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

MEMORANDUM

TO: Hon. James C. Dever III, Chair
Committee on Rules of Practice and Procedure

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

RE: Report of the Advisory Committee on Bankruptcy Rules

DATE: December 8, 2025

I. Introduction

The Advisory Committee on Bankruptcy Rules met in Washington, D.C., on September 25, 2025. The draft minutes of that meeting are attached.

At the meeting, the Advisory Committee reviewed and recommended a new Director's Form 4100C to implement the amendments to Rule 3002.1(g)(4)(C). Those amendments provide for the bankruptcy court—in response to a motion by the trustee or debtor at the end of a chapter 13 case—to enter an order determining whether the debtor has cured all defaults and paid all postpetition amounts on a home mortgage. The new Director's Form provides a form for such an order. The Advisory Committee also recommended amendments to Director's Forms 2000

(Required Lists, Schedules, Statements and Fees) and 2030 (Attorney's Disclosure of Compensation). The new and amended forms were promulgated by the Director on December 1.

The Advisory Committee also approved technical amendments to Official Form 410C13-NR (Response to Trustee's Notice of Disbursements Made), which was scheduled to go into effect on December 1, 2025, and agreed to seek retroactive approval of the amendments from the Standing Committee.

Part II of this report presents that action item.

Part III of this report presents five information items. They relate to proposed amendments to the privacy rules, suggestions to amend Rule 2003 (Meeting of Creditors or Equity Security Holders) regarding the time and location of meetings of creditors, suggestions to allow the use of masters in bankruptcy cases and proceedings, proposed amendments to Rule 8017 to conform with proposed amendments to Appellate Rule 29, and the removal from the agenda of Suggestion 24-BK-P to amend Rule 2006 regarding time counting.

II. Action Item

Item for Final Approval

The Advisory Committee recommends that the following technical form amendments be given retroactive final approval without publication. Bankruptcy Appendix A includes the form discussed below.

Action Item 1. Official Form 410C13-NR (Response to Trustee's Notice of Disbursements Made). An inconsistency in Official Form 410C13-NR (Response to Trustee's Notice of Disbursements Made), which was set to go into effect on December 1, 2025, was called to the Advisory Committee's attention. Two items in Part 2 referred to "the date of this notice." They should have said, "the date of this response," as in the introductory language to that section. These references were inadvertent errors.

The Advisory Committee concluded that it would be best if these errors could be corrected before the form went into effect. In March 2016 the Judicial Conference delegated authority to the Bankruptcy Rules Advisory Committee to make "non-substantive, technical, and conforming changes to official bankruptcy forms, with any such changes subject to retroactive approval by the Standing Committee and notice to the Judicial Conference." The Advisory Committee believes that correction of these errors comes within that authority. They were merely scrivener's errors and were non-substantive. Because both items said, "*this* notice," not "*the* notice," they were referring to the document being completed — i.e. the response — and not the earlier notice.

Accordingly, the Advisory Committee approved the changes to be effective December 1, 2025, and recommends that the Advisory Committee give retroactive approval to the changes and give notice of this action to the Judicial Conference.

III. Information Items

Information Item 1. Possible amendments to the privacy rules. At the fall 2024 Advisory Committee meeting, Tom Byron reported on suggestions that address particular issues relating to the privacy rules, including suggestions regarding redaction of social-security numbers ("SSNs") in federal-court filings and a suggestion relating to initials of known minors in court filings. At the same meeting, the Advisory Committee decided to take no action on a suggestion from Senator Wyden concerning complete redaction of SSNs in bankruptcy court filings. Surveys undertaken by the Federal Judicial Center of debtor attorneys; chapter 7, 12, and 13 trustees; creditor attorneys; various tax authorities; bankruptcy clerks; and representatives of the National Association of Attorneys General indicated that a significant number of bankruptcy specialists oppose the idea of removing the truncated SSN with respect to every form listed.

Since that time the other rules committees have been considering the same issues. When the Advisory Committee met in September, the Rule 49.1 (Privacy Rule) Subcommittee of the Criminal Rules Committee was proposing to its advisory committee amendments to Criminal Rule 49.1(a) that would do three things. First, it would apply the rule not only to filings that include information about individuals, but to non-individuals as well. Second it would require full redaction of SSNs and other tax-identification numbers (TINs), as well as employer-identification numbers (EINs), in all filings, potentially expressly stating its application to all exhibits and attachments. Third, it would require the use of pseudonyms, rather than initials, for minors' names. The Civil Rules Committee was also considering whether to propose similar amendments to Civil Rule 5.2, and the Appellate Rules Committee was thought to be receptive to those changes if proposed.

After discussion of those possible amendments to the privacy rules, the Advisory Committee reached the following conclusions:

- First, the Advisory Committee concluded that it continues to adhere to its prior decision not to amend Bankruptcy Rule 9037(a)(1) to require complete redaction of social-security numbers.
- Second, if the proposal to require the use of pseudonyms rather than initials for minors' names is adopted by the Criminal Rules Committee, the Advisory Committee will propose a conforming change to Bankruptcy Rule 9037(a)(3) to be published at the same time.
- Third, given that the Advisory Committee decided not to require full redaction of SSNs, despite the decision of the Criminal Rules Committee and perhaps other committees, the Advisory Committee also decided that Bankruptcy Rule 9037(a)(1) should continue to treat ITINs in the same way as individual SSNs, thus providing no additional redaction of ITINs or EINs.
- Fourth, given that the Advisory Committee does not choose to amend Rule 9037(a)(1) to require full redaction of SSNs and ITINs, but the Civil and Appellate Rules Committees may modify Civil Rule 5.4(a) and Appellate Rule 25(a)(5) to require full redaction, the Advisory Committee considered which rule should apply in bankruptcy appeals. It concluded that the rules should treat appeals uniformly, regardless of the

rule applied in the bankruptcy court. Assuming that complete redaction will be required in appeals to courts of appeal, implementation of the decision to have uniform rules for appeals would require a new Part VIII privacy rule providing for complete redaction of SSNs and ITINs in appeals from bankruptcy courts to district courts and bankruptcy appellate panels. New language could be added to Rule 8011, which is the counterpart to Appellate Rule 25.

The Advisory Committee's goal is to have amendments to Bankruptcy Rules 8011and 9037 presented to the Standing Committee for publication at the same time as the other advisory committees seek publication of amendments to their privacy rules. Accordingly, proposed language will be presented to the Advisory Committee for approval for publication at its spring meeting.

Information Item 2. Suggestions to amend Rule 2003 (Meeting of Creditors or Equity Security Holders) regarding the time and location of meetings of creditors. The Advisory Committee has received two suggestions proposing amendments to Rule 2003 to take account of the fact that meetings of creditors are now being conducted remotely and to extend the time for conducting the meetings in chapters 12 and 13 cases. At the fall 2024 Advisory Committee meeting, members discussed whether Rule 2003 needs to be amended to expressly recognize the practice of remote meetings that is already well established in all districts. There was little enthusiasm for such an amendment. Members said that the rule seems to be working well in this regard and that a rule change might suggest that the current use of remote meetings is unauthorized.

Related to the issue of conducting meetings of creditors by video is the matter of where the meetings may take place. Currently the rule specifies that the meeting must take place in the district where the bankruptcy case is pending—either at "a regular place for holding court" or any other place that is "convenient for the parties in interest." As the rule has been interpreted for remote meetings, the location requirement applies to where the trustee must be present. Interim regulations of the U.S. Trustee Program generally require the trustees to be physically located within their applicable district and at their primary business location or such other location in the district that is approved by the U.S. trustee. The suggestions for amendments to Rule 2003 would loosen these restrictions on location.

Because some of the concerns raised by the suggestions relate to policies of the Executive Office for U.S. Trustees ("EOUST"), the Advisory Committee suggested that discussions between that office and trustee representatives might be helpful in determining whether a consensus can be reached about the need for possible amendments to Rule 2003. Those discussions are taking place, and it is hoped that the groups will have a proposal that the Advisory Committee can consider at the spring meeting. The Advisory Committee encouraged them to consider which requirements for meetings of creditors are appropriately addressed by a national bankruptcy rule and which ones are better left to EOUST regulations or practices.

Information Item 3. Suggestions to allow masters in bankruptcy cases and proceedings. Two suggestions to amend Bankruptcy Rule 9031 have been submitted to the Advisory Committee proposing amendments that would allow masters to be used in bankruptcy

cases and proceedings. After reviewing the results of a survey of bankruptcy judges conducted by Dr. Carly Giffin of the Federal Judicial Center, the Advisory Committee concluded that there was sufficient interest in allowing masters to be used in bankruptcy cases or proceedings that it should continue to consider the suggestions. It also reviewed a memo produced by Kyle Brinker, the former Rules Law Clerk, which concluded that there is no constitutional or statutory impediment to the appointment of a master by a bankruptcy judge, so long as the judge can review the master's findings of fact and conclusions of law de novo.

The Advisory Committee reviewed a tentative draft of amendments to Rule 9031 and committee note and provided input to the reporters. Amendments to the rule may be presented for approval for publication at the spring meeting of the Advisory Committee.

Information Item 4. Proposed amendments to Rule 8017 to conform with proposed amendments to Appellate Rule 29. At its June 2025 meeting, the Standing Committee gave final approval to amendments to Appellate Rule 29 (Brief of an Amicus Curiae). The bankruptcy equivalent to that rule is Bankruptcy Rule 8017. At its fall meeting, the Advisory Committee considered conforming amendments to Rule 8017. However, Professor Struve suggested that conforming amendments to Rule 8015(h)(1), dealing with the certificate of compliance, and the appendix of length limits should be proposed for publication at the same time. The Advisory Committee agreed and decided to defer until the spring meeting approval for publication of amended Rule 8017, along with amendments to Rule 8015 and the appendix.

Information Item 5. Removal from the agenda of suggestion 24-BK-P to amend Rule 2006 regarding time counting. Jack Metzler, Senior Assistant Disciplinary Counsel at the Office of Disciplinary Counsel, made a suggestion (24-AP-N) that Appellate Rule 26(a)(1) be amended so that periods counted in days would begin with the first day that is not a Saturday, Sunday, or legal holiday. Because the time counting rules are consistent across all the rules sets, the suggestion was also filed with the Bankruptcy Rules (24-BK-P), Criminal Rules (24-CR-I), and Civil Rules (24-CV-Z) Committees.

The Appellate Rules Committee previously decided to remove the suggestion from its agenda. At its fall meeting, the Advisory Committee did the same.

TAB 11

Fill in this information to identify the case:

Debtor 1 _____

Debtor 2 (Spouse, if filing) _____

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

Case number _____

Official Form 410C13-NR

Response to Trustee's Notice of Disbursements Made

12/25

The claim holder must respond to the Trustee's Notice of Payments Made within 28 days after it was served. Rule 3002.1(g)(3).

Part 1: Mortgage Information

Name of claim holder: _____

Court claim no. (if known): _____

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

Property address:

_____
Number Street

_____

_____
City State ZIP Code

Part 2: Arrearages

The total amount received to cure any arrearages as of the date of this response: $_____.

Check all that apply:

- ❑ The amount required to cure any prepetition arrearage has been paid in full.
- ❑ The amount required to cure the prepetition arrearage has not been paid in full. Amount of prepetition arrearage remaining unpaid as of the date of this response: $ _____.
- ❑ The amount required to cure any postpetition arrearage has been paid in full.
- ❑ The amount required to cure the postpetition arrearage has not been paid in full. Amount of postpetition arrearage remaining unpaid as of the date of this response: $ _____.

Part 3: Postpetition Payments

(a) *Check all that apply:*

- ❑ The debtor is current on all postpetition payments, including all fees, charges, expenses, escrow, and costs.
- ❑ The debtor is not current on all postpetition payments. The claim holder asserts that the debtor is obligated for the postpetition payment(s) that first became due on: ____/_____/_____.
- ❑ The debtor has fees, charges, expenses, negative escrow amounts, or costs due and owing.

(b) The claim holder attaches a payoff statement and provides the following information as of the date of this response:

i. Date last payment was received on the mortgage: ____/_____/_____

ii. Date next postpetition payment from the debtor is due: ____/_____/_____

iii. Amount of the next postpetition payment that is due: $_____

iv. Unpaid principal balance of the loan: $_____

v. Additional amounts due for any deferred or accrued interest: $_____

vi. Balance of the escrow account: $_____

vii. Balance of unapplied funds or funds held in a suspense account: $_____

viii. Total amount of fees, charges, expenses, negative escrow amounts, or costs remaining unpaid: $_____

Part 4 Itemized Payment History

If the claim holder disagrees that the prepetition arrearage has been paid in full, states that the debtor is not current on all postpetition payments, or states that fees, charges, expenses, escrow, and costs are due and owing, it must attach an itemized payment history disclosing the following amounts from the date of the bankruptcy filing through the date of this response:

- all prepetition and postpetition payments received;
- the application of all payments received;
- all fees, costs, escrow, and expenses that the claim holder asserts are recoverable against the debtor or the debtor's principal residence; and
- all amounts the claim holder contends remain unpaid.

Part 5: Sign Here

The person completing this response must sign it. Check the appropriate box:

❑ I am the claim holder.

❑ I am the claim holder's authorized agent.

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

✘ _____ Date ____/_____/_____
Signature

Name _____
First name Middle name Last name

Title _____

Company _____
Identify the corporate servicer as the company if the authorized agent is a servicer.

Address _____
Number Street

_____
City State ZIP Code

Contact phone _____ Email _____

ADVISORY COMMITTEE ON BANKRUPTCY RULES
Meeting of September 25, 2025
Washington, D.C., and on Microsoft Teams

The following members attended the meeting in person:

Alane A. Becket, Esq.
District Judge James O. Browning
Bankruptcy Judge Rebecca Buehler Connelly
Jenny Doling, Esq.
Sean Day, Esq.
Bankruptcy Judge Benjamin A. Kahn
Bankruptcy Judge Catherine Peek McEwen
Professor Scott F. Norberg
District Judge J. Paul Oetken
Nancy Whaley, Esq.

The following members attended the meeting remotely:

Circuit Judge Daniel A. Bress
Bankruptcy Judge Michelle M. Harner
District Judge Jeffery P. Hopkins
District Judge Joan H. Lefkow
Damian S. Schaible, Esq.

The following persons also attended the meeting in person:

Professor S. Elizabeth Gibson, Reporter
Professor Laura B. Bartell, Associate Reporter
District Judge John D. Bates, Chair of the Committee on Rules of Practice and Procedure (the Standing Committee)
Professor Catherine T. Struve, reporter to the Standing Committee
Ramona D. Elliott, Esq., Director, Executive Office for U.S. Trustees
Kenneth S. Gardner, Clerk, U.S. Bankruptcy Court for the District of Colorado
Dean Troy McKenzie, liaison from the Standing Committee
Bankruptcy Judge Laurel Isicoff, liaison from the Committee on the Administration of the Bankruptcy System
Bankruptcy Judge Deborah Thorne, incoming liaison from the Committee on the Administration of the Bankruptcy System
Carolyn Dubay, Administrative Office
Bridget M. Healy, Administrative Office
Shelly Cox, Administrative Office
Rakita Johnson, Administrative Office
Sarah Sraders, Rules Law Clerk
Carly E. Giffin, Federal Judicial Center
Rebecca Garcia, Chapter 12 & 13 Trustee
Merril Hirsh, Law Office of Merril Hirsh PLLC

The following persons also attended the meeting remotely:

Professor Daniel R. Coquillette, consultant to the Standing Committee
Susan Jensen, Administrative Office
Tim Reagan, Federal Judicial Center
Hilary Bonial, Bonial & Associates, P.C.
John Hawkinson, journalist
Kaiya Lyons, American Association for Justice
Lisa Mullen, Trott Law
Lauren O'Neil, Shared Services Legal
John Rabiej, Esq., Rabiej Litigation Law Center
Sai
Daniel Steen, Lawyers for Civil Justice
Susan Steinman, American Association for Justice
Samantha Stokes, Distressed Debt reporter
Tracy Updike, Chapter 13 Trustee

Discussion Agenda

1. **Greetings and Introductions**

Judge Rebecca Connelly welcomed the group. She noted that five members of the Advisory Committee are attending remotely—Judges Bress, Harner, Hopkins and Lefkow and Mr. Schaible—as well as Dan Coquillette, consultant to the Standing Committee.

She observed that District Judge J. Paul Oetken will be leaving the Advisory Committee after this meeting and expressed the gratitude of the Committee for his work. She announced that District Judge Leigh Martin May will be taking his place on the Advisory Committee as of Oct. 1. Also leaving is Bankruptcy Judge Laurel Isicoff, who serves as liaison from the Committee on the Administration of the Bankruptcy System. She will be replaced by Bankruptcy Judge Deborah Thorne, who was attending the meeting. Judge Connelly also introduced the new Rules Law Clerk, Sarah Sraders. She also noted that this is the last meeting for District Judge John Bates, who will be leaving as chair of the Standing Committee and thanked him for his valuable contributions to the work of the Advisory Committee.

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

She asked Carolyn Dubay to review the chart tracking proposed rules amendments, and she did so.

2. Approval of Minutes of Meeting Held on April 3, 2025

The minutes were approved with one amendment—the deletion of the word "Bankruptcy" before the word "Committee" on page 10.

3. Oral Reports on Meetings of Other Committees

(A) *June 10, 2025, Standing Committee Meeting*

Judge Connelly gave the report.

The Standing Committee gave final approval to amendments to Rule 3018 (dealing with acceptance of a Chapter 9 or Chapter 11 plan by stipulation or statement on the record).

The Standing Committee also approved the new rule and set of amendments relating to the use of remote testimony in contested matters. New Rule 7043 incorporates the substance of current Rule 9017 in making Civil Rule 43 applicable to adversary proceedings. Proposed amendments to Rules 9014 (which permits a bankruptcy judge to approver remote proceedings in contested matters for cause), and 9017 (which deleted the reference to Rule Civil Rule 43 as being generally applicable in bankruptcy cases) were approved.

Also approved were amendments to Rules 1007(c), 5009, and 9006, which address the problem faced by individual debtors whose cases are closed because they either failed to take the required course on personal financial management or failed to provide evidence that they did so. Rule 1007(c) is amended to eliminate the deadline for filing the certificate of course completion. Amended Rule 5009 adds another reminder notice about the requirement to take the course. Rule 9006 is amended to delete the references to the eliminated deadline in Rule 1007(c).

The Standing Committee also approved amendments to Official Form 410S1 to reflect the amendment to Rule 3002.1(b) (regarding payment changes in home equity lines of credit) and a technical amendment to Rule 2007.1(b)(3)(B) (dealing with appointment of a trustee or examiner in a Chapter 11 case) to correct a cross-reference. The Standing Committee noted that a similar technical amendment needed to be made to Rule 2007.1(c)(1) and (c)(3), and approved that amendment as well.

The Standing Committee also gave final approval to a technical amendment to Rule 3001(c) (which sets out required supporting information for a proof of claim) to reflect a change in the numbering of the Rule in the restyling process that inadvertently made a substantive change in the coverage of the sanctions provision.

Approved for publication were amendments to Official Form 106C, which provide a total amount of assets being claimed as exempt.

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

The Advisory Committee on Appellate Rules was scheduled to meet on October 15, 2025, so there was no report.

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

The Advisory Committee on Civil Rules was scheduled to meet on October 25, 2025, so there was no report.

(D) ***June 12-13, 2025, Meeting of the Committee on the Administration of the Bankruptcy System (the "Bankruptcy Committee")***

Judge Isicoff provided the report. She noted that this is her last meeting as liaison to the Advisory Committee because she is stepping down from the Bankruptcy Committee on September 30, but she said she is delighted that she will be succeeded by Bankruptcy Judge Deborah Thorne from the N.D. Ill., whose experience will provide significant benefits to the Advisory Committee as liaison.

Legislative Proposal Regarding Chapter 7 Debtors' Attorney Fees

As previously reported, the Judicial Conference, on recommendation of the Bankruptcy Committee, has adopted a legislative proposal related to chapter 7 debtors' attorney fees. Not much as progressed since the Administrative Office (AO) transmitted the legislative proposal to Congress, most recently in July 2023, although the Bankruptcy Committee understands that the proposal continues to be reviewed by Congressional staff. Several bankruptcy judges and AO staff continue to make themselves available to members of Congress to answer questions raised in connection with this proposal. If Congress enacts amendments to the Code based on this position, conforming changes to the Bankruptcy Rules would be required. The Bankruptcy Committee will continue to update the Advisory Committee on any progress in this area.

Project on Service and Electronic Filing by Self-Represented Litigants

With respect to the pending suggestions to the various rules committees to allow greater access to electronic filing systems for self-represented litigants, she has previously reported the concerns of several Clerks of Bankruptcy Courts, including her own. Judge Isicoff looks forward to hearing the Advisory Committee's discussion on whether to join the other rules committees that are proceeding with amendments to their respective sets of rules in this area, and how the recent information regarding concerns with CM/ECF will impact those considerations.

The Bankruptcy Committee is also studying issues related to pro se litigants in bankruptcy court. The Bankruptcy Committee has for some years been undertaking a systematic inquiry to identify potential issues that could impact the bankruptcy system in the coming years, intended to provide a long-term framework for identifying suggestions to improve the bankruptcy system. At its December 2024 meeting, as part of this "changing needs" study, it identified for prioritization

the issue related to exploring disparities in self-represented bankruptcy filing levels across districts and identifying and evaluating strategies and procedures for reducing the burden created by self-represented filers on those bankruptcy courts particularly impacted, including assistance in obtaining counsel. The Bankruptcy Committee will receive a report on this issue at its upcoming December meeting.

Masters in Bankruptcy Cases

Appointment of masters in bankruptcy cases is an area in which the Bankruptcy Committee was historically very engaged. Judge Isicoff is interested in the question asked by the Advisory Committee regarding whether there is any constitutional or statutory impediment to authorizing bankruptcy judges to appoint masters because early in her career she actually appointed a special master for a discovery dispute, and it was very successful. If the Advisory Committee is interested in working with the Bankruptcy Committee to evaluate this issue at any stage, the Bankruptcy Committee would be honored and happy to assist.

4. **Report by the Consumer Subcommittee**

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

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

Rebecca Garcia, a chapter 12 and chapter 13 trustee, submitted a suggestion (Suggestion 24-BK-G), which she later revised (Suggestion 25-BK-B), to amend Rule 2003(a) and (c) as pertains to the timing, location, and recording of meetings of creditors in chapter 7, 11, 12, and 13 cases. The suggestion was endorsed by the Association of Chapter 12 Trustees (ACTT) and the National Association of Chapter 13 Trustees (NACTT). The National Association of Bankruptcy Trustees (NABT) also submitted a suggestion to amend Rule 2003 to take account of remote meetings of creditors.

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

At the fall 2024 Advisory Committee meeting, members discussed whether Rule 2003 needs to be amended to expressly recognize a practice that is already well established in all districts. There was little enthusiasm for such an amendment. Members said that the rule seems to be working well in this regard and that a rule change might suggest that the current use of remote meetings is unauthorized.

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

As the rule has been interpreted for remote meetings, the location requirement applies to where the trustee must be present. The Executive Office for U.S. Trustees (EOUST) has interim regulations that provide:

> For purposes of conducting virtual 341 meetings, the trustee should be physically located within their applicable district. The virtual meeting should be located at the trustee's primary business location or such other location in the district that is approved by the UST. The trustee may not conduct 341 meetings from outside their district unless there is prior approval by the UST and appropriate decorum is maintained. If the trustee's office is located in an adjacent district, the trustee may conduct the virtual 341 meeting at their office if approved by the UST.

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

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

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

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

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

Ms. Garcia's revised suggestion proposes that the time limits in chapter 12 and 13 cases be no fewer than 21 days and no more than 60 days after the order for relief. Subcommittee member Nancy Whaley surveyed chapter 12 and chapter 13 trustees regarding these time limits, among other things. Some trustees said it had caused problems when their caseloads were heavier.

As reported at the spring 2025 Advisory Committee meeting, the Subcommittee concluded that because some of the concerns raised by the suggestions relate to policies of the EOUST, discussions between that office and trustee representatives might be helpful in determining whether a consensus might be reached about the need for possible amendments to Rule 2003. Ms. Elliott and Ms. Whaley agreed with that approach. They reported at the August Subcommittee meeting that one meeting between representatives of the EOUST and the three trustee groups has taken place and that discussions will continue this fall. If a consensus can be reached, they hope to have a proposal to present to the Subcommittee at its winter meeting.

Ms. Elliott reported on the meeting that had taken place and said progress is being made. She has sent a proposal to the various trustee organizations for changes to the EOUST policies for location of the 341 meetings and awaits responses.

Ms. Whaley also reported that a new suggestion is likely to soon be jointly made by the NACTT, NABT and ACTT. Judge Connelly emphasized that a new suggestion cannot be acted on in time to make the next meeting's agenda unless it is proposed by January.

Judge Harner suggested that Ms. Whaley and Ms. Elliott review the Subcommittee's prior discussions to proactively address those issues in any new proposed amendment. Specifically, they should think about whether the rule needs to address the details of the meeting of creditors Deferring to the policies issued by the EOUST may be appropriate and may avoid any negative inferences from changing existing language in the rule to expressly authorize remote meetings, which are already occurring.

Judge Kahn said that he thinks there is a problem with the rule as it is now drafted in that Rule 2003(a)(1) sets definite times for the meetings, but (a)(3) provides for a potential change in the times without being referenced in (a)(1). He thinks all timing rules should be in a single section.

Judge Connelly noted that the rule assumes that the place of holding a meeting is in the district, but in her district some trustees who have been appointed are out-of-district. This creates a potential for violation of the rule, but judges do not control the location of section 341 meetings and therefore cannot enforce this potential violation of the rule. The rule should not discourage people from becoming trustees. Districts may also be combined based on filing levels, and that should not prevent trustees from holding meetings at an appropriate place. Judge Harner again asked whether we shouldn't defer to the EOUST on the issue of location. Ms. Elliott noted the EOUST policy does contemplate sitting in an adjacent district.

5. **Report by the Forms Subcommittee**

(A) ***Consideration of new Director's Form for an Order for Rule 3002.1(g)(4)***

Judge Kahn and Professor Gibson provided the report.

Amendments to Rule 3002.1 (Chapter 13—Claim Secured by a Security Interest in the Debtor's Principal Residence) are on schedule to go into effect on December 1, 2025, along with six new forms proposed to implement the rule's new provisions. As amended, Rule 3002.1(g)(4)(C) will provide for the court—in response to a motion by the trustee or debtor at the end of the case—to enter an order determining whether the debtor has cured all defaults and paid all postpetition amounts. The Committee Note states that:

> A Director's Form provides guidance on the type of information that should be included in the order.

The Subcommittee presented for approval the proposed Director's Form which appears beginning on p. 127 of the Agenda Book. The Advisory Committee approved the form and requested the Administrative Office to promulgate it by December 1, 2025.

(B) ***Consideration of Suggestion 25-BK-I to revise Director's Form 2030***

Judge Kahn and Professor Bartell provided the report.

In its opinion in *In re* Aquilino, 135 F.4th 119 (3rd Cir. 2025), the court of appeals held that the bankruptcy court did not abuse its discretion in imposing sanctions on debtor's attorney for violating the fee-disclosure provisions of § 329(a) of the Bankruptcy Code and Bankruptcy Rule 2016(b). Counsel made his disclosure by use of Director's Form 2030, and the court noted that the language of the form may have misled counsel. In footnote 16 of its opinion, the court invited the Director of the Administrative Office of the U.S. Courts to consider whether revisions to the form were warranted in that the form:

> "could lead debtors' counsel completing the form to believe that a notation at subsection (e) or a marking on some, but not all, of the other subsections would effectively communicate that the remainder were excluded from the representation and that no additional notations were needed in section 6 …. Clarification of sections 5 and 6 of the standard form could avoid such confusion by debtors' attorneys in the future."

Scott Myers on behalf of the Administrative Office filed a suggestion based on the court's observation.

The Subcommittee recommended amendments to Section 5 of the Director's Form as shown on p. 134-35 of the Agenda Book and changes to the instructions to that form, which appear on p. 133 of the Agenda Book.

Ms. Becket questioned the absence of checked boxes in Section 5 and wondered whether the form indicated that the attorney would be providing all services in Section 5 unless excluded in Section 6. Judge Kahn and Prof. Bartell confirmed that understanding of the revised form. Dean McKenzie also questioned the structure. Ms. Becket asked about the applicability of local rules. Jenny Doling expressed concern that debtor's attorneys will accidentally sign up for representing debtors in adversary proceedings. Nancy Whaley and Judge Thorne also worried about signing up for adversary proceedings inadvertently.

However, given that this is a director's form and will not be used by many districts that have their own disclosure forms, Ms. Whaley said that she is comfortable with it. Her district will just not use it.

Judge Harner thought the revised form is much clearer. Prof. Struve assumes the lawyers will make sure their engagement letter conforms to the disclosure to the court. Prof. Coquillette agreed with Prof. Struve.

Judge Connelly asked whether adversary proceedings should be separated out. Judge Kahn thought no. Dean McKenzie said the current form includes adversary proceedings and perhaps it would be useful to find out how many districts use this form or are confused about the inclusion of adversary proceedings. Jenny Doling said that she uses a long-form exclusion when she files her disclosure form and includes a reference to her fee agreement. Ms. Becket wonders why adversary proceedings are included in the first place.

It was decided that the discussion about the inclusion of adversary proceedings in the list of services in Section 5—which has not been changed from the current version of the form—was not germane to the amendment and could be raised at another time.

The Advisory Committee gave its approval to the amendments to the Director's Form and instructions and requested the Administrative Office to implement them.

(C) ***Consideration of Suggestion 25-BK-H to revise Director's Form 2000***

Judge Kahn and Professor Bartell provided the report.

Nathan Ochsner, clerk of the Bankruptcy Court for the S.D. Tex., suggested a change to the chapter 7, 11, 12, and 13 checklists that comprise Bankruptcy Form 2000 to alert debtors that they must take the credit counseling course required by Bankruptcy Code § 109(h) before filing their bankruptcy petition. At the end of the paragraph dealing with the credit counseling requirement, he suggested language reading: "**An approved Credit Counseling Course must be taken 180 days before the case is filed, (so long as none of the exceptions are applicable)**."

The Subcommittee agreed with the substance of his suggestion but recommended amended language in all versions of Form 2000 that appear beginning on p. 139 of the Agenda Book. The amended language is intended to more closely reflect the statutory language of § 109(h)(1).

Judge McEwan said that she enthusiastically supported the amendment.

The Advisory Committee approved the amended Director's Form and requested the Administrative Office to make the changes.

(D) ***Technical Correction to Official Form 410C13-NR***

Judge Kahn and Professor Gibson provided the report.

An inconsistency in Official Form 410C13-NR (Response to Trustee's Notice of Disbursements Made), which is set to go into effect this December, has been called to the Committee's attention. Two items in Part 2 refer to "the date of this notice." They should say, "the date of this response," as in the introductory language to that section. These references are inadvertent errors.

It would be best if these errors could be corrected before the form goes into effect. In March 2016 the Judicial Conference delegated authority to the Bankruptcy Rules Advisory Committee to make "non-substantive, technical, and conforming changes to official bankruptcy forms, with any such changes subject to retroactive approval by the Standing Committee and notice to the Judicial Conference." The Subcommittee believes that correction of these errors comes within that authority. They are merely scrivener's errors and are non-substantive. Because both items say, "*this* notice," not "*the* notice," they are referring to the document being completed — i.e. the response — and not the earlier notice.

Accordingly, the Subcommittee recommended that the Advisory Committee make the changes as indicated on the form on p. 145 of the Agenda Book, effective December 1, 2025, and then seek retroactive approval from the Standing Committee in January.

The Advisory Committee approved the changes and agreed to seek retroactive approval from the Standing Committee so that the changes can be effective December 1, 2025.

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

(A) ***Consider potential rule amendments regarding electronic filing by self-represented litigants***

Judge Oetken and Professor Gibson provided the report.

In response to suggestions to the Bankruptcy, Civil, Criminal, and Appellate Rules Advisory Committees to allow greater access to electronic filing systems for self-represented litigants ("SRLs"), a working group was formed, chaired by Professor Cathie Struve. Professor Struve has described the SRL project, as it has developed, as having two basic goals: one involving service and the other, filing. As to service, the project's goal is to eliminate the requirement of separate paper service of documents after the case's initial filing on a litigant who receives a Notice of Filing through the court's electronic-filing system or a court-based electronic-noticing program. As to filing, the idea is to make two changes compared with current practice: (1) to presumptively permit SRLs to file electronically (unless a court order or local rule bars them from doing so) and (2) to provide that a local rule or general court order that bars SRLs from using the court's electronic-filing system must include reasonable exceptions or must permit the use of another electronic method for filing documents and receiving electronic notice of activity in the case.

Members of the Advisory Committee have previously expressed some concerns about both aspects of the SRL project. With respect to electronic filing by SRLs, some members have said that their past experience—especially during Covid when access to electronic filing was expanded—leads them to worry about SRLs filing inappropriate material or using incompatible formats that will require the clerk's office to download, print, and scan documents before they can be filed. In a time of limited resources, it was said, this could impose an undue burden on clerk's offices.

With respect to service, concerns about the proposal centered around the possibility that there could be multiple SRLs in a bankruptcy case, some of whom do not receive notices of electronic filing, and a SRL filing a paper document might not be able to determine who needs to receive paper service.

The Civil, Criminal, and Appellate Rules Advisory Committees have indicated support for the project and a desire to proceed with the amendments. At their upcoming fall meetings, which all will occur after the meeting of the Bankruptcy Advisory Committee, they will consider refinements to the drafts of their respective rule amendments with the goal of arriving at parallel sets of amendments for publication next summer. On this schedule, the spring 2026 meetings will be available for any final revisions the advisory committees wish to make to the proposed amendments prior to publication.

The Bankruptcy Advisory Committee, by contrast, is a step behind the others. At this meeting the Advisory Committee needs to reach a decision about whether to propose a set of amendments parallel to those proposed by the other committees or to opt out of the project in part or completely. In the latter case, amendments to the Bankruptcy Rules will still need to be considered to provide for bankruptcy's different approach.

Even if the Advisory Committee decides to join in the project, it is probably premature at this point to worry about wording refinements. There remain some open issues about terminology and the content of the amendments and committee notes that the other advisory committees will consider this fall. Those details can be considered at the spring Advisory Committee meeting if need be. For now, the question about the SRL project is whether the Bankruptcy Advisory Committee is in or out.

After a full discussion of the options, the Subcommittee voted to recommend that the Advisory Committee opt into both aspects of the SRL project and consider at the spring 2026 meeting amendments to Rules 5005, 7005, 8011, and 9036 paralleling those to be proposed by the other advisory committees. Although there is tentative proposed language for amendments to Rules 5005 and 7005 in the Agenda Book on pp. 151-152 (and similar amendments would be made to Rule 8011 and conforming amendments to Rule 9036), the Subcommittee did not request approval of any rule amendments at this meeting.

The Subcommittee recommended that the Advisory Committee join the other committees in the project for several reasons. First, this approach would keep the Bankruptcy Rules on filing and service consistent with the rules applicable in the district courts and courts of appeal. Doing so might reduce confusion and would eliminate the need to resolve which rules should apply to bankruptcy appeals. Second, having consistent rules would also avoid any questions (by the Standing Committee and others) about why SRLs are treated differently in the bankruptcy courts. Finally, because at this stage the advisory committees are only proposing publication of the amendments for comment, going along with the other committees might allow the Advisory Committee to gauge from the comments how broadly shared are the concerns that have been expressed by committee members. Following publication, the Advisory Committee would be able

to decide whether to proceed with the amendments or to opt out of the project in whole or in part based on the comments received.

Judge McEwan asked what would be a "reasonable exception" to a rule that allows SRLs to file? She also expressed concern about accepting filings from SRLs that are not in an appropriate form. Will an alternative platform be developed for SRLs to provide a gateway function for filing? State courts in Florida have such a platform. If a gateway platform will be developed or purchased, she supports the proposal. Judge Kahn said that allowing the SRLs to file electronically means the court will never get the original documents, which is a big advantage. Judge McEwan said we should not propose a rule that depends on a gateway function that we do not have. Judge Oetken said inappropriate filings occur now, and anything that is filed that is inappropriate can be struck, and it is better if it on the record electronically. Judge Isicoff said she wanted to be sure that nothing in the rule impacts the ability of court to restrict filings for any reason. Judge Harner said that she agrees with the comments made by others, but said the best way to inform ourselves on these issues is to put it out for public comment. Prof. Struve responded to Judge McEwan's questions, saying that she doesn't know about the technology of gateway programs. As to what constitutes a "reasonable exception," the proposed committee note provides examples but additional ideas can be incorporated.

Judge Bates said that CM/ECF is going to be history soon, so there will be a new system and that new system may handle filings differently. The primary driver of the new system is security, so there might be resistance to adding things to it. There is someone at the AO who is working on cyber security. Judge Connelly said she thinks the revisions to CM/ECF are on track and will be implemented gradually. The developers are aware of the need to provide limited access to some users, like to SRLs. There has been a filtering system in effect today to the extent that some courts allow e-filing by e-mail.

Ken Gardner said we should not let technology overcome what is the right thing to do. He worries more about the requirement of wet signature and thinks Rule 9011should be amended to allow electronic signatures. But he also supports publishing the rule amendments involved in this proposal as the best way to get information through the comment process. He said he is confident that we will resolve the technology, but he cannot resolve the need for a wet signature. Prof. Gibson said the Justice Department and the FBI have continued to push back on any proposal to eliminate the requirement for wet signatures because they believe these wet signatures are necessary for prosecution of bankruptcy fraud.

The Advisory Committee agreed with the recommendation of the Subcommittee to proceed with both aspects of the project and invited the Subcommittee to present proposed amendments for publication at the spring meeting of the Advisory Committee after reviewing the discussions of the other committees and the drafts that they produce.

(B) ***Consider possible amendments related to privacy issues***

Judge Oetken and Professor Bartell provided the report.

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

Since that time the other rules committees have been considering the same issues. The Rule 49.1 (Privacy Rule) Subcommittee of the Criminal Rules Committee is proposing to its advisory committee amendments to Criminal Rule 49.1(a) that would do three things. First, it would apply the rule not only to filings that include information about individuals but to non-individuals as well. Second it would require full redaction of SSNs and other tax-identification numbers (TINs), as well as employer-identification numbers (EINs), in all filings, potentially expressly stating its application to all exhibits and attachments. Third, it would require the use of pseudonyms, rather than initials, for minors' names. The proposed language of amended Criminal Rule 49.1(a) appears in the Agenda Book at p. 158. The Civil Rules Committee is considering whether to propose similar amendments to Civil Rule 5.2, and the Appellate Rules Committee will likely be receptive to those changes if proposed.

Four issues are before the Advisory Committee. First, a new suggestion has been filed by the American Association for Justice renewing its suggestion that the Civil Rules and Criminal Rules require the full redaction of SSNs in public filings. (The suggestion was also filed with the other Committees, including as 25-BK-F). If the Criminal Rules Committee, Civil Rules Committee and Appellate Rules Committee decide to require full redaction of an individual's SSN in federal-court filings, does the Advisory Committee continue to adhere to its position declining to amend Bankruptcy Rules 9037(a)(1)?

The decision to take no action on the suggestion of Sen. Ron Wyden was made only after considerable deliberation and analysis of a privacy study conducted by the Federal Judicial Center and a survey of bankruptcy debtor attorneys, chapter 7, 12, and 13 trustees, creditor attorneys, various tax authorities and representatives of the National Association of Attorneys General. The survey showed that a significant number of bankruptcy specialists oppose the idea of removing the truncated SSN on every form they were asked about. The Advisory Committee then concluded that it seems unwise to pursue changes that are both unnecessary and potentially unpopular.

Even if, as seems likely, the Criminal Rules Committee and Civil Rules Committee decide to require full redaction of SSNs in their rules, the Advisory Committee concluded that it continues to adhere to its prior decision not to amend Bankruptcy Rule 9037(a)(1) to require complete redaction.

The Rule 49.1 (Privacy Rule) Subcommittee of the Criminal Rules Committee is also considering adding language to Criminal Rule 49.1 that would emphasize that redaction would apply to any filing, "including an exhibit or attachment." This stems from the conclusion of the privacy study that a high percentage of SSNs that are now improperly including in filings in unredacted form are in attachments and exhibits, not the main document. If the Criminal Rules

Committee and Civil Rules Committee decide to propose the addition of that language in Criminal Rule 49.1 and Civil Rule 5.2, the Advisory Committee said it was open to adding similar language to Bankruptcy Rule 9037(a).

Judge Connelly later asked whether adding language referring to exhibits and attachments would impose an additional policing function on the clerks' offices. Prof. Bartell said that, first, it is not yet certain whether the other committees will endorse adding that language and we should wait to see what they do, and second, even if the language is added the clerks' offices do not have a policing function with respect to the redaction requirement under the current rule so the language would not impose a heightened policing function.

The second issue before the Advisory Committee is whether to amend Bankruptcy Rule 9037(a)(3)—which currently permits filings to include a minor's initials—to require the use of pseudonyms instead. This suggestion was filed with the Criminal Rules Committee (and the other Committees as well) by the Department of Justice (DOJ) and supported by the American Association for Justice (AAJ) and the National Crime Victim Bar Association, and as is included in the proposed revised Criminal Rule 49.1(a). The AAJ submitted another suggestion expanding on its initial suggestion earlier this year. The DOJ's suggestion explained that referring to child victims and child witnesses by their initials—especially in crimes involving the sexual exploitation of a child—may be insufficient to ensure the child's privacy and safety.

The Rule 49.1 (Privacy) Subcommittee of the Criminal Rules Committee is proposing a change to Criminal Rule 49.1(a)(3) to replace the requirement for use of initials of known minors with a requirement for use of pseudonyms instead. If the proposal is adopted by the Criminal Rules Committee, the Subcommittee recommended a conforming change to Bankruptcy Rule 9037(a)(3) be made for publication at the same time. The Advisory Committee agreed and invited the Subcommittee to bring an amendment to the Advisory Committee at its next meeting.

Third, Bankruptcy Rule 9037(a)(1) treats individual taxpayer-identification numbers (ITINs) the same way as individual social-security numbers, requiring use of the last four digits only. It does not explicitly require redaction of employer-identification numbers. Should any amendment be made to the rule to require different treatment of ITINs?

Given that the Advisory Committee decided not to require full redaction of SSNs, despite the decision of the Criminal Rules Committee and perhaps other committees, the Subcommittee recommended that Bankruptcy Rule 9037(a)(1) should continue to treat ITINs in the same way as individual SSNs, and provide no additional protection for TINs or EINs. There is no policy reason to provide increased protection to ITINs over that provided to SSNs; indeed, the redacted ITIN probably creates less of a risk of improper appropriation than does a redacted SSN, and the need for appropriate debtor identification is the same in both cases. There is no demonstrated need for redaction of the EIN, nor has such a suggestion been made to the Advisory Committee. Unless there is a problem that needs to be addressed, the Subcommittee suggests no change to Rule 9037 in this regard. The Advisory Committee agreed with that recommendation.

Prof. Gibson expressed concern about whether, if amended Criminal Rule 49.1 characterizes ITINs as including employer-identification numbers, will that create issues about Bankruptcy Rule 9037 in which the reference to ITINs is not intended to include EINs. Prof. Struve emphasized that amendments to Criminal Rule 49.1 were not yet finalized, so we should wait to see what happens with that rule.

Fourth, given that the Advisory Committee does not choose to amend Rule 9037(a)(1) to require full redaction of SSNs and ITINs but the Civil and Appellate Rules Committees may modify Civil Rule 5.4(a) and Appellate Rule 25(a)(5) to require full redaction, which rule should apply to bankruptcy appeals to the district court, bankruptcy appellate panel, and court of appeals?

Under Appellate Rule 25(a)(5), "[a]n appeal in a case whose privacy protection was governed by Federal Rule of Bankruptcy Procedure 9037, Federal Rule of Civil Procedure 5.2, or Federal Rule of Criminal Procedure 49.1 is governed by the same rule on appeal." The Appellate Rules govern bankruptcy appeals in the courts of appeals. Part VIII of the Bankruptcy Rules governs appeals to district courts and BAPs. Although Part VIII does not cross-reference Bankruptcy Rule 9037, as a general provision in Part IX of the rules, Rule 9037 applies to bankruptcy appeals covered by Part VIII. Civil Rule 81(a)(2) provides that the Civil Rules "apply to bankruptcy proceedings" only "to the extent provided by the Federal Rules of Bankruptcy Procedure," and nothing in the Bankruptcy Rules applies Civil Rule 5.2 to bankruptcy appeals to the district court.

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

The Appellate Rules Committee is considering an amendment to Appellate Rule 25(a)(5) that would resolve that issue for the courts of appeals. The proposed revision would require full redaction of SSNs for all appeals, but would not apply to clerks forwarding the record. If Appellate Rule 25(a)(5) were to be so amended, the issue becomes whether Part VIII of the Bankruptcy Rules should take the same approach for appeals to district courts and perhaps BAPs. The reporters have previously expressed their view to the Advisory Committee that they believe the rules should treat appeals uniformly, without regard to where they are made. The Subcommittee agrees and the Advisory Committee also expressed its support of that position.

To implement that decision, a new Part VIII privacy rule will be required. New language could be added to Rule 8011, which is the counterpart to Appellate Rule 25. Suggested language appears in the Agenda Book at p. 164, but the Advisory Committee is not being asked to approve any amendment at this time; the goal would be to have amendments to Appellate Rule 25(a)(5)

and Bankruptcy Rule 8011 presented to the Standing Committee for publication at the same time. Therefore, proposed language would be presented to the Advisory Committee for approval for publication at the spring meeting.

7. **Report of the Business Subcommittee**

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

Judge McEwen and Professor Gibson provided the report.

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

At its spring 2025 meeting, the Subcommittee presented the results of a survey of bankruptcy judges conducted by Dr. Carly Giffin of the Federal Judicial Center to learn whether the judges thought the rules should allow masters to be used in bankruptcy cases and in what circumstances, if any, they had ever needed such assistance. The Advisory Committee agreed with the Subcommittee that there was sufficient interest in allowing masters to be used in bankruptcy cases or proceedings that it should continue to consider the Kaplan and ABA suggestions. It identified as next steps researching whether there is any constitutional or statutory impediment to authorizing bankruptcy judges to appoint masters and considering drafts of possible rule amendments to authorize their use.

Kyle Brinker, the former Rules Law Clerk, was asked to research the constitutional and statutory issues, and he prepared a thorough memo. Mr. Brinker concluded that there is no constitutional or statutory impediment to the appointment of a master by a bankruptcy judge, so long as the judge can review the master's findings of fact and conclusions of law de novo. He points out, among other things, that "magistrate judges have appointed masters on many occasions, and the constitutional authority to do so has not been questioned." He does, however, question whether the Bankruptcy Code authorizes payment of a master, while noting that expert witnesses, fee examiners, and mediators have been paid in bankruptcy cases despite the lack of specific authorization in the Bankruptcy Code.

Prof. Gibson reviewed the language proposed by those who made suggestions on the topic., and a tentative draft and committee note she prepared which appears on pp. 168-171 of the Agenda Book. The Subcommittee was not seeking approval of the tentative draft at this meeting, but asked the Advisory Committee for input on several issues raised in the footnotes of the tentative draft and on three broader questions:

- Should Rule 53(a)-(g) be made applicable in its entirety, or should it be tailored specifically for the bankruptcy context?
- Should the rule for masters be different in adversary proceedings than in contested matters or in the context of administration of a bankruptcy case?
- Should the rule have different provisions depending on whether parties or the estate will be paying for the master's compensation?

Prof. Gibson walked through her tentative draft to ask the Advisory Committee for guidance.

Title. She suggested following whatever designation (master or court-appointed neutral) appears in Civil Rule 53.

Clause (a)(1) Scope. She invited discussion on what duties a master should be able to perform. Judge Harner agreed with excluding the language "with consent of the parties" that is used in the civil rule and thought the draft was a great start. She also asked whether fee examiners and others who are currently performing some of the roles described for a master would be treated as masters under the amended rule. Judge Kahn said that mediators should not be considered "masters." Prof. Gibson said that perhaps we can look to the district court on the type of appointments that are made that are not "masters." Judge Browning said that when he has appointed masters, it has been as a result of a settlement between the parties and eliminating that language ("with consent of the parties") would limit flexibility. Judge Oetken said that in his district there is a panel of approved mediators. Judge Kahn directed attention to the law review article cited in the memo in the agenda book. Judge Harner asked whether we want a flexible rule or a tailored rule for bankruptcy purposes.

Dean McKenzie asked about the goal of the existing Rule 9031. Prof. Gibson said that the expressed concern was about cronyism. That does not seem to be a concern today. But there may be a concern that this level of referral may dilute the authority of bankruptcy judges.

Judge Kahn supports the language "hold hearings." Judge Lefkow asked whether we should explicitly mention discovery disputes. Prof. Gibson said that would be covered by clause (a)(1)(B). Judge Hopkins would like to empower the bankruptcy judge to appoint a master and use them in any way the bankruptcy judge wishes. Judge Bates asked whether "an award of attorneys' fees" has to be specifically mentioned, given that it isn't in the civil rule. Judge Kahn again invited examination of the suggested language in the law review article cited. Mr. Schaible emphasized that he would like the court to have control rather than the parties, and he thinks the judges should be able to determine there is an exceptional case. Judge McEwen points out that Rule 7023 adopts Rule 23 which contemplates appointment of a special master for fees, so there is explicit authority to appoint a master under Rule 7023 for attorneys' fees. Judge Kahn said that the parties can consent to a proposed appointment made by the judge.

Sean Day said that the Department of Justice is looking at the issue of appointment of masters by bankruptcy judges and has not reached a firm decision about whether there is a

constitutional problem to appointment. Prof. Gibson invited the Justice Department to express its views earlier rather than later.

Clause (a)(2) Disqualification. This clause tracks the civil rule with respect to disqualification. Is there any reason the bankruptcy rule should be different? Judge Browning distinguished disqualification from application of the Judicial Code of Conduct. He did not think this would be different from district courts. Judge Bates asked whether everything in 28 U.S.C. §455 is waivable. He expressed his view that the problem of cronyism has not gone away.

Clause (a)(3) Possible Expense or Delay; Preservation of the Estate. This clause requires consideration of expense and delay. If the cost of the master is to be paid by the estate, the language suggests that the activity must benefit the estate. This provides a basis for claiming the expenses of a master are administrative expenses. Ms. Elliott asked whether there a concern that this standard will apply to others who are appointed by the bankruptcy judge like fee examiners. Prof. Gibson said the overall question is whether there is a need for a master, or do we want to limit these other appointees by this new role. Judge McEwen said we have to trust the judge to use discretion on when the case can support the expense.

Clause (b) Application of Civil Rule 53. Certain specific provisions are carved out in this clause from applicability of Rule 53. Judge Bates and Judge Browning confirmed that when someone is hired as a master, it is assumed that the master's employees will be included. Judge Kahn said that this paragraph is making sure the professional persons hired by a master are given the same treatment as other professional persons in the case.

Clause (c) Compensation. Compensation for a master can come from any of three sources. This draft adds reference to the estate to the two other sources contained in Rule 53.

Judge McEwen complimented Prof. Gibson for a good draft.

Judge Bates asked whether lawyers and judges who are not bankruptcy judges think bankruptcy judges should be able to appoint masters. Prof. Gibson pointed out that the ABA made the suggestion. Judge Kahn said that bankruptcy judges themselves are of mixed views, but there are certainly a lot of articles being written supporting an amendment permitting such appointments. Mr. Schaible said there is a clear need in large, MDL type cases. But he doesn't think it should be limited to that context.

The Advisory Committee directed the Subcommittee to take the comments back and work on revised language.

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

(A) ***Consider Suggestion 24-BK-P from Jack Meltzer to amend Rule 2006 regarding time counting***

Judge Bress and Professor Bartell provided the report.

Jack Metzler, Senior Assistant Disciplinary Counsel at the Office of Disciplinary Counsel, made a suggestion (24-AP-N) that Appellate Rule 26(a)(1) be amended so that periods counted in days would begin with the first day that is not a Saturday, Sunday, or legal holiday. Because the time counting rules are consistent across all the rules sets, the suggestion was also filed with the Bankruptcy Rules (24-BK-P), Criminal Rules (24-CR-I) and Civil Rules (24-CV-Z).

The Appellate Rules Committee decided to remove the suggestion from its agenda. The Subcommittee recommends that the Advisory Committee do the same.

The Advisory Committee agreed with the recommendation and removed the suggestion from its agenda.

(B) ***Proposed amendments to Rule 8017 to conform with proposed amendments to Appellate Rule 29***

Judge Bress and Professor Bartell provided the report.

At its June meeting the Standing Committee gave final approval to amendments to Appellate Rule 29 (Brief of an Amicus Curiae). The bankruptcy equivalent to that rule is Bankruptcy Rule 8017. The Subcommittee recommended that the Advisory Committee recommend conforming amendments to Rule 8017 to the Standing Committee for publication. The form of the amended Rule is on p. 178 in redlined form, and p. 184 in clean form.

Prof. Struve suggested that conforming amendments to Rule 8015(h)(1) dealing with the certificate of compliance and the appendix of length limits should be proposed for publication at the same time. The Advisory Committee agreed and decided to defer approval of amended Rule 8017 until the conforming amendments were also presented for approval.

9. **New Business**

There was no new business.

10. **Future Meetings**

The spring 2025 meeting will be held on April 15, 2026, in Charlotte, North Carolina.

11. **Adjournment**

The meeting was adjourned at 2:05 p.m.