MINUTES

COMMITTEE ON RULES OF PRACTICE AND PROCEDURE

June 10, 2025

The Judicial Conference Committee on Rules of Practice and Procedure (the Standing Committee) met in Washington, D.C., on June 10, 2025. All members were present:

Judge John D. Bates, Chair
Judge Paul J. Barbadoro
Elizabeth J. Shapiro, Esq.[1]
Elizabeth J. Cabraser, Esq.
Louis A. Chaiten, Esq.
Judge Joan N. Ericksen
Judge Stephen Higginson
Justice Edward M. Mansfield
Dean Troy A. McKenzie
Judge Patricia A. Millett
Andrew J. Pincus, Esq.
Judge D. Brooks Smith
Kosta Stojilkovic, Esq.
Judge Jennifer G. Zipps

The following individuals also attended to support the work of the Standing Committee: Professor Catherine T. Struve, Reporter for the Standing Committee; Carolyn A. Dubay, Secretary to the Standing Committee and Chief Counsel, Rules Committee Staff; Kyle Brinker, Law Clerk to the Standing Committee; and Professor Bryan A. Garner and Professor Joseph Kimble, Style Consultants to the Standing Committee. Professor Daniel R. Coquillette, Consultant to the Standing Committee, attended remotely.

The following individuals attended on behalf of the Advisory Committees:

Advisory Committee on Appellate Rules:
Judge Allison H. Eid, Chair
Professor Edward Hartnett, Reporter

Advisory Committee on Bankruptcy Rules:
Judge Rebecca B. Connelly, Chair
(attended remotely)
Professor S. Elizabeth Gibson, Reporter
Professor Laura B. Bartell, Associate Reporter

Advisory Committee on Civil Rules:
Judge Robin L. Rosenberg, Chair
Professor Richard L. Marcus, Reporter
Professor Andrew Bradt, Associate Reporter
Professor Edward H. Cooper, Consultant
(attended remotely)

Advisory Committee on Criminal Rules:
Judge James C. Dever III, Chair
Professor Sara Sun Beale, Reporter
Professor Nancy J. King, Associate Reporter

Advisory Committee on Evidence Rules:
Judge Jesse M. Furman, Chair
Professor Daniel J. Capra, Reporter

[1]Ms. Shapiro, Deputy Director, Federal Programs Branch, Civil Division, represented the Department of Justice (DOJ) on behalf of Deputy Attorney General Todd Blanche.

Other attendees at the meeting included: S. Scott Myers, Esq. and Bridget M. Healy, Esq., Rules Committee Staff Counsel; Shelly Cox and Rakita Johnson, Rules Committee Staff; Laurie Spolidoro, Deputy General Counsel, Administrative Office of the U.S. Courts; John S. Cooke, Director, Federal Judicial Center (FJC); and Dr. Tim Reagan, Senior Research Associate, FJC. Guests who attended remotely included: Chief Judge Michael A. Chagares, on behalf of the Executive Committee of the Judicial Conference; and Judge Sarah Vance, as incoming Chair of the Advisory Committee on Civil Rules.

1. OPENING BUSINESS

A. Welcome and Opening Remarks

Judge John D. Bates, Chair of the Standing Committee, called the meeting to order and welcomed the members and participants, including those attending remotely. Judge Bates also recognized members nearing the end of their terms on the Standing Committee, including Judge Jennifer Zipps, Judge Patricia Millett, and Mr. Kosta Stojilkovic.

Judge Bates acknowledged that it was his final meeting as the Chair of the Standing Committee[2] and noted that Judge James Dever, Chair of the Criminal Rules Committee, will serve as the next Chair of the Standing Committee while Judge Michael Mosman will succeed Judge Dever to serve as the next Chair of the Criminal Rules Committee. Judge Bates also informed the members that Judge Sarah Vance will replace Judge Robin Rosenberg as Chair of the Advisory Committee on Civil Rules. Judge Rosenberg will become the new Director of the FJC, replacing John Cooke. Judge Bates congratulated Judge Rosenberg on her selection as FJC Director and thanked her for her service to the Advisory Committee. Judge Bates also thanked John Cooke for his extraordinary service to the FJC.

Judge Bates informed the members about recent changes in the Rules Committee Staff. Ms. Carolyn Dubay is the new Chief Counsel for the Rules Committee Staff and Secretary to the Standing Committee. In addition, Scott Myers, staff attorney with the Rules Committee Staff, will retire at the end of June. Judge Bates thanked Mr. Myers and wished him the best in all his future endeavors after commending his bankruptcy rules expertise and noting that Mr. Myers had been a wonderful member of the staff for many years.

Judge Bates also welcomed members of the public and press, who observed the meeting in-person and remotely.

B. Discussion and Approval of the Meeting Minutes

After an opportunity for discussion and hearing no comments, upon motion and a second, with no opposition, the Standing Committee approved the minutes of the January 7, 2025, meeting.

[2]A summary of remarks offered in tribute to Judge Bates on the occasion of his last meeting as Chair of the Standing Committee is provided in Part 5 of these minutes.

C. Comments on the 2025 Strategic Plan for the Judiciary

Chief Judge Michael Chagares, on behalf of the Executive Committee of the Judicial Conference and in his capacity as Judiciary Planning Coordinator, provided an update on the draft 2025 Strategic Plan for the Judiciary. Chief Judge Chagares noted that the draft 2025 Strategic Plan was sent to all chief judges and all committee chairs for feedback and asked Committee members to submit any feedback by the end of June. Judge Bates requested that Committee members submit their comments to him for coordination of feedback. The draft 2025 Strategic Plan is expected to be submitted to the Judicial Conference for consideration at its September 2025 session.

2. ACTION ITEMS – REPORTS OF THE ADVISORY COMMITTEES

The Standing Committee next heard reports on action items from each of the five Advisory Committees.[3] A summary of changes made by the Standing Committee to proposed amendments presented for final approval are set forth in the Appendix to these minutes.

A. Advisory Committee on Evidence Rules – Judge Jesse M. Furman, Chair

Judge Furman presented three action items on behalf of the Advisory Committee on Evidence Rules, which last met on May 2, 2025, in Washington, D.C. The Advisory Committee's report and the draft minutes of its last meeting are included in the agenda book beginning at page 55.

1. *Amendments for Final Approval*

a. Amendments to Rule 801(d)(1)(A)

Judge Furman presented the Advisory Committee's request for the Standing Committee to recommend to the Judicial Conference final approval of amendments to Rule 801(d)(1)(A) regarding the hearsay exclusion for prior inconsistent statements of testifying witnesses. The text of the proposed amendment appears on page 64 of the agenda book and the written report begins on page 56. Judge Furman noted the current rule limits admissibility of prior inconsistent statements to those that were given under oath and subject to cross-examination. The amendment eliminates that limitation and provides that all prior inconsistent statements of a testifying witness are admissible over a hearsay objection, regardless of whether the prior statement was given under oath and subject to cross-examination.

Judge Furman reported that during the public comment period, which ran from August 15, 2024, to February 17, 2025, the Advisory Committee received eight comments, which were overwhelmingly positive and included support from the Federal Magistrate Judges Association, the American College of Trial Lawyers, and the National Association of Criminal Defense Lawyers. The comments echoed the reasons put forward by the Advisory Committee for the amendment. Namely, the amendment would eliminate the need for a confusing jury instruction on whether and when prior inconsistent statements can be considered for their truth as opposed to impeachment only. The amendment would also align the rule with Rule 801(d)(1)(B)'s treatment of prior consistent statements. The amendment would further address a perceived imbalance in the rules that favor the government in criminal cases, as most witnesses testify for the prosecution,

[3] Information items presented by the Advisory Committees are set forth in Part 3 of these minutes.

and thus the government is able to secure prior statements under oath by having those witnesses testify before the grand jury. Judge Furman also noted that the Advisory Committee recommended final approval of the amendment to Rule 801(d)(1)(A) by a vote of 8-1.

Judge Furman also informed the Standing Committee of edits made to the committee note after the public comment period. First, the note was updated to observe that the amendment would remove the need for a confusing jury instruction attempting to distinguish between substantive and impeachment uses for prior inconsistent statements. The committee note also points out that the amended rule treats consistent and inconsistent statements similarly. Second, the updated committee note stresses that the rule governs admissibility rather than sufficiency. These changes were already reflected in the committee note set out in the agenda book. Judge Furman noted one additional change not set out in the agenda book: in the committee note, the word "exception" found on page 65, line 32 of the agenda book, should read "objection."

The members then discussed the proposed amendment.

A judge member observed that Rule 613(a) requires a party, on request, to show or disclose the contents of a prior statement to an adverse party's attorney when examining a witness about the prior statement. With the proposed amendment to Rule 801(d)(1)(A) allowing prior statements to be considered for their truth, the judge member asked whether Rule 613(a) should also be changed to require disclosure without a request from the adverse party. Professor Capra explained that Rule 613(a) is inapplicable in those circumstances and Rule 613(b) would apply. Specifically, Rule 613(a) speaks to cross-examination with a prior inconsistent statement, while Rule 613(b) speaks to admitting a prior inconsistent statement. Since the prior statements are offered not for cross-examination but for proof of a fact, a party must introduce evidence of the statement and Rule 613(b) controls.

Judge Bates further asked whether there was substance to a commenter's concern that a "deepfake" (digitally fabricated or altered evidence) might be proffered to try to show a prior inconsistent statement. Professor Capra acknowledged that deepfakes may be a problem in general for any rule of admissibility, but that issue would be addressed with potential rule development regarding deepfakes rather than a rule about prior inconsistent statements. Judge Bates also raised a question about language in the committee note on page 66, line 52 of the agenda book, which provided in part that if statements "are admissible for purposes of proving the witness's credibility, they are admissible as substantive proof." He proposed changing "proving" to "assessing." Judge Furman and Professor Capra agreed to this edit.

Following this discussion, upon a motion and a second, with no opposition, the Standing Committee unanimously approved recommending to the Judicial Conference final approval of the amendment to Rule 801(d)(1)(A), with the minor revisions discussed above and indicated in the Appendix.

2. *Preliminary Drafts for Publication for Public Comment*

Judge Furman next presented the Advisory Committee's request that the Standing Committee approve publication for public comment on proposed amendments to Rule 609 and proposed new Rule 707.

a. Preliminary Draft of Amendments to Rule 609

Judge Furman first presented the Advisory Committee's request for the Standing Committee to approve publication for public comment on proposed amendments to Rule 609, which relates to use of prior criminal convictions for impeachment purposes. The text of the proposed amendments begins on page 71 of the agenda book and the written report begins on page 57.

The proposed amendment to Rule 609(a)(1)(B) addresses the standard under which evidence of prior convictions not based on falsity may be introduced to attack a testifying criminal defendant's character for truthfulness. Judge Furman provided background for the Advisory Committee's request, and noted that in 2023, the Advisory Committee received a proposal to abrogate Rule 609 entirely. The Advisory Committee ultimately decided to proceed with a more modest proposed amendment to the rule text, as well as a shortened committee note. Judge Furman explained that the proposed amendment addresses the concern that district courts were not heeding Congress's intent that the default rule weigh *against* admissibility of prior convictions. Specifically, the proposed amendment adds "substantially" before the word "outweighs" in Rule 609(a)(1)(B).

Judge Furman recounted developments since the Advisory Committee's discussion of the proposed amendments at its fall 2024 meeting. First, additional recent cases indicated that some courts were continuing to admit such evidence, effectively applying a default rule in favor of admissibility of prior convictions. Second, the Department of Justice's original objections and concerns about language in the committee note had been addressed, and DOJ now supports the proposed amendment to Rule 609(a)(1)(B). Third, Judge Furman noted that the New York Council of Defense Lawyers submitted a letter supporting the proposed amendment.

Judge Furman next described the proposed amendment to Rule 609(b), which provides for an exclusionary balancing test for admissibility of convictions where more than 10 years have passed since the later of conviction or release from confinement. The current rule specifies when the 10-year period begins but does not specify when the time-period ends. The proposed amendment addresses a circuit split over when the period ends, and as Judge Furman explained, courts have used several different end dates, including the date of the alleged offense, the date of indictment, the date of trial, and the date of the witness's testimony. The Advisory Committee decided that the date of trial is the best available option because it is the date least subject to manipulation by the parties. The proposed amendment clarifies that the 10-year time-period for the rule's applicability is measured from the date of conviction or end of confinement, whichever is later, until the "date of trial."

Judge Furman noted that the Advisory Committee voted 8-1 to recommend the proposed amendments to Rule 609(a)(1)(B) and 609(b) for publication for public comment.

The members then discussed the proposed amendments.

Regarding Rule 609(a)(1)(B), a judge member asked if adding "substantially" in Rule 609(a) would effectively import the caselaw interpreting "substantially outweigh" in Rule 609(b)(1), which generally does not permit evidence of a prior conviction. Professor Capra responded that this change likely would import that standard; however, he said, a study of cases applying Rule 609(b) indicated that it does not result in automatic exclusion of the convictions to which it applies.

Another judge member asked if the fourth paragraph of the draft committee note, found on page 74 of the agenda book, properly describes as "problematic" the practice of some courts to admit only the fact of a felony conviction to impeach a defendant. Judge Furman responded that the Advisory Committee viewed this practice as problematic; it leaves the jury to guess as to what the felony conviction was. Professor Capra said that the original note was more detailed, and the current draft note reflects a compromise with the DOJ. As to this issue, a practitioner member asked how the paragraph relates to the amendment and thought that describing the practice as "problematic" was gratuitous. Professor Capra said that the paragraph explains that such practice by courts is inappropriate because Rule 609(a)(1)(B)'s balancing test requires weighing the probative value and prejudicial effect of evidence of a particular criminal conviction, not of a generic "felony conviction." The language in the note, he reiterated, is a result of compromise. The judge member said it could be helpful for the committee note to cite an appellate decision that provides guidance about the permissible scope of cross-examination concerning the facts underlying a conviction. Professor Capra commented that the second paragraph of the committee note, starting on page 73, line 54 of the agenda book, addresses this concern. That paragraph observes that the permissible specifics concerning a conviction are governed by Rule 609. Professor Capra explained that, under the caselaw, the jury may know only that the defendant was convicted, what the conviction was for, and the date of the conviction.

Another judge member expressed concern that if the fourth paragraph of the committee note describes the only-the-fact-of-a-felony-conviction compromise as "problematic," that might lead judges to think that the note was saying it was inappropriate to adopt such a compromise even in instances when the defendant affirmatively agrees to the only-the-fact-of-a-felony-conviction approach. Another judge member agreed; she suggested that the issue is a nuanced one where the interests of the defendant will play out differently depending on the circumstances. She argued that the comment should not say flatly that this type of compromise is always bad. Sometimes the defendant wants the jury to know the name of the conviction, but there are times when the name of the conviction is misleading.

A practitioner member suggested changing the sentence on page 74, line 75 of the agenda book, to begin: "Absent agreement by the parties, that solution is problematic…." Professor Capra and Judge Furman agreed. With that change, Judge Furman suggested, the paragraph could be retained in the committee note as published for public comment, and the Advisory Committee would reconsider the committee note with the benefit of comments by the Standing Committee and the public. A judge member asked whether the initial phrase should refer to "agreement by the defendant" rather than "agreement by the parties"; but Judge Furman and Professor Capra preferred "agreement by the parties." Judge Furman accepted a style suggestion to remove the comma after "problematic." In the same sentence of the committee note (page 74, line 79), Judge Bates suggested changing "character of truthfulness" to "character for truthfulness," and this change was agreed to. A judge member proposed changing "is problematic" to "may be problematic." Judge Furman responded that the Advisory Committee's view is that the practice is

problematic, and Professor Capra argued for retaining "is problematic," especially in light of the addition of "Absent agreement by the parties." The practitioner member who had initially questioned the use of the term "problematic" reiterated that the term does not provide actual guidance. Professor Capra reiterated that the language was a compromise with the DOJ. Judge Bates suggested keeping the language "is problematic" for the public comment period to receive feedback.

As to the third paragraph of the committee note, Judge Bates asked if the example starting on page 74, line 63 of the agenda book discusses the application of Rule 403, not Rule 609. If so, Judge Bates asked whether a discussion of how Rule 403 is applied belongs in the committee note to Rule 609. Professor Capra and Judge Furman both stated that they thought the example was helpful but that they would not have strong objections to removing it from the committee note.

Judge Bates raised two additional points. In the last paragraph of the committee note (page 74, line 82), Judge Bates suggested removing "original" or replacing it with "current" because it is not referring to the rule as first promulgated. Several members and consultants then suggested "existing," "prior," and "earlier." Judge Bates, Judge Furman, and Professor Capra agreed to use "existing." Second, Judge Bates observed that the committee note's second paragraph (agenda book page 73, lines 56-57) uses the terms "bad acts" and "specific acts," though these terms do not appear in the Evidence Rules. Rather, the rules use the term "instances of conduct." Professor Capra said that "bad acts" is a very common reference and suggested retaining the term. A judge member proposed using "conduct underlying the conviction." Judge Furman supported using "specific instances of conduct," which is found in Rule 608(b). Professor Capra thought that "conduct" does not distinguish the act from the conviction itself. Judge Bates responded that Rule 608(b) uses the term "conduct." Professor Capra accepted the change to "specific instances of conduct."

Regarding the proposed amendment to Rule 609(b), a judge member asked whether the phrase "the date of trial" (agenda book page 72, line 28) was sufficiently clear. Did it mean the first day of trial? The date jury selection begins? The member asked whether the language should be more specific, such as referring to the date the jury is convened. Judge Furman and Professor Capra offered that any difference in interpretation would likely be a matter of days and ultimately not a material difference. Judge Furman noted that the rule cannot be tethered to a date concerning the jury because the rule would apply in a non-jury trial as well. He said that he was not averse to a different term, but he thought date of trial is clear. Professor Capra asked if the "date that trial is set" is more specific than "date of trial." Another judge member said that there can be a big difference between the date that a trial is initially scheduled and the date that the jury for that trial is impaneled. Professor Capra stressed that the rule was merely being approved for publication for public comment. Judge Bates suggested using "the date that trial commences" as an end date that is more specific and addresses some of the concerns raised. Judge Furman said he is fine with "the date that trial commences" but thought "commences" still introduces ambiguity. Judge Furman and Professor Capra reiterated that the specific end date is likely immaterial because the difference between them would most likely be in terms of days or weeks. Professor Capra said that the goal was certainty and "the date that trial commences" would be fine. Professor Garner noted that "commence" is routinely changed to "begin" throughout the rules. Professor Capra and Judge Bates supported using "begins."

Judge Furman summarized the Standing Committee's revisions to the proposed amendment. In proposed Rule 609(b) "the date of trial" was changed to "the date trial begins," and a conforming change was made to the last sentence of the committee note. In the second paragraph of the committee note, "bad acts" was changed to "specific instances of conduct." The third sentence of the fourth paragraph was changed to read: "Absent agreement by the parties, that solution is problematic because…." Also in the fourth paragraph, "character of truthfulness" was changed to "character for truthfulness." In the fifth paragraph, "original rule" was changed to "existing rule."

Following this discussion, upon motion and a second, with no opposition, the Standing Committee approved publication for public comment on the proposed amendments to Rule 609(a) and Rule 609(b), with the revisions discussed above.

b. Preliminary Draft of New Rule 707

Judge Furman next reported on the Advisory Committee's efforts to address two concerns with the increased use of artificial intelligence and machine-generated evidence: (1) authenticity concerns with possible deepfakes,[4] and (2) reliability concerns when machine learning output is offered as evidence. Proposed new Rule 707 addresses the latter concern and sets standards for admissibility of machine-generated evidence offered without an expert witness. The text of proposed Rule 707 begins on page 75 of the agenda book and the written report begins on page 58.

Judge Furman explained that the Advisory Committee viewed the reliability issues attendant to machine-generated output as akin to reliability issues attendant to expert testimony under Rule 702, which applies in situations when a testifying expert uses machine-learning to reach a conclusion. There are circumstances, however, when machine-generated output may be introduced without a testifying expert. As examples, Judge Furman explained how machine-generated output can be used without an expert to find patterns in vast amounts of stock trading data, to assess the complexity of software programs to determine the likelihood that code was misappropriated, or to determine whether two works are substantially similar. In these examples, the machine output could be offered without the use of expert testimony subject to Rule 702, such as through a lay witness or directly with a certification of authenticity under Rule 902(13). Judge Furman noted that the Advisory Committee felt that a new rule to address this situation was preferable to amending Rule 702. Rule 702 was recently amended in 2023, and the Advisory Committee tries to avoid multiple amendments to a single rule over a short time period. Also, Rule 702 is a rule of general applicability, so a separate subdivision dealing with machine-generated evidence would be difficult to draft because of its highly specific application. Therefore, the Advisory Committee recommended a new rule to address machine-generated output that requires the same showing of reliability required for a testifying expert under Rule 702(a)-(d).

Judge Furman noted that the Advisory Committee included an exception to the required showing under new Rule 707 when the output is produced by basic scientific instruments. This exception

[4] The Advisory Committee's efforts to address deepfakes are described in the information items set forth in Section 3 of these minutes.

is designed to avoid litigation over the output of instruments that can be presumed reliable. Given the wide range of potential instruments and technological change, however, the Advisory Committee felt it was better to leave it to judges to determine whether a particular instrument falls within the exception set forth in proposed Rule 707. Judge Furman noted that a prior draft of new Rule 707 included an exception for routinely relied upon commercial software, but the Advisory Committee removed that language because they felt it would create too broad an exception. Judge Furman noted that the Advisory Committee is aware that this topic raises some related issues concerning disclosure requirements (for example, of the source codes that underly machine-generated output), but feels that such disclosure issues are better addressed by the Advisory Committees for the Civil and Criminal Rules.

Judge Furman noted that the Advisory Committee voted 8-1 to recommend proposed new Rule 707 for publication for public comment. The DOJ was the sole dissenting vote. Judge Furman observed that sometimes when the Advisory Committee forwards a proposed rule for publication, it does so on the assumption that the proposal will be on track for future approval. This was not the case here and the Advisory Committee is agnostic as to whether the rule should ultimately gain final approval. But, as this is an area of significant concern and complexity, the Advisory Committee felt it is important to learn from public comment. Professor Capra added that the Advisory Committee has previously held two panels with experts regarding artificial intelligence and its possible impact on the Evidence Rules, and the public comment period will be valuable.

The members then discussed proposed new Rule 707.

Judge Bates commended the Advisory Committee for starting the effort to address this sensitive but important subject. He asked whether the draft rule should affirmatively state that it applies when machine-generated evidence would be subject to Rule 702 if testified to by an "expert" witness, not just any witness. Judge Furman responded that the Advisory Committee initially had the same thought but realized that specifying "expert" would be tautological because Rule 702 applies only to expert testimony.

As to the draft rule's requirement that machine-generated evidence must "satisf[y] the requirements of Rule 702 (a)-(d)," Judge Bates asked whether the specific reference to subdivisions (a)-(d) was necessary. Professor Capra noted that Rule 702 has introductory language dealing with qualifications that the Advisory Committee did not think appropriate to incorporate into new Rule 707. A practitioner member asked how Rule 702(a) would apply to machine-generated evidence alone because Rule 702(a) scrutinizes how an expert's scientific, technical, or other specialized knowledge will help the trier of fact. Judge Furman explained that to the extent that Rule 702(a)-(d)'s requirements are an awkward fit for a machine rather than a person, the Advisory Committee thought the advantage of the courts' familiarity with the standards in Rule 702 outweighed the disadvantages of importing the requirements wholesale. Professor Capra added that public comment might elucidate the instances in which machine-generated evidence would cover obvious points that the jury would already know about on its own.

A judge member observed that while the proposed rule text made an exception for "basic scientific instruments" (agenda book page 72, lines 6-7), the committee note (page 77, line 68) used the term "simple scientific instruments." This member suggested that "simple" captured the idea better than "basic." She asked whether it would be helpful to refer to instruments that were traditionally or

historically employed. Professor Capra and Judge Bates discussed whether the language "simple" is an improvement over "basic" and whether judges would have difficulty determining what fits in that category. Professor Capra agreed to update the draft rule text to refer to "simple" rather than "basic," noting that the language may still change based on public comment.

A judge member expressed enthusiasm about this rulemaking effort and had two comments. First, the committee note (page 77, lines 71-73) states that the rule does not apply when the court can take judicial notice that the machine output is reliable. The member asked if the Advisory Committee would consider deleting that sentence because it may encourage parties to attempt to avoid Rule 702 by asking the court to take judicial notice under Rule 201. Professor Capra said that judges currently take judicial notice of certain artificial intelligence outputs like Google Maps, and he explained that the Advisory Committee had added this passage to the committee note in response to input from a judge on the committee who questioned whether a Rule 707 hearing should be held for something when judicial notice has already been taken of its reliability. Second, the last paragraph of the draft committee note referred to "the notice principles applicable to expert opinion testimony." The member suggested that the language be changed to "the notice principles applicable to expert opinion testimony and reports of examinations and tests…" because machine-generated output is more similar to expert examinations and tests than expert opinion testimony. He said that this would expand the reference to encompass other salutary discovery provisions like a continuing duty to disclose and a district court's regulatory authority. Professor Capra and Judge Furman agreed that the proposed addition could be useful.

Judge Bates cautioned that while the committee note referred to "the notice principles applicable to expert opinion testimony," it was not clear what was intended by "the notice principles." Did this include the notice principles under Civil Rule 26 that include written reports as well as the principles in Criminal Rule 16? Professor Capra said that the Advisory Committee intended the language to be general because adding detailed notice provisions might hinder the efforts of the Civil and Criminal Rules Committees in this area. Ms. Shapiro observed that the DOJ had raised the issue of notice because, if machine-generated evidence is used at trial, the adverse party will need advance notice to prepare to rebut the evidence. More generally, she said that the DOJ's main concerns were that machine-generated evidence is a broad category – far broader than the advisory committee's actual target in this rule, which she took to be focused on addressing expert-opinion-like results produced using generative artificial intelligence. Ms. Shapiro also thought that the Advisory Committee will need to explore the relationship between Rule 902(13) ("Evidence That Is Self-Authenticating; Certified Records Generated by an Electronic Process or System") and this rule. Professor Capra responded that when a judge decides a question of admissibility under Rule 702, the judge applies Rule 104(a) – under which the judge must be persuaded by a preponderance of the evidence that the rule's requirements are met. By contrast, when a party seeks to authenticate evidence under Rules 901(b)(9) or 902(13), the proponent need only make a prima facie showing — enough evidence that a reasonable juror could find the item authentic. Meeting the prima facie test that applies under Rules 901(b)(9) and 902(13) would not suffice under proposed Rule 707.

A practitioner member, responding to Judge Bates, said that it would be difficult for the committee note to be very specific about the notice principles because it depends on the case. He pointed out that the committee note used the word "applicable" ("the notice principles applicable to expert opinion testimony"), and that this directed the reader to consider what kind of case it was and, thus, what rules would apply to such a case. Professor Capra agreed.

A judge member suggested making the notice principles clearer by referencing a particular rule that would be applicable for certain cases. For example, the note could say, "Rule X in civil cases and Rule Y in criminal cases." Professor Capra cautioned against using specific rule numbers because the rules can change. Professor Beale said that the note would have to list several criminal rules, and she advised against it. Professor King agreed that the committee note probably should not cite particular rules but suggested the note could say that "the rules governing discovery and disclosure applicable to expert testimony and reports of examinations and tests should be applied."

Judge Bates observed that the discussion indicated that the notice issue could be a real issue, and that it is difficult to determine what the committee note should say. Professor Capra suggested adding "and reports of examinations and tests" as previously mentioned and ending it there. A practitioner member suggested adding "that would be," thus: "the notice principles that would be applicable …." Professor Capra agreed and also suggested that if the committee wished to make the reference more general, it could refer to "the notice principles applicable under other rules." Judge Furman disagreed with the suggestion to add "under other rules" because there could be a notice principle from caselaw and not tethered to a specific rule that the Advisory Committee would think appropriate to be applied. He also acknowledged that the Advisory Committee views notice as an issue to discuss further, and the Advisory Committee may want to address the issue more with the benefit of public comments.

During this discussion, Judge Furman identified a typographical error in the rule text on page 75, line 5 of the agenda book ("it" and "if" were transposed). Professor Capra summarized the modifications agreed to thus far. In the rule text, "it if" was changed to "if it" and "basic scientific instruments" was changed to "simple scientific instruments." And the last paragraph of the committee note was modified to read in full: "Because Rule 707 applies the requirements of admitting expert testimony under Rule 702 to machine-generated output, the notice principles that would be applicable to expert opinion testimony and reports of examinations and tests should be applied to output offered under this rule."

Judge Bates asked three questions. First, on page 76, line 45, should the committee note say "self-authenticated" rather than simply "authenticated," given that Rule 902(13) concerns self-authentication? Professor Capra said that a party must still file a certificate for evidence to be self-authenticated, so saying "self-authenticated" would be confusing, but he could accept it. Second, on page 76, line 49, could the reference to "The rule" be confusing given that the preceding paragraph discussed Rule 902(13)? Judge Furman said that he would defer to the style consultants. Professor Capra said that the style consultants do not provide guidance for committee notes. He suggested "This rule," and Judge Bates agreed. Third, Judge Bates suggested that the reference on line 51 to "machine evidence" should be changed to "machine-generated evidence" (the term used elsewhere in the note). Professor Capra agreed.

Judge Furman summarized the modifications to the proposal. In the rule text, "it if" became "if it" and "basic scientific instruments" became "simple scientific instruments." In the committee note, at line 45, "authenticated" became "self-authenticated"; at line 49, "The rule" became "This rule"; at line 52, "machine" became "machine-generated"; and at lines 80-82, the end of the last sentence of the note was revised to read "the notice principles that would be applicable to expert opinion testimony and reports of examinations and tests should be applied to output offered under this rule."

Following the discussion, upon motion and a second, and over one objection (by the Department of Justice), the Standing Committee approved publication for public comment on proposed new Rule 707, with the minor revisions discussed above.

B. Advisory Committee on Appellate Rules – Judge Allison H. Eid, Chair

Judge Eid presented the action items on behalf of the Advisory Committee on Appellate Rules, which last met on April 2, 2025, in Atlanta, Georgia. The Advisory Committee's report and the draft minutes of its last meeting are included in the agenda book beginning at page 101.

1. *Amendments for Final Approval*

Judge Eid reported on the Advisory Committee's request for the Standing Committee to recommend for final approval by the Judicial Conference amendments to Rule 29, along with conforming amendments to Rule 32 and the Appendix of Length Limits, and amendments to Form 4. The text of the proposed amendments begins on page 112 of the agenda book and the written report begins on page 102.

a. Amendments to Rule 29, Rule 32, and the Appendix of Length Limits

Judge Eid first presented the Advisory Committee's request for the Standing Committee to recommend final approval by the Judicial Conference of amendments to Rule 29 and conforming amendments to Rule 32 and the Appendix of Length Limits.

Judge Eid began by explaining changes made to the proposed amendments to Rule 29 after publication for public comment. The Advisory Committee received hundreds of comments and held a hearing on the proposed amendments. One item of particular concern during public feedback was a proposed change to Rule 29 made late in the drafting process to eliminate the option to file an amicus brief at the initial hearing stage on consent of the parties. This proposed change to Rule 29 was intended to address concerns about recusal issues caused by amicus filings, and would have required all nongovernmental amici to file a motion seeking the court's permission to file their briefs. Public comment was specifically invited on this point, and the public comments uniformly opposed elimination of the consent option. Commenters stated that the current culture of consent works well, that a motion requirement might change that culture by inviting parties to oppose motions, and that a motion requirement would increase work for lawyers and judges. Moreover, commenters asserted that imposing a motion requirement was not a particularly good solution to the recusal problem. Judge Eid reported that the Advisory Committee found the commenters' arguments persuasive, and ultimately the Advisory Committee unanimously agreed to abandon the proposal to amend Rule 29 to eliminate the consent option for nongovernmental amici.

Judge Eid reported that the public comments also expressed concerns about proposed Rule 29(a)(2)'s statement of the purpose of an amicus brief (which disfavored redundancy in amicus briefs). Public comments indicated that the proposed language was too restrictive and that avoiding redundancy in briefs would pose serious practical problems. This concern is tied to the concern about the proposed motion requirement, with commenters fearing that parties would oppose an amicus filing by asserting that it was redundant. In addition to dropping the proposal to eliminate the party-consent option, the Advisory Committee responded to commenters' concerns by revising

the statement of purpose to closely track that used by the Supreme Court and moved the redundancy language to the committee note.

Judge Eid next discussed the disclosure-related features of the proposal. As to these features, she reported, the public did not speak with one voice. There was considerable opposition to the proposed disclosure requirements, but also notable support. The most controversial provision was proposed Rule 29(b)(4), which in the preliminary draft published for public comment would have required an amicus to disclose whether "a party, its counsel, or any combination of parties, their counsel, or both has, during the 12 months before the brief was filed, contributed or pledged to contribute an amount equal to 25% or more of the total revenue of the amicus curiae for its prior fiscal year." Opponents of this change argued it would interfere with associational rights and discourage amicus participation, while proponents thought it was an important step to identify parties with influence over the amicus. Judge Eid also noted disagreement over the appropriate threshold for disclosure, with some proponents of the disclosure suggesting a contribution or pledge threshold of 10% rather than 25%. The Advisory Committee ultimately voted 5-4 to remove proposed Rule 29(b)(4) from the set of amendments that it sent forward for final approval. Those who voted to remove proposed Rule 29(b)(4) pointed to the burden of compliance, lack of significant problems, considerable opposition, and the fact that other parts of the proposed rule change (such as proposed Rule 29(a)(4)(E)-(F)) address the problem of entities being created for the sole purpose of an amicus filing. The committee members who voted against removing proposed Rule 29(b)(4) were not swayed by arguments against disclosure by people who would have to make disclosures; those members emphasized that the point of getting this information is to benefit the public and the judges and to support public trust in the judicial system.

Judge Eid reported that the other proposed disclosure requirement that received considerable attention during the comment period was proposed Rule 29(e), dealing with earmarked contributions by nonparties. Much of the critical public comment, however, did not reflect awareness that existing Rule 29(a)(4)(E)(iii) currently requires the disclosure of earmarked contributions by nonparties. Perhaps that is because the current provision is buried deep in an item under a subparagraph, or perhaps it is because it treats both earmarked contributions by a party and earmarked contributions by a nonparty in a single item even though the rest of Rule 29(a)(4)(E) deals only with parties and their counsel. Judge Eid pointed out that one virtue of the proposed amended Rule 29 is that it separates and therefore clarifies the disclosure obligations regarding parties and nonparties. Judge Eid also stated that proposed Rule 29(e) is not a major expansion of the disclosure requirements. In one respect, it reduces the current disclosure requirements for nonparties. Specifically, by setting a $100.00 de minimis threshold, it eliminates the need to disclose modest earmarked contributions that currently must be disclosed. The proposed amendment does, however, expand the disclosure requirements in one respect. The current rule does not require the disclosure of earmarked contributions by members of the amicus, even if they joined the same day they made the contribution to avoid disclosure. The proposed amendment blocks this easy evasion. One commenter noted that requiring that a person be a member "for the prior 12 months" (as the published proposal did) ran the risk that a longtime member who had recently allowed his membership to lapse would lose the protection of the membership exception. To deal with this possibility, the Advisory Committee rephrased this provision to extend the

member protection to a member of the amicus who "first became a member at least 12 months earlier."

The final text of proposed Rule 29(e) can be found on page 119 of the agenda book beginning at line 129. Judge Eid reported that one opponent of proposed Rule 29(b)(4) had noted that the change reflected in Rule 29(e) is a modest tweak to an existing rule that reduces the burden on crowd funding an amicus brief and does not allow evasion of an existing requirement.

Judge Eid noted that the Advisory Committee also wanted to avoid having the expanded disclosure requirements count against a party's word limit. To achieve this, it changed proposed Rule 29(a)(4) to refer to the "disclosure statement," thereby triggering Rule 32(f)'s exclusion of "disclosure statement[s]" from the word count.

Judge Eid observed that although the Advisory Committee had been closely divided regarding the removal of proposed Rule 29(b)(4), it voted unanimously to recommend for final approval the proposed Rule 29 amendments, as amended at its spring meeting, along with conforming amendments to Rule 32(g) and the Appendix of Length Limits. Accordingly, the Advisory Committee recommended that the Standing Committee give final approval to the proposed amendments to Rule 29, Rule 32(g), and the Appendix of Length Limits.

Professor Hartnett then noted a few clerical corrections and a style change to the committee note as set forth in the agenda materials. On page 123, line 234, "Rule 29(a)(4)(D)" was changed to "Rule 29(a)(4)." On page 124, line 238, "curiae" was deleted. "Rule 29(a)(4)(E)" was changed to "Rule 29(a)(4)(F)" on page 124, line 245 and on page 127, line 347. And references to Rule 29(a)(4)(D) on page 125, lines 292-93 and on page 127, line 350 were changed to refer to Rule 29(a)(4)(E).

The members then discussed the proposed amendments.

A judge member expressed concern about the proposed amendment to Rule 29(a)(7), which would replace the existing "Except by the court's permission, an amicus curiae may not file a reply brief" with "An amicus may file a reply brief only with the court's permission." The member observed that the proposed amended language would parallel the language in existing Rule 29(a)(8) relating to oral arguments, and he observed that his court gets many requests by amici to participate in oral argument. The member worried that the proposed new phrasing for Rule 29(a)(7) would encourage even more requests by amici to file reply briefs, and he also worried that reply filings by amici would cause logistical problems for the briefing schedule (for instance, the opposing party would want to file a sur-reply to respond to the amicus's reply). Professor Hartnett explained that he had deferred to the style consultants on this proposed change, on the ground that it was purely stylistic. Professor Garner observed that the two phrasings ("Except by permission, may not file" and "may file only with permission") mean the same thing, but he agreed with the judge member that the negative phrasing ("Except by permission, may not file") had more of an admonitory tone ("You may not do it unless"), which might do more to discourage requests. Professor Kimble objected, arguing that the choice was stylistic and that the style guidelines mandate converting double negatives to positives. Professor Beale offered that changing the provision would attract the attention of amici, though she conceded that it would alleviate her concerns if the committee note were to state that the change was purely stylistic. Professor Bartell suggested saying "An amicus

may not file a reply brief except with the court's permission." Professor Hartnett said that he and Judge Eid would be happy with that phrasing. Judge Bates observed that Rules 29(a)(7) and (8) have different language and are viewed differently and treated differently by the bar.

A practitioner member expressed concern with the expansion of the disclosure requirement to include earmarked contributions by new members of organizations, which could require disclosure of a legitimate associational activity, without a showing that the change addresses an existing problem. This member argued that if a person decides to join an organization concurrently with a contribution for an amicus brief by that organization, the explanation could be that they want to become a member of the organization because they see that the organization's work is relevant to them. If the concern behind the disclosure requirement is that the amicus would just say anything the funder told it to say, this member was skeptical that the kinds of amici that judges would lend credence to would actually let a donor tell them what to say. Professor Hartnett responded that the existing disclosure requirement for certain earmarked contributions (in current Rule 29(a)(4)(E)(iii)) is designed to protect against situations where the funder's donation allows it to influence what the amicus says in the brief. He explained that the proposed disclosure requirement for earmarked contributions by new members of an amicus helps make sure that the current disclosure rules cannot be evaded, while the exemption of newly-created amici from that disclosure requirement addresses the concern that new organizations would always have to disclose earmarked contributions by any of their members.

Another practitioner member explained how the proposal had evolved: There was some support at first for requiring disclosure of all earmarked contributions, even by longstanding members of the amicus. But the Advisory Committee gave weight to the concern that such a requirement would disparately impact different kinds of amici, because some amici have large general funds that can support amicus briefs, while smaller amici need to "pass the hat" (solicit donations from their members) any time they want to fund a brief. So the goal was to take a middle road. This member suggested that, in his experience, it is rare for a funder to become a member of the amicus at the eleventh hour unless that funder has a very focused interest in the case.

The members had no comments or suggestions regarding the proposed conforming amendments to Rule 32 and the Appendix of Length Limits.

Professor Hartnett reviewed the changes to Rule 29 – namely, that proposed Rule 29(a)(7) was revised to read "An amicus may not file a reply brief except with the court's permission," and that clerical corrections and a style change were made to the committee note as he had detailed earlier.

Following the discussion, upon motion and a second, with no opposition, the Standing Committee approved recommending to the Judicial Conference final approval of the amendments to Rule 29, along with the conforming amendments to Rule 32 and the Appendix of Length Limits, with the minor revisions to Rule 29 discussed above and indicated in the Appendix.

b. Amendments to Form 4

Judge Eid next presented the Advisory Committee's request for the Standing Committee to recommend final approval by the Judicial Conference of amendments to Form 4 relating to affidavits accompanying motions to appeal *in forma pauperis*. The goal of the changes is to make

the form simpler and less intrusive. The text of the proposed amendment appears on page 180 of the agenda book, and the written report begins on page 107. Judge Eid reported that the public comments and testimony on the preliminary draft were generally positive, and the Advisory Committee thereafter adopted some suggestions to improve ease of use of the form. Judge Eid also noted that the Advisory Committee unanimously recommended the amendments to Form 4 for final approval.

After an opportunity for discussion, and with no comments from the members, upon motion and a second, and with no opposition, the Standing Committee approved recommending to the Judicial Conference final approval of the amendments to Form 4.

2. *Preliminary Drafts for Publication and Public Comment*

a. Preliminary Draft of Proposed Amendments to Rule 15

Judge Eid next presented the Advisory Committee's request for the Standing Committee to approve publication for public comment on proposed amendments to Rule 15 relating to appellate review or enforcement of an agency order. The text of the proposed amendment begins on page 186 of the agenda book, and the written report begins on page 108.

Judge Eid provided background to the proposed amendment and explained that it was intended to remove a potential trap for the unwary in Rule 15. The "incurably premature" doctrine holds that if a motion to reconsider an agency decision makes that decision unreviewable in the court of appeals, the petition for review is dismissed, and a new petition for review must be filed after the agency decides the motion to reconsider. Rule 4, dealing with appeals from district court judgments, used to work in a similar way regarding various post-judgment motions. But in 1993, Rule 4 was amended to provide that such a premature notice of appeal becomes effective when the post-judgment motion is decided. The proposal would make a similar fix to Rule 15 as was previously done for Rule 4. Judge Eid noted that a similar suggestion was considered about twenty-five years ago but was dropped due to strong opposition by judges on the Court of Appeals for the D.C. Circuit. The Advisory Committee has been informed that there is no large opposition from D.C. Circuit judges at this point, though that does not mean there might not be concerns with a particular aspect of the proposal. The proposed amendment to Rule 15 is like the existing Rule 4, but it reflects the party-specific nature of appellate review of administrative decisions, in contrast to the usually case-specific nature of civil appeals. As with civil appeals, the proposed amendment to Rule 15 would require a party that wants to challenge the result of agency reconsideration to file a new or amended petition. Judge Eid reported that the Advisory Committee unanimously recommended publishing the proposed amendment for public comment.

The members then discussed the proposed amendments.

A practitioner member suggested that there was tension between the second and third sentences in draft Rule 15(d): The second sentence says that the prematurely-filed petition for review springs to life when the agency disposes of the last reconsideration request, but the third sentence says that a party intending to challenge an agency's disposition of the reconsideration request must file a new petition for review. Professor Hartnett said that this feature of the proposed rule is parallel to how Rule 4 works – that is, once the motion for reconsideration is decided, the premature notice

becomes effective to review the prior decision, but if the party seeks to also challenge the decision on reconsideration, the party must file a new petition. That is, the difference between the second and third sentences of proposed Rule 15(d) relates to the type of ruling being appealed. Another practitioner member also found the second and third sentences confusing. He suggested that the third sentence read "a party intending to challenge the disposition of the petition for rehearing, reopening, or reconsideration must file a new petition." Professor Hartnett said that the Advisory Committee proposed similar language, but it was changed for style reasons. After further discussion, Professor Kimble suggested saying "If a party intends to challenge the disposition of the petition for rehearing, reopening, or reconsideration, the party must …." Professor Hartnett and Judge Eid agreed, but "the petition" was changed to "a petition."

Following this discussion, upon motion and a second, with no opposition, the Standing Committee approved publication for public comment on the proposed amendments to Rule 15, with the revisions discussed above.

C. Advisory Committee on Bankruptcy Rules – Judge Rebecca B. Connelly, Chair

Judge Connelly, who attended the meeting remotely, presented the action items on behalf of the Advisory Committee on Bankruptcy Rules, which last met on April 3, 2025, in Atlanta, Georgia. The Advisory Committee's report and the draft minutes of its last meeting are included in the agenda book beginning at page 209.

1. *Amendments for Final Approval*

Judge Connelly first presented the Advisory Committee's request for the Standing Committee to recommend final approval by the Judicial Conference of proposed new Rule 7043 and proposed amendments to Rules 3018, 9014, 9017, 1007(c), 5009, and 9006.

a. Amendments to Rule 3018

Judge Connelly presented the Advisory Committee's request for the Standing Committee to recommend final approval by the Judicial Conference of amendments to Rule 3018, which relates to accepting or rejecting a Chapter 9 or Chapter 11 plan. The text of the proposed amendment appears on page 233 of the agenda book and the written report begins on page 211.

Judge Connelly explained that the proposed amendment would authorize a court in a Chapter 9 or 11 case to treat as an acceptance of a plan a stipulation or oral statement on the record. This change would recognize and encourage the process that occurs in most Chapter 11 cases, whereby the negotiations continue right up to the court date.

Judge Connelly also explained that based upon public comment, the Advisory Committee revised the proposal to clarify that the statement on the record would be by the creditor or equity security holder or its authorized agent or attorney. Nothing in the rule indicates that a creditor is compelled to vote, nor does the amendment address filing objections to confirmation or solicitation of voting; it simply provides an additional means for plan acceptance. Judge Connelly reported that there were no public comments in opposition to the amendment.

After an opportunity for discussion and no comments from the members, and upon motion and a second, and with no opposition, the Standing Committee approved recommending to the Judicial Conference final approval of the amendments to Rule 3018.

b. Amendments to Rules 9014 and 9017 and New Rule 7043

Judge Connelly presented the Advisory Committee's request for the Standing Committee to recommend final approval by the Judicial Conference of amendments to Rules 9014 and 9017 and a new Rule 7043, which pertain to the procedure for a bankruptcy judge to approve remote testimony in certain matters. The text of the proposed amendments appears on pages 242, 246, and 251 of the agenda book and the written report begins on page 211.

Judge Connelly explained that proposed new Rule 7043 would make Civil Rule 43, which governs taking remote testimony in civil trials, applicable in adversary proceedings (which are akin to a civil action in the district court). The amendments to Rules 9014 and 9017 would permit remote testimony in contested matters when there are appropriate safeguards and cause to allow it. Judge Connelly said that "cause" incorporates the concept of good cause. Judge Connelly also reported that in drafting these changes, the Advisory Committee consulted with the Committee on Court Administration and Case Management and the Bankruptcy Committee.

Judge Connelly noted that the public comment period produced few comments, and the comments received were generally supportive and helpful. Based on the comments, the proposed amendments to Rule 9014 were slightly revised to clarify that Rule 9014 is not limited to motions. Professor Bartell explained that "new" Rule 7043 is not in substance a new rule; current Rule 9017 already provides that Civil Rule 43 applies to adversary proceedings.

The members then discussed the proposed new rule and amendments.

With respect to the second sentence of the committee note to Rule 9014, Judge Bates asked whether it was accurate to state that Civil Rule 43 "is no longer generally applicable in a bankruptcy case." He noted that Civil Rule 43 would continue to be applicable in adversary proceedings, and aspects of Rule 43 would also apply in contested matters by virtue of the use of parallel language in Rule 9014. Judge Connelly agreed that much of Civil Rule 43 is adopted into Rule 9014. Professor Bartell explained the goal was to make the point that whereas current Rule 9017 includes Civil Rule 43 on its list of rules that "apply in a bankruptcy case," after the amendments, Civil Rule 43 would no longer be on that list. Rule 43 would be applicable only to adversary proceedings and there would be a different standard for contested matters. Judge Connelly suggested removing the phrase "That rule is no longer generally applicable in a bankruptcy case, and." Professor Gibson supported Judge Connelly's suggestion, and this language was deleted from Rule 9014's committee note.

Following the discussion, upon motion and a second, and with no opposition, the Standing Committee approved recommending to the Judicial Conference final approval of the amendments to Rules 9014 and 9017 and proposed new Rule 7043, with the minor revision to Rule 9014's committee note discussed above and indicated in the Appendix.

c. Amendments to Rules 1007(c), 5009, and 9006

Judge Connelly next presented the Advisory Committee's request for the Standing Committee to recommend final approval by the Judicial Conference of amendments to Rules 1007(c), 5009, and 9006. The proposed amendments address the problem faced by 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 text of the proposed amendments appears on pages 218, 238, and 243 of the agenda book and the written report begins on page 212.

Judge Connelly explained that the proposed amendments would eliminate Rule 1007(c)'s deadline for filing the certificate of course completion (though not the requirement that it be filed). In addition, the amendment to Rule 5009 would add another reminder notice (about the course-completion-certificate requirement) to improve compliance. Judge Connelly noted that the public comments after publication were generally supportive, and no comments opposed the amendments. Professor Gibson said that this project was spurred by Professor Bartell's research, which showed that a significant number of debtors do not receive a discharge only because they failed to take the course or file the appropriate paperwork.

After an opportunity for discussion and with no comments from the members, upon motion and a second, and with no opposition, the Standing Committee approved recommending to the Judicial Conference final approval of the amendments to Rules 1007, 5009, and 9006.

d. Amendments to Official Form 410S1

Judge Connelly next presented the Advisory Committee's request for the Standing Committee to recommend final approval by the Judicial Conference of amendments to Official Form 410S1. The purpose of the amendments is to reflect an amendment to Rule 3002.1(b) regarding payment changes in home equity lines of credit (HELOCs). The text of the proposed amendment appears on page 252 of the agenda book and the written report begins on page 213. Judge Connelly also noted that no comments were submitted regarding the proposed amendment during the public comment period.

The members then discussed the amendments.

A judge member asked whether HELOC payments would be included in the upper-right-hand box for "New total payment," or whether HELOC amounts would be reflected in Part 3 only. Professor Gibson explained that the "New total payment" section would not be used for the HELOC amount.

With no further discussion, upon motion and a second, and with no opposition, the Standing Committee approved recommending to the Judicial Conference final approval of the amendments to Official Form 410S1.

e. Amendments to Rule 2007.1(b)(3)(B)

Judge Connelly next presented the Advisory Committee's request for the Standing Committee to recommend final approval by the Judicial Conference of a technical amendment to Rule 2007.1(b)(3)(B) to correct a cross-reference. The text of the proposed amendment appears on page

221 of the agenda book and the written report begins on page 213. Judge Connelly explained that Rule 2007.1(b)(3)(B) refers to the previous subsection of the rule as "(A)(i) – (vi)." During the restyling of the Bankruptcy Rules, however, the romanettes in (A) were replaced with bullet points. The technical amendment to Rule 2007.1(b)(3)(B) corrects the reference to the romanettes and replaces them with bullet points. Judge Connelly explained that this is a technical amendment that would not benefit from public comment.

The members then discussed the proposed amendments.

A judge member asked if similar changes are required in Rule 2007.1(c)(1) and (3). Professor Bartell agreed that similar changes are needed in those paragraphs and agreed to make the additional changes. Later in the meeting, a practitioner member observed that conforming changes would be needed to the committee note, and Professor Gibson indicated that the committee note would be revised accordingly.

Following the discussion, upon motion and a second, and with no opposition, the Standing Committee approved recommending to the Judicial Conference final approval of the technical amendments to Rule 2007.1(b)(3)(B), along with the conforming amendments to Rule 2007.1(c)(1), and (c)(3) and the committee note as discussed above.

f. Amendments to Rule 3001(c)

Judge Connelly then presented the Advisory Committee's request for the Standing Committee to recommend final approval by the Judicial Conference of a technical amendment to Rule 3001(c) to reflect a change to the numbering of the rule. The text of the proposed amendment appears on page 225 of the agenda book and the written report begins on page 214.

Judge Connelly and Professor Bartell explained that Rule 3001(c) addresses the supporting information required for a proof of claim. Prior to the restyling, Rule 3001(c)(2)(D) provided for sanctions if the claim holder "fails to provide any information required by this subdivision (c)." The restyling of Rule 3001 redesignated former subdivision (c)(2)(D)—the sanction provision—as (c)(3) and provided for sanctions for the failure "to provide information required by [(c)](1) or (2)." The restyled Rule's new cross-reference inadvertently failed to encompass former Rule 3001(c)(3), which became Rule 3001(c)(4). The Advisory Committee approved a technical amendment that corrects the error by changing "information required by [(c)](1) or (2)" to read "information required by (c)." At the same time, it accepted a suggestion to reorder the numbered paragraphs in Rule 3001(c) so that the sanctions provision would come after all the provisions that it serves to enforce. Thus, the proposed technical amendments flip the order of what are currently Rules 3001(c)(3) and (4) and also amend what becomes Rule 3001(c)(4) to refer to "information required by (c)." Judge Connelly explained that this technical change is simply carrying out the intent of the rule, and that public comment would be superfluous.

The members then discussed the proposed amendments.

A judge member asked why Rule 3001(c)(3)(B) was not being moved up to become part of (c)(1). What the proposal would renumber as Rule 3001(c)(3)(B) provides that "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." Professor Bartell said that the rule had always been that way.

Judge Bates asked whether this suggestion was independent from the proposed change to Rule 3001(c). Judge Connelly said that it was. Professor Struve suggested that the reason that the provision is located in what will become Rule 3001(c)(3)(B), and not in Rule 3001(c)(1), is that the provision is relevant *only* to the type of claim treated in Rule 3001(c)(3)(B) – that is, a claim based on an open-end or revolving consumer-credit agreement; as to other types of claims, Rule 3001(c)(1) already requires the creditor to file a copy of the writing described in Rule 3001(c)(1) with the proof of claim, so there would be no reason to separately require that the creditor send a copy of that writing upon request. Judge Bates said that while the Advisory Committee could separately consider the member's suggestion, it seemed independent from the current proposal, which could move forward in the meantime.

With no further discussion, upon motion and a second, and with no opposition, the Standing Committee approved recommending to the Judicial Conference final approval of the technical amendment to Rule 3001(c).

2. *Preliminary Drafts for Publication and Public Comment*

a. Preliminary Draft of Proposed Amendments to Official Form 106C

Judge Connelly next presented the Advisory Committee's request for the Standing Committee to approve publication for public comment on proposed amendments to Official Form 106C, which relates to property that can be claimed as exempt. The text of the proposed amendment begins on page 255 of the agenda book and the written report begins on page 214.

Judge Connelly reported that the proposed amendment to the form includes a total amount of assets being claimed as exempt. This would help bankruptcy trustees comply with their statutory obligation to report assets exempted. Judge Connelly said that this reporting figure is not taking a position on what property is exempted but strikes a balance between the public's need for information and not being overly burdensome on the parties.

After an opportunity for discussion with no comments from the members, upon motion and a second, and with no opposition, the Standing Committee approved publication for public comment on the proposed amendment to Official Form 106C.

D. Advisory Committee on Civil Rules – Judge Robin L. Rosenberg, Chair

Judge Robin Rosenberg presented action items on behalf of the Advisory Committee on Civil Rules, which last met on April 1, 2025, in Atlanta, Georgia. The Advisory Committee's report and the draft minutes of its last meeting are included in the agenda book beginning at page 287.

1. *Amendments for Final Approval*

The Advisory Committee had no requests for final approval.

2. *Preliminary Drafts for Publication and Public Comment*

a. Preliminary Draft of Proposed Amendments to Rule 41(a)

Judge Rosenberg began her report with the Advisory Committee's request that the Standing Committee approve publication for public comment on proposed amendments to Rule 41(a) relating to voluntary dismissal of actions. The text of the proposed amendment begins on page 328 of the agenda book and the written report begins on page 290.

Judge Rosenberg explained that the Advisory Committee was proposing two amendments to Rule 41(a). The first proposed amendment clarifies that the rule permits the dismissal of one or more claims in an action rather than only allowing dismissal of the entire action. She noted that many courts already allow such flexibility without problems arising, and permitting partial dismissal is consistent with the policy reflected throughout the rules of narrowing the issues pretrial. The second proposed amendment is necessitated by the first and clarifies that only the signatures of active parties who remain in a case are required to sign a stipulation of dismissal. Judge Rosenberg said that requiring the signatures of nonactive parties creates opportunities for such parties to stymie settlements if they either oppose the stipulation or cannot be found to provide their signature.

Judge Rosenberg reminded the Standing Committee that it had considered the proposed amendments to Rule 41 at its January 2025 meeting. Based on the Standing Committee's feedback at that meeting, the Advisory Committee made several changes. First, the Advisory Committee decided not to propose amending Rule 41(d) to permit a judge to award costs when the plaintiff had previously dismissed and refiled "one or more claims." (Currently, Rule 41(d) provides that the judge may award costs to the defendant "[i]f a plaintiff who previously dismissed an action files an action based on or including the same claim against the same defendant.") Second, the Advisory Committee clarified that the cutoff for unilateral dismissal of a claim is the filing of an answer or a motion for summary judgment by the party opposing the claim. Third, the Advisory Committee decided to retain the proposed language in Rule 41(a)(1)(A)(ii) that would require that a stipulation of dismissal be signed by all parties who have appeared and remain in the action. Although a participant in the January 2025 Standing Committee meeting had raised concerns about the proposed amendment's interaction with Rule 54(b), the Advisory Committee found the language in the text was sufficiently clear but added to the committee note information to clarify the amendment's purpose.

The members then discussed the proposed amendments.

A judge member asked why, under Rule 41(a)(1)(A)(i), a motion for summary judgment cuts off the plaintiff's opportunity to unilaterally dismiss its claims but a Rule 12(b) motion does not. Professor Bradt explained that the existing cutoffs have been part of the rule since 1946. In addition, adding Rule 12(b) motions to the list of events that cut off a plaintiff's right to unilaterally dismiss might create an inconsistency with Rule 15(a), which allows amendment of a complaint after receipt of a motion to dismiss under Rule 12.

Professor Bartell noted that the amendment to Rule 41(a)(1)(A) (page 328, line 6) would change "the plaintiff" to "a plaintiff," and asked whether the amendment would allow a single plaintiff to

dismiss an action unilaterally even if there are other plaintiffs that oppose dismissal. Professor Bradt responded that under the current rule with "the plaintiff," a plaintiff in a multi-plaintiff case can dismiss their own action, so that problem was in the rule before. Judge Bates agreed that the problem would have existed, but the language change makes the problem different. A judge member said that "the plaintiff" could be read as the plaintiff with respect to a particular claim, but "a plaintiff" could be read as broader. Judge Bates suggested the sentence could read "a plaintiff may dismiss *its* action," and a member agreed with the idea of saying "a plaintiff may dismiss its action or one or more of its claims." Professor Bradt commented that this would not require a change to the proposed amendment to Rule 41(a)(2) but would require conforming changes to the first paragraph of the committee note.

Professor Cooper expressed concern about making the text "a plaintiff may dismiss an action." He questioned if it is one plaintiff's action if there are multiple plaintiffs, proposing a better rule could be "a plaintiff may dismiss its part of an action or one or more claims." Professor Bradt said that he was not sure that "part of an action" is a familiar term and that he would be reluctant to add it. Professor Cooper suggested, alternatively, "a plaintiff may dismiss one or more or all of its claims." Professor Bradt said that the Advisory Committee wanted to keep the word "action" in the rule to avoid concerns that the rule no longer permits the dismissal of an entire action.

Professor Struve suggested that the Standing Committee could decide to use "a plaintiff may dismiss its action or one or more of its claims" in the text and clarify about Professor Cooper's point in the committee note. For example, the committee note at line 37 could read: "A plaintiff may accomplish dismissal of either its action—if it is the sole plaintiff—or one or more of its claims in an action that includes additional plaintiffs." Professor Bradt said that a concern with this text is that a sole plaintiff may also dismiss one or more of its claims. Professor Struve responded that one could revise the second part of that note sentence to say, "one or more of its claims, whether it is the only plaintiff or not." Professor Bradt, however, wondered whether this issue would cause real-world confusion and said that the Advisory Committee could learn more in the public comment period.

Judge Rosenberg then asked whether the beginning of the committee note's first paragraph as modified was clear. It read: "Rule 41 is amended in two ways. First, Rule 41(a) has been amended to add language clarifying that a plaintiff may voluntarily dismiss 'one or more of its claims' in a multi-claim case. A plaintiff may accomplish dismissal of either its action or one or more of its claims unilaterally …." A practitioner member suggested changing the rule text to "a plaintiff may dismiss one, some, or all of its claims in an action without a court order…." Professor Bradt said he did not object, but that the term "one or more claims" was the result of style revision; a previous draft had said "a claim or claims." Thus, Professor Bradt said he would want advice from the style consultants first.

Another practitioner member asked if there would still be a risk – under the other practitioner member's proposed language – of a court interpreting the reference to "one, some, or all" of a plaintiff's "claims" to mean that a plaintiff could dismiss one or more claims but not the action. Professor Bradt suggested changing the phrase to "a plaintiff may dismiss its action or one, some, or all of its claims." Judge Rosenberg asked if "some" was unnecessary. The practitioner member who had proposed the "one, some, or all" phrasing explained that the goal was to make clear that if it's a multi-plaintiff action, the action itself is not dismissed if one of the plaintiffs dismisses all

of its claims. Judge Rosenberg said that Rule 41's title, Dismissal of Actions, suggests that the rule allows a plaintiff to dismiss its action. Professor Bradt questioned whether the Committee could imagine a judge holding that the proposed "one, some, or all of its claims in an action" phrasing does not allow a plaintiff to dismiss its action. Professor Garner indicated that he could not imagine a textualist judge reading the rule that way.

Professor Struve thought that preserving the idea of dismissal of an action as its own concept could be valuable, since the interpretation of whether an order has triggered the start of the time to appeal might depend on whether the claims have been dismissed or the action has been dismissed. Professor Bradt then proposed that the rule could read: "a plaintiff may dismiss its action or one, some, or all of its claims in the action…." Professor Kimble, however, said he supported "may dismiss its action or one or more of its claims."

Judge Bates reminded the committee that the proposal was going out for public comment and that the goal should be to send out for public comment language that seems acceptable, if the committee cannot think of better language. Professor Coquillette said it was time for public comment and generally supported addressing the issue in the text of the rule. Judge Rosenberg suggested that the text of Rule 41(a)(1)(A) could read in relevant part "a plaintiff may dismiss its action or one or more of its claims without a court order…." The accompanying change to the first paragraph of the committee note would read "a plaintiff may voluntarily dismiss 'one or more of its claims' in a multi-claim case. A plaintiff may accomplish dismissal of either its action or one or more of its claims unilaterally…."

Following the discussion, upon motion and a second, and with no opposition, the Standing Committee approved publication for public comment on the proposed amendments to Rule 41, with the revisions to the text and note summarized by Judge Rosenberg in the preceding paragraph.

b. Preliminary Draft of Proposed Amendments to Rules 45(c) and 26(a)(3)(A)(i)

Judge Rosenberg next presented the Advisory Committee's request for the Standing Committee to approve publication for public comment on proposed amendments to Rule 45(c) and Rule 26(a)(3)(A)(i). The goal of the proposed amendment to Rule 45 is to permit a court to command a distant witness to provide remote trial testimony. The proposed amendment to Rule 26 provides that the parties' pretrial disclosures must state whether the party expects to present witness testimony by remote means. The text of the proposed amendment to Rule 26 begins on page 325 of the agenda book, the text of the proposed amendment to Rule 45(c) begins on page 337, and the written report for the proposed amendments begins on page 292.

Judge Rosenberg explained that the amendments address *In re Kirkland*, 75 F.4th 1030 (9th Cir. 2023), which held that the court's authority to issue a subpoena for trial testimony extends only within the "subpoena power" of the court. The *Kirkland* court reached this conclusion despite the 2013 committee note to Rule 45, which had noted the court's authority to command a distant witness to provide remote trial testimony. This decision has even affected cases involving subpoenas issued during discovery rather than subpoenas for trial testimony. She noted that the Standing Committee previously raised a question about whether changing Rule 45(c) would affect the unavailability criterion under Civil Rule 32(a)(4) (addressing use of the deposition of a witness who is unavailable) and Evidence Rule 804(a) (addressing criteria for considering a witness

unavailable for purposes of Rule 804(b)'s hearsay exceptions). The Advisory Committee determined that clarifying the subpoena power does not affect these other rules. Judge Rosenberg said that the proposed changes to Rule 45(c)(2) address remote testimony and set the "place of attendance" as "the location where the person is commanded to appear in person."

Professor Marcus stated that the subcommittee continues to look at questions on remote testimony generally and that this change simply recognizes that – once a court decides that remote testimony is warranted – the court should be able to command the witness to provide that testimony. Rule 45(c) is designed to protect the witness against burdens, but it should not impede the court's ability to order remote testimony when remote testimony is appropriate. Judge Rosenberg added that district courts have disagreed about whether they have the power to command distant trial witnesses to appear by remote testimony. The proposed amendment to Rule 26 complements the proposed amendment to Rule 45(c) by requiring pretrial witness lists to disclose "whether the testimony will be in person or remote." This requirement will lead the parties to discuss remote testimony during the pretrial conference to avoid a surprise closer to trial.

The members then discussed the proposed amendment.

Professor Bartell noted that Rule 45(c)(1) does not use the term "place of attendance," and she suggested that the term was thus not an apt choice for proposed new Rule 45(c)(2). Professor Marcus responded that Rule 45(c)(1) permits a subpoena to "command a person to attend a trial, hearing, or deposition" and proposed Rule 45(c)(2) then defines the place of attendance and this should not be hard to follow. Professor Bartell argued that proposed Rule 45(c)(2) should be rewritten to say something like, "A subpoena may command a person to attend remotely under Rule 45(c)(1) at the location where the person is." Professor Marcus said he did not see a problem with the proposal as drafted, but that public comment would show whether others see a problem. Professor Struve agreed with Professor Marcus and argued that—though Rule 45(c)(1) does not use the specific phrase "place of attendance"—it uses the *concept* of a place of attendance because Rule 45(c)(1)(A) talks about that place being within 100 miles of the person's residence and Rule 45(c)(1)(B) talks about that place being within the state where the person resides.

Judge Bates pointed out that the text of proposed Rule 45(c)(2) uses "the place of attendance for remote testimony is the location where the person is commanded to appear in person," while the committee note's third paragraph instead refers to the "place where the person must appear to provide the remote testimony." He asked if the Advisory Committee intended any difference in these formulations. Professor Marcus thought that the committee note explains the rule clearly.

Professor Marcus noted that the Advisory Committee also recommended a corresponding amendment to Rule 26(a)(3)(A)(i) to add "and whether the testimony will be in person or remote." This would alert everyone in the case to the prospect of remote testimony. In the second sentence of the committee note to Rule 26 – which began "Because the rule presently requires" – Judge Bates suggested changing "the rule" to "this rule" to make clear that the reference is not to Rule 43 (mentioned in the preceding sentence). But after concerns were expressed that "this rule" might also be ambiguous, "the rule" was changed to "Rule 26." After Professor Garner stated that "presently" traditionally meant "in a moment," consensus also favored deleting "presently." At the end of the same sentence, Judge Bates suggested adding "upon court approval." Though a judge

member later suggested deleting the note's second sentence, no consensus developed in favor of such a deletion.

Pointing to the last sentence of the Rule 26 committee note – which states that the amendment "alerts the parties and the court that a party expects to present one or more witnesses remotely" – Professor Bartell asked if the court would already be aware of a party's intention to call a remote witness, given that the court's approval would be required in order for remote testimony to occur. Professor Marcus responded that the Rule 26(a) disclosure would alert the court to the fact that somebody proposes to have a witness testify remotely, which would also require court approval. Judge Bates said that he did not think this pretrial disclosure requirement anticipates that there has already been a decision on whether to allow remote testimony. A practitioner member suggested changing "expects" to "proposes." Judge Rosenberg and Professor Marcus agreed. A judge member objected that using "proposes" would cause the committee note to diverge from the text of Rule 26(a)(3)(A)(i), which uses the phrase "expects to present." But the practitioner member pointed out that there is a distinction between the witnesses the party expects to present and the separate issue whether the testimony of those witnesses will be remote: a party can *expect* to present witnesses (because the party gets to choose its witnesses) while only *proposing* to do so remotely. Judge Rosenberg agreed with the distinction drawn by the practitioner member, as did another practitioner member.

Following this discussion, Judge Rosenberg summarized the changes to the committee note. The second sentence of the committee note would read "Because Rule 26 requires disclosure of witnesses a party 'expects to present,' it should be understood to include witnesses who will testify remotely upon court approval." In the third sentence of the committee note, "a party expects" was changed to "a party proposes."

Upon motion and a second, and with no opposition, the Standing Committee approved publication for public comment on the proposed amendments to Rule 45(c) and Rule 26(a), with the changes to Rule 26's committee note that were summarized in the preceding paragraph.

c. Preliminary Draft of Proposed Amendment to Rule 45(b)

Judge Rosenberg next presented the Advisory Committee's request for the Standing Committee to approve publication for public comment on proposed amendments to Rule 45(b)(1). The proposed amendments specify that the methods for service of a subpoena are personal delivery, leaving it at the person's abode with someone of suitable age and discretion who resides there, sending it by mail or commercial carrier if it includes confirmation of receipt, or another method authorized by the court for good cause. The amendment would also add a default 14-day notice period and provide that the tender of witness fees is not required to effect service of the subpoena so long as the fees are tendered upon the witness's appearance. The text of the proposed amendment begins on page 332 of the agenda book and the written report begins on page 296. The members were also provided with a handout highlighting style changes made subsequent to the publication of the agenda book (the handout was incorporated into the agenda book at page 487).

Judge Rosenberg explained that the proposed amendments address comments received by the Advisory Committee over the years about the ambiguity of the requirement in Rule 45(b)(1) of "serving" the witness with a subpoena and also tendering the witness fee to the witness.

Specifically, Rule 45(b)(1)'s use of "delivering a copy to the named person" without more created confusion and practical problems.

The members then discussed the proposed amendment.

Focusing on delivery to the named person by "delivering it to the individual personally" under proposed Rule 45(b)(1)(A)(i), Professor Bartell asked if a named person would always be an individual. Professor Marcus responded that a subpoena could initiate a Rule 30(b)(6) examination of an entity. Professor Bartell expressed concern that proposed Rule 45(b)(1)(A)(i)'s use of "individual" suggests that the named person must be an individual.

Judge Bates suggested that, in light of the amendment's goal of clarifying the meaning of *service*, the portion of the rule that precedes the romanette-numbered paragraphs should conclude "Serving a subpoena requires:" rather than "Serving a subpoena requires delivering a copy to the named person by:", as the focus should not be on defining "delivery." Professor Marcus observed that the proposed language shown in the agenda book was borrowed from Rule 4(e)(2). Professor Garner supported Judge Bates's suggestion that the rule say "Serving a subpoena requires: (i) personally delivering a copy to the named person …." Judge Rosenberg agreed and confirmed that romanette (i) would read "personally delivering a copy to the named person," but that the other romanettes would not change. Professor Marcus said that this would address Professor Bartell's concern.

Professor Struve questioned the proposed placement of "personally" before "delivering": the placement created ambiguity because it could be read to require the *server* to deliver the document personally (i.e., to mandate that the lawyer whose subpoena it is cannot delegate the task of service). Rule 4(e)(2(A), she noted, places the "personally" at the end ("to the individual personally"). Judge Bates responded that saying "to the named person personally" would be awkward. After a discussion of whether "personally" could be deleted, the participants concluded that it should not. A judge member said that the meaning of Rule 45(b)(1)(A)(i) depends on the word personal. Professor Garner suggested using the term hand-delivering. Judge Bates agreed that hand delivery was likely what the provision means by "personally." Professor Cooper said that the advantage of "personally" is that it helps provide context for "delivering," which courts have interpreted to have different meanings (e.g., mail), and that "hand-delivering" could create new interpretive problems.

An academic member observed that the proposed amended rule imports language from Rule 4, and he would be nervous about adding language that deviates from Rule 4. Judge Rosenberg confirmed that the idea was to mimic the language in Rule 4. Judge Bates asked whether "personally delivering a copy to the named person" is any different from "delivering a copy to the named person personally." Professor Garner supported using "person personally," even though it may strike some readers as awkward. Professor Hartnett suggested "delivering it personally to the named person" to retain the meaning but move the words slightly away from each other. A judge member supported using "named person personally" to stay consistent with whatever caselaw that has developed. Professor Kimble advocated using the language shown in the agenda book, but Professor Bartell reiterated that Rule 4 applies only to individuals, whereas Rule 45(b) applies to all persons (including business entities), so the term "individual" (used in proposed romanette (i) in the agenda book) would be inappropriate for Rule 45(b). Judge Bates supported using "named

person" in order to avoid suggesting there was a substantive change; the remaining question, he noted, was where to put the word "personally."

Judge Bates asked if the Advisory Committee would support revising the second sentence of Rule 45(b)(1)(A) to read: "Serving a subpoena requires: (i) delivering a copy to the named person personally …." Professor Marcus agreed. A judge member asked why "named person" is not needed in the other romanettes. Professor Garner responded that romanette (i) identifies the target as "the named person" and the subsequent romanettes inherit that meaning (such that repeating "named person" is unnecessary). The judge member asked if a reader would understand that the modifier carries through to the other romanettes just as it would if the modifier were in the introduction. Professor Garner said the Committee had employed this usage frequently.

A practitioner member asked whether a subpoena directed to a business organization could be left at its place of business, and if not, whether "place of business" should be added to romanette (ii). Judge Bates noted that the rule should not permit a party to serve a subpoena to an individual at their place of work. Professor Cooper suggested that "delivering … to the named person personally" under revised romanette (i) should encompass service on a business at its office.

A practitioner member suggested revising the first sentence in the committee note to state that "Rule 45(b)(1) is amended to clarify the means of serving the subpoena." Judge Bates asked whether the reference to "delivery" in the committee note's second paragraph should be changed to refer to service. Professor Marcus suggested the term "effective service," (not in quotation marks), and Judge Bates agreed, as did a judge member.

Judge Rosenberg summarized the changes around which consensus had developed (apart from the style changes highlighted on the handout, which were also adopted by consensus). Rule 45(b)(1)(A)'s second sentence was revised so that it commenced: "Serving a subpoena requires: (i) delivering a copy to the named person personally; …." The first sentence of the committee note was changed to read: "Rule 45(b)(1) is amended to clarify the means of serving a subpoena." In the first sentence of the second paragraph of the committee note, "'delivery'" was changed to "effective service."

Following the discussion, upon motion and a second, and with no opposition, the Standing Committee approved publication for public comment on the proposed amendments to Rule 45(b), with the changes summarized in the preceding paragraph, as well as the style changes shown in the handout.

d. Preliminary Draft of Proposed Amendment to Rule 7.1(a)

Judge Rosenberg next presented the Advisory Committee's request for the Standing Committee to approve publication for public comment on proposed amendments to Rule 7.1(a). The amendments would mandate disclosure of corporate "grandparents" and "great-grandparents" in which a judge may hold a financial interest that requires recusal. The text of the proposed amendment begins on page 322 of the agenda book and the written report begins on page 298.

Judge Rosenberg explained that the Advisory Committee proposed the amendment not because of concerns that judges have acted in a biased manner, but because a judge presiding over a case in which she has an arguable financial interest can threaten perceptions of the court's legitimacy. To

address the perception-of-bias issue and allow judges to make more informed decisions about recusal, there are two proposed changes. First, the proposed amendment replaces references to a "corporate party" with the broader term "business organization." The Advisory Committee viewed "corporations" as too narrow because there are many entities that are not corporations, and "business organizations" is the most common and generally understood term. Second, the proposed amendment requires disclosure of "a parent business organization" and "any publicly held business organization that directly or indirectly owns 10% or more of" a party. The term "parent" has been part of the various federal disclosure rules since their inception and has not caused significant problems.

Judge Rosenberg also stated that the Rules Law Clerk and Reporters canvassed a wide swath of disclosure requirements, and the two dominant approaches were to use either a broad catch-all term (such as "affiliates") or a lengthy list of various specific business relationships. However, the former approach is overinclusive and results in important information being buried in a vast disclosure. The latter approach can be over- and under-inclusive and requires constant maintenance to account for evolving relationships. The Advisory Committee was also informed by the February 2024 guidance by the Codes of Conduct Committee that directs a judge to focus on whether a parent corporation that does not wholly own a party has control of a party, advising that 10% ownership creates a rebuttable presumption of control. Professor Bradt said that the effort has been to expand the scope of the rule to better comply with the Codes of Conduct Committee guidance and be consistent with the approach taken in the 1998 committee note to Appellate Rule 26.1.

After an opportunity for discussion and no comments from the members, upon motion and a second, and without opposition, the Standing Committee approved publication for public comment on the proposed amendments to Rule 7.1.

E. Advisory Committee on Criminal Rules – Judge James Dever, Chair

Judge Dever presented one action item on behalf of the Advisory Committee on Criminal Rules, which last met on April 24, 2025, in Washington, D.C. The Advisory Committee's report and the draft minutes of its last meeting are included in the agenda book beginning at page 357.

1. *Amendments for Final Approval*

The Advisory Committee presented no requests for final approval.

2. *Preliminary Drafts for Publication and Public Comment*

a. Preliminary Draft of Proposed Amendments to Rule 17

Judge Dever presented the Advisory Committee's request for the Standing Committee to approve publication for public comment on proposed amendments to Rule 17 relating to subpoenas in criminal cases. The text of the proposed amendment begins on page 373 of the agenda book and the written report begins on page 358.

Judge Dever explained that this item stems from a 2022 proposal by the New York City Bar Association and letters from the National Association of Criminal Defense Lawyers. Judge Dever also noted that the development of the proposed amendments had taken significant effort, but that

the Advisory Committee voted unanimously to recommend publication of the proposed amendment to Rule 17.

Judge Dever reported that the core of the issue raised by the proposals was that Rule 17 had been largely unchanged since 1944 (apart from some style changes and changes relating to the Crime Victims Rights Act). The proposals focused on the problems, from a defense perspective, entailed in obtaining information from third parties. The Advisory Committee's subcommittee – chaired by Judge Jacqueline Nguyen – had begun by assessing whether there was a problem. The subcommittee held many meetings on the project, and the Advisory Committee had discussed it over the course of six meetings and had consulted widely.

The Advisory Committee, Judge Dever noted, had learned that Rule 17 practice varies widely across the country, and in some districts, there is essentially no third-party subpoena practice under Rule 17. One reason for the disparities in Rule 17's application, Judge Dever suggested, was that there were only two U.S. Supreme Court cases on point (*Bowman Dairy v. United States*, 341 U.S. 214 (1951), and *United States v. Nixon*, 418 U.S. 683 (1974)), and those cases contain language that some lower courts have interpreted restrictively. After testing a more expansive proposed rule with defense lawyers and prosecutors, the Advisory Committee determined that it should take a more incremental approach to addressing third-party discovery.

Judge Dever then explained the proposed changes to Rule 17, which were also summarized starting at page 363 of the agenda book. Features of the proposed rule included specifying what proceedings other than trial Rule 17 applies to, codifying a loosened *Nixon* standard, clarifying when a motion and order are required, providing when a party may make its request ex parte, addressing the place of production, preserving Rule 16's disclosure policies, and clarifying which subparts of Rule 17 apply to different proceedings. Judge Dever reiterated that the proposal is for public comment and anticipated that the proposed amendment, if published, would receive helpful comments. He thanked the DOJ and Subcommittee Chair and members for their work.

Professor Beale added that the input from defense and prosecution practitioners was very divergent at first: defense lawyers wanted major changes while the DOJ saw no current problem with Rule 17. It was remarkable that the ultimate proposal attained unanimous support from the Advisory Committee members. It would "raise the floor" of practice in those districts where currently there is no way for the defense to gain information from third parties.

The members then discussed the proposed amendment.

In Rule 17(c)(2)(A) (concerning non-grand-jury subpoenas), Judge Bates suggested inserting "evidentiary" between "additional" and "hearing." Professor Beale agreed. Also in Rule 17(c)(2)(A), Judge Bates pointed out that the placement of the phrase "that the court permits" created ambiguity as to whether it referred to the subpoena or the hearing. Professor Beale stated that the phrase should refer to the subpoena. Consensus formed in favor of revising the last clause of proposed Rule 17(c)(2)(A) to read "or—with the court's permission in an individual case—for any additional evidentiary hearing." A judge member asked whether it was really necessary to require the court's permission in an individual case once the word "evidentiary" was added to the rule. Professors Beale and King said yes, explaining that the Advisory Committee did not want

this amendment to lead to a proliferation of third-party subpoenas in a whole range of evidentiary hearings.

Judge Bates also suggested saying "to produce the designated items to the court" rather than "to produce to the court the designated items" in Rule 17(c)(5). Professor Beale agreed. Judge Bates also suggested deleting "stage" from line 441 of the committee note.

Judge Bates observed that an objective of the proposal is to address the variance in subpoena practice. However, he noted, the proposal retains flexibility for individual judges to continue that variance – for example in proposed Rules 17(c)(2)(C) and (F). Judge Dever agreed and explained that the proposal reflects an incremental approach to changing the rule. Professor Beale noted that Judge Bates's comment relates to the ability of judges or districts to opt out. The other side of that is that the proposed rule states a new default rule with substantial leeway to deal with problems in an individual case or certain kinds of cases. Professor King said that the new default is not a strong one: it is a response to decisions that made assumptions about what the language in the current rule means. Just saying what the rule means will reduce some variance, and variance was left where the Advisory Committee heard it was important. Judge Bates thanked Ms. Shapiro and the DOJ for their work during the process and suggested getting comments from the Magistrate Judges Association.

A practitioner member expressed support for the proposed rule but highlighted the phrase "non-grand-jury subpoena" as a new term that is not in the existing rules. He asked whether a grand jury subpoena is a Rule 17 subpoena. The member had not thought that the government needed to follow a particular process when issuing a grand jury subpoena. Professor Beale responded that the Supreme Court had suggested in *Nixon* that Rule 17 applied to grand jury subpoenas, but she stressed that the Advisory Committee did not want to draft a rule regulating grand jury subpoenas for all purposes. The member suggested explaining the term "non-grand-jury subpoena" in the committee note.

A judge member pointed out language in the committee note (on page 387) providing that a "court has discretion to require that those subpoenas be authorized by motion and court order" and said that a subpoena cannot technically be authorized by motion. Rather, the motion would be filed and then the court would enter an order, as indicated by references to filing a motion and obtaining a court order in Rule 17(c)(3) and (4). To make the references consistent, the member suggested changing the committee note to read "the court has discretion to require that those subpoenas be authorized only after filing a motion and obtaining a court order." The member suggested that the language in Rule 17(c)(3)(A) be similarly changed. The judge member also suggested, for clarity, positive phrasing for Rule 17(c)(2)(C), which would read "a motion and order are required before service of a non-grand-jury subpoena in (3) or (4) or if a local rule or court order requires them."

To respond to these suggestions, Professor Beale referenced the earlier discussion about how to phrase Appellate Rule 29(a)(7). She said that this language was drafted to respond to concerns that the rule was requiring too many motions and would cause a burden. Thus, Professor Beale preferred stating that motions "are not required, except…." To help emphasize the point, Professor Capra suggested revising the heading of Rule 17(c)(2)(C) to read "Motion and Order Not Ordinarily Required." Professor Garner suggested "only by court order on motion," which indicates a court cannot do it sua sponte. The judge member agreed. Judge Dever said this would

change Rule 17(c)(3)(A) to read "only by court order upon motion" rather than "only on motion and by court order."

A judge member asked about Professor Capra's idea to change the title of Rule 17(c)(2)(C) to "Motion and Order Not Ordinarily Required." Judge Bates questioned whether the heading could say "Ordinarily" when that word does not appear in the text of Rule 17(c)(2)(C). Professor Garner responded that "Not Ordinarily Required" was an accurate summary of the provision, which states that the motion and order "are not required … unless." Another judge member suggested titling the provision "Requirement For Motion and Order." Judge Dever, however, expressed a preference for Professor Capra's proposed title, explaining that the Advisory Committee wanted to emphasize that a motion and order is not ordinarily required.

A judge member expressed support for the proposed amendment but had a few questions about the text. First, should Rule 17 emulate Rules 16 and 16.1, which explicitly provide authority for the district court to regulate discovery? To this end, in proposed Rule 17(c)(7), he suggested inserting "or on its own" after "On motion made promptly" to indicate that the court can act sua sponte to quash or modify a subpoena. Professor Beale said the Advisory Committee could discuss the idea after public comment. Judge Dever commented that the only way that the subpoena would come to the court's attention would be if there were a motion to quash. Second, the judge member suggested deleting "under these rules" from Rule 17(c)(6) because a right to discovery can have a statutory or constitutional basis. Professor Beale and Judge Dever agreed. Third, the judge member suggested revising Rule 17(h) to refer to "a statement of a trial witness or of a prospective trial witness" because Rule 32(i) provides discretion to deny a witness at sentencing. The member pointed out that Rule 17 was granting the authority to subpoena witnesses for sentencing. Professor King responded that Rule 17(h) refers only to subpoenaing the witness's *statement*, not the witness. Professor King and Judge Dever said that Rule 17(h) is essentially a rules version of the Jencks Act (that is, Rule 17(h) closes off what would otherwise look like a discovery pathway for early discovery of witness statements) but that public comment will be helpful. Professor King clarified that including sentencing in Rule 17 means only that getting a subpoena for sentencing is not prohibited – not that a subpoena will necessarily issue. Another judge member noted that Rule 26.2(g)(2) (applying Rule 26.2 to sentencing) governs production of the witness's prior statement but not the witness themselves. Professor Beale agreed, and summed up that where Rule 17 would allow a subpoena, it does not allow a subpoena to be used as an end-run around the Jencks principle codified in Rule 26.2.

Professor Beale summarized the modifications to the proposed amendment. The modifications changed Rule 17(c)(2)(A) to read "When Available. A non-grand-jury subpoena is available for a trial; for a hearing on detention, suppression, sentencing, or revocation; or—with the court's permission in an individual case—for any additional evidentiary hearing." The caption of Rule 17(c)(2)(C) was changed to "Motion and Order Not Ordinarily Required." In Rule 17(c)(3)(A), "only on motion and by court order" was changed to "only by court order upon motion." In Rule 17(c)(5), "require the recipient to produce to the court the designated items" was changed to "require the recipient to produce the designated items to the court." In Rule 17(c)(6), "under these rules" was deleted. In the committee note at page 387, line 323, "authorized by motion and court order" was changed to "authorized by court order upon motion." On page 391, line 441, "stage" was deleted.

Following the discussion, upon motion and a second, and with no opposition, the Standing Committee approved publication for public comment on the proposed amendments to Rule 17, with the changes discussed in the preceding paragraph.

3. INFORMATION ITEMS – REPORTS OF THE ADVISORY COMMITTEES

Following the Standing Committee's conclusion of the action items, Judge Bates announced that he would have to leave, and asked Judge Dever to preside over the remainder of the meeting. Prior to this transition, Judge Bates clarified for the record that the Standing Committee had approved publication for public comment on proposed Civil Rule 45(c).

Prior to departing, noting that it was his last Standing Committee meeting, Judge Bates also extended his thanks to everyone and appreciation for being on the Standing Committee and offered to be of assistance when needed.

Judge Dever then turned to the information items, noting that the Standing Committee members had read the Advisory Committee reports and that those presenting the information items should defer to those reports and use their time to highlight issues for any comments from the members.

A. Advisory Committee on Evidence Rules – Judge Jesse M. Furman, Chair

Professor Capra, who presented on behalf of the Advisory Committee in light of Judge Furman's departure from the meeting, highlighted several information items. The written report on information items begins on page 59 of the agenda book.

1. *Artificial Intelligence (AI) and Deepfakes*

Professor Capra reported that the Advisory Committee decided to hold off on proposing any rule amendments regarding the issue of deepfakes and that there had not been many identified deepfakes going through the federal courts. The Advisory Committee will continue to monitor whether deepfakes are challenging the courts. In the meantime, it has a working draft set out on page 60 of the agenda book of a proposed Rule 901(c) addressing deepfakes. The draft rule would create a two-step process where the opponent of the evidence must make a showing that the offered evidence is a possible deepfake. The burden then shifts to the proponent to show by a preponderance of the evidence that it is not a deepfake.

2. *Rule 902(1) and Indian Tribes*

Professor Capra reported on the Advisory Committee's consideration of whether Rule 902(1) regarding self-authenticating government records should be amended to include records of federally recognized Indian tribes. The inability to have self-authenticating records from tribes has created certain problems in cases involving proof of Indian status. Professor Capra noted that the DOJ supports the suggestion to add Indian tribes to Rule 902(1), but it was opposed by the public defender representative. Professor Capra said that the Advisory Committee is conducting outreach to learn the views of tribes on the issue.

3. *Supreme Court Fellow Project on Rule 706*

Professor Capra noted that Samantha Smith, a Supreme Court Fellow, made a presentation to the Advisory Committee on research relating to Rule 706, which the Advisory Committee has taken under advisement.

B. Advisory Committee on Appellate Rules – Judge Allison Eid, Chair

Judge Eid reported briefly on three information items. The written report on information items begins on page 109 of the agenda book. First, the issue regarding intervention on appeal is awaiting further research. Second, the Advisory Committee is staying its consideration of the issue regarding reopening the time to appeal under Rule 4(a)(6), pending the Supreme Court's decision in *Parrish v. United States*.[5] Third, the Advisory Committee is looking at limits on administrative stays. A judge member suggested that the Advisory Committee study appeal waivers as well.

C. Advisory Committee on Bankruptcy Rules – Judge Rebecca Connelly, Chair

Judge Connelly referred the Standing Committee to the written materials, beginning on page 215 of the agenda book, for a report on two information items.[6]

D. Advisory Committee on Civil Rules – Judge Robin Rosenberg, Chair

Judge Rosenberg and Professor Marcus reported on six information items.

1. *Filing under Seal*

Judge Rosenberg noted that the report for this item begins on page 304 of the agenda book and directed the Committee's attention to the questions appearing on page 308. The Advisory Committee would welcome the Standing Committee's feedback on three questions: (1) should the Advisory Committee try to develop nationally uniform procedures for handling motions to seal? (2) if so, how could it obtain information to inform a decision about what procedures to set in the rule? and (3) if the Advisory Committee decides not to recommend adoption of a national rule that prescribes procedures, is there value nonetheless in amending the rules to state that the standard for sealing court files differs from that for protective orders?

A judge member suggested that former Judge Gregg Costa would be a good resource on the issue of the prevalence and abuse of sealing.

2. *Remote Testimony*

Judge Rosenberg said that the report for this item begins on page 308 of the agenda book. She reported that this relates to Rules 43(a) and 43(c) and that the Advisory Committee would be

[5]For purposes of these minutes, it is noted that two days after the Standing Committee meeting, the Supreme Court decided *Parrish.* The citation to the decision is *Parrish v. United States*, 145 S. Ct. 1664 (2025).

[6] As referenced on the meeting agenda, the information items pertain to the withdrawal of a proposed amendment to Rule 1007(h) and two suggestions to allow special masters to be used in bankruptcy cases and proceedings.

gathering more information about whether Rule 43(a) should be changed. The Advisory Committee is considering whether to make Rule 43(a) less restrictive.

A judge member observed that former Texas Supreme Court Chief Justice Nathan Hecht has become a spokesman for the importance of remote testimony and participation.

3. *Third-Party Litigation Funding*

Judge Rosenberg reported that the Advisory Committee is studying the issue of third-party funding of litigation and has found that there is sharp disagreement over what is meant by "third-party litigation funding." She said that a series of nine questions appears on page 315 of the agenda book and requested the Standing Committee's feedback on them. The threshold question is how to describe the arrangements that might trigger a disclosure obligation.

4. *Cross-Border Discovery Subcommittee*

Judge Rosenberg reported that the Advisory Committee is retaining its cross-border discovery subcommittee, but the subcommittee has exhausted its research and has not found a need for a rule.

5. *Rule 55 Default and Default Judgment Rule*

Professor Marcus reported that a FJC study showed that in practice, Clerks of Court rarely enter default judgments in cases where the rule text seems to direct them to do so. Professor Marcus invited thoughts on the matter.

6. *Random Case Assignment*

Judge Rosenberg reported that the Advisory Committee will continue to monitor implementation of the Judicial Conference's March 2024 guidance on random case assignment. A judge member pointed out Professor Samuel Issacharoff's work on this topic.

E. Advisory Committee on Criminal Rules – Judge James Dever, Chair

Judge Dever reported on information items contained in the Committee Report beginning on page 367 of the agenda book. After Judge Dever reported on these items, a judge member suggested that the Advisory Committee should also look into deferred prosecution agreements, and Judge Dever undertook to mention that suggestion to Judge Mosman (the incoming Chair of the Criminal Rules Committee). The judge member also highlighted the circuit split (grounded in Criminal Rule 32) over whether a mismatch between oral and written sentencing conditions requires resentencing; Judge Dever agreed that there is a circuit split on that issue.

1. *Rule 49.1 - References to Minors by Pseudonyms and Full Redaction of Social Security Numbers*

Judge Dever reported that the Rule 49.1 subcommittee has unanimously agreed to propose an amendment to Rule 49.1 to require references to minors by pseudonyms, and the Standing Committee will likely receive such a proposal at its next meeting. He also reported that a proposal

for the complete redaction of social security numbers in public filings will likely be considered by the Advisory Committee at its fall 2025 meeting.

2. *Rule 40 - Clarifying Procedures for Previously Released Defendant Arrested in Different District*

Judge Dever reported that the Advisory Committee received two proposals to clarify the procedures in Rule 40. Rule 40 relates to procedure on arrest of a person on a warrant issued in another district for failure to appear or violation of conditions of release. Judge Dever stated that the consensus of the Rule 40 subcommittee is that the rule can be clarified, and the Advisory Committee will likely take up a proposal on rule amendments at its fall 2025 meeting.

4. JOINT COMMITTEE BUSINESS

A. Report on Electronic Filing by Self-Represented Litigants

Professor Struve referred to her memorandum in the agenda book beginning on page 456 relating to the project on electronic filing and service by self-represented litigants.

B. Report of Subcommittee on Attorney Admission

Professor Struve reported that the subcommittee on attorney admission is also at work on further research.

C. Report on Privacy Issues

Ms. Dubay provided a brief report on the joint project to develop uniform rules on complete redaction of social security numbers and use of pseudonyms in cases involving minors, noting that she would be continuing this project.

5. OTHER COMMITTEE BUSINESS

A. Tribute to Judge Bates

Earlier in the meeting, Professor Struve and Ms. Dubay took a moment to offer thanks to Judge Bates on behalf of the Rules Committees, the Rules Committee Staff, and the Reporters, past and present, for his service as Chair of the Standing Committee, which concludes on September 30, 2025. Professor Coquillette also offered a thoughtful tribute to Judge Bates. Professor Struve read letters of appreciation to Judge Bates from Judge Jeffrey Sutton, Judge David Campbell, and Judge Robert Dow, all former Chairs of Rules Committees. Professor Struve also presented a token of appreciation from the Rules Committee community to Judge Bates in the form of a personalized baseball card noting statistics of the rule amendments undertaken in his tenure.

Following these thanks and tributes, Judge Bates offered brief remarks, noting that it was his privilege to work with everyone and their predecessors as part of the team that makes the rules process work extremely well.

B. Status of Rule Amendments

Ms. Dubay reported that the latest set of proposed rule amendments was transmitted to Congress on April 23, 2025. A list of the rule amendments is included in the agenda book beginning on page 461.

C. Legislative Update

Mr. Brinker, the Rules Law Clerk, provided a legislative update. The legislation tracking chart begins on page 477 of the agenda book. Mr. Brinker noted that no bills identified in the agenda book had received legislative action since being introduced. Ms. Dubay also noted in response to a judge member's question that the Rules Committee Staff monitors only those bills that would directly or effectively amend the rules of practice and procedure.

D. FJC Update

Dr. Reagan indicated that he would rely on the FJC report in the agenda book. Judge Dever remarked that it would be helpful for the FJC to continue educating judges that when rules change, they should not rely on case law interpreting the former rule.

6. CONCLUDING REMARKS AND ADJOURNMENT

Judge Dever noted the upcoming departure of Mr. Brinker as his term as Rules Law Clerk comes to an end, thanked him for his excellent work, and wished him well in his new employment. Judge Dever also recognized Judge Rosenberg for her upcoming role as FJC Director and wished her well.

Judge Dever concluded by thanking the Standing Committee members for their hard work and adjourned the meeting.

APPENDIX

Summary of Standing Committee Revisions to Final Amendments

The following list identifies revisions made at the Standing Committee meeting to amendments presented for final approval, as set forth in the agenda book available on the uscourts.gov website.

Evidence Rule 801(d)(1)(A)

The proposed amendments to Evidence Rule 801(d)(1)(A) begin on page 64 of the agenda book. There were no revisions to the rule text. Prior to discussion by the Standing Committee, the Chair noted one correction to the committee note:

1. Page 65, line 32, "exception" was changed to "objection."

The Standing Committee discussed and approved one additional change:

1. Page 66, line 52, "proving" was changed to "assessing."

Appellate Rule 29

The proposed amendments to Appellate Rule 29 begin on page 112 of the agenda book. The Reporter noted the following corrections to the committee note:

1. Page 123, line 234, "Rule 29(a)(4)(D)" was changed to "Rule 29(a)(4)."
2. Page 124, line 238, "curiae" was deleted.
3. Page 124, line 245, "Rule 29(a)(4)(E)" was changed to "Rule 29(a)(4)(F)."
4. Page 125, line 293, "Rule 29(a)(4)(D)(iii)" was changed to "Rule 29(a)(4)(E)(iii)."
5. Page 127, line 347, "Rule 29(a)(4)(E)" was changed to "Rule 29(a)(4)(F)."
6. Page 127, line 350, "Rule 29(a)(4)(D)" was changed to "Rule 29(a)(4)(E)."

The Standing Committee then discussed and approved one change to the rule text in proposed Rule 29(a)(7):

1. Page 118, lines 105-106, "An amicus may file a reply brief only with the court's permission" was changed to "An amicus may not file a reply brief except with the court's permission."

Bankruptcy Rule 9014

The proposed amendments to Bankruptcy Rule 9014 begin on page 246 of the agenda book. There were no revisions to the rule text. The Standing Committee discussed and approved one change to the committee note:

1. Page 247, lines 26-27, "That rule is no longer generally applicable in a bankruptcy case, and" was deleted so that the second sentence reads "The reference to that rule has been removed from Rule 9017."

Bankruptcy Rule 2007.1(b)(3)(B)

The proposed technical amendments to Bankruptcy Rule 2007.1(b)(3)(B) begin on page 221 of the agenda book. There were no revisions to the rule text. The Standing Committee indicated that conforming technical changes also needed to be made to Rule 2007.1(c)(1) and (3) and the committee note. Those sections of Rule 2007.1 and the committee note were not contained in the agenda book, but the conforming technical amendments to delete the romanettes were approved.