminal Rules Committees – which met subsequently – indicated willingness to proceed with the proposed amendments despite the fact that the Bankruptcy Rules Committee was reluctant. At its January 2025 meeting, the Standing Committee discussed whether it would be justifiable to proceed with proposed amendments to the Civil, Appellate, and Criminal Rules if the Bankruptcy Rules were not correspondingly amended. The Standing Committee did not express opposition to such an approach.

However, it has been suggested that it may be worthwhile for the Bankruptcy Rules Committee to assess whether the decisions of the other three advisory committees might provide a reason to reconsider its skepticism about the proposed amendments. Given that the Bankruptcy Rules Committee did not know of the other committees' views at the time of its fall 2024 discussion, the spring 2025 meeting provides an opportunity revisit and re-weigh the costs and benefits of proceeding with the proposals. In the event that the Committee were to change its view and propose amending the Bankruptcy Rules in tandem with the other sets of rules, it would need to consider amendments to Bankruptcy Rules 5005, 8011, and 9036. In the event that the Committee were to adhere to its fall 2024 view, it would need to consider how best to dovetail the (unchanged) approach of the Bankruptcy Rules with the (changed) approach of the Civil and Appellate Rules. Such dovetailing would entail an amendment to Rule 7005 and perhaps an amendment to Rule 8011.

Professor Struve invited a renewed discussion on whether the decision of the other three advisory committees might provide a reason for the Bankruptcy Advisory Committee to reconsider the proposed amendments.

Judge Connelly emphasized that Civil Rule 5 will change, which will require changes to Bankruptcy Rule 7005.

Judge McEwen asked whether the proposed new civil rule provides an exception that allows courts to order otherwise with respect to the court's electronic filing system, by local rule or otherwise. Prof. Struve said that the proposal would change the existing presumption against allowing SRLs to use electronic filing to a presumption in favor unless the court orders otherwise. If the court has a local rule barring access, it must provide an alternative method of electronic filing for SRLs. The court may also set conditions or restrictions on use of electronic filing, including the type of litigant and the type of filing. A court could not simply bar use of its electronic filing system by SRLs without providing an alternative means of electronic filing.

Judge Kahn asked whether a local rule allowing SRLs to file electronically only with leave of court would be a rule "prohibiting" electronic filing, or would that be a reasonable condition or restriction. Prof. Struve said that was a fair question and should be addressed in the draft.

Judge Isicoff noted that the draft gave, as an example of a reasonable restriction on access, a local provision barring incarcerated SRLs from accessing the court's electronic-filing system.

She asked whether the rationale for such an exception would be the large number of such SRLs, and if so, whether it would similarly count as a reasonable basis for restricting access if a court had a great many SRL filers generally. Prof. Struve said no, and explained that the reason for the example concerning incarcerated SRLs is that many incarcerated individuals have no access to a computer to get the electronic notices, so it will not work to include them in the e-filing system. It is not a question of the number of incarcerated litigants in the federal court system, but a question of availability of the technology.

Judge Harner noted that we will be discussing the SSN issue later today, and there is some benefit to having uniformity among sets of federal rules because bankruptcy litigants may end up in district court and the court of appeals on appeal. She said that 20% of her docket is SRLs, and she thinks many of those appeal. Prof. Struve noted national figures suggesting that, overall, bankruptcy appeals constitute a relatively small part of the docket for district courts and courts of appeals. In a given recent year, out of more than 339,000 civil matters filed in district court, 1,346 were bankruptcy appeals, and out of more than 39,000 appeals filed in the courts of appeals, 657 were bankruptcy appeals. And presumably not all of those appeals involved SRLs. Prof. Struve said that it is certainly important to think about the impact of different rules in bankruptcy and district courts. But a number of district courts and courts of appeals already permit SRLs access to the court's electronic-filing system, and this seems not to have caused serious problems in bankruptcy cases. And even if a district court or court of appeals applied a different service rule than the bankruptcy court below, SRLs might well continue to provide paper service because they learned to do so below.

Ken Gardner said that for the bankruptcy clerk's office this will be a resource issue. Starting with the pandemic, pro se litigants could file anything electronically all the time in his district. Litigants could scan documents and electronically submit them to the clerk, and the clerk had to take steps to get that onto the docket by printing it, scanning it, and posting it. This became so overwhelming that the district shut off the service. An open system puts too much burden on the clerks' offices. The resource issue has been a big challenge. Mr. Gardner noted that a number of bankruptcy courts have implemented an Electronic Self-Representation (eSR) system for preparation of an SRL's bankruptcy petition, and he observed that the eSR system ensures that the date of filing of the petition is time-stamped, which is vital.

Prof. Struve noted that Mr. Gardner's experience is so valuable. Bankruptcy may be different because of the volume of filings. She noted that the proposed draft rule would permit a court to bar SRLs from filing the initial petition electronically, and suggested that that would address the concern about the timing of the bankruptcy filing. As to the use of problematic electronic document formats, she suggested that courts that have allowed SRLs to use CM/ECF may not have that problem because the CM/ECF system will not permit the submission of a document in an unsupported format.

Judge Bates asked how much of the resource problem is related to the initial petition as opposed to the subsequent filings. Mr. Gardner said he was surprised about the volume of subsequent filings that had no apparent purpose. Prof. Struve asked whether those litigants would file the same things if they had to walk a physical document to the clerk's office. Mr. Gardner

said they might, but the electronic filing made it easy and imposed great burdens on the clerk's office. If they arrive at the front counter, there can be a conversation about the submission that may clarify the litigant's purpose in filing it.

Scott Myers observed that an appropriate restriction (permitted under the draft rule) might be a training course to use CM/ECF. And if inappropriate filings are made, access to CM/ECF could be restricted consistent with the draft rule. Ken Gardner said that lawyers are trained and they don't get it right all the time. There is no reason to think SRLs will be more competent.

Ms. Doling asked whether the project is also looking at the potential for AI solutions to the challenges. She said that one of their software providers uses AI to streamline the document collection process -- including by converting the format of documents and flagging documents that are blurry. Mr. Gardner noted that he is involved in the national project looking at the future of CM/ECF filing technology, but he cautioned that regardless of future technological measures, it will still be key to address the practicality of training the users of the system. He suggested that the national rules should allow courts to adopt new technological improvements, but should not force such changes on the courts.

Judge Connelly observed that Mr. Gardner was describing a situation in which the clerk's office must print, scan, and then upload each electronic filing by an SRL; in such a situation, electronic access for SRLs does not benefit the clerk's office and may create additional work for them. But in other bankruptcy courts, the clerk's office may not need to engage in a similar workaround, and may be able to avoid expending those extra resources on accommodating electronic access by SRLs. The future CM/ECF system is intended to help. While Mr. Gardner's experience provides useful information, it is also important to bear in mind that the experience of other courts may differ.

Prof. Struve reviewed the service issue in the proposal, which seeks to avoid requiring paper service on those who get electronic service. Previously members of the Advisory Committee had expressed concerns about multiple SRLs in a single case who would not know to whom they had to provide paper service. Prof. Gibson pointed out that the magnitude of this risk will decrease the more that SRLs are participating in the court's electronic filing system. Mr. Gardner reviewed the BNC system for identifying who gets electronic notice and who has to receive paper notices. There is also a continuing problem of changes in addresses. Prof. Struve said that the BNC acts as the intermediary between a filer and the recipients of notices. Anyone who gets electronic notices will be identified by BNC. But if the sender is not filing electronically, and either the sender or a recipient is not getting electronic notices, that is when there is a problem.

Judge McEwen asked how much trouble it would be to give notice to SRLs of the identities of other SRLs. Mr. Gardner said that this is not done today. Judge McEwen suggested that perhaps everyone who files anything in the bankruptcy court should have to have an email address. Prof. Struve cautioned that many people do not have the ability to reliably monitor things sent to them by email, and a mandatory requirement might be problematic. Judge McEwen asked how we can inform SRLs that they have to serve other SRLs by paper if we don't have an email address. Prof. Struve said that court personnel in district courts that take the approach sketched in the proposed

amendment report that their courts have not experienced a problem with paper filers omitting to serve other paper filers, but that doesn't mean that it wouldn't be a problem in bankruptcy court.

Judge Kahn would not be reluctant to require email if someone is opting into electronic filing. Prof. Struve agreed, but observed that the issue under discussion was what to do about communicating service obligations to paper filers who have not opted into electronic noticing.

Ken Gardner suggested that bankruptcy itself is a voluntary process and, if someone wants to voluntarily file a petition, they could be required to provide an email address. Prof. Bartell noted that creditors do not voluntarily subject themselves to bankruptcy.

Ms. Doling said that the debtors whom her firm represents are required to have an email. If they don't have one before they retain her, they can secure one without cost. And she sees no problem of requiring an email of those who want to file electronically.

Judge Connelly asks for input on the original question – is the Bankruptcy Committee willing to change its position and adopt changes to the Bankruptcy Rules to implement the two positions the other committees are pursuing? Ms. Whaley asked that the changes be identified again, and Prof. Struve and Prof. Gibson reiterated the proposed changes. Judge Connelly noted that changes to the rules would be required regardless of which decision the Committee made.

Judge McEwen moved that the proposals be given to the Technology, Privacy, and Public Access Subcommittee to pursue rules changes to address these issues. The motion carried without objection.

5. **Report by the Consumer Subcommittee**

(A) ***Report on suggestions to amend Rule 2003 with respect to the timing and location of § 341 meetings***

Judge Harner and Professor Gibson provided the report, which was a status update seeking no action by the Advisory Committee.

Rebecca Garcia, a chapter 12 and chapter 13 trustee, submitted a suggestion (Suggestion 24-BK-G) to amend Rule 2003(a) and (c) as pertains to the timing, location, and recording of meetings of creditors in chapter 7, 11, 12, and 13 cases. In response to the Committee's discussion at the fall meeting, Ms. Garcia has submitted a revised suggestion (Suggestion 25-BK-B). Instead of requesting changes to the timing of the chapter 7 and chapter 11 § 341 meetings, the change is limited to chapters 12 and 13, and the request to change the language regarding recording in subdivision (c) is withdrawn.

There are two aspects of the suggestion. The first aspect of her suggestion would authorize remote meetings. Ms. Garcia explained that "Section 341 meetings are now largely [conducted] via remote video (Zoom)." The proposed amendment to Rule 2003(a) would provide explicit authority for this practice, thereby no longer calling for meetings to be held only at "a regular place for holding court . . . or any other place in the district that is convenient for the parties in interest."

At the fall Advisory Committee meeting, members discussed whether Rule 2003 needs to be amended to expressly recognize a practice that is already well established in all districts. There was little enthusiasm for such an amendment. Members said that the rule seems to be working well in this regard and that a rule change might suggest that the current use of remote meetings is unauthorized.

Related to the issue of conducting meetings of creditors by video is the matter of where the meetings may take place. Currently the rule specifies that the meeting must take place in the district—either at "a regular place for holding court" or any other place that is "convenient for the parties in interest." Ms. Garcia suggests eliminating references to where the meeting may be held because the use of videoconferencing makes location irrelevant.

As the rule has been interpreted for remote meetings, the location requirement applies to where the trustee must be present. Discussion at the fall meeting revealed that, in addition to the rule's requirement of location within the district, U.S. trustees generally require that the trustee conduct the meeting of creditors from his or her main office.

Since the fall meeting, Ms. Whaley surveyed chapter 12 and chapter 13 trustees regarding these location requirements. Approximately 30% of the chapter 13 respondents said that they have conducted video meetings from outside the district, and approximately the same number said that they have conducted them from somewhere other than their main office. Many respondents stated that they didn't think that conducting meetings from locations other than their main office would present any problems.

At the fall meeting, Ramona Elliott said that she understood that the National Association of Bankruptcy Trustees (NABT) would be submitting its own suggestion for amending Rule 2003. In light of that information, the Advisory Committee decided to table further consideration of videoconferencing aspects of Ms. Garcia's suggestion. As a result, the Subcommittee took no action on that part of the suggestion at its recent meeting.

Since that time the NABT has submitted a suggestion (Suggestion 25-BK-C) to authorize remote meetings of creditors. The Subcommittee has not had an opportunity to consider this suggestion.

The second aspect of the suggestion by Ms. Garcia relates to the timing of the § 341 meeting. Currently Rule 3002 prescribes different time limits for setting the meeting of creditors depending on the case's chapter. The time periods are as follows:

Chapter 7 or 11 – no fewer than 21 days and no more than 40 days after the order for relief;

Chapter 12 – no fewer than 21 days and no more than 35 days after the order for relief;

Chapter 13 – no fewer than 21 days and no more than 50 days after the order for relief.

In addition, the rule provides that "[i]f the designated meeting place is not regularly staffed by the United States trustee or an assistant who may preside, the meeting may be held no more than 60 days after the order for relief."

Ms. Garcia's revised suggestion proposes that the time limits in chapter 12 and 13 cases be no fewer than 21 days and no more than 60 days after the order for relief. The Advisory Committee indicated at the fall meeting that they would like additional information from chapter 12 and 13 trustees about whether the current deadlines created an issue. Ms. Whaley has now surveyed trustees on that topic.

Of the 83 respondents to the chapter 13 survey, 46% said that the current 50-day time limit caused them problems in managing their § 341 and court calendars; 54% said it did not. Some, however, said it had caused problems when their caseloads were heavier, and 63% said that they would have trouble scheduling their meetings within 50 days if their caseloads increased.

Only 13 chapter 12 trustees responded to the survey, perhaps because some had already responded to the chapter 13 survey. Of the respondents, 69% said that the current 35-day time limit caused them problems in managing their § 341 and court calendars; 31% said it did not.

The Subcommittee discussed the results of Ms. Whaley's survey and considered the next steps it should take. It agreed that any amendments to Rule 2003 proposed in response to Ms. Garcia's revised suggestion should await any suggestion by NABT, assuming that one was forthcoming, in order to avoid piecemeal amendments. The Subcommittee also concluded that because some of the concerns raised by Ms. Garcia's suggestion relate to policies of the Executive Office for U.S. Trustees, discussions between that office and trustee representatives might be helpful in determining whether a consensus might be reached about the need for possible amendments to Rule 2003. Ms. Elliott and Ms. Whaley agreed with that approach.

Now that NABT has filed its suggestion, the Subcommittee may be in a position to present a recommendation regarding Rule 2003 at the fall meeting.

(B) ***Consider comments on proposed amendments to Rule 1007(h) allowing courts to require disclosure of post-petition acquisition of assets by debtors in individual chapter 11, 12 and 13 cases***

Judge Harner and Professor Gibson provided the report.

Last August an amendment to Rule 1007(h) (Interests in Property Acquired or Arising After the Petition is Filed) was published for comment. This amendment would explicitly authorize a court to require the debtor to file a supplemental schedule to list property or income that becomes property of the estate under § 1115, 1207, or 1306—that is, property that "the debtor acquires after commencement of the case but before the case is closed, dismissed, or converted" and "earnings from services performed by the debtor" during that period.

Seven comments were filed addressing this proposed change, all of them negative. The commenters were the National Conference of Bankruptcy Judges, the National Association of

Consumer Bankruptcy Attorneys, the National Bankruptcy Conference, and 4 individuals. They expressed a number of reasons for opposing the amendment: it was unnecessary, it may be seen as endorsing a requirement not imposed by the Code and that's the subject of conflicting case law, it gives no guidance about what would have to be disclosed, and it would lead to greater disuniformity among districts.

These concerns were similar to the reasons the Subcommittee initially gave for opposing an amendment that would have required disclosure of § 1115, 1207, and 1306 property. The comments led the Subcommittee to conclude that the middle ground proposal that was published didn't escape these problems.

The Subcommittee recommended that the Advisory Committee withdraw the proposed amendment to Rule 1007(h) and not pursue it further. The Advisory Committee voted to do so.

(C) ***Consider comments on amendments to Rule 1007(c), 5009(b), and 9006(b) and (c) removing deadlines and adding a required notice of an individual debtor's obligation to take a course on personal financial management and file the certificate of completion***

Judge Harner and Professor Gibson provided the report.

Last August, in response to the recommendation of the Advisory Committee, the Standing Committee published for comment proposed amendments to Rule 1007(c), 5009(b), and 9006(b). They were proposed with the goal of reducing the number of individual debtors who go through bankruptcy but whose cases are closed without a discharge because they either failed to take the required course on personal financial management or merely failed to file the needed documentation of their completion of the course.

The proposed changes would remove the deadlines in Rule 1007(c)(4) for filing the certificate of course completion (and delete references to the deadlines in Rule 9006(b) and (c)) and amend Rule 5009(b) to provide for two reminder notices rather than one.

In addition to a general comment supporting all "the proposed amendments to the Federal Rules of Bankruptcy Procedure," two comments were submitted regarding these rules. One submitted by an unnamed commenter concerns Rule 9006 generally (needs more flexibility) and does not relate to the proposed amendment. The other comment was submitted by a paralegal who assists disadvantaged individuals in chapter 7 cases. She said that she strongly supports the deletion of Rule 1007(c)(4) and the amendments to Rule 5009(b) because these changes will benefit *pro se* debtors and the nonprofit organizations that assist them. She noted that they will also benefit the court system by reducing the number of repeat filings and re-openings due to missed deadlines and procedural complexities.

The Subcommittee recommended that the Advisory Committee give final approval to the proposed amendments to Rules 1007(c), 5009(b), and 9006(b) and (c) as published. The Advisory

Committee voted to do so. Judge Harner noted that the suggestion that gave rise to these amendments resulted from Professor Bartell's scholarship.

(D) ***Recommendation for a technical amendment to Rule 3001(c) to correct an unintended change made when restyling the rule***

Judge Harner and Professor Bartell provided the report.

We received a suggestion from the National Consumer Law Center (24-BK-N) noting a potential inadvertent substantive change in Bankruptcy Rule 3001(c) effected by its restyling.

The unrestyled version of Rule 3001(c)(2)(D) allowed a court to impose sanctions "if the holder of a claim fails to provide any information required by this subdivision (c)." The unrestyled Rule 3001(c)(3) requires that certain information be provided relating to claims based on an open-end or revolving consumer credit agreement. Because Rule 3001(c)(3) clearly required "information required by this subdivision (c)," the sanctions provisions in Rule 3001(c)(2)(D) were applicable to that provision of the rule.

However, the restyled version of Rule 3001 designated former Rule 3001(c)(2)(D) as Rule 3002(c)(3) and limited the availability of sanctions to failure to provide information required by Rule 3002(c)(1) or (2). Former Rule 3001(c)(3) was restyled as Rule 3001(c)(4), so the sanctions provisions no longer applied to it. This was an inadvertent substantive change. Therefore the Subcommittee recommended a technical amendment to Rule 3001(c)(3) to eliminate this substantive change, replacing the current phrase "information required by (1) or (2)" with the words "information required by (c)."

Professor Bartell said that the Subcommittee does not believe that publication of this technical amendment is necessary because it is simply correcting the inadvertent error introduced by the restyling project. Under Section 440.20.40(d) of the Procedures Governing the Rulemaking Process, the "Standing Committee may … eliminate public notice and comment for a technical or conforming amendment if the Committee determines that they are unnecessary." Therefore, the Subcommittee gave its approval to the amendment and recommended that the Advisory Committee give final approval to the amendment and recommend it to the Standing Committee for final approval without publication.

Professor Struve asked whether the sanctions provision and the substantive provision should be reversed in order (and any cross-references revised). The Advisory Committee agreed that such a reorganization would be preferable. Professor Gibson asked whether such a change would still be a technical amendment that does not require republication, and Judge Bates expressed his view that it would be.

The Advisory Committee gave approval to the substance of the amendments with the reorganization and appropriate changes to cross-references and to the committee note. The Committee agreed that the revisions would be drafted and circulated by email after the meeting for approval by the Advisory Committee to recommend the amendments to the Standing

Committee without publication. After the meeting, the Advisory Committee approved the amendments by email vote.

6. **Report by the Forms Subcommittee**

(A) ***Recommendation of No Action on proposed technical amendments to Official Forms 122A-2 and 122C-2 to conform to Connecticut Housing and Utilities Standards***

Judge Kahn and Scott Myers provided the report.

At the fall 2024 meeting, the Advisory Committee considered and approved a proposed amendment to Official Forms 122A-2 and 122C-2 to address a May 2024 change in terminology concerning the Housing and Utilities Standards for Connecticut. Instead of breaking down the state by "Counties" it developed nine "Planning Regions." In completing lines 8 and 9a of the two forms, a debtor must consult the Housing and Utilities Standards for the debtor's "county" to determine the appropriate income deduction amount. To address the change from "Counties" to "Planning Regions" in Connecticut, the Advisory Committee approved adding the words "or planning region" after "county" at lines 8 and 9a of both forms.

While discussing the recommendation during the meeting, however, a member asked whether other states might use designations besides county for these means-test questions. AO staff researched this question after the meeting and learned that several states use designations other than "county" for at least some areas listed in the Housing and Utilities Standards. Louisiana, for example, uses "parish" for all designations, and Alaska uses "borough" or "census area" for its listed locations. In addition, four states—Maryland, Missouri, Nevada, and Virginia—use a city rather than a county designation for some locations. There may be additional variations with respect to US territories. The Advisory Committee reviewed this new information, and by email vote remanded the proposed changes to the Subcommittee for further deliberation.

After considering the additional research, the Subcommittee has concluded that there is not a clear need to amend the forms to address the Connecticut change. Even though Housing and Utilities Standards have been categorized by "parish" in Louisiana and "borough" or "census area" in Alaska since the means-test was incorporated into the Bankruptcy Code in 2005, there has been no indication that debtors from those states have had any problems using the Housing and Utilities table hosted on the Means Testing page of the U.S. Trustee Program website, even though the table header for these designations is uniformly "county."

The Advisory Committee generally does not recommend changes to rules or forms unless there is a suggestion raising a genuine problem that needs to be fixed. Given that Louisiana and Alaska have used designations other than county without generating any confusion for the past 20 years, however, Mr. Myers said that there does not seem to be a real-world problem.

The Subcommittee recommended that no changes be made, and the Advisory Committee concurred.

(B) ***Recommendation concerning proposed amendments to Official Form 410S***

Judge Kahn and Professor Gibson provided the report.

Published for comment last August were amendments to Official Form 410S1. The amendments are intended to reflect the proposed provisions in the amendments to Rule 3002.1(b) regarding payment changes in home equity lines of credit ("HELOCs").

Rule 3002.1(b)(2), as of December 1, 2025, will allow the holder of a HELOC to provide an annual notice of payment change (with reconciliation amount), instead of notices throughout the year each time there's a change. The proposed amendments to the form will accommodate this option with a new Part 3.

No comments were submitted in response to publication. The Subcommittee recommended that the Advisory Committee give its final approval to the proposed amendments to Form 410S1, as published.

The Advisory Committee gave its approval.

(C) ***Consider Instructions for Forms Implementing Rule 3002.1***

Judge Kahn and Professor Gibson provided the report.

Proposed amendments to Rule 3002.1 (Chapter 13—Claim Secured by a Security Interest in the Debtor's Principal Residence) are on schedule to go into effect on December 1, 2025, along with six new forms proposed to implement the rule's new provisions. In response to the publication of the forms for comment, several commenters asked that instructions for completing the forms be provided.

The Subcommittee approved the instructions included in the agenda book and recommended that the Advisory Committee ask the AO to adopt them as instructions for Official Forms 410C13-M1, 410C13-M1R, 410C13-M2, 410C13-M2R, 410C13-N, and 410C13-NR. They do not need to go through the rulemaking process.

Judge Connelly noted that the instructions are very useful to the implementation of the forms.

The Advisory Committee approved the instructions and asked the AO to adopt them.

(D) ***Consider recommendation to publish proposed amendments to Form 106C to include totals***

Judge Kahn and Professor Gibson provided the report.

Rebecca Garcia, a chapter 12 and chapter 13 trustee, submitted a suggestion (Suggestion 24-BK-H) to amend Official Form 106C (Schedule C: The Property You Claim as Exempt). The suggestion, which has been endorsed by the Association of Chapter 12 Trustees and the National Association of Chapter 13 Trustees, proposes amending the form to include a total amount of assets being claimed exempt. Ms. Garcia explains that "28 U.S.C. Sec. 589b(d)(3) requires the uniform final report submitted by trustees to total the 'assets exempted.' Without the amount totaled on the form, the Trustee is required to manually add up the amounts on each form in preparation of the required final report."

As was discussed at the fall meeting, the form was revised in response to the Supreme Court's decision in *Schwab v. Reilly*, 560 U.S. 770 (2010), which stated that a debtor could list as the exempt value of an asset on Schedule C "'full fair market value (FMV)' or '100% of FMV.'" So now there are two options under the column for "Amount of the exemption you claim": a specific dollar amount and 100% of fair market value, up to any applicable statutory limit. Because of that unspecified dollar option, no total amount of claimed exemptions is asked for.

Members of the Subcommittee understood the desire of trustees to have a total dollar amount of claimed exemptions listed on Form 106C in order to simplify their task of reporting "assets exempted" to the U.S. trustee under 28 U.S.C. § 589b. But because the form—in response to *Schwab*—allows an unspecified dollar amount to be claimed, simple addition to arrive at a total amount is not always possible. The value of an asset claimed as 100% exempt might be unliquidated or in dispute. Requiring a debtor to assign a definite value to such property in order to arrive at a total amount would be contrary to the option recognized in *Schwab*.

The Subcommittee's discussions about whether the form should include a total amount led it to ask questions about the current practices of reporting on assets exempted:

- Does reporting only exemptions claimed in a specific dollar amount satisfy the statutory requirement?
- Are unspecified amounts currently being reported and, if so, how?
- Are assets claimed as exempt on Form 106C the same as "assets exempted"?

Ms. Elliott offered to investigate these issues and report back to the Subcommittee.

During the Subcommittee's February meeting, Ramona Elliott explained that the U.S. Trustee Program had promulgated a regulation pursuant to 28 U.S.C. § 589b(d) regarding the completion of forms for the trustee's final report. *See* 28 C.F.R. 58.7. The regulation sets forth a list of items to be included in the trustee's distribution report, including "assets exempted."

The statute does not explain "assets exempted." But the U.S. Trustee Program did address this issue in response to comments received to the proposed regulation. In the interest of setting a uniform standard that is reasonable and would not require the trustee to expend significant additional resources, the Executive Office for U.S. Trustees ("EOUST") defined "assets

exempted" as the total value of assets listed as exempt on the debtor's Schedule C, unless revised pursuant to a court order. The instructions to the final reports reflect this definition and note that 28 U.S.C. § 589b(c) requires the rule to "strike the best achievable practical balance between (1) the reasonable needs of the public for information about the operational results of the Federal bankruptcy system; (2) economy, simplicity, and lack of undue burden on persons with a duty to file these reports; and (3) appropriate privacy concerns and safeguards."

Guided by this information, the Subcommittee understood that assets claimed as exempt on Form 106C are treated as "assets exempted" for purposes of the trustee's final report, subject to any subsequent amendments or revisions pursuant to a court order. It also reasoned that, in light of the EOUST's "attempt[] to balance the reasonable needs of the public for information with the need not to unduly burden the standing trustees who must file the final reports," adding up and reporting just the specific dollar amounts is acceptable. As a result, the Subcommittee decided that Form 106C should be amended to provide a total of the specified exemption amounts and recommended the amended Form 106C be approved for publication. Spaces are added to provide a total amount of exemptions claimed in a specific amount, as well as a total value of the debtor's interest in property for which exemptions are claimed.

Judge Kahn said that the statutes require the U.S. Trustee to compile information to the extent it is reasonable to do so. This does not require complete precision. That is why he supported the amendments.

The Advisory Committee approved for publication the proposed amendments to Form 106C and will recommend them to the Standing Committee for publication.

7. **Report of the Technology, Privacy, and Public Access Subcommittee**

(A) ***Consider comments on new Rule 7043 and amended Rules 9014 and 9017 regarding remote testimony***

Judge Oetken and Professor Bartell provided the report.

The National Bankruptcy Conference (NBC) submitted proposals to amend Bankruptcy Rules 9014 and 9017 and introduce a new Rule 7043 to facilitate video conference hearings for contested matters in bankruptcy cases. The proposed new rule and amendments were published for public comment in August, 2024.

The Committee received four comments on the proposals. Professor Bartell reviewed them and offered responses.

Comment BK-2024-0002-0004: An anonymous comment posted on Oct. 15, 2024, urged the Advisory Committee to "consider Rule 7043 regarding testimony and the impact it may have on debtors who may be unrepresented or lack appropriate resources. The procedural requirements outlined in this rule may be challenging and result in a disadvantage to someone." However, the

author stated that "[o]verall, these amendments seem to be a necessary step to improving bankruptcy procedures."

Response: New Rule 7043 simply makes Civil Rule 43 applicable in adversary proceedings. Under existing Rule 9017, Civil Rule 43 is applicable in bankruptcy cases generally, including as to contested matters. If the requirements of Civil Rule 43 are "challenging" to unrepresented debtors, the amendments should ameliorate those problems by limiting their applicability. The Subcommittee recommended no change in response to this comment.

Comment BK-2024-0002-0006: Mia Andrade, without specifying which amendments she addressed, stated that she agreed with the proposed amendments "as it is crucial as it ensures that the legal framework remains responsive and effective in addressing contemporary financial challenges. These amendments can enhance the clarity, efficiency, and fairness of bankruptcy proceedings, providing better protection for both debtors and creditors. By updating these rules, the legal system can adapt to evolving economic conditions and technological advances, ultimately fostering a more stable and predictable enforcement for financial recovery and dispute resolution. This proactive approach not only strengthens the integrity of the bankruptcy process but also promotes confidence in the judicial system, which is essential for maintaining public trust and economic stability."

Response: None required.

Comment BK-2024-0002-0009: The National Conference of Bankruptcy Judges had two comments on the proposed rule changes. First, they interpreted the redlined copy of the changes to Rule 9017 to show deletion of Civil Rule 44 and believe such a deletion is inappropriate. Second, they believe that the phrase "motion in a contested matter" in Rule 9014(d)(2) is "potentially redundant and confusing" and suggest using the phrase "motion or contested matter."

Response: As to the first comment, their interpretation of the redlined version of Rule 9017 is erroneous. This was a problem with the typeface, in that Rule 43 and the comma following Rule 44 were marked as deleted, and the deletion marks were closely adjacent to the cross bars on "44" so it looked like Rule 44 was also deleted. That is not the case, and if one increases the font size of the proposed amendment, one can see that the deletion marks did not relate to "44." The Subcommittee recommended no change in response to this comment.

As to the second comment, the suggested language would dramatically change the substance of the proposed amendment. The proposed amendment is intended to apply only in contested matters. Rule 9014 is entitled "Contested Matters." If a motion were made in an adversary proceeding, it would not be governed by the amended rule.

The comment did point out some confusion about whether other aspects of a contested matter – such as an application or a response to a motion – would be governed by the rule. The Subcommittee decided to make three changes in response to the comment to clarify that any testimony in a contested matter would be governed by the rule. First, the Subcommittee decided to change the title of Rule 9014(d)(2) from "Evidence on a Motion" to "Evidence." Second, the

Subcommittee suggested modifying the text of Rule 9014(d)(2) to change the phrase "When a motion in a contested matter" to "When resolution of a contested matter" and changing the phrase "the court may hear the motion" to "the court may hear the matter." (This latter change conforms the language in Rule 9014(d)(2) to the same language in Civil Rule 43(c)). Third, in the first sentence of the third paragraph of the Committee Note, the Subcommittee recommended changing the language from "a motion procedure" to "proceeding."

The Subcommittee did not believe these changes require republication as they merely clarify that any testimony in the contested matter – whether on a motion or not – is subject to the rule. This is in fact the way that Civil Rule 43(c) has been interpreted even though it refers to a "motion," and therefore no change in substance is made by the modifications. The Subcommittee considered whether to retain language that is parallel to Civil Rule 43(c) for the sake of uniformity, but decided that more specificity in the text was advisable.

Comment BK-2024-0002-0011: Adam Hiller commented that the newly-added Rule 9014(d)(2) should replace the word "affidavits" with "affidavits or declarations" because the practice in many jurisdictions is to use unsworn declarations pursuant to 28 U.S. Code § 1746 instead of affidavits."

Response: Although Mr. Hiller may well be accurate with respect to current practice, the language of Rule 9014(d)(2) to which his comment is addressed is identical to that of Civil Rule 43(c) and until and unless Civil Rule 43(c) is modified to amend its reference to "affidavits" to include declarations, Bankruptcy Rule 9014(d)(2) should not do so.

David Hubbert comments: Former Committee member David Hubbert made two comments on the Committee Note to Rule 9014(d) outside of the publication process. In the third paragraph, the second sentence reads "contested matters do not require the procedural formalities used in adversary proceedings, including a complaint, answer, counterclaim, crossclaim, and third-party practice." He noted that there may be some contested matters "where many of the procedural formalities are appropriate and adopted for that matter under Rule 9014(c)." He suggested adding the word "generally" between the words "do not" and "require."

Second, in the final paragraph of the note, the penultimate sentence currently reads "In-person testimony would be particularly appropriate in disputed contested matters where it is necessary for the court to determine the witness's credibility." He suggested that "a witness's credibility is weighed no matter how the testimony is heard in court." He further pointed out that the committee note (1996) to Civil Rule 43 states that the court can reject a stipulation between the parties providing that testimony should be presented by transmission by reason of "the apparent importance of the testimony in the full context of the trial." He therefore suggested replacing the sentence with one reading as follows: "In-person testimony would be appropriate in disputed contested matters where the witness is important or there is conflicting evidence for the court to consider."

Response: The Subcommittee agreed to insert the word "generally" in the second sentence of the third paragraph of the Committee Note. As to Mr. Hubbert's second suggestion, although

it is true that a witness's credibility is weighed even if the witness testifies remotely, judges will certainly agree that they can assess credibility more easily if the witness is physically present when testifying rather than on a screen. The Committee Note is distinguishing between matters in which determination of the witness's credibility is necessary to resolve the dispute, and those in which it is not. The Subcommittee recommended no change in response to this comment.

The Subcommittee recommended that the Advisory Committee give final approval to new Rule 7043 and the proposed amendments to Rules 9014 and 9017 as published with the additional amendments just discussed to Rule 9014 and its Committee Note.

In line 47 of the committee note, Judge McEwen suggested replacing "a proceeding" with "litigation." She expressed concern about using a term that is also used for "adversary proceedings" and said it might cause confusion. Judge Kahn noted that the jurisdictional statute refers to "proceedings" which include contested matters. He thinks "litigation" may be more limited and opposed that change. Judge Harner suggested removing the words "is a proceeding that can" and inserting "can" after "usually" to avoid the issue entirely. The Advisory Committee agreed to that change.

With those changes the Advisory Committee gave final approval to Rule 7043 and the amendments to Rules 9014 and 9017 and recommended them to the Standing Committee for final approval.

8. **Report of the Business Subcommittee**

(A) ***Consider comments on proposed amendments to Rule 3018 (Suggestion 23-BK-F from the NBC and 25-BK-D from the DOJ) authorizing a court to treat as acceptance of a plan a statement on the record by the creditor's attorney or authorized agent***

Judge McEwen and Professor Gibson provided the report.

Last August amendments to Rule 3018(a) and (c) were published for comment. The Advisory Committee proposed them in response to a suggestion from the National Bankruptcy Conference. The proposed amendments to subdivision (c) would authorize a court in a chapter 9 or 11 case to treat as an acceptance of a plan a statement on the record by a creditor's attorney or authorized agent. Conforming amendments were also proposed for Rule 3018(a).

Three sets of comments were submitted regarding the proposed amendments.

BK-2024-0002-0014 – Anonymous. The proposed amendment improperly conflates a plan vote with the filing or withdrawal of an objection. They are not the same.

Professor Gibson said that this comment could be disregarded as it appears to be based on an erroneous reading of the proposed amendments. They address the change or withdrawal of

*re*jections (i.e. votes), not *ob*jections to plans. The Advisory Committee was well aware of the difference.

BK-2024-0002-0003 – Robert Kressel. He supports the amendments but questions why subdivision (c)(1)(B) does not apply to an individual creditor.

Professor Gibson explained that Judge Kressel's comment that subdivision (c)(1)(B) does not apply to individual creditors is apparently based on the provision's reference only to statements by attorneys and authorized agents of creditors. In contrast to (c)(1)(A), it thus seems to exclude statements by individual creditors—real people who can represent themselves. The Subcommittee believes this exclusion was unintended and recommended that subdivision (c)(1)(B)(ii) be reworded as follows to make clear that the creditor or equity security holder could make the statement accepting the plan: "made by the creditor or equity security holder—or its attorney or authorized agent." A conforming change to the second sentence of the committee note was also recommended. It would read, "In addition to allowing acceptance or rejection by written ballot, the rule now authorizes a court to permit a creditor or equity security holder—or its attorney or authorized agent—to accept a plan by means of a statement on the record, including by stipulation or by oral representation at the confirmation hearing."

BK-2024-0002-0010 – National Conference of Bankruptcy Judges. It generally supports the amendments, but suggests some wording changes to make clear that a qualifying statement could be made orally by a creditor or equity security holder (or their attorney) or by a stipulation read into the record or filed. The Subcommittee declined to make any change in response to this comment because it was unnecessary. The suggested wording would spell out in greater detail how such a stipulation might be made, but the Subcommittee concluded that the more succinct wording is preferable. A written stipulation that is filed becomes part of the record; the amendment explicitly covers statements that are a "part of the record."

Suggestion 25-BK-D – U.S. Department of Justice. It has no objection to the text of the proposed amendments, and it endorses the statement in the committee note that "[n]othing in the rule is intended to create an obligation to accept or reject a plan." It writes to underscore the limits of the proposed amendment. The suggestion that gave rise to the amendment—from the National Bankruptcy Conference—was motivated by a concern that government entities often do not vote on plans, even if they do not object to them. It should be understood that the increased flexibility in voting methods provided by the amendment, which the Department supports, cannot add a substantive requirement that creditors must vote on a plan or that courts could compel the United States or federal agencies to do so.

The statement is consistent with the Committee's intent and requires no further action.

The Subcommittee recommended that the Advisory Committee give final approval to the proposed amendments to Rule 3018(a) and (c) with the changes from the published rule and committee note that respond to the suggestion of Judge Kessel. The Advisory Committee provided that approval.

(B) ***Report concerning Suggestions 24-BK-A and 24-BK-C to Allow Masters in Bankruptcy Cases and Proceedings***

Judge McEwen and Professor Gibson provided the report.

Professor Gibson noted that this is a status report on a matter that has come to the Advisory Committee before. Two suggestions to amend Rule 9031 have been submitted to the Advisory Committee, one by Chief Bankruptcy Judge Michael B. Kaplan of the District of New Jersey (24-BK-A) and the other by the American Bar Association (24-BK-C). These suggestions propose amendments that would allow masters to be used in bankruptcy cases and proceedings, a matter that the Advisory Committee has considered several times in the past and declined to propose.

At its spring 2024 meeting, the Advisory Committee discussed the suggestions and agreed with the Subcommittee that they should be considered further. The consensus at that meeting was that the Subcommittee should gather more information before making a recommendation. Specifically, it was agreed that a survey of bankruptcy judges should be undertaken to learn whether the judges thought the rules should allow masters to be used in bankruptcy cases and in what circumstances, if any, they had ever needed such assistance.

Dr. Carly Giffin of the Federal Judicial Center offered the FJC's services in creating and conducting such a survey, and Professor Gibson invited Dr. Giffin to discuss the results of the survey. Dr. Giffin noted that, among other questions, the judges were asked about whether they ever presided over a case or proceeding in which they would have appointed a master if they had been permitted to do so (32% yes, 62% no). They were also asked for what purposes they could see a master being useful to a bankruptcy judge (overseeing discovery 71%, special areas of expertise 57%, fee disputes 47%, claims estimation or valuation 44%), concerns about amending Rule 9031 to allow masters (cost to estate 69%), and overall reaction to the idea of amending Rule 9031 (35% in favor, 21% opposed, 44% neither in favor nor opposed) The respondents provided many thoughtful comments in response to the survey which can be reviewed in the agenda book.

Upon reviewing the survey results, the Subcommittee concluded that there was sufficient interest in allowing masters to be used in bankruptcy cases or proceedings that it should continue to consider the Kaplan and ABA suggestions. It identified as next steps researching whether there is any constitutional or statutory impediment to authorizing bankruptcy judges to appoint masters and considering drafts of possible rule amendments to authorize their use.

Judge Connelly asked how the survey was distributed, and Dr. Giffin said it was distributed online and anonymously and two reminder notices were given. Judge McEwen asked what the next steps would be. Prof. Gibson said that we would want to look at the constitutional issue, which the Rules Clerk is researching. Then if that question is resolved satisfactorily, we would prepare an amended rule for consideration. Judge Connelly said that the responses to the survey were very helpful.

(C) ***Recommendation for technical amendment to Rule 2007.1(b)(3)(B) to address a restyling error***

Judge McEwen and Professor Bartell provided the report.

The restyled version of Rule 2007.1(b)(3)(B) includes a sentence that reads: "The report must be accompanied by a verified statement by each candidate, setting forth the candidate's connections with any entity listed in (A)(i)-(vi)." However, Rule 2007.1(b)(3)(A) lists the entities in six bullet points, not as (i) – (vi). Therefore, a technical correction is needed.

The Subcommittee recommended that the sentence in Rule 2007.1(b)(3)(B) be amended to read "The report must be accompanied by a verified statement by each candidate, setting forth the candidate's connection with any entity listed in (A)." The only change is the deletion of the erroneous references to (i)-(vi).

This amendment does not require publication. The Subcommittee recommended the technical amendment to the Advisory Committee for approval and submission to the Standing Committee for final approval. The Advisory Committee approved the amendment.

9. **Report of the Appellate Rules and Cross Border Subcommittee**

(A) ***Consider Suggestion 24-BK-O from Judge McEwen to incorporate into Rule 7012 pending changes to Civil Rule 12(a)***

Judge Bress and Professor Bartell provided the report.

Judge Catherine Peek McEwen suggested (24-BK-O) that the Advisory Committee consider whether amendments to Bankruptcy Rule 7012 are appropriate in light of the pending amendments to Civil Rule 12(a), which clarify that a federal statute specifying a time for serving a responsive pleading supersedes the response times otherwise set by Civil Rule 12(a)(2) – (4) rather than just Civil Rule 12(a)(1). Civil Rule 12(a) is not applicable in a bankruptcy case.

The concern addressed by the Civil Rule amendment was that there are federal laws – in particular the Freedom of Information Act and the Government in the Sunshine Act – that establish 30-day time limits for responsive pleadings for actions against the United States or its agencies or officers or employees sued in an official capacity, while Civil Rule 12(a)(2) specifies 60 days. The language in Civil Rule 12(a)(1) reading "Unless another time is specified by this rule or a federal statute" previously qualified only the time periods specified in Civil Rule 12(a)(1) and was not applicable to the other subsections of Civil Rule 12(a). Because 28 U.S.C. § 2072(b) states that "[a]ll laws in conflict with such rules [including the Civil Rules] shall be of no further force or effect after such rules have taken effect," the existing structure of Civil Rule 12(a) created the risk of conflicting with the existing federal laws, which was not the intent. There are several civil rules in addition to Civil Rule 12(a) that are qualified by deference to potential conflicting federal statutes.

Unlike the Civil Rules, which are governed by the supersession clause of 28 U.S.C. § 2072(b), the Bankruptcy Rules are authorized by 28 U.S.C. § 2075, which contains no such clause. Therefore, as a matter of federal law, if the Bankruptcy Rules are inconsistent with federal law, federal law prevails. There are no bankruptcy rules that include language qualifying their provisions by reference to conflicting federal statutes or federal law.

Therefore, the insertion of qualifying language such as "unless another time is specified by a federal statute" (or something similar) in Bankruptcy Rule 7012(a) is unnecessary and would be inconsistent with the structure of the bankruptcy rules under 28 U.S.C. § 2075. The Subcommittee recommended no action on the suggestion. The Advisory Committee agreed.

10. **Reporters' memos**

(A) ***Memo concerning Suggestions 24-BK-J, 24-BK-K, 24-BK-L, and 24-BK-M from Sai***

Professor Bartell provided the report.

Sai submitted four suggestions. In the first he suggests that the rules should preclude use of all-caps for party and case names and require that proper diacritics be used. In the second he suggests that the substance of local rules that are universal or near universal should be incorporated into the federal rules. Third, he suggests that to the extent that the various sets of federal rules of procedure have similar provisions, the provisions should be moved to a set of Federal Common Rules that apply across the various sets of federal rules except when individual differences are provided in the separate rules. Fourth, he calls for standardized pages equivalents for words and lines and elimination of monospaced fonts.

These suggestions were addressed to each of the Appellate, Bankruptcy, Criminal and Civil Rules Committees. The Appellate Rules Committee considered the suggestions at its fall meeting and removed them from its agenda. For the reasons provided in the memorandum included in the agenda book, the reporters recommend that the Advisory Committee take no action on these suggestions at this time. If one of the other rules committees decides to pursue them, the Advisory Committee can revisit its decision.

Judge Bates, in response to a question, said that Sai is an individual with many ideas about the rules, some of which have been pursued.

Judge McEwen stated that the Civil Rules Committee has also decided not to take up these suggestions. Judge McEwen said she understands the position on use of all-caps, but agrees with the recommendation not to pursue the suggestions.

The Advisory Committee agreed to take no action on the suggestions.

(B) ***Memo concerning proposed changes to Rule 9037 requiring use of pseudonyms rather than initials for minors in filings and restriction or elimination of the use of redacted SSNs in bankruptcy appeals***

Professor Gibson provided the report.

At the Advisory Committee meeting on September 12, 2024, Tom Byron reported on suggestions that address particular issues relating to the privacy rules, including suggestions regarding redaction of social-security numbers (SSNs) in federal-court filings and a suggestion relating to initials of known minors in court filings (22-BK-D and 24-BK-E). At the same meeting, the Advisory Committee decided to take no action on the suggestion from Senator Wyden (22-BK-I) concerning complete redaction of SSNs in bankruptcy court filings.

Since that time the other rules committees have been considering the same issues. The Criminal Rules Committee is likely to propose amendments to Criminal Rule 49.1 to require full redaction of an individual's SSN, as well as the use of pseudonyms rather than initials for minors' names. The Civil Rules Committee is considering whether to propose similar amendments to Civil Rule 5.2, and the Appellate Rules Committee will likely be receptive to those changes if proposed.

Professor Gibson said that when the agenda materials were prepared, it was thought that there might be an attempt to publish amendments to the privacy rules this summer, which is why this was coming from the reporters. But now that doesn't seem likely, these issues can be referred to the Technology, Privacy, and Public Access Subcommittee if the Advisory Committee agrees.

There were two issues for the Advisory Committee's consideration. First, the Advisory Committee has not yet considered amendments to Bankruptcy Rule 9037(a)(3), which currently requires redaction by using a minor's initials. Second, the decision of the Advisory Committee not to amend Rule 9037(a)(1), which permits bankruptcy filings to include the last four digits of the SSN, creates the issue of whether the last four digits of the SSN can be included in filings in bankruptcy appeals, even if doing so will be prohibited for appeals of civil and criminal cases.

Last year the Department of Justice submitted a suggestion to the Criminal Rules Advisory Committee that Criminal Rule 49.1 be amended to require pseudonyms for minors rather than using initials. The suggestion explained that referring to child victims and child witnesses by their initials—especially in crimes involving the sexual exploitation of a child—may be insufficient to ensure the child's privacy and safety. Because of the current uniformity of the privacy rules, the DOJ suggestion was also referred to the bankruptcy, civil, and appellate rules committees.

The potential harm of disclosing a minor's identity may not be as great in bankruptcy cases as in the criminal context; nevertheless, protection against disclosure is desirable, as current Rule 9037(a)(3) recognizes by requiring initials. While the Advisory Committee identified a need to retain the last four digits of SSNs in certain bankruptcy filings—even if the civil and criminal rules require complete redaction—the reporters could think of no bankruptcy reason to continue to require initials for minors if the other rules committees modify their comparable provisions to require pseudonyms instead.

Second, the decision of the Advisory Committee not to amend Rule 9037(a)(1), which permits bankruptcy filings to include the last four digits of the SSN, creates the issue of whether the last four digits of the SSN can be included in filings in bankruptcy appeals, even if doing so will otherwise be prohibited in district courts and courts of appeal.

Appellate Rule 25(a)(5) incorporates for appeals the privacy rules applicable to the case in the trial court. The Appellate Rules govern bankruptcy appeals in the courts of appeals. Part VIII of the Bankruptcy Rules governs appeals to district courts and BAPs. Although Part VIII does not cross-reference Bankruptcy Rule 9037, as a general provision in Part IX of the rules, Rule 9037 applies to bankruptcy appeals covered by Part VIII.

If the Civil and Criminal Rules are amended to preclude the use of the last four digits of the SSN, there will be a lack of uniformity with Bankruptcy Rule 9037(a)(1), which may cause some confusion regarding bankruptcy appeals. A policy issue is thus presented. In an appeal to the district court from a bankruptcy court, should the same privacy rule that otherwise applies in the district court (for civil and criminal cases) apply—thus requiring further redaction—or should the bankruptcy rule continue to apply? And likewise for appeals to the court of appeals: should the same rule that applies to civil and criminal appeals (complete redaction) apply, or should the bankruptcy rule be applicable? Which would cause less confusion—a unique rule for bankruptcy appeals in the district court and court of appeals, or changing rules for a bankruptcy case as it proceeds through the appellate process?

The Appellate Rules Committee might consider an amendment to Appellate Rule 25(a)(5) that would resolve that issue for the courts of appeal. The proposed revision would require full redaction of SSNs, but would not apply to clerks forwarding the record.

If Appellate Rule 25(a)(5) were to be so amended, the issue becomes whether Part VIII of the Bankruptcy Rules should take the same approach for appeals to district courts and perhaps BAPs. The reporters believe the answer is yes. Any pleading created for filing in the district court could easily comply with the complete redaction requirement. The primary reason underlying the decision of the Advisory Committee to retain the last four digits of the SSN in bankruptcy filings does not have any persuasive power when a matter is on appeal. No one will have any difficulty ascertaining the identity of a party to an appeal, and appellate briefs, appendices, and motions are unlikely to require the inclusion of SSNs. Even if there were truncated SSNs in documents included in the record that must be transmitted to the district court under Bankruptcy Rule 8010, the approach being considered by the Appellate Rules Committee would allow them to remain without the clerk needing to fully redact them before forwarding the record.

If the Advisory Committee agrees to this approach, a new provision could be proposed for Rule 8011 (Filing and Service; Signature) that incorporates Rule 9037 and adds language similar to that being considered for Appellate Rule 25(a)(5).

Judge Connelly asked the status of Appellate Rule 25. Judge Bress said that the Appellate Committee is waiting to see what the Civil and Bankruptcy Committees are going to do.

Professor Struve said that the Appellate Committee decided to delay their recommendation because the Standing Committee might prefer to have all committees go forward at the same time. At the Civil Rules Committee, they are also examining whether individual taxpayer identification numbers should be treated the same as SSNs.

Judge Connelly asked whether the goal was to have amendments ready to go to Standing Committee in January. Professor Struve said that the hope was to proceed in January or June.

Ms. Doling said that she doesn't object to continuing to consider this issue, but is concerned that there are no penalties for violating existing Rule 9037. She said that she might be filing a suggestion to add sanctions. Professor Gibson expressed concern about dealing with Rule 9037 individually rather than all the privacy rules together.

Judge Isicoff again emphasized that in some jurisdictions the court really needs the SSNs to distinguish between debtors with the same name but that once a case is on appeal that concern should not be relevant. Prof. Gibson assured Judge Isicoff that there was no suggestion of revisiting the prior decision of the Advisory Committee to retain the use of SSNs in bankruptcy filings.

The Advisory Committee referred the matter to the Technology, Privacy, and Public Access Subcommittee for further consideration.

11. **New Business**

There was no new business.

12. **Future Meetings**

The fall 2025 meeting will be held on September 25, 2025, in Washington, D.C.

13. **Adjournment**

The meeting was adjourned at 1:46 p.m.