ADVISORY COMMITTEE
ON
BANKRUPTCY RULES

April 15, 2026

AGENDA
Meeting of the Advisory Committee on Bankruptcy Rules
April 15, 2026 | Charlotte, NC

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1. Greetings and Introductions (Judge Connelly)

2. Approval of minutes of September 25, 2025, meeting (Judge Connelly)

3. Reports on Meetings of Other Committees:

A. Standing Committee – January 6, 2026 (Judge Connelly, Professor Gibson, and Professor Bartell)

B. Advisory Committee on Appellate Rules – October 15, 2025 (Judge Bress)

C. Advisory Committee on Civil Rules – October 24, 2025 and April 14, 2026 (Judge McEwen)

D. Bankruptcy Committee – December 11-12, 2025 (Judge Thorne)

4. Report of the Consumer Subcommittee (Judge Harner)

A. Consideration of Suggestion 24-BK-G from Rebecca Garcia (NACTT) regarding Bankruptcy Rule 2003 and the timing and location of section 341 meetings, along with Suggestion 25-BK-C from the NABT

B. Consideration of Suggestion 25-BK-J from Michael McCormick regarding Rule 3001

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7. Report of the Business Subcommittee (Judge McEwen)

   A. Consideration of Suggestions 24-BK-A, 24-BK-C, and 25-BK-M to amend Rule 9031 to allow masters in bankruptcy cases and proceedings

   B. Consideration of Suggestion 25-BK-L from National Bankruptcy Venue Committee regarding Rules 1007 and 1014

8. Report of the Appellate Rules and Cross Boarder Subcommittee (Judge Bress)

   A. Proposed amendments to Rule 8017

9. New business

10. Future meetings: The next meeting will be on September 23, 2026, in Washington DC

11. Adjourn

TAB 1

ADVISORY COMMITTEE ON BANKRUPTCY RULES

Chair	Reporter
Honorable Rebecca B. Connelly United States Bankruptcy Court Harrisonburg, VA	Professor S. Elizabeth Gibson University of North Carolina at Chapel Hill Chapel Hill, NC
	Associate Reporter
	Professor Laura B. Bartell Wayne State University Law School Detroit, MI

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Honorable James O. Browning United States District Court Albuquerque, NM	Sean C. Day, Esq. Deputy Assistant Attorney General (ex officio) United States Department of Justice Washington, DC
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Honorable Jeffery P. Hopkins United States District Court Cincinnati, OH	Honorable Ben Kahn United States Bankruptcy Court Greensboro, NC
Honorable Joan H. Lefkow United States District Court Chicago, IL	Honorable Leigh Martin May United States District Court Atlanta, GA
Honorable Catherine P. McEwen United States Bankruptcy Court Tampa, FL	Professor Scott F. Norberg Florida International University College of Law Miami, FL
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United States Bankruptcy Court
Chicago, IL

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(*Standing*)
New York University School of Law
New York, NY

Clerk of Court Representative

Kenneth S. Gardner
Clerk
United States Bankruptcy Court
Denver, CO

ADVISORY COMMITTEE ON BANKRUPTCY RULES

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Alane A. Becket	ESQ	Pennsylvania	2024	2027
Daniel A. Bress	C	Ninth Circuit	2022	2028
James O. Browning	D	New Mexico	2024	2027
Sean C. Day*	DOJ	Washington, DC	----	Open
Jenny L. Doling	ESQ	California	2023	2028
Michelle M. Harner	B	Maryland	2022	2028
Jeff Hopkins	D	Ohio (Southern)	2023	2028
Ben Kahn	B	North Carolina (Middle)	2021	2026
Joan H. Lefkow	D	Illinois (Northern)	2023	2026
Leigh Martin May	D	Georgia (Northern)	2025	2028
Catherine Peek McEwen	B	Florida (Middle)	2021	2026
Scott F. Norberg	ACAD	Florida	2022	2028
Damian S. Schaible	ESQ	New York	2021	2026
Nancy J. Whaley	ESQ	Georgia	2023	2026
S. Elizabeth Gibson Reporter	ACAD	North Carolina	2008	Open
Laura B. Bartell Associate Reporter	ACAD	Michigan	2017	2026

Rules Committee Staff Counsel: Bridget Healy, 202-502-1820

* *Ex officio* representative on behalf of the Deputy Assistant Attorney General, Tax Division

ADVISORY COMMITTEE ON BANKRUPTCY RULES
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(effective October 1, 2025)

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Technology, Privacy, and Public Access Subcommittee Hon. Joan H. Lefkow, Chair Hon. Leigh May Hon. James Browning Hon. Benjamin Kahn Hon. Michelle M. Harner Hon. Jeffery P. Hopkins Prof. Scott Norberg Ramona Elliott, Esq., EOUST liaison Carly Giffin, Federal Judicial Center	
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(Standing Committee)

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Office of the General Counsel – Rules Committee Staff
Washington, DC

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Harvard Law School
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Advisory Committee on Bankruptcy Rules

Chair

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Reporter

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Chapel Hill, NC

Associate Reporter

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Advisory Committee on Evidence Rules

Chair	Reporter
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Liaison for the Advisory Committee on Bankruptcy Rules	Dean Troy A. McKenzie *(Standing)*
Liaisons for the Advisory Committee on Civil Rules	Hon. D. Brooks Smith (*Standing*) Hon. Catherine P. McEwen *(Bankruptcy)*
Liaison for the Advisory Committee on Criminal Rules	Hon. Paul J. Barbadoro (*Standing*)
Liaisons for the Advisory Committee on Evidence Rules	Honorable Thomas M. Durkin (*Criminal*) Hon. Edward M. Mansfield *(Standing)* Hon. M. Hannah Lauck (*Civil*)

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Timothy Lau, Ph.D., J.D.
Senior Research Associate

Effective December 1, 2025, unless otherwise noted

Current Step in REA Process:

- Effective December 1, 2025

REA History:

- Transmitted to Congress (Apr 2025)
- Transmitted to Supreme Court (Oct 2024)
- Approved by Standing Committee (June 2024 unless otherwise noted)
- Published for public comment (Aug 2023 – Feb 2024 unless otherwise noted)

Rule	Summary of Proposal	Related or Coordinated Amendments
AP 6	The proposed amendments would address resetting the time to appeal in cases where a district court is exercising original jurisdiction in a bankruptcy case by adding a sentence to Appellate Rule 6(a) to provide that the reference in Rule 4(a)(4)(A) to the time allowed for motions under certain Federal Rules of Civil Procedure must be read as a reference to the time allowed for the equivalent motions under the applicable Federal Rule of Bankruptcy Procedure. In addition, the proposed amendments would make Rule 6(c) largely self-contained rather than relying on Rule 5 and would provide more detail on how parties should handle procedural steps in the court of appeals.	BK 8006
AP 39	The proposed amendments would provide that the allocation of costs by the court of appeals applies to both the costs taxable in the court of appeals and the costs taxable in the district court. In addition, the proposed amendments would provide a clearer procedure that a party should follow if it wants to request that the court of appeals to reconsider the allocation of costs.	
BK 3002.1 and Official Forms 410C13-M1, 410C13-M1R, 410C13-N, 410C13-NR, 410C13-M2, and 410C13-M2R	Previously published in 2021. Like the prior publication, the 2023 republished amendments to the rule are intended to encourage a greater degree of compliance with the rule's provisions. A proposed midcase assessment of the mortgage status would no longer be mandatory notice process brought by the trustee but can instead be initiated by motion at any time, and more than once, by the debtor or the trustee. A proposed provision for giving only annual notices HELOC changes was also made optional. Also, the proposed end-of-case review procedures were changed in response to comments from a motion to notice procedure. Finally, proposed changes to 3002.1(i), redesignated as 3002.1(i) are meant to clarify the scope of relief that a court may grant if a claimholder fails to provide any of the information required under the rule. Six new Official Forms would implement aspect of the rule.	
BK 8006	The proposed amendments to Rule 8006(g) would clarify that any party to an appeal from a bankruptcy court (not merely the appellant) may request that a court of appeals authorize a direct appeal (if the requirements for such an appeal have otherwise been met). There is no obligation to file such a request if no party wants the court of appeals to authorize a direct appeal.	AP 6
Official Form 410	The proposed amendments would change the last line of Part 1, Box 3 to permit use of the uniform claim identifier for all payments in cases filed under all	

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- Published for public comment (Aug 2023 – Feb 2024 unless otherwise noted)

Rule	Summary of Proposal	Related or Coordinated Amendments
	chapters of the Code, not merely electronic payments in chapter 13 cases. The amended form went into effect December 1, 2024.	
CV 16	The proposed amendments to Civil Rule 16(b) and 26(f) would address the "privilege log" problem. The proposed amendments would call for development early in the litigation of a method for complying with Civil Rule 26(b)(5)(A)'s requirement that producing parties describe materials withheld on grounds of privilege or as trial-preparation materials.	CV 26
CV 16.1 (new)	The proposed new rule would provide the framework for the initial management of an MDL proceeding by the transferee judge. Proposed new Rule 16.1 would provide a process for an initial MDL management conference, submission of an initial MDL conference report, and entry of an initial MDL management order.	
CV 26	The proposed amendments to Civil Rule 16(b) and 26(f) would address the "privilege log" problem. The proposed amendments would call for development early in the litigation of a method for complying with Civil Rule 26(b)(5)(A)'s requirement that producing parties describe materials withheld on grounds of privilege or as trial-preparation materials.	CV 16

Effective (no earlier than) December 1, 2026

Current Step in REA Process:

- Transmitted to Supreme Court (Oct 2025) (except *see* 2025 U.S. Supreme Court Package to view the March 10, 2026 request to withdraw proposed amendments to Appellate Rules 29 and 32 and the Appendix of Length Limits).

REA History:

- Approved by Standing Committee (June 2025 unless otherwise noted)
- Published for public comment (Aug 2024 – Feb 2025 unless otherwise noted)

Rule	Summary of Proposal	Related or Coordinated Amendments
AP 29	The proposed amendments to Rule 29 relate to amicus curiae briefs. The proposed amendments, among other things, would amend Rule 29(a) relating to amicus filings during a court's initial consideration of a case into renumbered Rule 29(a)-(e) and expand the disclosure obligations. Rule 29(f) (formerly Rule 29(b)) would relate to amicus filings during the rehearing stage. The length limit for amicus briefs at the initial stage as set forth in Rule 29(a)(5) would be amended to set a specific word limit of 6,500 words.	Rule 32; Appendix
AP 32	The proposed amendments to Rule 32 would conform to the proposed amendments to Rule 29.	Rule 29
AP Appendix	The proposed amendments to the Appendix would conform to the proposed amendments to Rule 29.	Rule 29
AP Form 4	The proposed amendments to Form 4 would simplify Form 4, with the goal of reducing the burden on individuals seeking in forma pauperis status (IFP) while providing the information that courts of appeals need and find useful when deciding whether to grant IFP status.	
BK 1007	The proposed amendments to Rule 1007(c)(4) eliminate the deadlines for filing certificates of completion of a course in personal financial management. The proposed amendments to Rule 1007(h) clarify that a court may require a debtor to file a supplemental schedule to report postpetition property or income that comes into the estate under § 115, 1207, or 1306 of the Bankruptcy Code.	
BK 3018	The proposed amendments to subdivision (c) would allow for more flexibility in how a creditor or equity security holder may indicate acceptance of a plan in a chapter 9 or chapter 11 case.	
BK 5009	The proposed amendments to Rule 5009(b) would provide an additional reminder notice to the debtors that the case may be closed without a discharge if the debtor's certificate of completion of a personal financial management course has not been filed.	
BK 9006	The proposed amendments conform to the proposed amendments to Rule 1007.	

Effective (no earlier than) December 1, 2026

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REA History:

- Approved by Standing Committee (June 2025 unless otherwise noted)
- Published for public comment (Aug 2024 – Feb 2025 unless otherwise noted)

Rule	Summary of Proposal	Related or Coordinated Amendments
BK 9014	The proposed amendments to Rule 9014(d) relaxes the standard for allowing remote testimony in contested matters to "cause and with appropriate safeguards." The current standard, imported from the trial standard in Civil Rule 43(a), which is applicable across bankruptcy (in both contested matters and adversary proceedings) is cause "in compelling circumstances and with appropriate safeguards."	
BK 9017	The proposed amendments to Rule 9017 removes the reference to Civil Rule 43 leaving the proposed amendment to Rule 9014(d) to govern the standard for allowing remote testimony in contested matters, and Rule 7043 to govern the standard for allowing remote testimony in adversary proceedings.	
BK 7043	Rule 7043 is new and works with proposed amendments to Rules 9014 and 9017. It would make Civil Rule 43 applicable to adversary proceedings (though not to contested matters	
BK Official Form 410S1	The proposed changes would conform the form the pending amendments to Rule 3002.1 that are on track to go into effect on **December 1, 2025,** and would go into effect on the same date as the rule change.	
EV 801	The proposed amendments to Rule 801(d)(1)(A) would provide that all prior inconsistent statements admissible for impeachment are also admissible as substantive evidence, subject to Rule 403.	

Effective (no earlier than) December 1, 2027

Current Step in REA Process:

- Published for public comment (Aug 2025 – Feb 2026 unless otherwise noted)

REA History:

- Approved for publication by Standing Committee (Jan and June 2025 unless otherwise noted)

Rule	Summary of Proposal	Related or Coordinated Amendments
AP 15	The proposed amendment to Rule 15 would remove a potential trap for the unwary in the current rule. The proposed amendment reflects the party-specific nature of appellate review of administrative decisions and would require a party that wants to challenge the result of agency reconsideration to file a new or amended petition.	
BK 2002	The proposed amendment to Rule 2002(o) would provide that the caption of a notice given under Rule 2002 must include the information that Official Form 416B requires.	
BK Official Form 101	The proposed amendment to Question 4 in Part 1 of Form 101 would modify the language to read: "EIN (Employer Identification Number) issued to you, if any. Do NOT list the EIN of any separate legal entity such as your employer, a corporation, partnership, or LLC that is not filing this petition."	
BK Official Form 106C	The proposed amendments would amend Form 106C to provide a total of the specific-dollar exemption amounts along with the addition of a space on the form for the total value of the debtor's interest in property for which exemptions are claimed.	
CR 17	The proposed amendments to Rule 17 relate to third-party subpoenas for documents and other items and address seven areas: application to proceedings other than trial; the standard for when such subpoenas are available; when a motion and order are required; when a party may make its request ex parte; the place of production; the preservation of Rule 16's disclosure policies; and which subparts of Rule 17 apply to different proceedings.	
CV 7.1	The proposed amendments to Rule 7.1(a) substitute "business organization" for the term "corporation" and require disclosure of business organizations that "directly or indirectly own 10% or more of" a party rather than disclosure based on ownership of "stock" in a party.	
CV 26	The proposed amendment to Rule 26 adds a pretrial disclosure requirement for parties to state whether any witness they expect to present at trial will testify in person or remotely.	Rule 45(c)
CV 41	The proposed amendments to Rule 41(a) would clarify that: (1) the rule permits the dismissal of one or more claims in an action rather than only allowing dismissal of the entire action; (2) only the signatures of active parties who remain in a case are required to sign a stipulation of dismissal.	
CV 45	The proposed amendments to Rule 45 include amendments to Rule 45(b) relating to service of subpoenas and Rule 45(c) relating to subpoenas for remote testimony. There is a correlating proposed amendment to Rule 26 relating to	Rule 26

Effective (no earlier than) December 1, 2027

Current Step in REA Process:

- Published for public comment (Aug 2025 – Feb 2026 unless otherwise noted)

REA History:

- Approved for publication by Standing Committee (Jan and June 2025 unless otherwise noted)

Rule	Summary of Proposal	Related or Coordinated Amendments
	pretrial disclosures as to whether testimony at trial will be offered in person or by remote means. The proposed amendments to Rule 45(b) 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 proposed amendments to Rule 45(c) adds a "place of compliance" for subpoenas for remote testimony and specifies that it is "the location where the person is commanded to appear in person."	
CV 81	The proposed amendment to Rule 81(c) clarifies whether and when a jury demand must be made after removal and makes clear that Rule 38 applies to removed cases. The proposed amendment also removes the prior exemption from the jury demand requirement in cases removed from state courts in which an express demand for a jury trial is not required.	
EV 609	There are two proposed amendments to Rule 609. First, the proposed amendment to Rule 609(a)(1)(B) clarifies 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 by adding "substantially" before the word "outweighs." Second, the proposed amendment to Rule 609(b) 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 that the trial begins."	
EV 707	Proposed new Rule 707 provides that if machine-generated evidence is introduced without an expert witness, and it would be considered expert testimony if presented by a witness, then the standards of Rule 702(a)-(d) are applicable to that output. The proposed rule further provides that it does not apply to the output of simple scientific instruments.	

Legislation That Directly or Effectively Amends the Federal Rules
119th Congress
(January 3, 2025–January 3, 2027)

Ordered by most recent legislative action; most recent first

Name	Sponsors & Cosponsors	Affected Rules	Text and Summary	Legislative Actions Taken
Prohibiting Political Prosecutions Act of 2026	**H.R. 7575** *Sponsor*: Goldman (D-NY) *Cosponsors*: Norton (D-DC) Gomez (D-CA) Larson (D-CT)	CR 6, 16, 48	**Most Recent Bill Text:** https://www.congress.gov/119/bills/hr7575/BILLS-119hr7575ih.pdf **Summary:** Would amend Criminal Rules 6 (to require the government to inform the grand jury of exculpatory evidence and things that may impact a witness's credibility), 16 (to require the government to inform the defendant of the grand jury vote) and 48 (to allow dismissal based on politically-motivated prosecution).	• 2/13/2026: Introduced in House and referred to Committee on the Judiciary
Litigation Funding Transparency Act of 2026	**S. 3826** *Sponsor*: Grassley (R-IA) *Cosponsors*: Tillis (R-NC) Kennedy (R-LA) Cornyn (R-TX)	CV 26	**Most Recent Bill Text:** https://www.congress.gov/119/bills/s3826/BILLS-119s3826is.pdf **Summary:** Would require disclosure of third-party funding in MDL, class action, and other large litigations (100+ consolidated or coordinated cases). Disclosure of the identity of the funder and the agreement must be made to the court and the parties. Would also prohibit funders from exerting control over the litigation or viewing materials produced in discovery, unless ordered otherwise by the court.	• 2/11/2026: Read twice and referred to the Committee on the Judiciary
Protecting TPLF From Abuse Act	**H.R. 7015** *Sponsor:* Issa (R-CA) *Cosponsors*: Fitzgerald (R-WI) Baumgartner (R-WA)	CV 26	**Most Recent Bill Text:** https://www.congress.gov/119/bills/hr7015/BILLS-119hr7015ih.pdf **Summary:** Would require a party or record of counsel in a civil action to disclose to the court and other parties the identity of any person that has a right to receive a payment or thing of value that is contingent on the outcome of the action or group of actions and to produce to the court and other parties any such agreement.	• 1/12/2026: Introduced in House; referred to Judiciary Committee

Name	Sponsors & Cosponsors	Affected Rules	Text and Summary	Legislative Actions Taken
Sunshine for Regulatory Decrees and Settlements Act of 2025	**H.R. 6622** *Sponsor*: Cline (R-VA) *Cosponsor*: Tiffany (R-WI)	CV 24, 41	**Most Recent Bill Text:** https://www.congress.gov/119/bills/hr6622/BILLS-119hr6622ih.pdf **Summary:** Would impose additional requirements for consent decrees or dismissals pursuant to settlement agreements in agency actions. Would also create additional considerations for the court for motions to intervene in agency actions.	• 1/8/2026: Ordered to be Reported (Amended) • 1/8/2026: Committee Consideration and Mark-up Session Held • 12/11/2025: Introduced in House; referred to Judiciary Committee
Back the Blue Act of 2025	**S. 3366** *Sponsor*: Cornyn (R-TX) *Cosponsors*: 38 Republican Cosponsors	§ 2254 Rule 11	**Most Recent Bill Text:** https://www.congress.gov/119/bills/s3366/BILLS-119s3366is.pdf **Summary:** Would amend Rule 11 of the Rules Governing Section 2254 Cases by adding: "Rule 60(b)(6) of the Federal Rules of Civil Procedure shall not apply to a proceeding under these rules in a case that is described in section 2254(j) of title 28, United States Code."	• 12/4/2025: Introduced in Senate; referred to Judiciary Committee
Protecting Our Courts from Foreign Manipulation Act of 2025	**H.R. 2675** *Sponsor:* Cline (R-VA) *Cosponsors:* 19 bipartisan cosponsors	CV 26	**Most Recent Bill Text:** https://www.congress.gov/119/bills/hr2675/BILLS-119hr2675ih.pdf **Summary:** Would require additional disclosures under Civil Rule 26(a) for any non-party foreign person, foreign state, or sovereign wealth fund that has a right to receive payment that is contingent on the outcome of a civil action. Would also prohibit third-party ligation funding by foreign states and sovereign wealth funds.	• 11/20/2025: Ordered to be Reported (Amended) • 11/20/2025: Committee consideration and mark-up session held • 11/18/2025: Committee consideration and mark-up session held • 4/7/2025: H.R. 2675 introduced in House; referred to Judiciary Committee
Litigation Transparency Act of 2025	**H.R. 1109** *Sponsor:* Issa (R-CA) *Cosponsors:* 24 Republican cosponsors	CV 5, 26	**Most Recent Bill Text:** https://www.congress.gov/119/bills/hr1109/BILLS-119hr1109ih.pdf **Summary:** Would require a party or record of counsel in a civil action to disclose to the court and other parties the identity of any person that has a right to receive a payment or thing of value that is contingent on the outcome of the action or group of actions and to produce to the court and other parties any such agreement.	• 11/19/2025: Committee consideration and mark-up session held • 11/18/2025: Committee consideration and mark-up session held • 2/7/2025: H.R. 1109 introduced in House; referred to Judiciary Committee

Name	Sponsors & Cosponsors	Affected Rules	Text and Summary	Legislative Actions Taken
Protecting Our Courts from Foreign Manipulation Act of 2025	**S. 3180** *Sponsor*: Kennedy (R-LA)	CV 26	**Most Recent Bill Text:** https://www.congress.gov/119/bills/s3180/BILLS-119s3180is.pdf **Summary:** Would require additional disclosures under Civil Rule 26(a) for any non-party foreign person, foreign state, or sovereign wealth fund that has a right to receive payment that is contingent on the outcome of a civil action. Would also prohibit third-party ligation funding by foreign states and sovereign wealth funds.	• 11/18/2025: Introduced in Senate; referred to Judiciary Committee
Protecting Our Democracy Act	**S. 2838** *Sponsor*: Schiff (D-CA) *Cosponsors*: 9 Democratic and Independent Cosponsors	CV – New Rule(s)	**Most Recent Bill Text:** https://www.congress.gov/119/bills/s2838/BILLS-119s2838is.pdf **Summary:** Would require the Judicial Conference to create rules of procedure to ensure expeditious treatment of civil actions brought by Congress to enforce compliance with a subpoena.	• 9/17/2025: S. 2838 introduced in Senate; referred to Committee on Homeland Security and Governmental Affairs
Lawsuit Abuse Reduction Act of 2025	**H.R. 5258** *Sponsor*: Collins (R-GA) *Cosponsors*: Gill (R-TX) Tiffany (R-WI) Hageman (R-WY)	CV 11	**Most Recent Bill Text:** https://www.congress.gov/119/bills/hr5258/BILLS-119hr5258ih.pdf **Summary:** Would amend Civil Rule 11 to require the court to issue sanctions for Rule 11 violations, which shall consist of an order to pay the amount of the reasonable expenses incurred as a direct result of the violation.	• 9/10/2025: H.R. 5258 introduced in House; referred to Judiciary Committee
Restoring Artistic Protection Act of 2025	**H.R. 4678** *Sponsor*: Johnson (D-GA) *Cosponsors*: 20 Democratic cosponsors	EV 416	**Most Recent Bill Text:** https://www.congress.gov/119/bills/hr4678/BILLS-119hr4678ih.pdf **Summary**: Would create a new Evidence Rule (416, Limitation on Admissibility of Defendant's Creative or Artistic Expression) that would make a defendant's creative or artistic expression inadmissible unless the government proves by clear and convincing evidence that one of several exceptions applies.	• 7/23/2025: H.R. 4678 introduced in House; referred to Judiciary Committee

Name	Sponsors & Cosponsors	Affected Rules	Text and Summary	Legislative Actions Taken
Rape Shield Enhancement Act of 2025	**H.R. 3596** *Sponsor:* Mace (R-SC)	EV 412; CV 26; CR 16	**Most Recent Bill Text:** https://www.congress.gov/119/bills/hr3596/BILLS-119hr3596ih.pdf **Summary:** Would require the Judicial Conference to submit to Congress reports reviewing Evidence Rule 412, Civil Rule 26, and Criminal Rule 16. Would also require the Judicial Conference to identify potential rules amendments that further limit the admissibility of or scope of discovery regarding information of an alleged sexual assault victim and that increase privacy protections for sexual assault victims.	• 5/23/2025: H.R. 3596 introduced in House; referred to Judiciary Committee
Supreme Court Ethics, Recusal, and Transparency Act of 2025	**S. 1814** *Sponsor*: Whitehouse (D-RI) *Cosponsors*: 27 Democratic and Independent cosponsors	AP 29	**Most Recent Bill Text:** https://www.congress.gov/119/bills/s1814/BILLS-119s1814is.pdf **Summary:** Would require the Judicial Conference to prescribe rules of procedure requiring certain amicus disclosures and for prohibiting the filing of or striking an amicus brief that would result in the justice, judge, or magistrate judge's disqualification.	• 5/20/2025: S. 1814 introduced in Senate; referred to Judiciary Committee
Sunshine in the Courtroom Act of 2025	**S. 1133** *Sponsor:* Grassley (R-IA) *Cosponsors:* Klobuchar (D-MN) Durbin (D-IL) Blumenthal (D-CT) Markey (D-MA) Cornyn (R-TX)	CR 53	**Most Recent Bill Text:** https://www.congress.gov/119/bills/s1133/BILLS-119s1133is.pdf **Summary:** Would permit court cases to be photographed, electronically recorded, broadcast, or televised, notwithstanding any other provision of law, after JCUS promulgates guidelines.	• 3/26/2025: Introduced in Senate; referred to Judiciary Committee
Trafficking Survivors Relief Act of 2025	**H.R. 1379** *Sponsor:* Fry (R-SC) *Cosponsors:* 17 bipartisan cosponsors	CR 29	**Most Recent Bill Text:** https://www.congress.gov/119/bills/hr1379/BILLS-119hr1379ih.pdf **Summary:** Would permit a person convicted of certain federal offenses as a result of having been a victim of trafficking to move the convicting court to vacate the judgment of conviction, to enter a judgment of acquittal, and to order that references the arrest and criminal proceedings be expunged from official records.	• 2/14/2025: H.R. 1379 introduced in House; referred to Judiciary Committee

Name	Sponsors & Cosponsors	Affected Rules	Text and Summary	Legislative Actions Taken
Alexandra's Law Act of 2025	**H.R. 780** *Sponsor:* Issa (R-CA) *Cosponsors:* Kiley (R-CA) Obernolte (R-CA)	EV 410	**Most Recent Bill Text:** https://www.congress.gov/119/bills/hr780/BILLS-119hr780ih.pdf **Summary:** Would permit a previous nolo contendere plea in a case involving death resulting from the sale of fentanyl to be used as evidence to prove in an 18 U.S.C. § 1111 or § 1112 case that the defendant had knowledge that the substance provided to the decedent contained fentanyl.	• 1/28/2025: H.R. 780 introduced in House; referred to Judiciary and Energy & Commerce Committees
Protect the Gig Economy Act of 2025	**H.R. 100** *Sponsor:* Biggs (R-AZ)	CV 23	**Most Recent Bill Text:** https://www.congress.gov/119/bills/hr100/BILLS-119hr100ih.pdf **Summary:** Would add a requirement to Civil Rule 23(a) that a member of a class may sue or be sued as representative parties only if "the claim does not allege the misclassification of employees as independent contractors."	• 1/3/2025: H.R. 100 introduced in House; referred to Judiciary Committee

Federal Judicial Center

Date: March 13, 2026

To: Advisory Committees on Rules of Practice and Procedure

From: Tim Reagan (Research)
Maureen Kieffer (Education)
Christine Lamberson (History)
Federal Judicial Center

Re: Federal Judicial Center Research and Education

This memorandum summarizes recent efforts by the Federal Judicial Center relevant to federal-court practice and procedure. Center researchers attend rules committee, subcommittee, and working-group meetings and provide empirical research as requested. The Center also conducts research to develop manuals and guides; produces education programs for judges, court attorneys, and court staff; and provides public resources on federal judicial history.

RESEARCH

Completed Research for Rules Committees

Intervention on Appeal

At the request of the Appellate Rules Committee, the Center examined motions to intervene on appeal (www.fjc.gov/content/394353/intervention-federal-courts-appeals). Intervention at the beginning of a case was studied in a two-year filing cohort, and intervention at the end of a case, such as after argument or judgment, was examined in a four-year termination cohort.

Current Research for Rules Committees

Deepfakes and Authenticity

The Evidence Rules Committee is exploring whether the authenticity standard should be made more stringent than it now is for potentially fabricated evidence created by artificial intelligence. The committee asked the Center to survey all federal judges to ascertain their experiences and views.

Temporary Administrative Stays in the Courts of Appeals

The Appellate Rules Committee has requested research on courts of appeals' issuing temporary administrative stays following motions for stays pending appeals.

Attorney Admissions

The Center provides the Standing Rules Committee's subcommittee on attorney admissions with occasional research support.

Complex Criminal Litigation

As suggested by the Criminal Rules Committee, the Center is developing a collection of resources on complex criminal litigation as one of its curated websites.

Completed Research for Other Judicial Conference Committees

Allocating District-Court Case-Weighting Credit for Motions Arising Under 18 U.S.C. § 3582(c)

At the request of the Judicial Resources Committee, the Center developed new case weights for motions to modify prison sentences. The Center periodically conducts empirical research to prepare quantitative weights for case types, which are used in the computation of weighted caseloads, which in turn are used when assessing the need for judgeships. The interim weights were approved by the Judicial Conference in September to be used until the next comprehensive district-court case-weighting study is conducted.

Current Research for Other Judicial Conference Committees

Harm to Cooperators

At the request of the Court Administration and Case Management Committee, the Criminal Law Committee, and the Committee on Defender Services, the Center is updating its 2016 research on harms and threats of harm to government cooperators in criminal prosecutions (www.fjc.gov/content/310414/survey-harm-cooperators-final-report).

Evaluation of a Pilot Program in Which Comparative Sentencing Information Is Included in Presentence Investigation Reports

At the request of the Committee on Criminal Law, the Center is evaluating a two-year pilot program in which selected districts incorporated comparative sentencing information from the Sentencing Commission's Judiciary Sentencing Information (JSIN) platform into presentence investigation reports.

The Privacy Study: Unredacted Sensitive Personal Information in Court Filings

At the request of the Committee on Court Administration and Case Management, the Center is conducting research on unredacted personal information in public filings.

Case Weights for Bankruptcy Courts

The Center has completed analyses for updating bankruptcy-court case weights. Case weights are used in the computation of weighted caseloads,

which in turn are used when assessing the need for judgeships. The research was requested by the Committee on Administration of the Bankruptcy System.

JUDICIAL GUIDES

Completed

Benchbook for U.S. District Courts

The Center has published a seventh edition of its compilation of information that federal judges have found useful for immediate bench or chambers reference in civil and criminal proceedings (www.fjc.gov/content/397447/benchbook-us-district-courts-seventh-edition). The benchbook contains sections on such topics as assignment of counsel, taking guilty pleas, standard voir dire questions, sentencing, and contempt.

Reference Manual on Scientific Evidence

The Center collaborated with the National Academies of Science, Engineering, and Medicine to prepare a fourth edition of the *Reference Manual on Scientific Evidence* (www.fjc.gov/content/396456/reference-manual-scientific-evidence-fourth-edition). The reference manual includes chapters on the admissibility of expert testimony and how science works and reference guides on forensic feature comparison evidence, human DNA identification evidence, eyewitness identification, statistics and research methods, multiple regression and advanced statistical models, survey research, estimation of economic damages, exposure science and exposure assessment, epidemiology, toxicology, medical testimony, neuroscience, mental health evidence, engineering, computer science, and artificial intelligence.

In Preparation

Manual for Complex Litigation

The Center is preparing a fifth edition of its *Manual for Complex Litigation* (fourth edition, www.fjc.gov/content/manual-complex-litigation-fourth).

Manual on Recurring Issues in Criminal Trials

The Center is preparing a seventh edition of what previously was called *Manual on Recurring Problems in Criminal Trials* (sixth edition, www.fjc.gov/content/manual-recurring-problems-criminal-trials-sixth-edition-0).

HISTORY

Resources for Public Speaking

These materials were developed for judges and court staff who wish to speak to groups about various aspects of federal-court history (www.fjc.gov/history/public-speaking-resources). The following units were added in 2026: "Defining the Boundaries Between Article III and Non-Article III Courts," "Differences Between Federal and State Courts," "Judicial

Administration," "Legal Interactions Between Federal and State Courts," "The Judiciary During the Gilded Age," "The Judiciary During the U.S. Civil War," "U.S. Bankruptcy Judges," and "U.S. Magistrate Judges."

Evaluating Historical Evidence

The Center offered judges a six-part interactive online series that provided tools for managing cases with significant historical evidence. Historians discussed historical methodology and provided practical tips for evaluating historical evidence, whether presented in the form of expert witnesses, amicus briefs, or litigant arguments.

EDUCATION

Specialized Workshops

Employment Law Workshop 2025

This two-day workshop, comprising small group discussions and presentations featuring federal judges and seasoned management-side and employment-side attorneys, included information on expeditious and fair case handling and remedies and an update on Supreme Court employment-law developments.

Immigration Law for U.S. District Courts

In this two-day seminar, judges discussed the rapidly changing area of immigration law.

Distance Education

Conducting Judicial Mediations and Settlement Conferences: Ethical Considerations for Bankruptcy Judges

Bankruptcy judges often are asked to mediate in the cases of other judges, and some judges conduct settlement conferences in their own cases. This program discussed navigating the intersection of these roles and activities with the Code of Conduct for U.S. Judges and other relevant sources.

Supreme Court Term in Review for Bankruptcy Judges

A September 2025 webcast discussed some of the most significant Supreme Court decisions, including key bankruptcy cases.

Court Web

This periodic webcast included as recent episodes "Federal Sentencing Update" (featuring Northern District of Ohio Judge Benita Pearson and U.S. Sentencing Commission Education Director Alan Dorhoffer) and "Supreme Court: October Term 2025" (featuring Erwin Chemerinsky and Paul Clement).

Term Talk

Each term, the Center presents video podcasts with the nation's top legal scholars discussing what federal judges need to know about the Supreme Court's most impactful decisions (www.fjc.gov/education/fjc-videos-podcasts?category=Supreme-Court).

Consumer Case-Law Update for Bankruptcy Judges

This quarterly webcast features consumer-bankruptcy case-law updates by retired Western District of Tennessee Bankruptcy Judge William H. Brown.

Business Case-Law Update for Bankruptcy Judges

This quarterly webcast features Professor Bruce Markell (a retired bankruptcy judge).

A Review of Ninth Circuit Bankruptcy Decisions

This annual webcast features judges on the Ninth Circuit Bankruptcy Judges Education Committee discussing significant decisions by the Supreme Court, the Ninth Circuit's court of appeals, and the Ninth Circuit's bankruptcy appellate panel.

General Workshops

National Workshops for Trial-Court Judges

Three-day workshops are held for district judges in even-numbered years and annually for magistrate judges and bankruptcy judges.

Circuit Workshops for U.S. Appellate and District Judges

The Center has recently put on a three-day workshop for Article III judges in the Eleventh Circuit.

Orientation Programs

Orientation Programs for New Trial-Court Judges

The Center invites newly appointed trial-court judges to attend two one-week conferences focusing on skills unique to judging. The first phase includes sessions on trial practice, case management, and judicial ethics. In addition, district judges learn about the sentencing process, magistrate judges learn about search warrants, and bankruptcy judges learn about the bankruptcy code. The second phase includes sessions on such topics as civil-rights litigation, employment discrimination, security, self-represented litigants, relations with the media, and ethics.

Orientation for New Circuit Judges

Orientation programs for new circuit judges include a three-day program hosted by the Center and a program at New York University School of Law for both state and federal appellate judges.

Orientation for New Term Law Clerks

The Center offers online orientation to new term law clerks. Phase I is offered before the clerkship begins, and phase II is offered after the clerkship has begun.

TAB 2

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 approve 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 24, 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 has 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.

TAB 3

TAB 3A1

MINUTES

COMMITTEE ON RULES OF PRACTICE AND PROCEDURE

January 6, 2026

The Judicial Conference Committee on Rules of Practice and Procedure (the Standing Committee) met in Washington, D.C., on January 6, 2026. The following members were present:

Judge James C. Dever III, Chair
Judge Paul J. Barbadoro
Elizabeth J. Cabraser, Esq.
Louis A. Chaiten, Esq.
Judge Colm F. Connolly
Judge Joan N. Ericksen
Judge Stephen Higginson
Justice Edward M. Mansfield
Dean Troy A. McKenzie
Andrew J. Pincus, Esq.
Judge Allison J. Rushing (attended remotely)
Elizabeth J. Shapiro, Esq.[1]
Bart H. Williams, Esq.

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

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
Professor S. Elizabeth Gibson, Reporter
Professor Laura B. Bartell, Associate Reporter

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

Advisory Committee on Criminal Rules:
Judge Michael W. Mosman, 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: Bridget M. Healy, Esq., and Sarah A. Sraders, 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; Judge Robin L. Rosenberg, Director, and Dr. Tim Reagan, Senior Research Associate, Federal Judicial Center (FJC). Chief Judge Michael A. Chagares, on behalf of the Executive Committee of the Judicial Conference, attended remotely.

1. OPENING BUSINESS

A. Welcome and Opening Remarks

Judge James C. Dever III, Chair of the Standing Committee, called the meeting to order and welcomed the members, participants, and observers, including those attending remotely. Judge Dever noted that Judge D. Brooks Smith was unable to attend the meeting.

Judge Dever then welcomed the new members of the Committee: Judge Allison Rushing, who has served on the Fourth Circuit since 2019; Judge Colm Connolly, who has served as a district judge in the District of Delaware since 2018; and Bart Williams, a partner with the law firm Proskauer Rose in its Los Angeles office. He also welcomed two new Advisory Committee chairs: Judge Sarah Vance, the new chair of the Civil Rules Committee, from the Eastern District of Louisiana; and Judge Michael Mosman, the new chair of the Criminal Rules Committee, from the District of Oregon.

Judge Dever also informed the Committee that Sarah Sraders, who had been the Rules Law Clerk, had moved into a counsel position in the Rules Office and would be staffing the Civil Rules Committee. He also recognized Bridget Healy, counsel to the Bankruptcy Rules Committee and Appellate Rules Committee, for her twenty years of service in the judiciary. He concluded the welcoming remarks by noting that a recognition ceremony for Professor Catherine Struve, Joe Spaniol, and Professor Edward Hartnett would take place at the end of the meeting.

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 June 10, 2025 meeting.

C. Comments on 2025 Strategic Plan for the Judiciary

Judge Dever informed the members of the request of Chief Judge Michael Chagares, on behalf of the Executive Committee of the Judicial Conference and in his capacity as Planning Coordinator, to identify up to three of the Judiciary's five priorities listed in the 2025 Strategic Plan for the Judiciary to be prioritized over the next two years. The 2025 Strategic Plan for the Judiciary is included in the agenda book beginning at page 56.

Judge Dever suggested that the Standing Committee identify the following goals: (1) providing fair and impartial justice; (2) efficiently and effectively managing public resources; and (3) realizing technology's full value and managing its risks. Judge Dever then invited comments from Chief Judge Michael Chagares, who appeared remotely. Judge Chagares noted that Priority 1.3, ensuring that court rules,

processes, and procedure meet the needs of lawyers and litigants in the judicial process, goes to the core of the Committee's jurisdiction.

After an opportunity for discussion and hearing no comments, upon motion and a second, with no opposition, the Standing Committee approved identifying the three goals set forth in the 2025 Strategic Plan as described by Judge Dever.

D. Status of Rule Amendments

Carolyn A. Dubay, Chief Counsel and Secretary to the Standing Committee, gave a brief report on the status of proposed rule amendments, referencing the chart of proposed amendments to the federal rules included in the agenda book beginning on page 90. Ms. Dubay drew the Committee's attention to the upcoming hearings on proposed rule amendments that the Standing Committee approved for publication and public comment at its June 2025 meeting. She further noted that final rule amendments approved by the Standing Committee at the June 2025 meeting were approved by the Judicial Conference and delivered to the Supreme Court in October 2025 for its review.

E. Legislative Update

Sarah Sraders, Counsel to the Civil Rules Committee, provided an update on pending legislation that directly or effectively amends the federal rules, referencing the chart of legislative proposals in the agenda book beginning on page 97. Ms. Sraders drew the Committee's attention to several bills involving third-party litigation funding, noting that the Protecting Our Courts from Foreign Manipulation Act had recently been reported favorably by the House Judiciary Committee. She also highlighted the Litigation Transparency Act, noting that no action has been taken on this bill since it was introduced.

F. Federal Judicial Center Update

Judge Robin R. Rosenberg, Director of the Federal Judicial Center, provided the Committee with an update on the FJC's activities relating to the work of the Rules Committees. The FJC Report is included in the agenda book beginning on page 120.

Judge Rosenberg began her report by highlighting a project for the Appellate Rules Committee to examine motions to intervene on appeal, both at the beginning and end of the case's time in the court of appeals. Judge Rosenberg also noted that the FJC has ongoing research regarding temporary administrative stays and attorney admissions, and is developing a collection of resources on complex criminal litigation at the suggestion of the Criminal Rules Committee.

Judge Rosenberg next provided an overview of other FJC projects. This includes projects involving case weights, a review of local rules relating to redaction of private information in public court filings, supplemental research on the prevalence of unredacted social security numbers in public court filings, and appeals of *sua sponte* remand orders after Class Action Fairness Act (CAFA) removals.

Other projects Judge Rosenberg described included a pilot program on comparative sentencing information for pre-sentence investigative reports, the privacy study regarding unredacted private personal information, a bankruptcy court case weights study, and the second edition of the FJC's publication on

consumer bankruptcy law. Judge Rosenberg noted a large number of inquiries for resources on artificial intelligence (AI), and that the FJC is working on a website of AI resources for judges, and an AI chapter in the new manual for scientific evidence. The FJC is also preparing a new edition of the Manual for Complex Litigation, which has not been updated since 2004. With respect to criminal cases, the FJC is preparing the seventh edition of its manual on recurring issues in criminal trials, and a new bench book for district court judges and magistrate judges.

Judge Rosenberg also noted the work of the FJC's History Division, which had developed an online series on managing cases with significant historical evidence, and had developed a program in partnership with the American Bar Association to provide professional development for teachers focusing on three famous historical trials. With respect to education efforts, Judge Rosenberg briefly noted the FJC's ongoing judicial education programs.

Judge Rosenberg concluded her remarks by thanking Judge Chagares for his work on the Judiciary's 2025 Strategic Plan and emphasized the importance of adhering to the core values and priorities outlined in the plan.

Judge Dever thanked Judge Rosenberg for her remarks and for the invaluable support the FJC provides to the Rules Committees.

2. JOINT COMMITTEE BUSINESS

Judge Dever then turned to Joint Committee Business.

A. Electronic Filing by Self-Represented Litigants

Professor Catherine Struve, Standing Committee Reporter, provided an update on the project on self-represented litigants. Professor Struve's memorandum appears on page 127 of the agenda book.

Professor Struve explained the two goals of the project: (1) eliminate the requirement for paper service of documents (after the initial filing) on litigants who already receive notice of case activity through the electronic filing system; and (2) adopt a rule that would presumptively permit self-represented litigants to file electronically, unless a court order or local rule bars them from doing so. On this last issue, the proposed rule would provide that if a court adopts a local rule that generally bars self-represented litigants from using the court's electronic filing system, it must include reasonable exceptions or allow the use of some other electronic method for filing.

Professor Struve informed the members that after considerable discussions among the four relevant Advisory Committees, which benefited greatly from the work of the Reporters, Advisory Committee members, FJC, and the clerk liaisons, the Advisory Committees are prepared to develop rule amendments for potential presentation to the Standing Committee in June 2026 for approval to publish for public comment. Professor Struve noted that among the relevant Advisory Committees, the Bankruptcy Rules Committee raised the most concern regarding the project because of the specifics of bankruptcy practice and would like the benefit of public comment before deciding whether to ultimately seek approval of such a rule.

The members then discussed the project for electronic filing for self-represented litigants.

A judge member expressed his enthusiasm for the project and offered three points. First, he was not clear as to the default consequence if a filing is non-conforming. Second, he was not clear as to what happens if a recipient does not receive a document and whether it is considered not filed. Third, he expressed his view, in opposition to the Department of Justice's position, that this project should not be limited to parties and should address electronic filing by unrepresented non-parties, particularly victims and subpoena recipients.

Professor Struve answered the first question, noting that the question as to the default consequence for a non-conforming filing has been considered. There was some sentiment in the Advisory Committee meetings in the fall that this was an issue outside the scope of the current project, and that the Advisory Committees did not want to take on that issue at this time. However, some participants expressed interest in trying to work it into the current project, so the issue is still pending for discussion. As to the question (whether to retain existing rule provisions providing that electronic service is not effective if the filer learns that it did not reach the person to be served), Professor Struve responded that the project probably should maintain the approach taken by the current rules. Finally, as to the third question, Professor Struve noted that the question of non-parties has a different valence among the different sets of rules, and project participants would give the question close attention.

Judge Dever thanked the judge member for his comments and encouraged the members of the Committee to provide feedback on any of the items presented.

B. Report of Joint Subcommittee on Attorney Admission

Professor Struve next provided an oral report on the work of the Joint Subcommittee on Attorney Admission. The subcommittee was formed in late 2023 in response to a proposal by Associate Dean Alan Morrison and others with respect to the attorney admissions practices of the federal trial courts. At present, the subcommittee is in the information gathering process.

Dean Morrison's proposal pointed out that a number of federal district courts require, as a condition of admission to the district court bar, that the attorney be admitted to the bar of the encompassing state. Among such states, four require, as a condition of admission to the state bar, that the attorney seeking admission take the bar exam. The proposal suggested that a rule could be adopted providing that admission to any federal district court entitles a lawyer to practice before any other district court, or as an alternative, barring a district court from requiring as a condition of admission to the bar that the applicant reside in or be a member of the bar of the state in which the district court is located.

Professor Struve reported that the subcommittee had also been thinking about the Appellate Rule 46 model, which is considerably more open than the approach taken by the more restrictive district courts – but that the subcommittee has noted the differences between appellate and trial-level practice.

With no questions or comments from the members, Judge Dever thanked Professor Struve for her report. Judge Dever further noted that Judge Paul Oetken had been the chair of the subcommittee but his term on the Bankruptcy Rules Committee had ended. Judge Leigh May, who replaced Judge Oetken on the

Bankruptcy Rules Committee, will join the subcommittee. The subcommittee also lost another member (from the Criminal Rules Committee), so a replacement will be added.

C. Privacy Rules and Redaction

Ms. Dubay provided an oral report on the privacy rules project, which focuses on two issues: (1) full redaction of social security numbers or other taxpayer identifying numbers in public court filings; and (2) use of pseudonyms instead of initials when referencing minors in public court filings. Ms. Dubay informed the members that each of the relevant Advisory Committees had considered a rule amendment to address the unique context of their proceedings, and planned to consider proposed language at their spring meetings, with the ultimate goal to present those proposed amendments to the Standing Committee in June 2026 for approval to publish for public comment.

With no questions or comments from the members, Judge Dever proceeded to the Advisory Committee reports.

3. ADVISORY COMMITTEE REPORTS

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

Judge Eid presented the report of the Advisory Committee on Appellate Rules, which last met on October 15, 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 130.

1. *Status of Public Comments on Draft Amendments to Rule 15*

Judge Eid reported on the status of the proposed amendments to Rule 15 regarding review of administrative agency decisions, which were published for public comment in August 2025. Judge Eid noted that two comments – both favorable– had been received and expressed hope that more comments would be received before the February 16, 2026, deadline.

Judge Eid explained that the proposed amendments were intended to address the "incurably premature doctrine," which arises if a motion to reconsider an agency decision renders the decision unreviewable and requires dismissal of the only petition for review. This sequence of events is a trap for the unwary of the kind that the 1993 amendments to Rule 4 addressed in the context of district court decisions. Judge Eid noted that, for some reason, the 1993 amendments did not include a similar fix for petitions for review of agency decisions. The amendment to Rule 15, if it becomes final, will parallel the fix from Rule 4. The hope is that the amendment to Rule 15 will be presented to the Standing Committee for final review at its June 2026 meeting.

2. *Status of Proposals Under Consideration*

Judge Eid next discussed the Advisory Committee's ongoing study of various issues, beginning with intervention on appeal.

Judge Eid explained that there is no current rule on intervention on appeal, and in the past, the Advisory Committee has been reluctant to draft a rule because members thought it would encourage intervention. In other words, if there is a rule, people will want to use it. Judge Eid stated that the Advisory Committee had moved past that concern and is working on a draft Rule 7.1, found on page 132 of the agenda book. Judge Eid then requested feedback on this draft, taking into account the draft's features as highlighted on page 134 of the agenda book.

Judge Eid described additional proposals under consideration. These include: (1) potential amendments to address reopening the time for appeal under Rule 4(a)(6) in light of the Supreme Court's decision in *Parrish v. United States*, with draft language appearing on page 138 of the agenda book; (2) ongoing study of administrative stays under Rule 8, with research assistance from the FJC; (3) ongoing study of a Uniform Rule of Bar Admissions to the Court of Appeals, with practitioners on the Advisory Committee noting difficulties posed by differing bar admission standards amongst the circuits; (4) the treatment of tribes under the appellate rules; (5) privacy amendments relating to redaction of social security numbers and reference to minors; and (6) expanding e-filing for self-represented litigants.

Judge Eid then invited Professor Hartnett to share anything he wished to add. Professor Hartnett noted two things. First, with regard to the possibility of a rule on intervention on appeal, he stated that it would be particularly valuable to receive feedback from the Standing Committee on two issues: (1) general feedback on whether the Advisory Committee is on the right track, and (2) whether the rule should specify the kinds of legal interests that count for intervention. On this issue, Professor Hartnett noted that greater specificity is helpful, but there is a risk that greater specificity risks considerable confusion and leaving out some important interests. Second, Professor Hartnett emphasized the interest in receiving feedback on the privacy amendments, found on page 142 of the agenda book. The general approach is to apply the rule applied in the district courts, but an extra layer of protection may also be appropriate in the courts of appeals because once on appeal, whatever good reasons there were for not redacting at the trial level (as to social security numbers, tax identification numbers, and the like) may not apply to a public filing in the court of appeals.

Judge Eid then noted that Professor Hartnett would be leaving his role as Reporter for the Advisory Committee to assume the role of Reporter for the Standing Committee. Judge Eid remarked on how amazing Professor Hartnett had been as the Appellate Reporter, with an incredible ability to take moving parts and get them to line up and make sense.

a. Proposed Rule 7.1 and Intervention on Appeal

Following Judge Eid's report, the members discussed intervention on appeal. A judge member expressed support for the efforts of the Advisory Committee and raised several questions relating to intervention on appeal. Specifically, the judge member asked if the Advisory Committee had drawn from Civil Rule 24 case law to draft the proposed rule, and suggested addressing the may/must distinction (with Rule 24 using the term "must permit" intervention if the criteria are met and the proposed Appellate Rule 7.1 using the term "may permit" intervention). This raises the issue of whether intervention would be as of right, or whether the appellate court would still have discretion (permissive intervention). The judge member also asked (1) would government motions be treated differently, and (2) what is the scope of the unfair

prejudice prong (subsection F in proposed Rule 7.1(b)(1)). On this latter issue, under Civil Rule 24, that determination goes to timeliness, but in proposed Rule 7.1, it is included as a factor. The judge member also pointed to line 19, page 133 of the agenda book with the proposed language in Rule 7.1(b)(1)(D), which as drafted states as a consideration that existing parties "will not" adequately protect the intervenor's interest, and suggested that this could be rephrased to loosen the language, such as "are not likely to protect" or "may not protect." Finally, the judge member raised the issue of the word "exceptional" in the language in Rule 7.1(a), found at line 4 on page 132 of the agenda book. On this point, the judge member asked if the Advisory Committee contemplated other words, such as "rare," which would still suggest that granting a motion would not be frequent, but would give more flexibility than the word exceptional.

Professor Hartnett addressed these questions. As to the word "exceptional," Professor Hartnett explained that the Advisory Committee is considering whether to stay with that "exceptional" language or to soften that a bit. As to Civil Rule 24, Professor Hartnett confirmed that it was considered, but in terms of the overall framing of the proposed rule, the draft language was driven by the case law in the courts of appeals that emphasizes how rare and exceptional intervention should be (although there is some dispute about whether every circuit articulates that point). On the unfair prejudice language, Professor Hartnett noted that phrasing undue prejudice broadly allows the rule to encompass other types of prejudice beyond that caused by untimeliness. Though the Advisory Committee had not found examples of such other types of prejudice, it did not want to close the door to those possibilities.

Another judge member raised a question about the draft language in Rule 7.1(b)(2), found on page 133 of the agenda book, relating to government intervention. Specifically, the judge member pointed to the language in proposed Rule 7.1(b)(2)(A), which permits a government to move to intervene to defend any "action it or one of its agencies or officers has taken," and Yes. noted that this may be broader than existing Civil Rule 24. Civil Rule 24 is framed in terms of government intervention where a claim or defense is based on a statute or executive order. Professor Hartnett explained that at the very least, the proposed language covers the United States's statutory right to intervene to defend the constitutionality of a federal statute. The proposed rule was drafted with the idea that there is no particular reason to not let the government defend its actions if the claim or defense raises a statutory rather than constitutional challenge to government action, but the Advisory Committee would look at that issue more closely.

A lawyer member noted that there was a lot of concern from the judges on the Advisory Committee that this rule could open the floodgates to intervention motions unless it was made clear that permission to intervene was the exception to the rule. This discussion is the source of the "exceptional" language. The unfair-prejudice prong is designed to provide a broad way to address the problem of non-parties coming in and raising arguments that were not raised below because they had failed to protect their interest in the district court.

Another judge member asked what problem the proposed rule was trying to solve and whether appellate courts could simply decide this according to case law and common sense. Professor Hartnett explained that one reason for drafting the rule is that these motions are being made frequently, as indicated in the FJC report. The Supreme Court has also noted the absence of a rule on intervention on appeal. Also, a rule would help lawyers to advise clients not to pursue intervention because they could point to the

standard set forth in the rule. Professor Hartnett also noted that while there is momentum towards a rule, the DOJ was not represented at the fall 2025 meeting because of the government shutdown and its position is not clear. At this point, Ms. Shapiro, on behalf of DOJ, confirmed that their representative could not attend the fall meeting because of the lapse in appropriations, but also noted that DOJ is extremely skeptical that a rule is necessary, and is particularly concerned about opening the floodgates to intervention whenever people are unhappy with an agency action that is on appeal.

The lawyer member added that part of the impetus for the rule was situations in which a federal or state government litigant changed its position and decided not to defend a rule on appeal. This issue arose in a Supreme Court case involving a state rule.

A judge member, noting his disagreement with the DOJ, added that the biggest need for intervention, and for administrative stays on the emergency interim docket, was in agency cases. He further pointed out language on page 134 of the agenda book noting that based on the FJC report, the Advisory Committee did not think that the intervention rule should pertain to agency review cases. The judge member noted his strong disagreement with that conclusion, and disagreement with excluding agency actions from the administrative-stay project as well, discussed in the Advisory Committee minutes on page 158 of the agenda book.

A lawyer member clarified that the Advisory Committee was drawing a distinction between agency cases coming from the district courts and agency cases on direct review in the courts of appeals. He noted that there is a robust settled practice for dealing with intervention in connection with a petition in the court of appeals for review or enforcement of an agency order, and that the Advisory Committee wished to avoid unsettling that practice.

b. <u>Rule 25(a)(5)(C) and Privacy Considerations</u>

The members then discussed the proposed amendments on privacy. A judge member asked whether amendments to Rule 25(a)(5)(C) would address redactions relating to minors, or whether that issue would have its own separate rule. Professor Hartnett explained that the proposed amendment would carry forward current Rule 25(a)(5)'s approach, which is generally to incorporate by reference whatever privacy provision applied below. Accordingly, provisions in the Criminal, Civil, and Bankruptcy Rules concerning pseudonyms for minors will carry forward on appeal. The Advisory Committee does not think there is a need for a special appellate rule on minors or a differing rule on appeal. The judge member responded that the privacy of minors is often overlooked, and it is worth considering the additional layer of privacy with respect to identification of minors on appeal. She further noted that appellate decisions are read by more people, and these opinions are more accessible, and she is in favor of making sure that we protect the minors as much as possible.

Professor Sara Sun Beale, Reporter for the Criminal Rules Committee, noted that Criminal Rules has taken the lead on these privacy provisions, and commented that it appears that all of the Advisory Committees agree on the move from initials for minors to pseudonyms. The disagreement has to do with social security numbers. Given the expectation that the Bankruptcy Rules will not be amended to require full redaction of Social Security numbers, the draft Appellate Rule 25 amendment is designed to require such redaction on appeal. The judge member responded that in criminal cases in the district courts, there

can be submissions from victims that are filed, and the name of the minor might not be caught given the speed and emotion that goes into filings in the district court. For this reason, she supports addressing the issue of minors so that oversights in the district court do not get repeated in the appellate record.

c. Rule 4 and Reopening Time for Appeal

The members then discussed the issue of reopening time for appeal. A lawyer member noted that his firm represented Mr. Parrish in *Parrish v. United States*, but that he did not think this precluded him from commenting on the proposed amendment. He proposed omitting the second sentence in proposed Rule 4(a)(6)(B) relating to whether a document should be construed as a notice of appeal. Rule 3 tells litigants how to file a notice of appeal, and courts already take a more liberal attitude with filings by *pro se* litigants. Interpretation of the notice of appeal is an issue for the courts rather than the litigants.

With no further discussion or questions from the members, Judge Dever proceeded to the next Advisory Committee report.

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

Judge Connelly presented one action item and several information items from the Advisory Committee on Bankruptcy Rules, which last met on September 25, 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 on page 164.

1. *Retroactive Technical Amendment to Official Form 410C13-NR*

Judge Connelly first presented the Advisory Committee's request that the Committee approve technical amendments to Official Form 410C13-NR, retroactive to December 1, 2025. Judge Connelly explained that this form was part of a package of six new forms that were approved in connection with changes to Bankruptcy Rule 3002.1 and went into effect on December 1, 2025. Rule 3002.1 has a very active history and has been amended numerous times, including the recent amendment that included the addition of six new official forms.

To provide background on the need to correct Official Form 410C13-NR, Judge Connelly explained that Bankruptcy Rule 3002.1 applies only in Chapter 13, which is why the form has "C13" in its title. Judge Connelly then explained that one of the rights of a Chapter 13 debtor is to file a bankruptcy case, reinstate a mortgage that is in default, and use a three- to five-year time period to cure mortgage arrears. That cure occurs by making payments to a Chapter 13 trustee, who disburses those payments to a mortgage holder or mortgage servicer. During this three- to five-year period, however, there may be changes to the servicer, changes to the payments, or inconsistencies regarding timing. As a result, at the end of this three- to five-year period, the mortgage holder or servicer's records may show that the arrears were not cured, but the debtor's and trustee's records show that they were. The amendments to Rule 3002.1 provide more transparency and notice in order to avoid these problems at the end of the case.

As part of the Rule 3002.1 amendments, the Bankruptcy Rules Committee changed an official form regarding the notice that the trustee submits to the mortgage holder or servicer and the form response by

the holder or servicer. The reason these are done as official forms is because of the volume and because management of these mortgage claims is usually handled at the mortgage-holder level, not the attorney level. Having a form that is uniform, that can be automated, and that can be managed by non-attorney staff is critical to compliance. And the mortgage holder or servicer will need to input it into a software program.

Official Form 410C13-NR was approved to go into effect December 1, 2025—along with all of the other forms, and along with the changes to Rule 3002.1. After this approval, one of the mortgage services caught a scrivener's error. Official Form 410C13-NR, which the mortgage holder or servicer would file in response to the trustee's notice of the disbursements that the trustee made on the mortgage claim, referred erroneously to the information as of the date of this "notice" in two places. The form was clearly meant to indicate that the respondent was sending its information as of the date of its "response" and not the date of the "notice."

The servicer brought this to the attention of a member of the Bankruptcy Rules Committee, and the Advisory Committee was able to address this at its September 2025 meeting and approved changes to official Form 410C13-NR to change the word "notice" to "response" in two places. The approved, revised form appears in the agenda book at page 170. The Advisory Committee approved the changes with the expectation that it would come before the Standing Committee today to seek approval retroactive to December 1. The Advisory Committee determined that it was important for the changes to go into effect December 1, consistent with how the form should be used and applied, so that servicers and courts would have the correct form.

The Advisory Committee referred to authority that the Judicial Conference had issued in March of 2016, which specifically delegates authority to the Bankruptcy Rules 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.

Judge Connelly, on behalf of the Bankruptcy Rules Committee, requested approval of the changes to Official Form 410C13-NR, retroactive to December 1, 2025. With no questions or comments from the members, and upon motion and a second, with no opposition, the Standing Committee approved the requested technical amendments.

2. *Status of Proposals Under Consideration*

Judge Connelly next presented information on the status of proposals under consideration by the Advisory Committee on Bankruptcy Rules.

a. Rule 9037 and Rule 8011 and Privacy Protections

Judge Connelly first addressed the privacy amendments focused on complete redaction of social security numbers. She explained that for many reasons, the Bankruptcy Rules Committee has determined that full redaction of social security numbers is not practicable at this time in bankruptcy cases, and that the Bankruptcy Rules should continue to permit filings to contain the last four digits in a social security number. For example, when a bankruptcy case gets filed, notice to those who are affected by the

bankruptcy is absolutely essential, including notice to creditors who must be able to identify the debtor accurately. For this reason, use of the last four digits of the social security number of the debtor in court filings is still necessary for the stakeholders to be able to identify the party who is in bankruptcy. The same issue of appropriate notice applies in bankruptcy cases involving an employer identification number (EIN), or an individual taxpayer identification number (ITIN). For those reasons, the Advisory Committee at this time will not pursue an amendment to Rule 9037 with respect to complete redaction of the social security numbers or other taxpayer identifying information.

The Bankruptcy Rules Committee supports changing the denotation of minors from initials to pseudonyms. As for what rule would apply when a bankruptcy case is appealed, the Bankruptcy Rules Committee believes that the appellate rule should be consistent for both bankruptcy appeals and non-bankruptcy appeals and that the need for the last four digits of the social security number does not continue at the appellate level. Judge Connelly anticipates that proposed amendments to Bankruptcy Rule 9037 (to address pseudonyms for minors) and Bankruptcy Rule 8011 (the appellate rule) will be presented to the Standing Committee at its June 2026 meeting.

b. Rule 2003 and Meetings of Creditors

Judge Connelly next raised potential amendments to Bankruptcy Rule 2003, related to meetings of creditors. Upon the filing of the case, a meeting of creditors is convened in which a trustee conducts an examination of the debtor and creditors are given the opportunity to attend. Rule 2003 contains language regarding the timing and place of holding the meeting and specifies it has to be in the district where the bankruptcy case is pending. Two suggestions have been received regarding changing that rule to reflect the current practice of holding these meetings remotely and that in such cases, it may not matter where the trustee is located. The proposals also raised the concern that the current number of days referenced in the statute has created some administrative problems for certain trustees. Judge Connelly further noted that a bankruptcy judge does not conduct these meetings or have authority over them – the DOJ Office for U.S. Trustees is primarily involved with appointing trustees and managing these meetings of creditors (or, in some states, there is a bankruptcy administrator involved). Because changing Rule 2003 would have an impact on how the Office for U.S. Trustees and the bankruptcy administrators manage these meetings, before going forward with a proposed amendment to Rule 2003, the Advisory Committee is awaiting the outcome of discussions between the Office for U.S. Trustees and representatives from trustee organizations to try to achieve a consensus.

c. Rule 9031 and Use of Special Masters

Judge Connelly then turned to potential amendments to Bankruptcy Rule 9031, which currently provides that Civil Rule 53 relating to the appointment of special masters does not apply in cases under the Bankruptcy Code. After the Advisory Committee received suggestions to authorize Bankruptcy Judges to appoint special masters, the FJC conducted research to help the Advisory Committee determine if there is a perceived need for the use of special masters in bankruptcy cases, and the FJC research indicated that there is. With that feedback, the Advisory Committee is in the process of drafting a proposed rule change to incorporate the applicable provisions of Rule 53 in bankruptcy cases. Judge Connelly commended Professor Elizabeth Gibson, Reporter for the Bankruptcy Rules Committee, for her extraordinary work on

this issue. The goal is to bring the proposed amendment to the Standing Committee in June 2026 for approval to publish for public comment. The next issue under consideration by the Advisory Committee is potential amendments to Bankruptcy Rule 8017, which parallels Appellate Rule 29 on amicus briefs. With the proposed amendments to Appellate Rule 29 in the process of final approval, there is a need for a conforming amendment to Rule 8017, as well as Rule 8015 regarding the certificate of compliance. The Advisory Committee plans to present the Standing Committee at its June 2026 meeting with a package of proposed amendments to Rule 8017 and Rule 8015 for approval to publish for public comment.

Judge Connelly concluded her report by noting that the Advisory Committee has decided not to proceed with potential amendments to Rule 9006's time-computation provision. This decision parallels the decision of the Appellate Rules Committee to remove a similar proposal from its agenda.

The members then discussed the use of special masters in bankruptcy proceedings.

A judge member asked why the Advisory Committee has decided to support the use of special masters when it had previously chosen not to make that change, especially in light of past allegations of cronyism in the appointment of special masters. Judge Connelly responded that the renewed consideration of the issue was driven by two suggestions made to the Advisory Committee simultaneously proposing this change. The Advisory Committee looked at the issue very deliberately and slowly, including gathering research, and asking for the FJC's assistance to hear from bankruptcy judges on the issue. Given that study, the Advisory Committee felt that the proposed amendment could benefit from public comments. Professor Gibson added that the American Bar Association submitted one of the suggestions, which is very unusual and that she believed the impetus comes from mass tort bankruptcy cases with lawyers experienced in multi-district litigation, in which special masters are available. Professor Gibson also noted that the FJC survey reported respondents' mixed feelings, but also that a significant number of judges said they would have used a special master if available.

The judge member suggested that it would be good to hear from creditors who would have to pay the expense of the special masters. He further suggested that the draft language should address the use of special masters as limited to rare and unusually complex cases. Professor Gibson added that publication for public comment would also allow creditors or other people concerned about the costs to provide feedback.

The academic member added some historical and contemporary context on the use of special masters in bankruptcy cases. The driving force behind the latest round of proposals is the complexity and sprawl of some mass tort cases and other types of broad disputes that end up in bankruptcy court, where the participants in the case could benefit from the flexibility to appoint a special master. Historically, the fear of cronyism in the bankruptcy context goes back to the change from the title bankruptcy referee to bankruptcy judge. The Bankruptcy Rules as promulgated in the early 1970s used the term "judges" for referees. This change raised concerns about whether cronyism could be an issue in the tight-knit bankruptcy community. The academic member concluded, however, by stating that this past concern should not inhibit the use of effective procedural tools that could be used in bankruptcy, especially in enormously complex types of matters.

C. Advisory Committee on Civil Rules – Judge Sarah S. Vance, Chair

Judge Vance began her report by welcoming Sarah Sraders as Counsel to the Civil Rules Committee and then proceeded to present the report of the Advisory Committee on Civil Rules, which last met on October 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 on page 194. Judge Vance also reminded the Committee that a number of proposed amendments had been published for publication (Rule 7.1, Rule 26, Rule 41, Rule 45 and Rule 81) and that a public hearing on those proposed amendments would take place on January 27, 2026.

1. *Request for Approval of Publication for Public Comment – Rule 55*

Judge Vance explained that the proposed amendments to Rule 55 are based on information learned in a comprehensive FJC study on default procedures in the district courts. The goal of the amendments is to conform the rule to actual practices in many districts. A draft of the proposed amendments to Rule 55 appears on page 218 of the agenda book.

The proposed amendment to Rule 55(a) governing entry of default by the clerk would change the term "must enter the party's default" to "may enter the party's default," and also expressly adds that the clerk "may refer the matter to the court for directions." This amendment addresses both the difficulties that clerks sometimes encounter in determining whether the requirements for a default have been met and the findings of the FJC study that such consultation with the court on default matters occurs in a number of districts.

The Advisory Committee also proposes amending Rule 55(b)(1) governing the clerk's entry of a default judgment. The amendments parallel the changes to Rule 55(a). They would change the term "must" to "may" enter judgment (on claims for a sum certain or a sum that can be made certain by computation), and would expressly provide the clerk the option to refer the matter to the court for directions.

The proposed amendments recognize that since Rule 55 was adopted in 1938, litigation has become more complicated and, consequently, determining whether a claim is for a sum certain or capable of being made certain can be a challenging determination for clerks to make, especially when calculating interest and attorney's fees. The FJC study further revealed that the reality is that the entry of default judgments by clerks is rare and they frequently exercise discretion to refer these applications to the district court. The FJC study also found considerable variation in other default procedures among the districts, some requiring notice of default, some requiring specific showings to be included in applications for defaults or default judgments, and at least one imposing a meet-and-confer requirement. The Advisory Committee was not persuaded that a nationwide rule amendment that would alter all of these local practices was warranted. Judge Vance also expressed the view of the Advisory Committee that default judgments do not play nearly as important a role in federal courts as they do in state courts, with default judgments in federal courts making up only two percent of all civil case terminations.

Judge Vance additionally noted two small revisions to the existing language in Rule 55. First, the proposed amendment to Rule 55(b)(2) changes the reference to "the party" to "a party" in the first line of

the rule. This change is for greater clarity and is not intended as a substantive change. Second, the draft adopts the Standing Committee Style Consultants' recommendation to add the word "either" after the word "may" in both places where "must" was changed to "may" in Rules 55(a) and (b)(1). (The addition of "either" is shown at page 321 of the agenda book.)

The members then discussed the proposed amendments to Rule 55.

A judge member raised concerns about the proposed language giving the clerk the ability to refer a matter to the court for directions. First, the change could be a way for a party to bypass the obligation to specifically request action from the court under current Rule 55(b)(2). Second, the language to seek "directions" from the court is vague. The judge member asked whether the Advisory Committee was open to removing the clerk's ability to enter default judgments, as mentioned in the Advisory Committee minutes.

Judge Vance explained that the Advisory Committee considered the option to refer all default-judgment requests to the court but determined that it would unsettle practices in some districts and that providing discretion to refer the matter was preferable. She noted that in a number of districts (about 32), all default judgments go to the district court under current practices, and in other districts (about 18), the clerk always get consultation or direction from the court. In light of this research, the Advisory Committee decided after discussion to add the option of referral to the court for direction. Professor Marcus added that there was a strong majority, maybe unanimity, among members of the Advisory Committee that abrogating Rule 55(b)(1) would forbid the current practice in certain districts. Additionally, "refer to the court for directions" is language that captures the various methods for getting default matters before the judge. During public comment, the Advisory Committee may also receive comments suggesting abrogation of Rule 55(b)(1) or raising questions about "refer to the court for directions." In many districts, under their local rules, clerks already refer matters to the court for directions (especially in complicated matters).

The judge member commented that none of the local rules cited state that the clerk may refer the matter to the court for directions. For example, the Northern District of New York and the District of Vermont have specific requirements that seem helpful. In Vermont, the clerk can "confer" with the district judge as opposed to an actual referral. Judge Vance added that sometimes a clerk may confer with chambers staff, such as a law clerk, which indicates there is a lot of variation in judges' preferences on how to handle default judgments.

As a historical reference, Professor Marcus added that there was an initial proposal before the Advisory Committee that would not have included those words "refer to the court" and would have only changed "must" to "may." An attorney member had reacted that merely changing "must" to "may" would have left the clerk's duty unclear. By saying that the clerk must "either" enter the judgment or refer the matter to the court, the draft rule provides both guidance and flexibility.

The judge member next asked the difference between the situation under the proposed revision to allow the clerk to refer the matter to the court for directions, and the process under Rule 55(b)(2) when the request for a default judgment comes directly to the court. Professor Marcus explained that presumably there is no difference, particularly since there are local rules in some places to say what happens when you ask the court to enter default judgment. There are also likely not many cases in which there really is

a sum certain or a sum that can be made certain by computation; all other cases would be addressed under Rule 55(b)(2).

The judge member predicted that public comment might raise the topic of the statutory protections concerning default judgments against military service members. Professor Marcus indicated that while the Advisory Committee discussed that issue at some length, the consensus was the downsides of adding the statutory reference would exceed the benefits. Judge Vance added that some districts have provisions for dealing with service members, that the Bar was aware of the service-member issue, and that adding a reference to that statute could cause a problem if references to other relevant statutes that were not put in the rule. More generally, the practice in rule-making is that it is not a good idea to refer to statutes in a rule because including a statutory reference in one rule might erroneously suggest that the statute does not apply under other rules that fail to refer to it.

A lawyer member wondered if using the term "consult" is better than "refer" because "refer" sounds like the judge is going to make the ultimate decision. What the amendment contemplates is that the clerk consults with the judge to get advice on what should be done, as opposed to referring it to the judge for the judge to act on the request.

Professor Marcus responded that the question actually shows the flexibility of the language in the proposal. Judges who are referred these matters can determine what they want to do with them. One judge might direct the clerk to enter the default, and another judge might direct the clerk to set it for hearing.

Another judge member raised concerns about using the word "consult" because it would suggest that the clerk can disregard whatever the district court judge says, and that "refer" was preferable. Professor Marcus agreed.

With no further questions or comments from the members, and upon motion and a second, with no opposition, the Standing Committee approved for publication and public comment on the proposed amendments to Rule 55, as shown in the agenda book at pages 218-221, with the addition of the edits from Professor Garner as reflected in Judge Vance's email (agenda book page 321).

2. *Status of Proposals Under Consideration*

a. <u>Rule 43 and Remote Trial Testimony</u>

Judge Vance first directed members to the issue of remote testimony, which is discussed at pages 202 to 203 of the agenda book. Judge Vance stated that the Rule 43/45 Subcommittee, chaired by Judge Hannah Lauck, is seriously considering amendment of Rule 43(a) on remote trial testimony to relax the requirement that remote testimony be permitted only in compelling circumstances. The subcommittee is also considering whether a similar amendment to Rule 43(c) is in order since it authorizes the use of affidavits, oral testimony, or depositions on motions but does not state whether oral testimony may be provided remotely.

Judge Vance explained that Rule 43(a) was amended in 1996 to permit remote trial testimony but only for "good cause in compelling circumstances and with appropriate safeguards." The amendment being

considered would delete "compelling circumstances" but would leave "good cause and with appropriate safeguards" in the rule. At the time of the 1996 amendments, the Advisory Committee noted that the justification for allowing remote trial testimony only in compelling circumstances was that the use of video depositions was superior to remote testimony for presenting absent witnesses. Since 1996, technology such as Zoom and Teams has changed the remote testimony landscape, and courts' experience during the pandemic has demonstrated that remote proceedings can be conducted efficiently and effectively. Judge Vance further noted that in response to these developments, the Bankruptcy Rules have been amended to relax the constraints on remote testimony in contested matters, although not in adversary proceedings.

To consider the proposed amendment to Rule 43(a), the Rule 43/45 Subcommittee heard the views of lawyer groups, as well as the experience of a number of judges with remote proceedings during the pandemic, and they all are of the view that the current rule is too restrictive and that remote proceedings should be liberalized for trial testimony. The Advisory Committee also considered a discussion draft presented at its October 2025 meeting, found on page 201 of the agenda book, and expressed no opposition to eliminating the "compelling circumstances" requirement for remote trial testimony. Some members did express a view, however, that the draft committee note may be too cautious about the use of remote testimony and that more latitude should be given to the court to allow it. Some members also suggested that perhaps similar provisions authorizing remote testimony for motion hearings should be added to Rule 43(c). Since the October 2025 meeting, the subcommittee has met again, and its emerging view is that while in-person trial testimony should remain the norm, the "compelling circumstances" requirement for remote trial testimony is too restrictive and that a relaxed standard should likewise apply to permit remote testimony at motion hearings.

Professor Marcus added that this is an ongoing effort, but a proposed amendment may be presented at the June 2026 Committee meeting as a proposal for publication for public comment. If it is published, Professor Marcus expects a great deal of public comment.

The members then discussed the potential amendment of Rule 43(a) and Rule 43(c) to remove the "compelling circumstances" language.

A judge member referenced line 51 on page 201 and line 100 on page 202 of the agenda book and suggested adding a comma after "good cause," because the "good cause" is separate from the "safeguards." Professor Garner noted that commas are discretionary, with the open style and the closed style of punctuation. The rules committees' style would be not to put a comma there.

The judge member also noted an inconsistency between reference in Rule 43(c) to "witness" testimony and subsection (a)'s reference to "oral" testimony. Professor Marcus thanked the judge member for pointing out that disjunction for the Advisory Committee's consideration.

Another judge member raised the concern that the reference to COVID-19 in the committee note, when entire trials were held remotely, could be read in conjunction with the proposed Rule 43 changes to allow an entire trial to happen remotely. The judge member also noted that there could also be constitutional or evidentiary objections to remote testimony, but that her primary concern is the potential use of this rule to increase the instances of entire trials being held remotely. Judge Vance responded that the proposed

amendments were not intended to do that, and would not, for example, apply to trial proceedings such as voir dire. Judge Vance would suspect, however, that if there is good cause to allow more than one witness to testify remotely in a very long trial, this would be available for the judge's consideration. The amendment just removes "compelling circumstances," which seems to suggest that it needs to be a rare occurrence when in practice remote testimony does occur in a lot of complex litigation.

A lawyer member then commented on his experiences with both witnesses testifying remotely and whole trials being done remotely, and that he was not a fan of either. He noted that remote testimony really does impact the ability of a trier of fact to assess witness credibility, and so anything that facilitates remote participation of a witness is not a good thing and should be carefully assessed by a court before the court permits it. Additionally, remote testimony can have a profound impact on cases, and removing the "compelling circumstances" language would increase the prevalence of remote testimony. For example, with such a change, anytime it is inconvenient for the witness, the lawyer can ask for remote testimony and state there is good cause and we can have appropriate safeguards.

Another judge member agreed with the lawyer member and expressed concern that deleting the words "compelling circumstances" will create mischief because good cause is a relatively low standard. He also anticipated being besieged by requests to have witnesses testify remotely. Further, removing "compelling circumstances" is entirely inconsistent with the views of the Advisory Committee (as indicated in the minutes on page 228 of the agenda book) that live in-person testimony should remain the norm. For this reason, there needs to be something more to give guidance to judges as to when a request should be allowed. Finally, the judge member noted that in his experience, the existing language did not unduly limit the use of technology to present trial testimony. Judge Vance thanked the judge member for his comments, but added that others believe that remote testimony is effective. The judge member clarified that it is not that credibility cannot be assessed with remote testimony, but that in-person testimony should be the general rule. In response to a suggestion by the judge member that the problem is with the committee note rather than the text of the Rule, Professor Marcus observed that the rules process does not allow for amendments to committee notes without amendments to the rule itself.

Another practitioner member commented that while she shares the concerns about potential expanded use of remote testimony, she endorses and encourages the proposed amendment to go forward for public comment to get the perspectives of practitioners and judges. This may yield improvements or refinements to the rule text and committee notes. But her bottom line is that we are in a world where remote testimony is being used increasingly, sometimes of necessity, other times for convenience, and adopting a rule on the topic would be timely and consistent with the goals of Rule 1.

A practitioner member raised one additional, practical concern that occurs when a remote witness may have materials to review that are off screen. One safeguard that was applied by a court was to suggest that the lawyer ask questions, such as "is there anything in front of you on the desk? Is your phone on or off?" In that case, however, the practitioner had genuine questions about whether the expert witness who appeared remotely was continuing to communicate with the lawyers on the other side via text or some other device during the testimony. While the quality of the video may be good for credibility assessment, the practitioner also found that there are all sorts of other credibility-related concerns that arise with remote appearances.

Another judge member added that his sense is that jurors may not like remote testimony. For example, jurors may ask why they are required to be present but the witness is not. He asked whether the rule should distinguish between instances when a party opts to accept that potential risk and instances when it is the witness who is asking to appear remotely. Judge Vance noted that one argument in favor of permitting remote testimony is that sometimes the alternative would be to put in the witness's deposition testimony, and jurors do not like hearing deposition testimony or watching video depositions. Professor Hartnett suggested that the Advisory Committee might consider building into the text of the rule guidance on the choice between remote live testimony or use of depositions.

A judge member then added, in response to the concerns raised by a practitioner about appropriate safeguards during remote testimony, that there could be a requirement to allow the opposing party to have someone present with the remote witness. For example, when you have a video deposition, the other side is represented, and this is something that could be suggested in a committee note. Another judge member added that a brief search for case law distinguishing "good cause" from "compelling circumstances" did not yield much. But he would still like to hear the empirical basis that this is a problem (e.g., that judges are not allowing remote testimony under the current rule) and if there is a way to distinguish between compelling versus good cause and how that change would play out.

Professor Coquillette added for the benefit of the members that as a matter of rule-drafting philosophy, any language relating to compelling circumstances should be in the rule, not in the note. Further, case law should not go in the committee notes. Many people do not read the notes carefully. If an issue is important, it ought to be in the text of the rule.

b. Third-Party Litigation Funding

Judge Vance next provided a report on the Advisory Committee's consideration of amendments related to third-party litigation funding (TPLF), discussed on pages 203 and 204 of the agenda book. Judge Vance noted that the TPLF subcommittee, chaired by Judge David Proctor, was formed in 2024, but this issue has been on the Advisory Committee agenda for some time. It is an area of increasing interest to lawmakers, academics, lawyers, and litigants. The subcommittee has spent the last year educating itself on these issues. Judge Vance reminded the Committee members that Ms. Srader's legislative report had noted a number of TPLF-related bills under consideration in both houses of Congress. The Advisory Committee continues to hear from proponents and opponents of a disclosure rule. Most recently, members of the subcommittee, as well as Judge Dever, attended a conference held by George Washington University Law Center on this issue, which was attended by industry participants and parties who favored and opposed a disclosure rule.

Judge Vance explained that in general, the subcommittee's questions include: How would a rule define the financing arrangements that trigger disclosure? What would be disclosed and to whom? What would the court do with the information disclosed? Should judges be concerned about the ethical implications if funders control settlement decisions? Does third-party funding prompt the filing of unvetted claims? And will disclosure lead to time-consuming discovery? Judge Vance then invited any views of the Standing Committee on these issues.

A judge member with experience in TPLF issues offered to make himself available to the Advisory Committee if they had questions about the standing orders he has issued. Judge Vance expressed her appreciation for the offer.

c. Cross-Border Discovery

Judge Vance then proceeded to the work of the cross-border discovery subcommittee, chaired by Judge Manish Shah. The subcommittee was formed in 2023 to study the complex issues that sometimes arise in obtaining discovery outside the U.S. for use in federal courts. As discussed in the agenda book, the subcommittee engaged in substantial outreach to get an understanding of these issues and whether rules amendments would be helpful. This outreach revealed a lack of enthusiasm for rulemaking in this area. To a significant extent, lawyers felt that they could work out problems, as they come up, under the existing rules. Judge Vance reported that ultimately, the cross-border discovery committee recommended that this topic be dropped from the Advisory Committee's agenda and the Advisory Committee voted to approve that recommendation. Judge Dever added for the benefit of new members in particular that it is not uncommon for a subcommittee to study a proposal for rulemaking and then to decide not to go forward with a change.

d. Rule 26(a) and Filing Under Seal

Judge Vance then provided a report on the Advisory Committee's consideration of the issue of filing under seal, discussed at pages 205 to 208 of the agenda book. As background, Judge Vance explained that for several years, the discovery subcommittee, chaired by Judge David Godbey, had been considering a proposal to recognize in the rules that granting a motion for a protective order does not of itself justify the filing of the discovery material in the record under seal. The proposal also included proposed amendments to impose national procedural standards for handling sealing motions.

At the October 2025 Advisory Committee meeting, the discovery committee discussed the alternatives it had been considering for addressing sealing issues, and these were (1) whether to amend Rule 26(c) and Rule 5(d) to provide when filing under seal could be ordered or (2) whether it would be sufficient to amend only Rule 26(c) to call attention to the divergent standards for protective orders and sealing court records or (3) whether no amendment was necessary given the general recognition that the standard for issuing a protective order is less stringent than the common law and First Amendment limits on sealing court records. The subcommittee reached the unanimous conclusion that the rules need not be amended and recommended that this item be removed from the Committee's agenda because national procedural directives would ignore real differences in dockets across districts and would raise undue difficulties in some districts. The subcommittee concluded that it was unnecessary to recite in the rules what was already recognized in the law – that the standard for sealing documents is more stringent than the good cause standard for the issuance of a protective order. Further, various circuits have their own statements of the common law and First Amendment standards for sealing court records, and the subcommittee sought to avoid unsettling this established case law by stating grounds for sealing in the rules. The Advisory Committee voted to accept the subcommittee's recommendation that this item be dropped from the agenda.

A judge member asked if the issue was being dropped entirely or whether it would remain on a study agenda. If not fully forever dropped, the judge member referenced the work of Professor Volokh pointing to a smaller issue that could still be valuable regarding requiring a waiting period. In other words, people file a motion to seal and then there is a waiting period such as courts these days have for transfers out of the district. A waiting period would give the media or the government a chance to object to the requested sealing on the ground of public rights of access. Professor Marcus responded that the original proposal from Professor Volokh had a waiting period (it provided that no motion to seal may be acted upon until seven days after it is posted publicly). Professor Marcus recalled that a number of the lawyers said that a waiting period would be unworkable because, in the meantime, they could be facing a filing deadline while not knowing what they could include in their filing. Professor Marcus noted that the difficulties with filing under seal are numerous; the Advisory Committee has not shut and locked the door on considering sealing-related issues in the future, but it decided that the specific proposal it had received did not seem worth pursuing further. The judge member responded that the appellate courts see many sealed documents that take a great amount of energy to unseal because the sealing was done by joint agreement and district court approval, with a large amount of information that should not have been sealed. Judge Vance noted that local provisions address sealing matters, and the judge member agreed that courts have internal operating procedures on the topic.

e. Rule 23 Proposals

Judge Vance then turned to the status of proposals to amend Rule 23, discussed at pages 208 to 211 of the agenda book. She noted that the Rule 23 issues are not yet under study by a specific subcommittee.

The first Rule 23 issue concerns incentive or service awards to class representatives for work they have done on behalf of the class. In 2020, a divided panel of the Eleventh Circuit held that such awards were prohibited by two 19th Century Supreme Court cases. Before that, the circuits were unanimous in permitting these awards, and since the Eleventh Circuit decision, no court of appeals has followed suit. Four circuits have issued published opinions that continue allowing service awards in appropriate cases. The Advisory Committee is considering whether rulemaking is worthwhile to address an outlier decision, whether the Advisory Committee has authority under the Enabling Act to resolve this issue, and whether this is a policy-driven question that it would not ordinarily address.

The second Rule 23 issue concerns the Rule 23(b)(3) superiority requirement. This topic was brought to the Advisory Committee by the Lawyers for Civil Justice. The superiority prong of Rule 23(b) provides that a court should evaluate whether a class action is superior to other available methods for fairly and efficiently adjudicating the controversy. The proponent submits that this reference to adjudication has been interpreted as excluding consideration of private remedial initiatives, such as recall campaigns and product refunds, and it submits that the rule should permit consideration of these alternatives in the superiority analysis. The Advisory Committee is considering that, on one hand, ensuring that a judge has discretion to consider these additional alternatives could provide faster or more effective relief to class members, but it may be, on the other hand, extremely difficult for the court to evaluate these alternatives at the early point in the litigation when class certification has to be decided, and some courts have taken

non-litigation alternatives into account under the adequacy prong of Rule 23, which could call into question whether a rule in this area is necessary.

The third Rule 23 issue concerns whether court approval should be required for the settlement or voluntary dismissal of claims by class representatives before class certification. Before 2003, most courts required judicial review for the pre-certification settlement or dismissal of a case filed as a class action, but as amended in 2003, Rule 23 includes no such requirement. The Advisory Committee is considering whether judicial scrutiny is needed in this area. The current approach has been criticized as possibly inviting a form of strike suits where cases are settled for no real relief to the class but accompanied by a payoff to counsel or the class representative. Something like this was involved in a case that Judge Easterbrook decided in 2024, and he pointed out the inability for the court to consider under the class action rules whether the payments to the class representatives were appropriate. This was a federal securities case governed by the Private Securities Litigation Reform Act and there was an ability to use Rule 11 to get at this issue in that case, but he did point out that Rule 23 did not provide for court scrutiny of settlements of cases not yet certified as class actions and he suggested that perhaps the rulemakers should take a look at this. Also cited is potential prejudice to putative class members who are relying on the suit but receive no notice of its settlement or dismissal. The Advisory Committee noted these concerns but also noted potential obstacles to restoring judicial review. For example, the customary evaluation of a class settlement under Rule 23(e) may not be well suited to evaluate individual settlements by class representatives, and another consideration is that Rule 23(e) requires notice to class members of settlements in certified classes. If notice is required for settlements before certification, who would pay for it, and would the benefits of notice be outweighed by the cost? And there's also a question of whether, if reliance is an issue, the court can already use Rule 23(d) to order some form of notice.

The Advisory Committee has concluded preliminarily that all three of these Rule 23 topics warrant continued study, but the Committee is very much aware that any new Rule 23 project would be a significant and resource-intensive undertaking. Judge Vance then invited Professor Bradt to add any additional observations.

Professor Bradt added that it is unclear whether any or all of these three issues could be handled discretely or whether they would open the door to a much broader reconsideration of much of Rule 23, which would be a consequential decision for the Advisory Committee.

Committee members were then invited to offer feedback on the Rule 23 issues.

A lawyer member suggested that there are other Rule 23 issues that may be a higher priority, such that addressing these narrow Rule 23 concerns without looking more broadly into Rule 23 would be difficult. Another lawyer member added that the Rule 23 issues presented did not seem to warrant a rule amendment.

f. Random Case Assignment

Judge Vance then proceeded to the last information item to update the Committee on the issue of random case assignment, which the Advisory Committee has been considering since 2023. In March 2024, the Judicial Conference issued its guidance that districts should apply district-wide assignment to civil cases

seeking injunctions barring or mandating nationwide enforcement of federal law or statewide enforcement of state law, and last summer the Supreme Court decided *Trump v. CASA*, 606 U.S. 831 (2025), which also affects this issue. The Advisory Committee is continuing to monitor the developments in this area.

D. Advisory Committee on Criminal Rules – Judge Michael W. Mosman

Judge Mosman presented the report of the Advisory Committee on Criminal Rules, which last met (virtually, due to the government shutdown) on November 6, 2025. The Advisory Committee's report and the draft minutes of its last meeting are included in the agenda book beginning on page 242. Judge Mosman opened his remarks by noting that as a new Chair, he is grateful to attend the Committee meeting with Professors Beale and King, who are a tremendous help.

3. *Status of Proposals Under Consideration*

a. Rule 49.1 and Privacy Concerns

Judge Mosman began his report with the proposal to amend Rule 49.1 to require reference to minors by pseudonyms rather than initials as provided in the current rule. There still will be a sealed filing that will contain all the information that a litigant might need. Judge Mosman noted several issues that have been raised. One is, can someone who is a minor when the case starts age out of the rule's protection as the case goes on? The discussion and experience among members of the Advisory Committee was that both by case-by-case protective orders and by general practice in criminal cases, individuals do not tend to age out of the current rule's protection. This change would not alter that practice. Another question that came up was whether this change would cover not just victims in criminal cases, but witnesses. Judge Mosman stated that this subject is not currently a part of the effort that is being undertaken on Rule 49.1. There are statutes that do cover witnesses in criminal cases who are minors and grant them some protections, but these protections are not uniform across all criminal cases. Finally, the proposal currently on the table makes a point of referencing exhibits and attachments because experience shows that most the violations of this protection arise in that context and not indictments or other filings.

Professor Beale added in reference to an earlier question (during the Appellate Rules Committee's report on the privacy project) from a judge member about the inadvertent inclusion of a minor's name, that the FJC study on redaction of social security numbers highlighted that most often unredacted information appears in attachments or exhibits. The Criminal Rules Committee is coordinating with and will share drafts with all the other Advisory Committees addressing privacy.

Judge Mosman then turned to the proposal to amend Rule 49.1 to require complete redaction of social security numbers and other taxpayer identifying information. The Advisory Committee's consideration of this started with a recommendation from Senator Ron Wyden to consider changing the current rule (which permits inclusion of the last four digits of social security numbers in public filings) to require complete redaction of social security numbers. The Rule 49.1 Subcommittee started with that proposal, and there is widespread support for the idea (except in the bankruptcy context).

Judge Mosman also reported that the Advisory Committee undertook to determine if other taxpayer identifying numbers (ITINs, ATINs, and EINs - Individual Taxpayer Identification Numbers, Adoption

Taxpayer Identification Numbers, and Employer Identification Numbers) have the same risk of fraudulent use as social security numbers. This research indicated that fraud involving ITINs shows up fairly frequently, while the other two are less common – at least in criminal cases. Even so, the idea was that the Advisory Committee would, once on the path of increasing the protection for social security numbers, take a look at these numbers also. Judge Mosman noted that the Advisory Committee is still discussing what to do with these identifying numbers in a descending order of frequency, the least frequent being the ATIN, which is a number given to someone to effectuate adoption that disappears immediately when they are adopted and obtain a social security number. Judge Mosman also recognized that the DOJ had raised the concern that redaction runs counter to the general idea of a presumption of public availability of information. Judge Mosman expressed uncertainty as to whether that presumption attaches to private information the way it does to other information in indictments, for example, but the current recommendation of the Rule 49.1 Subcommittee is to treat all three of these other categories the same way we treat social security numbers and to not include them in public filings, with the caveat that they can be included as necessary in the court filing but not in the public filings.

Judge Mosman also stated that one other concern raised by the DOJ and others is the desire for some uniformity among the various Advisory Committees that are looking at this issue. That may not be possible with the Bankruptcy Rules Committee, but the Advisory Committees should at least look at whether different rules for different settings are appropriate.

Professor Beale added that the Style Consultants have been enormously helpful in working on the draft as well and that the Advisory Committee and Rule 49.1 Subcommittee is very well aware of the importance of uniformity that has traditionally been part of all of these rules, although the Bankruptcy Rules Advisory Committee has already decided that it is necessary to keep the last four digits of social security numbers in bankruptcy filings.

Professor Beale also addressed adding EINs, noting that the Advisory Committee began with the idea that even for EINS at least some of those are held by individuals (such as people who have household service providers) who would object to that number being in a public filing. While EINs are used by large corporations and may be public for other reasons, the Advisory Committee started from the idea that if there is no need for an EIN then it should be redacted, and on the criminal side it seems (subject to further consultation with the DOJ) that EINs are not needed, and there is some recognition that EINs are private. At the spring 2026 meeting, the Advisory Committee will take up the underlying policy question about whether to address not just ITINs, but also the ATINs and EINs.

Judge Mosman added that he wanted to extend his thanks to former Rules Law Clerk, Kyle Brinker, who researched the extent to which people engaging in fraud use SSNs versus ITINs or other identifying taxpayer information. That research indicated either little or no known cases involving ATINs.

Professor Gibson asked for clarification whether the Criminal Rules Committee would apply the EIN protection to corporations and individuals. Professor Beale responded that the rule would apply to both, as done in the U.S. Tax Court. Professor Gibson followed up with a question about privacy concerns given that EINs are fully available on bankruptcy petitions. Professor Beale acknowledged that

bankruptcy is likely to be different, but that for Criminal Rules, if the current rule refers to taxpayer identifying information, that includes social security numbers, ITINs, ATINs, and EINs.

b. Rule 40 and Out of District Arrest for Violation of Conditions of Release

Judge Mosman then reported on the work of the Rule 40 Subcommittee. He explained that three rules set out what the judge must tell the defendant in certain proceedings. Rule 5 applies to an initial appearance in the charging district, Rule 32.1 is a comprehensive rule that applies when someone is arrested in another district for violating their supervised release, and Rule 40 (which is less comprehensive) applies when someone is arrested outside of the charging district for violating the conditions of their release (or for failure to appear in the charging district). Rule 40 does not provide the same level of detail or guidance as Rule 32.1, and the focus of the Rule 40 Subcommittee is to consider amendments to create a more comprehensive checklist for the judge when a defendant appears in court under the circumstances covered in Rule 40.

The Advisory Committee considered and generally agreed with the Subcommittee on a number of policy decisions about what should and should not be included in Rule 40, including: (1) the person should be advised that they have the right to a detention hearing even though they are not in the district where they were charged, (2) the person should be able to contest identity in the non-charging district; (3) the person should be advised that there will not be another or new preliminary hearing in the non-charging district; and (4) the person should be advised again of the right to consult with an attorney (if their attorney is in another state, they should be able to consult with some attorney at that hearing). The subcommittee further believes that Rule 40 does not need to require the judge to repeat consular warnings or some of the other things that go into Rule 5 or Rule 32.1.

c. Rule 11 and Plea Agreements

Judge Mosman next reported on a suggestion from Judge Patricia Barksdale to consider amending Rule 11(b)(1)(M), which provides that when accepting a plea, the judge must ensure the defendant understands that in determining a sentence, the judge will calculate the applicable guideline range and consider possible departures and then other sentencing factors. The Sentencing Guidelines were amended effective November 1, 2025 to fold departures into the general catch-all that the judge will consider "other sentencing factors." Judge Barksdale suggested amending Rule 11 to conform to that change and delete the reference to departures as subsumed into the advice that the judge will consider "other sentencing factors." Judge Mosman noted that the DOJ raised an interesting issue regarding whether the amendments to the Sentencing Guidelines also implicate Rule 32(h), which provides that before departing from the Sentencing Guidelines on a ground not previously noticed or briefed, a judge must give notice to the parties. Judge Mosman reported that a subcommittee will look into what to do with Rule 32(h).

A judge member suggested that if the subcommittee plans to look into Rules 11 and 32, it might want to add a requirement that when judges describe the "terms" of an appeal waiver, they must also explain the consequences. Such consequences include situations in which post-plea, the conduct subject to the plea is ruled not to be a crime, but the defendant has already waived the right to appeal. Judge Mosman noted

the suggestion and stated that the Advisory Committee would take a look at that issue (although it might await the outcome of a case on appeal waivers currently pending in the Supreme Court).

d. Status of Proposals Relating to Rule 53 and Rule 15

Judge Mosman concluded with a report on two items on the study agenda. One item is a suggestion from Judge Edmond Chang, Chair of the Criminal Law Committee, relating to Rule 53. Judge Mosman reminded the Committee that the Advisory Committee had studied Rule 53 about a year ago and decided not to make any changes. The previous Rule 53 proposal was driven by news organizations who wanted to have the rule changed quickly so that they could broadcast the Trump trial or trials, particularly in New York. Judge Chang's suggestion is much narrower and has to do with the idea that Rule 53's broadcasting ban not only affects big news organizations but also bars narrowly broadcasting the trial to a victim or a group of victims who might be remote from the courthouse where the sentencing or the trial is occurring. Judge Mosman noted that some of those victim groups, such as the Lockerbie victims, are covered by specific acts of Congress. Judge Mosman advised the Committee that given the workload of the Advisory Committee and its recent look at Rule 53 (and the decision not to change it), the Advisory Committee has decided to focus more narrowly on Judge Chang's specific suggestion.

Finally, Judge Mosman reported that a number of proposals and letters have been received to amend Rule 15 to allow for pretrial depositions. The submissions show differing views on this issue, which was placed on the Advisory Committee's study agenda. Judge Mosman added that the states are doing different things with this issue, with about 20 states that have some sort of criminal depositions, with some of them very informal. A subcommittee will eventually be stood up to study this issue, which will be a massive undertaking.

With no further questions or comments, Judge Mosman concluded his report.

E. Advisory Committee on Evidence Rules – Judge Jesse M. Furman

Judge Furman presented the report of the Advisory Committee on Evidence Rules, which met (virtually, due to the government shutdown) on November 5, 2025. The Advisory Committee's report and the draft minutes of its last meeting are included in the agenda book beginning on page 282.

1. *Status of Proposed Amendments Published for Public Comment*

a. Proposed New Rule 707

Judge Furman began his report with proposed new Rule 707, which was published for public comment in August 2025. The Advisory Committee has spent several years studying issues relating to artificial intelligence and considering whether they warrant amendments to the Rules of Evidence. The Advisory Committee has focused on two concerns. The first is the issue of reliability, namely machine output that essentially functions like expert testimony, albeit without a human expert to cross-examine or test the reliability of the opinion, and the second is authenticity, namely whether audio/visual evidence is authentic or a deepfake.

Beginning with the first concern, which has advanced further on the rulemaking front, the Advisory Committee published for public comment a new Rule 707, which applies when machine output would be expert testimony if it were produced by a human. The new rule subjects that output to the requirements of Rule 702(a) through (d), but it explicitly excludes the output of "simple scientific instruments." The public comment period closes on February 16. As of today, there have been nine public comments, and public hearings will be held on January 15 and 29, 2026.

At the Advisory Committee's November meeting, the Advisory Committee discussed various potential changes to the committee note in light of some commentary on the issues, as well as input from members. These changes are noted on page 295 of the agenda book. The first change is to add a provision to emphasize the differences between human experts, who are subject to cross-examination, and machine-generated opinions. The change would encourage trial courts to consider limiting instructions, cautioning juries against over- or under-reliance on machine output given the absence of cross-examination. The second change responds to a concern that was expressed by the Standing Committee previously to strengthen the note to make clear that Rule 707 is not intended to circumvent Rule 702; the added language would emphasize that the requirements of the rule might actually be difficult to meet without an expert. The third change is to address the "black box" issue where no one can explain how the machine works and what it does. The sentiment is that in those circumstances, reliability is probably not something that can be shown unless it can be validated through error rates and the like. Finally, there are changes to clarify the relationship with Rule 901(b)(9), which provides a ground for authenticating machine-generated evidence, namely that if the requirements of Rule 707 are satisfied, it would likely subsume the requirements of 901(b)(9).

Judge Furman explained that the Advisory Committee also considered and rejected the following proposed changes to the proposed rule and the note: (1) to change machine-generated to computer-generated; (2) to limit the scope to machine learning, as that term is not clearly defined and is somewhat dynamic; (3) to cover expert testimony, because that is subject to the requirements of Rule 702; and (4) to change the sentence referring to "simple scientific instruments" to make it refer to machines that are generally understood by the public, because that change was too amorphous.

A judge member expressed concern about language from the proposed committee note, "If the process cannot be explained then the court should in most cases find that the proponent has not established more likely than not that the methodology is reliable," and then, at the end of that paragraph, the sentence that "the proponent of machine learning output may overcome the problem of inexplicability by showing how the machine got trained and establishing, for example through validation studies, that the process leads to a low rate of error." The judge member questioned how evidence could be put before a jury with no explanation of how output was produced. Professor Capra responded that the Advisory Committee considered the existence of validation studies that can show there is a very low rate of error for a particular machine even if no one can figure out how the machine actually reached the result it did. The alternative approach would be to not allow introduction of the output if it cannot be explained. Even with respect to experience-based experts, however, there are times when that expert can explain something but not the way actual way they came to the conclusion. The judge member asked Professor Capra to provide an example of output that could be introduced without an explanation of how it was produced, which could

be troubling if somebody's liberty were at issue in a trial. Professor Capra believed that instances will arise only rarely in which a black box/machine comes up with something that can be found to be reliable, but it has happened. For example, facial recognition technology may produce a conclusion as to identity, with no explanation of how it came to that conclusion, but there is corroborative evidence which indicates that the identification is correct. Though this is rare, Professor Capra suggested that it would be a big step to adopt a rule that such evidence can never be admitted. The Advisory Committee has not come to a formal decision on this issue. Professor Capra made a comparison to dog sniffs - you do not know how a dog came to the conclusion, but you can determine that the dog was trained properly and that the dog has been accurate in 800 particular situations and then the dog-sniff evidence is admissible. The judge member thanked Professor Capra for the helpful explanation and examples.

Judge Furman then brought to the attention of the Standing Committee, Civil Rules Committee, and Criminal Rules Committee that if Rule 707 is added to the Rules of Evidence, it would raise fairly important disclosure issues, for example regarding the algorithms underlying a machine. While this is not an issue for the Federal Rules of Evidence, it is an issue for the Civil and Criminal Rules Committees to consider in connection with their disclosure-related rules if Rule 707 is adopted.

Before moving to the next topic, another judge member noted that he had sent an edit regarding the notice and disclosure language raised in the proposed rule, pointing to lines 83 to 85 on page 297 of the agenda book. Professor Capra responded that he would look at it. Judge Furman concluded the discussion of proposed Rule 707 by restating his concern that at a minimum, if this rule is adopted, courts need to be alerted that they should be mindful of notice issues as they manage cases.

b. <u>Proposed Amendments to Rule 609</u>

Judge Furman then provided an update on public comments on Rule 609. Judge Furman reminded the Committee that the Advisory Committee had considered various proposals over the last few years regarding Rule 609 and settled on a relatively minor amendment to Rule 609(a)(1)(B), which makes the rule somewhat more exclusionary by adding the word "substantially" before "outweigh" in the balancing test on admissibility of prior convictions.

Judge Furman explained that the amendment was driven by the concern that district courts were misapplying the balancing test or applying it without regard for the similarity of the prior conviction to the charged conviction. The harm from this approach is compounded by the fact that under Supreme Court precedent, a ruling under Rule 609 is not appealable unless the defendant actually takes the stand, and this also leads to little court of appeals case law on the issue. While addressing this issue, the Advisory Committee also decided to draft an amendment to Rule 609(b) to address a circuit split as to when the 10-year period for older convictions ends. The Advisory Committee concluded that the date of trial is the appropriate date because it is the least subject to manipulation by the parties and unambiguous. As of the Committee meeting, three comments were received which are generally favorable.

2. *Status of Pending Proposals*

a. Rule 901(c) and Deepfake Evidence

Judge Furman next provided an update on the Advisory Committee's consideration of deepfake evidence. Judge Furman explained that the Advisory Committee had initially been of the view that there may not be a need for an amendment here because there was no evidence of deepfake problems in federal trials and because it is not clear that courts cannot address this issue under the existing rules, as they have dealt with forgeries, for example. Having said that, Judge Furman noted that the Advisory Committee also must be mindful of the fact that there may be an issue because the standard for authentication is so low. The Advisory Committee has tried to make progress on a rule that could be considered in the event that it decides that a rule change is warranted. To that end, the Advisory Committee has discussed a new proposed Rule 901(c), a working draft of which is at pages 286 to 288 of the agenda book. In brief, it would impose a burden on the opponent of the evidence to make a prima facie showing that there is reason (e.g., something suspicious about the item) for a reasonable person to conclude that it was fabricated. At that point, the burden would shift to the proponent of the evidence to show by a preponderance (that is, under the Rule 104(a) standard) that the item is authentic and not a fabrication.

Judge Furman added that at the Advisory Committee's last meeting, discussion of deepfakes continued, and there was some shift in sentiment in favor of publishing a proposed rule for public comment. He also noted that Professor Capra had gathered some anecdotal evidence that judges might be seeing these issues even if it is not showing up in case law or media reports. This information led the Advisory Committee to conclude that it might be helpful to enlist the FJC and conduct a survey of trial courts nationwide to see if they are encountering deepfake issues and whether they think a rule amendment is necessary.

Ms. Shapiro, on behalf of DOJ, noted that DOJ was the sole vote against publishing Rule 707 and also does not see the need for the deepfake rule. DOJ also intends to put in a public comment to lay out its arguments in full. Ms. Shapiro also noted that there is an Executive Order that prompted DOJ to perform an internal study on AI issues, and that she hopes to be able to report to the Advisory Committee on that as well.

A lawyer member asked why the proposal as drafted is limited to fabrications created by generative AI as opposed to other technological means. He noted that the Take It Down Act has a much broader scope than just generative AI. Professor Capra answered that if the manipulation is done by generative AI, it is almost impossible to discern. If there is manipulation done by other technical means, there are means of determining whether it is been fabricated. The Advisory Committee considered whether the rule should apply to electronic manipulation more generally, but Professor Capra was told by many that the rule should just be focusing on generative AI. Professor Capra thanked the lawyer member and appreciated the question, which is something that could come up if a proposed rule on deepfakes is issued for public comment.

b. Rule 902(1) and Federally Recognized Indian Tribes

Judge Furman next addressed the Advisory Committee's consideration of a suggestion to add federally recognized Indian tribes to Rule 902(1), which provides that certain domestic public records that are sealed

and signed are self-authenticating. Rule 902(1) does not currently include Indian tribes but does include a variety of other governmental entities. In criminal cases most notably, the government has to use another route to prove a defendant's Indian status in federal prosecutions brought for crimes occurring in Indian country, an issue that has become more prominent in the wake of the Supreme Court's decision in *McGirt v. Oklahoma*, 591 U.S. 894 (2020).

Judge Furman explained that the DOJ strongly supports changing the rule, but the Federal Defender on the Advisory Committee adamantly opposes it. In brief, DOJ favors amendment on the grounds that it would recognize the dignity and sovereignty of tribes and avoid unnecessary authentication hurdles, and further, that there is no meaningful distinction between tribes and the other entities that are currently in the rule. By contrast, the Federal Defender has expressed concerns about variability in tribal record-keeping and about losing the ability to challenge authenticity through an identified witness. Mindful of the dignitary issues involved, the Advisory Committee solicited input from tribal governments and Native legal organizations, and thus far has received comments from a number of tribes, all of which are very supportive of amending the rule. At its spring meeting, the Advisory Committee will consider whether to move forward with an amendment.

Professor Capra added that there can be a conflict in criminal cases between the tribe and an individual tribe member defendant. The defendant's interest is to challenge the certificate, and if the matter were treated under Rule 902(1) there would be no way to challenge the certificate, whereas under Rule 902(11) there is an opportunity to challenge the certificate. The Advisory Committee will consider this issue at the next meeting.

c. Rule 803(3) and Hearsay Exception for Declarant's State of Mind

Judge Furman reported on the Advisory Committee's consideration of amendments to Rule 803(3), which allows admission of a declarant's statement of then existing state of mind, i.e., intent, motive, emotion, or the like, to prove that mental condition. First, the Advisory Committee is considering whether the rule should require spontaneity or another reliability safeguard. There is no such requirement in the rule as written, but some courts have held that spontaneity or some other indicator of trustworthiness is required. There is a longstanding circuit split on the issue, which does seem to come up fairly frequently. Second, the Advisory Committee is considering amendments regarding whether a declarant's statement can be used to prove a non-declarant's intent or conduct. Judge Furman gave the example that if he said "I plan to go to lunch with Dan," this statement cannot be used as evidence that Dan intends to go to lunch or went to lunch. Most courts bar such use, but two circuits, the Ninth and the Second, have allowed it under some circumstances. Judge Furman noted that the issue does not come up as often as the spontaneity issue, and there are questions about whether the practical distinction between the different approaches is especially large. The Advisory Committee continues to study whether the spontaneity issue causes a problem in practice that warrants a rule amendment; if so, then it may also take up the second issue.

d. Rule 703 and the Impact of *Smith v. Arizona*

Judge Furman addressed potential amendments to Rule 703 in light of the Supreme Court's decision in *Smith v. Arizona*, 602 U.S. 779 (2024), in which a forensic expert testified to a positive drug test by relying on the testimonial hearsay of another analyst and that other analyst's findings were disclosed directly to

the jury. The Court held that an expert's disclosure to the jury of testimonial hearsay violated the defendant's right of confrontation even if the purpose of the disclosure was purportedly to illustrate the basis of the testifying expert's opinion. The Advisory Committee is generally of the view that to the extent that the Court was concerned about disclosure alone, there would be little to no impact on Rule 703, which limits disclosure of inadmissible hearsay as the basis of the expert's opinion. If the Court's decision is construed to also apply to reliance, not just disclosure, this interpretation could have a substantial effect on federal practice and raise serious questions about unconstitutional application of Rule 703 in some cases. Judge Furman noted that the Advisory Committee's consultant, Professor Liesa Richter, did a very thorough and helpful memo in which she surveyed decisions that addressed *Smith*, and there seems to be an emerging pattern where at least more than a majority have adopted the view that *Smith* prohibits reliance and not just disclosure. In light of this trend, the Advisory Committee's emerging view is that Rule 703 probably does warrant some sort of amendment to address the issues raised by *Smith.*

Judge Furman also commented that there are some difficulties with drafting an amendment, with possible language found in the Advisory Committee's report at page 291 of the agenda book. First, drafting an amendment to specifically address the concerns raised by *Smith* would be potentially complicated because it is limited to the criminal context and it is an evolving area of the law. At present, the Advisory Committee has gravitated toward a more modest amendment to the rule that would provide a "red flag" indicating that the rule might raise constitutional issues in criminal cases to alert practitioners and courts. Rule 412, which contains constitutional red flag language, provides a precedent for such an approach. On the flip side, Judge Furman stated that the Advisory Committee considered a similar issue after the Supreme Court's decision in *Pena-Rodriguez v. Colorado*, 580 U.S. 206 (2017), which held that Rule 606(b), which bars testimony from jurors about juror deliberations, is unconstitutional in certain circumstances. The Advisory Committee decided not to amend the rule, but might revisit that decision in the event that the Advisory Committee considers adding red-flag language to Rule 703, on the theory that the two are similar.

Professor Coquillette advised the Committee that the problem with a red flag is that sometimes it is appropriate and sometimes it is not. The problem arises when a rule red flags some things, but not others. If a constitutional concern is raised in one rule, does that mean that other rules without the red flag are safe constitutionally. Professor Capra added that the rationale for rejecting a red flag in Rule 606(b) was that it would encourage lawyers to make more legal arguments.

Ms. Shapiro, on behalf of DOJ, added that the Solicitor General's Office anticipates that this issue will come back to the Supreme Court soon, which could impact the rulemaking process. Judge Furman agreed that this is an area the Court is very likely to revisit, which counsels proceeding with any amendment in more general terms rather than specifically addressing the issue in *Smith.*

e. Rule 104 and Preliminary Questions on Evidence

Judge Furman moved on to possible amendment of Rule 104, which governs the judge's role in deciding preliminary questions about evidence. Many evidence scholars, including Professor Dan Capra, consider Rule 104 to be one of the worst rules in the Federal Rules of Evidence. First, Rule 104(a), which the Supreme Court has held to establish a preponderance standard, does not include the relevant standard.

Second, Rule 104(b) codifies the concept of conditional relevance, but there is a question as to whether that concept has any real meaning. Judge Furman directed the Committee to Professor Capra's suggestions to improve each section of the rule, which appear at page 292 of the agenda book. The Advisory Committee does have concerns, however, whether there is a big enough problem to justify amending the rule. Professor Capra added that his research has uncovered problems because the rule is so opaque and the concept of conditional relevance does not have a meaning.

A judge member asked if the Advisory Committee would consider adding the preponderance language to subsection (a) even in the absence of a change to (b). Professor Capra responded that subsection (a) could be a freestanding change. Judge Furman agreed that amendments to (a) and (b) do not have to go in tandem.

f. Rule 803(6) and Rule 901

Judge Furman also informed the Committee that the Advisory Committee had considered and rejected two suggestions from a practitioner relating to Rule 803(6), although the suggestions were well received and quite helpful. The first was to clarify Rule 803(6) regarding business records to explicitly permit incorporated business records, that is, records created by one entity but kept and relied upon by another. The second suggestion was to amend Rule 901 to treat production and discovery as a form of authentication, at least in civil cases. The Advisory Committee decided not to proceed on either suggestion because a survey of case law suggested that courts were generally interpreting each rule consistently with the relevant suggestion, and thus the amendments were not necessary.

g. 50th Anniversary of the Federal Rules of Evidence

Following the end of the substantive report, Judge Furman took a moment to inform the Committee of efforts to recognize the 50th Anniversary of the Rules of Evidence in 2025. But for the government shutdown in November 2025, the Advisory Committee had planned to celebrate that milestone. Judge Furman described a small celebration of the anniversary in New York for those present for the virtual meeting and noted that Ms. Dubay has a photograph that can be shared with the Committee. Judge Furman also thanked Ms. Dubay for providing Advisory Committee members with small tokens of appreciation for their service on the Advisory Committee.

4. OTHER COMMITTEE BUSINESS

With the conclusion of the Advisory Committee reports, Judge Dever turned attention to the recognition of three people who have made a remarkable contribution to the rules process over a large number of years – Professor Cathie Struve, Mr. Joseph Spaniol, and Professor Ed Hartnett.

A. Recognition of Professor Struve

Judge Dever began the recognition portion of the meeting with thanks to Professor Cathie Struve, who is the David Kaufman and Leopold Glass Professor of Law at the University of Pennsylvania Carey School of Law. She served as the Appellate Reporter from 2006 to 2015, became the Associate Reporter for Standing from 2017 to 2019, has been the Standing Committee Reporter since then, and will transition to a role as a consultant in February 2026. In her role as the Appellate Reporter, she served with Judges Carl

Stewart, Jeffrey Sutton, and Steven Colloton. As the Standing Committee Reporter, she served with Judges David Campbell and John Bates. Judge Dever noted that while he has been Chair for only three months, in previous work as Chair of Criminal Rules and on that Committee over the past 11 years, it has been a privilege to work with her.

Judge Dever shared messages of appreciation to Professor Struve from Judges Campbell and Bates. Among other superlatives, Judge Campbell offered that he had "never met anyone who combines breadth of knowledge, wise judgment, attention to detail, and incisive analysis as well as Cathie Struve" and that she is "a consistently delightful colleague whose invaluable contributions will be greatly missed." Judge Bates offered additionally that Professor Struve's "contributions are always thoughtful and incisive yet unerringly fair and polite." Judge Dever concurred in these assessments, noting that Professor Struve has been a great resource, teacher, and friend to all involved in the rules effort. Judge Dever thanked Professor Struve again for her incredible contribution and invited Ms. Dubay to make remarks on behalf of the Rules Committee Staff.

Ms. Dubay shared her appreciation of Professor Struve's assistance and offered tokens of appreciation from the Rules Committee Staff. Ms. Dubay recognized the special camaraderie among the Reporters, and also the camaraderie Professor Struve developed with the Rules Committee Staff. Ms. Dubay commented that the job of the Rules Committee Staff is to ensure the rules process works well and to support not just the members, but the Reporters as an important part of the Rules Enabling Act process. Ms. Dubay thanked Professor Struve, not only on behalf of the staff, but personally for helping her learn the history, often oral, of the work of the Rules Committees.

Professor Hartnett spoke on behalf of the Reporters and Consultants, noting that he and Professor Struve had been colleagues in various contexts for over 25 years. Professor Hartnett presented Professor Struve with a gift from the Reporters and Consultants, along with the Rules Committee Staff - a membership to the Philadelphia Museum of Art. Professor Coquillette, former Reporter for the Standing Committee and involved in the rules process for 42 years, also shared generous remarks about Professor Struve.

Professor Struve offered her thanks for the remarks and gifts. She recalled that 25 years ago, she first attended (as a member of the public) a meeting of the Standing Committee, then chaired by Judge Anthony Scirica. Professors Dan Coquillette, Dan Capra, Ed Cooper, and Rick Marcus were already Reporters. She was struck not just by the rigor and dedication of those discussions, but the deep good fellowship among the participants. Professor Struve noted that the community of Reporters is an extraordinary group, and thanked in particular Professor Coquillette, who guided her in her role as Standing Committee Reporter. Professor Struve extended her appreciation to the judges with whom she worked, including not only those Judge Dever mentioned but also Judges David Levi, Lee Rosenthal, and Mark Kravitz. Professor Struve also thanked the unparalleled researchers who supported the committees, including Tim Reagan and his colleagues in the Federal Judicial Center. She also extended her gratitude to the Rules Committee Staff and expressed her appreciation for their work to support the rules process. Finally, Professor Struve gave thanks to the Style Consultants for their tutelage and friendly discussions about style.

B. Recognition of Joe Spaniol

Judge Dever then recognized Joe Spaniol, Style Consultant to the Standing Committee. Mr. Spaniol, who just turned 100 years old, served in World War II in combat. After law school, he joined the Administrative Office of the U.S. Courts in 1951, rising to Deputy Director and then Acting Director. He served as Clerk of the Supreme Court from 1985 to 1991. Mr. Spaniol served as Style Consultant for the Standing Committee from 1991 to 2025, and is both an extraordinary person and an extraordinary contributor to the rules process.

Style Consultant Joe Kimble submitted a pre-recorded tribute to Mr. Spaniol that was played for the Committee. Professor Kimble noted that Mr. Spaniol is the only one of the three Style Consultants who has served continuously since the beginning of the Style work in 1991, participating in all five rule set restylings. Professor Kimble described him as an "ace drafter" with "an especially sharp eye for logic and consistency." He was an Editor and then Editor-in-Chief of both the *Federal Bar News* and the *Federal Bar Journal*. Mr. Spaniol served in the 86th Black Hawk Division in World War II. Mr. Spaniol has eight children, 15 grandchildren, and seven great-grandchildren. Above all, Professor Kimble noted that Mr. Spaniol is a kind and gracious man, and his children offered these kind words: "We are all proud of our father, amazed by his many accomplishments, and grateful for his help in our success. He is the epitome of unconditional love, and he is pretty darn smart too. That's our tribute to you, Dad, from all of us. We love you."

Bryan Garner, Style Consultant, echoed the remarks of Professor Kimble, and recalled that when Judge Keeton sought to create the Style Committee in the early '90s, nobody dreamed that it would overhaul all five rule sets. The success of the Style project was largely attributable to Mr. Spaniol and his steadfastness. Professor Garner described Mr. Spaniol as a very creative, audacious editor, often having to be reined in a bit. Professor Garner concluded by remarking how glad he was to see Mr. Spaniol getting this recognition.

Professor Capra commented that Mr. Spaniol was gracious and kind to Reporters. At one of Professor Capra's first meetings, the Evidence Rules Committee sought permission to publish for public comment a proposed amendment to Evidence Rule 103. In the Advisory Committee Chair's absence, Dan presented the proposal, which met with harsh criticism from two members of the Standing Committee. Shortly thereafter, Professor Capra received a note from Mr. Spaniol urging him not to worry about it because the Committee members did that to everybody. Professor Capra thanked Mr. Spaniol for his kindness.

C. Recognition of Professor Hartnett

Judge Dever then recognized Professor Hartnett for his service as Appellate Rules Committee Reporter and congratulated him on his next role as Standing Committee Reporter. Judge Dever thanked Professor Hartnett for his remarkable contributions as the Reporter to Appellate Rules since 2018. He described Professor Hartnett as someone who is "kind and thoughtful and detail-oriented and has an encyclopedic knowledge of the rules and the rules process."

Judge Eid, Chair of the Appellate Rules Committee, then extended her thanks to Professor Hartnett. She echoed her earlier remarks about Professor Hartnett's brilliance and amazing work for the Advisory

Committee, but also recognized Professor Hartnett's professional accomplishments. He is the Richard J. Hughes Professor for Constitutional and Public Law and Service at Seton Hall. Judge Eid thanked him warmly for his service, wished him well, and expressed confidence that he would be a great Standing Committee Reporter.

D. Closing Remarks and Adjournment

Judge Dever informed the members that the next meeting will be June 3-4 in Chicago at Northwestern School of Law.

Judge Dever concluded by thanking everyone for taking the time to do this very important work in support of the rule of law. The meeting was then adjourned.

TAB 3A2

Agenda E-19 (Summary)
Rules
March 2026

SUMMARY OF THE

REPORT OF THE JUDICIAL CONFERENCE

COMMITTEE ON RULES OF PRACTICE AND PROCEDURE

This report is submitted for the record and includes the following items for the information of the Judicial Conference:

REPORT OF THE JUDICIAL CONFERENCE

COMMITTEE ON RULES OF PRACTICE AND PROCEDURE

TO THE CHIEF JUSTICE OF THE UNITED STATES AND MEMBERS OF THE JUDICIAL CONFERENCE OF THE UNITED STATES:

The Committee on Rules of Practice and Procedure (Standing Committee or Committee) met on January 6, 2026. Member Judge D. Brooks Smith was unable to participate.

Representing the advisory committees were Judge Allison H. Eid (10th Cir.), chair; and Professor Edward Hartnett, Reporter, Advisory Committee on Appellate Rules; Judge Rebecca Buehler Connelly (Bankr. W.D. Va.), chair; Professor S. Elizabeth Gibson, Reporter; and Professor Laura B. Bartell, Associate Reporter, Advisory Committee on Bankruptcy Rules; Judge Sarah S. Vance (S.D. La.), chair; Professor Richard L. Marcus, Reporter; Professor Andrew Bradt, Associate Reporter; and Professor Edward Cooper, consultant, Advisory Committee on Civil Rules; Judge Michael W. Mosman (D. Or.), chair; Professor Sara Sun Beale, Reporter; and Professor Nancy J. King, Associate Reporter, Advisory Committee on Criminal Rules; and Judge Jesse M. Furman (S.D.N.Y), chair; and Professor Daniel Capra, Reporter, Advisory Committee on Evidence Rules.

Also participating in the meeting were Professor Catherine T. Struve, Standing Committee Reporter; Professor Daniel R. Coquillette, Professor Bryan A. Garner, and Professor Joseph Kimble, consultants to the Standing Committee; Carolyn A. Dubay, Secretary to the Standing Committee; Bridget M. Healy and Sarah Sraders, Rules Committee Staff Counsel; Judge Robin L. Rosenberg, Director, and Dr. Tim Reagan, Senior Research Associate, Federal

Judicial Center; and Elizabeth J. Shapiro, Deputy Director, Federal Programs Branch, Civil Division, Department of Justice, on behalf of the Deputy Attorney General.

In addition to its general business, including a review of the status of pending rule amendments in different stages of the Rules Enabling Act process, the Standing Committee received and responded to reports from the five advisory committees. The Committee also received brief updates on the work of the Standing Committee's subcommittee concerning attorney admissions and on two joint projects among the Bankruptcy, Civil, Criminal, and Appellate Rules Committees—one on electronic filing and service by self-represented litigants and one on privacy issues relating to Social Security numbers (SSNs) and the use of a minor's initials in public court filings. The Committee members were also asked to submit up to three goals from the *Strategic Plan for the Federal Judiciary* that should be prioritized over the next two years to the Judiciary Planning Coordinator, Chief Judge Michael A. Chagares (3d. Cir.), who also attended the relevant portion of the meeting.

FEDERAL RULES OF APPELLATE PROCEDURE

Information Items

The Advisory Committee reported on the status of matters under consideration following its October 15, 2025 meeting. The Advisory Committee is considering several issues, including possible amendments to Rule 4 (Appeal as of Right—When Taken) concerning reopening of the time to appeal, and Rule 8 (Stay or Injunction Pending Appeal) to address the purpose and length of administrative stays. It is also considering suggestions for a new rule governing intervention on appeal, amendments to Rule 46(a) concerning admission to the bar of the court of appeals, and the treatment of tribes in the Appellate Rules. The Advisory Committee removed from its agenda a suggestion that Rule 3 be amended to provide that the district clerk, rather than the appellant, identify the court to which the appeal is taken.

FEDERAL RULES OF BANKRUPTCY PROCEDURE

Notice of Retroactive Technical Amendment

In March 2016, the Judicial Conference delegated authority to the Bankruptcy Rules Advisory Committee to make "non-substantive, technical, or conforming amendments to the Bankruptcy Official Forms, subject to later approval by the Rules Committee and notice to the Judicial Conference." JCUS-MAR 2016, p. 24.

Official Form 410C13-NR (Response to Trustee's Notice of Disbursements Made)

The Advisory Committee on Bankruptcy Rules submitted for retroactive approval a technical amendment to Official Form 410C13-NR (Response to Trustee's Notice of Disbursements Made). Technical corrections are required to fix two erroneous references in Form 410C13-NR, which went into effect on December 1, 2025. Specifically, two items in Part 2 of the form referred to "the date of this notice" when it should have stated "the date of this response." The technical corrections conform Part 2 to the introductory language of that section. The Standing Committee unanimously approved the Advisory Committee's recommendation.

Information Items

The Advisory Committee also reported on the status of matters under consideration following its September 25, 2025 meeting. In addition to the recommendation discussed above, the Advisory Committee considered proposed amendments to the privacy rules, suggestions to amend Rule 2003 (Meeting of Creditors or Equity Security Holders) regarding the location and timing of meetings of creditors, suggestions to allow the use of masters in bankruptcy cases and proceedings, and proposed amendments to Rule 8017 to conform with proposed amendments to Appellate Rule 29. It removed from its agenda a suggestion to amend Rule 2006 regarding time counting.

FEDERAL RULES OF CIVIL PROCEDURE

Rule Approved for Publication and Comment

The Advisory Committee on Civil Rules submitted proposed amendments to Rule 55 (Default; Default Judgment) with a recommendation that they be published for public comment in August 2026. The Standing Committee unanimously approved the Advisory Committee's recommendation, including minor style changes.

The proposed amendment to Rule 55 removes the commands in Rules 55(a) and (b)(1) that the clerk "must" enter a default or default judgment, respectively, whenever the rules empower the clerk to do so. Instead, the proposed amendment provides that the clerk "may either" enter default or default judgment, respectively, "or refer the matter to the court for directions." The proposed amendment also changes the reference to "the party" in Rule 55(b)(2) to "a party" for greater clarity.

Information Items

The Advisory Committee also reported on the status of matters under consideration following its October 24, 2025 meeting. In addition to the recommendation discussed above, the Advisory Committee continued to discuss proposals to amend Rule 43 (Taking Testimony) to relax the standards governing permission for remote testimony and heard an update concerning third-party litigation funding. The Advisory Committee also continues to study suggestions relating to Rule 23 (Class Actions) and random case assignment.

The Advisory Committee decided to remove from its agenda proposals concerning cross-border discovery, filing under seal, discovery cybersecurity risks, reimbursement of nonparties served with subpoenas for costs of compliance, permissive filing of discovery requests and responses, and time counting for responses to motions.

FEDERAL RULES OF CRIMINAL PROCEDURE

Information Items

The Advisory Committee reported on the status of matters under consideration following its November 6, 2025 meeting. The Advisory Committee continues to consider amendments to Rule 49.1 (Privacy Protection for Filings Made with the Court) to protect minors' privacy by requiring the use of pseudonyms and to require complete redaction of SSNs and other taxpayer identifying information. The Advisory Committee plans to consider the proposed amendments at its spring 2026 meeting with a view to proposing them at the Standing Committee's June 2026 meeting for publication and public comment. (Consideration of the privacy rules has been a coordinated project, and the Appellate, Bankruptcy, and Civil Rules Advisory Committees are also considering amendments to their privacy rules that may also be submitted to the Standing Committee in June 2026.) The Advisory Committee also reported on the activities of its subcommittee on Rule 40 (Arrest for Failing to Appear in Another District or for Violating Conditions of Release Set in Another District). The Advisory Committee also formed a new subcommittee to consider a suggestion on Rule 11 (Pleas) to remove "possible departures under the Sentencing Guidelines" from the factors a court must advise the defendant it must consider in determining a sentence, in light of the new amendments to the Sentencing Guidelines that took effect in November 2025. The suggestion also implicates Rule 32(h) concerning notice of possible departures from sentencing guidelines.

The Advisory Committee decided to remove from its agenda a recent proposal to amend Rule 53 (Courtroom Photographing and Broadcasting Prohibited) to allow broadcasting of criminal proceedings since it had already recently considered and declined to pursue a related proposal in 2024. The Advisory Committee continues to study potential amendments to Rule 15 (Depositions).

FEDERAL RULES OF EVIDENCE

Information Items

The Advisory Committee reported on the status of matters under consideration following its November 5, 2025 meeting. The Advisory Committee reported on potential edits to the proposal for new Rule 707 regarding the admissibility of evidence generated by artificial intelligence, which has been published for public comment. Potential edits to the published preliminary draft include amending the proposed committee note to emphasize the distinction between expert opinions offered by humans (Rule 702) and opinions generated by machines (Rule 707). The Advisory Committee also discussed strengthening language in the committee note to (1) emphasize that Rule 707 does not provide a way for the proponent to evade the requirements of Rule 702 by presenting machine-based evidence instead of an expert; (2) provide guidance on what to do if it is not possible to explain how a machine reached its opinion or conclusion; and (3) explain the relationship between Rule 707 and Rule 901(b)(9), which provides a ground for authenticating machine-generated evidence.

The Advisory Committee also continued to discuss a proposal to add a new Rule 901(c) to establish a procedure to challenge the authenticity of evidence suspected to be a deepfake. Other items under the Advisory Committee's consideration include possible amendments to the following rules: Rule 902 (Evidence that is Self-Authenticating) to add a reference to federally recognized Indian tribes and nations; Rule 803(3) (Exceptions to the Rule Against Hearsay – Regardless of Whether the Defendant is Available as a Witness) regarding the state of mind exception; Rule 703 (Bases of an Expert's Opinion Testimony) in light of *Smith v. Arizona*; and Rule 104(a) and (b) (Preliminary Questions) to include applicable standards of proof.

The Advisory Committee also reported on its celebration of the 50th Anniversary of the enactment of the Federal Rules of Evidence in 2025 and noted that materials will be made available publicly to commemorate the anniversary.

JUDICIARY STRATEGIC PLANNING

At the request of the Judiciary Planning Coordinator, Chief Judge Michael A. Chagares (3d Circuit), the Committee reviewed the *Strategic Plan for the Federal Judiciary* for 2025-2030 and provided recommendations for aspects of the plan that should be prioritized over the next two years.

Respectfully submitted,

James C. Dever III, Chair

Paul J. Barbadoro
Todd Blanche
Elizabeth J. Cabraser
Louis A. Chaiten
Colm F. Connolly
Joan N. Ericksen
Stephen A. Higginson
Edward M. Mansfield
Troy A. McKenzie
Andrew J. Pincus
Allison J. Rushing
D. Brooks Smith
Bart H. Williams

T

TAB 4

MEMORANDUM

TO: ADVISORY COMMITTEE ON BANKRUPTCY RULES

FROM: CONSUMER SUBCOMMITTEE

SUBJECT: SUGGESTIONS FOR AMENDMENTS TO RULE 2003 (MEETING OF CREDITORS OR EQUITY SECURITY HOLDERS)

DATE: MARCH 18, 2026

Rebecca Garcia—a chapter 12/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 and location of meetings of creditors. She made this suggestion, which was endorsed by the Association of Chapter 12 Trustees and the National Association of Chapter 13 Trustees, in response to the current practice of conducting the meetings remotely by means of Zoom. The National Association of Bankruptcy Trustees ("NABT") also submitted a suggestion (Suggestion 25-BK-C) to amend Rule 2003 to take account of remote meetings of creditors.

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 could be reached about the need for possible amendments to Rule 2003. Those discussions have taken place, and the Association of Chapter 12 Trustees ("ACT12") and the National Association of Bankruptcy Trustees ("NABT") have submitted new suggestions (Suggestions 26-BK-1 and 26-BK-2) that propose amendments to Rule 2003(a) that the EOUST and the trustee groups have agreed on, plus an additional amendment that the EOUST does not support.

The New Suggestions

The EOUST and the trustee groups have agreed that Rule 2003(a) should be amended as follows[1]:

Rule 2003. Meeting of Creditors or Equity Security Holders

(a) Date and Place of the Meeting.

(1) ***Date.*** Except as provided in § 341(e), the United States trustee must call a meeting of creditors to be held:

(A) in a Chapter 7 or 11 case, no fewer than 21 days and no more than 40 days after the order for relief; the United States trustee may convene the meeting at a later date, if

[1] Some minor edits have been made to the submitted proposal that do not change its substance.

appropriate, but no more than 60 days after the order for relief; or

(B) in a Chapter 12 or 13 case, no fewer than 21 days and no more than ~~35~~ 60 days after the order for relief~~; or~~

~~(C) in a Chapter 13 case, no fewer than 21 days and no more than 50 days after the order for relief~~.

(2) ***Effect of a Motion or an Appeal.*** The United States trustee may set a later date for the meeting if there is a motion to vacate the order for relief, an appeal from such an order, or a motion to dismiss the case.

(3) ***Place; Possible Change in the Meeting Date.*** The meeting may be held at a ~~regular place for holding court~~ place and in the manner designated by the United States trustee. ~~Or the United States trustee may designate any other place in the district~~ The meeting may be conducted in person or remotely. In-person meetings may be held at a regular place for holding court, or at any place in the district designated by the United States trustee that is convenient for the parties in interest. ~~If 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.~~

* * * * *

In addition to the agreed-upon amendments, ACT12 and NABT propose adding the following sentence at the end of subdivision (a)(3): "A remote meeting is deemed to take place in the district in which the case was filed."

The Subcommittee's Deliberations

The Subcommittee appreciated that the EOUST and the three trustee groups conferred and largely reached a consensus on proposed amendments to Rule 2003(a). It understood, of course, that the Advisory Committee must exercise its independent judgment about what amendments, if any, to recommend to the Standing Committee for publication. During its meetings on February 3 and March 2, it considered the following issues.

1. *The timing of the meeting in chapter 7 and 11 cases.* When Ms. Garcia first suggested amendments to Rule 2003, her proposed draft included an amendment that would have extended to 60 days after the order for relief the time for convening the meeting of creditors in chapter 7, 11, 12, and 13 cases. At the fall 2024 Advisory Committee meeting, when this suggestion was discussed, opposition was expressed to extending the time in chapter 7 and 11 (subchapter V) cases, and Ms. Garcia's revised suggestion limited the time extension to chapter 12 and 13 cases.

As shown above, the draft suggested by ACT12 and NABT would retain the existing time periods for chapter 7 and 11 cases, but it would add a provision allowing the U.S. trustee to convene the meeting at a later date (up to 60 days after the order for relief) "if appropriate." This provision would add some flexibility to the rule and would not extend the deadline beyond the date currently allowed under the circumstances described in the last sentence of subdivision (a)(3). Given the earlier Advisory Committee discussion, however, the Subcommittee recommends that this extension in chapter 7 and 11 cases not be proposed.

2. *The timing of the meeting in chapter 12 and 13 cases.* Allowing more time to convene the meeting of creditors in chapter 12 and 13 cases has been one of the main goals of the suggestions for amending Rule 2003. The current proposal would extend the deadline in chapter 12 cases from 35 to 60 days, and in chapter 13 cases, from 50 to 60 days. The Subcommittee previously considered how such extensions might affect other rules and Code provisions that include time periods triggered by the first date set for the meeting of creditors,[2] but was told that—at least prior to the advent of Zoom meeting—meetings were frequently convened at that later date (under the last sentence of (a)(3)) without adverse consequences.

The survey of chapter 12 and 13 trustees conducted last year by Committee member Nancy Whaley showed significant support for extending the deadline to 60 days, and now the EOUST has agreed. The Subcommittee concluded that this is a reasonable accommodation to address the practical needs of trustees.

3. *Express authorization of remote meetings.* The proposed draft would authorize meetings of creditors to be "conducted in person or remotely" and would allow the U.S. trustee to designate in which manner a meeting would be conducted. Having the rule reflect the current practice of Zoom meetings has been one of the other main goals of the suggestions.

When Ms. Garcia's original suggestion was discussed at the September 2024 Advisory Committee meeting, some doubts were expressed about proposing such an amendment. The minutes of that meeting indicate that there was concern that adding an express authorization of remote meetings at this point might call into question the validity of past meetings conducted in that manner.

Currently Rule 2003(a)(3) requires that a meeting of creditors, if not held at "a regular place for holding court," be at "any other place in the district [designated by the U.S. trustee] that is convenient for the parties in interest." The references to "a . . . place" and "any other place" suggests that the meeting must take place at a single location where all the participants are present, and thus a remote meeting might not fit neatly within the rule's terms. The Subcommittee, after weighing the value of having the rule expressly allow remote meetings against the likelihood of challenges to pre-amendment remote meetings that were authorized by the EOUST, voted to recommend the trustee groups' proposed revision of the first three sentences of subdivision (a)(3).

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[2] *See* Code §§ 521(a)(2)(A), 521(a)(2)(B), 521(e)(2)(A)(i, ii), 1308(a), and 1308(b); Rules 1006(b)(2), 1007(c), 1017(e), 1019(1), 1020(b), 2015.3(b), 4002(b), 4004(a), 4007(c), 4008(a), and 5009(b).

4. *Additional sentence proposed by the trustees.* ACT12 and NABT have proposed adding a final sentence to Rule 2003(a)(3) to provide, "A remote meeting is deemed to take place in the district in which the case was filed." The EOUST does not support this proposed amendment.

The trustees' concern is that, without this provision, someone in later litigation might challenge the introduction of testimony from the meeting of creditors on the ground that the testimony was given or taken by a person outside the district in which the bankruptcy case is pending. In order to eliminate that possibility and for the sake of completeness, the trustees propose adding a provision paralleling the provision that states where an in-person meeting must be located. They analogize to the provision in Fed. R. Civ. P. 30(b)(4) that states that when depositions are conducted remotely, "For the purpose of this rule and Rules 28(a), 37(a)(2), and 37(b)(1), the deposition takes place where the deponent answers the questions."

On the other hand, as explained by Ramona Elliott, the EOUST opposes this provision as being unnecessary and potentially giving rise to challenges to the conduct of pre-amendment remote meetings. It may be unnecessary because no one has identified any other rule or statutory provision that requires determining where a meeting of creditors takes place (such as the rules cited in Fed. R. Civ. P. 30(b)(4) do with respect to the location of depositions).

The Subcommittee's Recommendation

The Subcommittee recommends that the amendments to Rule 2003 shown in the draft following this memorandum in the agenda book be proposed for publication. The final sentence of subdivision (a)(3) is enclosed in brackets because the Subcommittee could not reach a consensus on whether it should be added.

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

Rule 2003. Meeting of Creditors or Equity Security Holders

(a) Date and Place of the Meeting.

(1) ***Date.*** Except as provided in § 341(e), the United States trustee must call a meeting of creditors to be held:

(A) in a Chapter 7 or 11 case, no fewer than 21 days and no more than 40 days after the order for relief; or

(B) in a Chapter 12 or 13 case, no fewer than 21 days and no more than ~~35~~ 60 days after the order for relief~~; or~~

~~(C) in a Chapter 13 case, no fewer than 21 days and no more than 50 days after the order for relief~~.

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

(2) ***Effect of a Motion or an Appeal.*** The United States trustee may set a later date for the meeting if there is a motion to vacate the order for relief, an appeal from such an order, or a motion to dismiss the case.

(3) ***Place; Manner of Conducting*** ~~***Possible Change in the Meeting Date.***~~ The meeting may be held at a ~~regular place for holding court~~ place and in the manner specified by the United States trustee. ~~Or the United States trustee may designate any other place in the district~~ The meeting may be conducted in person or remotely. In-person meetings may be held at a regular place for holding court, or at any place in the district specified by the United States trustee that is convenient for the parties in interest. [A remote meeting is deemed to take place in the district where the

case is pending.] ~~If 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.~~

* * * * *

Committee Note

Subdivision (a) is amended to better reflect current practices in the conduct of meetings of creditors.

In paragraph (1) the time for convening the meeting of creditors in a chapter 12 or 13 case is extended to a maximum of 60 days after the order for relief. Prior to the amendment, meetings were frequently called for a date that was as many as 60 days after the order for relief under a provision in paragraph (3) that allowed such lengthening of the timeframe when "the designated meeting place [was] not regularly staffed by the United States trustee or an assistant who [could] preside." Now that provision has been deleted, and the rule allows the U.S. trustee to call for a meeting of creditors in any chapter 12 or 13 case to be held no fewer than 21 days and no more than 60 days after the order for relief.

Paragraph (3) is amended to clarify that, consistent with § 341(a) of the Bankruptcy Code, the U.S. trustee specifies the place and manner of the meeting of creditors, which may be held remotely or in person. [A meeting held

remotely is deemed to take place in the district where the bankruptcy case is pending.]

Association of Chapter Twelve Trustees

January 27, 2026

Committee on Rules of Practice and Procedure
Administrative Office of the United States Courts
One Columbus Circle, NE, Room 7-300
Washington, D.C. 20544

RE: Proposed changes to Bankruptcy Rule 2003 – 24-BK-G

Dear Sir or Madam:

ACT12, The Association of Chapter 12 Trustees, appreciates the work that the Rules Committee and the UST have done to nearly reach agreement on changes to Rule 2003. As the committee is likely aware, the most important item to our organization is the timing change, which we do agree with the UST proposal. ACT12 also agrees with the remaining language for the rule change proposed by the UST, but we ask the Bankruptcy Rules Committee to consider adding one additional phrase in sub (a)(3) as follows:

(3) *Place; Manner of Meeting*. The meeting may be held at a place and in the manner designated by the United States trustee. The meeting may be conducted in person or remotely. In person meetings may be held at a regular place for holding court, or at any other place in the district that is convenient for the parties in interest. A remote meeting is deemed to take place in the district in which the case was filed.

The addition of a sentence indicating where the meeting is deemed to take place if remote is inserted to add clarity in the event of one or more parties to the 341 is not located in the district at the time of remote 341. Adding this sentence may eliminate challenges regarding the meeting, or a transcript of the meeting, in future litigation.

The bankruptcy code and rules set out a clear path for the ability of a standing or panel trustee, who is a designee of the United States Trustee, to give an oath. The current rule does address the location of the 341. The addition of a sentence that deems the location of the 341 meeting to occur in the district that the case was filed accomplishes two things. First, as noted above, it should at least discourage challenges in subsequent litigation involving a 341 transcript where one of the parties was not physically in the district for the meeting. Second, it clearly sets a Section 341 Meeting of Creditors apart from a

deposition conducted under Civil Rule 28 and 30(b)(4). In those rules, the scheme is a different one that requires an officer and deems the deposition to take place where the deponent answers the questions. If the bankruptcy rule is silent as to the deemed location of the meeting, it could cause unintended consequences in an appeal of an issue regarding a 341 transcript. By deeming the location of a remote 341 to be in the district where the case is filed, which would also be the district where the panel or standing trustee is appointed and the ZOOM license is issued, it is clear that the standing or panel trustee is able to give the oath appropriately.

In addition, as a matter of construction of subsection (3), the place for the meeting is described for an in-person meeting, but in the submission of the United States Trustee there is no parallel clause regarding the "place" for a remote meeting. Adding the proposed sentence balances out the rule and provides a "place" for both in person and remote meetings.

For these reasons, ACT12 respectfully requests that the Bankruptcy Rules Committee consider the Rule 2003 changes submitted by the United States Trustee Program, but with the addition of the redline language above.

Thank you for your time and consideration.

Sincerely,

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garciar@ch13oshkosh.com

Rule 2003. Meeting of Creditors or Equity Security Holders

(a) Date and Place of the Meeting.

(1) *Date*. Except as provided in §341(e), the United States trustee must call a meeting of creditors to be held:

(A) in a Chapter 7 or 11 case, no fewer than 21 days and no more than 40 days after the order for relief; the United States trustee may convene the meeting at a later date if appropriate but no more than 60 days after the order for relief; or

(B) in a Chapter 12 or 13 case, no fewer than 21 days and no more than ~~35~~ 60 days after the order for relief~~; or~~.

~~(C) in a Chapter 13 case, no fewer than 21 days and no more than 50 days after the order for relief.~~

(2) *Effect of a Motion or an Appeal*. The United States trustee may set a later date for the meeting if there is a motion to vacate the order for relief, an appeal from such an order, or a motion to dismiss the case.

(3) *Place; Possible Change in the Meeting Date*. The meeting may be held at a place and in the manner designated by the United States trustee. ~~regular place for holding court.~~The meeting may be conducted in person or remotely. In person meetings may be held at a regular place for holding court, or at any place in the district designated by the United States trustee ~~Or the United States trustee may designate any other place in the district~~ that is convenient for the parties in interest. ~~If 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.~~

920.231.2150
Fax: 920.231.5713
E-Mail info@ch13oshkosh.com

REBECCA R. GARCIA
Chapter 12 & 13 Trustee in Bankruptcy
EASTERN DISTRICT OF WISCONSIN
P O Box 3170
Oshkosh, WI 54903-3170

January 28, 2026

Committee on Rules of Practice and Procedure
Administrative Office of the United States Courts
One Columbus Circle, NE, Room 7-300
Washington, D.C. 20544

RE: Proposed changes to Bankruptcy Rule 2003 – 24-BK-G, 25-BK-B, and 25-BK-C

Dear Sir or Madam:

Thank you for the opportunity to review and revise this suggestion. The working group of the various trustee organizations and the United States Trustee have put much thought into the updated suggestion. I agree with the changes submitted by the United States Trustee, but request the Bankruptcy Rules Committee consider adding one additional phrase in sub (a)(3) as follows:

(3) *Place; Manner of Meeting*. The meeting may be held at a place and in the manner designated by the United States trustee. The meeting may be conducted in person or remotely. In person meetings may be held at a regular place for holding court, or at any other place in the district that is convenient for the parties in interest. A remote meeting is deemed to take place in the district in which the case was filed.

The addition of a sentence indicating where the meeting is deemed to take place if remote is inserted to add clarity in the event of one or more parties to the 341 is not located in the district at the time of remote 341. Adding this sentence may eliminate challenges regarding the meeting, or a transcript of the meeting, in future litigation.

The bankruptcy code and rules set out a clear path for the ability of a standing or panel trustee, who is a designee of the United States Trustee, to give an oath. The current rule does address the location of the 341. The addition of a sentence that deems the location of the 341 meeting to occur in the district that the case was filed accomplishes two things. First, as noted above, it should at least discourage challenges in subsequent litigation involving a 341 transcript where one of the parties was not physically in the district for the meeting. Second, it clearly sets a Section 341 Meeting of Creditors apart from a deposition conducted under Civil Rule 28 and 30(b)(4). In those rules, the scheme is a

different one that requires an officer and deems the deposition to take place where the deponent answers the questions. If the bankruptcy rule is silent as to the deemed location of the meeting, it could cause unintended consequences in an appeal of an issue regarding a 341 transcript. By deeming the location of a remote 341 to be in the district where the case is filed, which would also be the district where the panel or standing trustee is appointed, and the ZOOM license is issued it is clear that the standing or panel trustee is able to give the oath appropriately.

In addition, as a matter of construction of subsection (3), the place for the meeting is described for an in-person meeting, but in the submission of the United States Trustee there is no parallel clause regarding the "place" for a remote meeting. Adding the proposed sentence balances out the rule and provides a "place" for both in person and remote meetings.

For these reasons, I respectfully request that the Bankruptcy Rules Committee consider the Rule 2003 changes submitted by the United States Trustee Program, but with the addition of the redline language above.

Several individual chapter 13 trustees also support this change and have authorized me to include their names as additional signees to this letter as indicated below.

Sincerely,

Rebecca Garcia

Digitally signed by Rebecca Garcia
DN: cn=Rebecca Garcia, c=US, o=Chapter 12 and 13 Trustee, email=garciar@ch13oshkosh.com
Date: 2026.01.28 08:55:36 -06'00'

Rebecca R. Garcia
Chapter 12 & 13 Trustee, Oshkosh

Additional Trustee signees:

Melissa Davey, Atlanta, GA
Carl Davis, Wichita, KS
Andrew Dudley, Brunswick, ME
K. Edward Safir, Atlanta, GA
Scott Waterman, Reading PA
Kara West, Chattanooga, TN
Nancy Whaley, Atlanta, GA
Jack Zaharopoulos, Hummelstown, PA

National Association of Bankruptcy Trustees

January 27, 2026

SENT VIA EMAIL (RulesCommittee_Secretary@ao.uscourts.gov)

Carolyn A. Dubay, Secretary
Committee on Rules of Practice and Procedure
Administrative Office of the United States Courts
One Columbus Circle, NE, Room 7-300
Washington, D.C. 20544

RE: Proposed changes to Bankruptcy Rule 2003 -24-BK-G

Dear Secretary Dubay:

The National Association of Bankruptcy Trustees (NABT) is in full support of the letter sent on January 27, 2026, by The Association of Chapter 12 Trustees (ACT12), a copy of which is attached herewith. Like ACT12, we are in agreement with the attached proposed rule changes submitted to our association by the United States Trustee Program (UST) on January 23, 2026, with only one exception. We too would like the Bankruptcy Rules Committee to consider adding the additional phrase in sub (a)(3) as follows:

(3) *Place; Manner of Meeting*. The meeting may be held at a place and in the manner designated by the United States trustee. The meeting may be conducted in person or remotely. In person meetings may be held at a regular place for holding court, or at any other place in the district that is convenient for the parties in interest. A remote meeting is deemed to take place in the district in which the case was filed.

The NABT respectfully requests that the Bankruptcy Rules Committee adopt the changes to Rule 2003 endorsed by the United States Trustee Program, but with the addition of the redline language above.

We are grateful for the work of this committee and your time and consideration of this matter.

Sincerely,

/s/ Steven Weiss

Steven Weiss, President
National Association of Bankruptcy Trustees

SW/jnb
Enclosures
CC: ACT12
NACTT
OUTP

Association of Chapter Twelve Trustees

January 27, 2026

Committee on Rules of Practice and Procedure
Administrative Office of the United States Courts
One Columbus Circle, NE, Room 7-300
Washington, D.C. 20544

RE: Proposed changes to Bankruptcy Rule 2003 – 24-BK-G

Dear Sir or Madam:

ACT12, The Association of Chapter 12 Trustees, appreciates the work that the Rules Committee and the UST have done to nearly reach agreement on changes to Rule 2003. As the committee is likely aware, the most important item to our organization is the timing change, which we do agree with the UST proposal. ACT12 also agrees with the remaining language for the rule change proposed by the UST, but we ask the Bankruptcy Rules Committee to consider adding one additional phrase in sub (a)(3) as follows:

(3) *Place; Manner of Meeting*. The meeting may be held at a place and in the manner designated by the United States trustee. The meeting may be conducted in person or remotely. In person meetings may be held at a regular place for holding court, or at any other place in the district that is convenient for the parties in interest. A remote meeting is deemed to take place in the district in which the case was filed.

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The bankruptcy code and rules set out a clear path for the ability of a standing or panel trustee, who is a designee of the United States Trustee, to give an oath. The current rule does address the location of the 341. The addition of a sentence that deems the location of the 341 meeting to occur in the district that the case was filed accomplishes two things. First, as noted above, it should at least discourage challenges in subsequent litigation involving a 341 transcript where one of the parties was not physically in the district for the meeting. Second, it clearly sets a Section 341 Meeting of Creditors apart from a

deposition conducted under Civil Rule 28 and 30(b)(4). In those rules, the scheme is a different one that requires an officer and deems the deposition to take place where the deponent answers the questions. If the bankruptcy rule is silent as to the deemed location of the meeting, it could cause unintended consequences in an appeal of an issue regarding a 341 transcript. By deeming the location of a remote 341 to be in the district where the case is filed, which would also be the district where the panel or standing trustee is appointed and the ZOOM license is issued, it is clear that the standing or panel trustee is able to give the oath appropriately.

In addition, as a matter of construction of subsection (3), the place for the meeting is described for an in-person meeting, but in the submission of the United States Trustee there is no parallel clause regarding the "place" for a remote meeting. Adding the proposed sentence balances out the rule and provides a "place" for both in person and remote meetings.

For these reasons, ACT12 respectfully requests that the Bankruptcy Rules Committee consider the Rule 2003 changes submitted by the United States Trustee Program, but with the addition of the redline language above.

Thank you for your time and consideration.

Sincerely,

PRESIDENT
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Rule 2003. Meeting of Creditors or Equity Security Holders

(a) Date and Place of the Meeting.

(1) *Date*. Except as provided in §341(e), the United States trustee must call a meeting of creditors to be held:

(A) in a Chapter 7 or 11 case, no fewer than 21 days and no more than 40 days after the order for relief; the United States trustee may convene the meeting at a later date if appropriate but no more than 60 days after the order for relief; or

(B) in a Chapter 12 or 13 case, no fewer than 21 days and no more than ~~35~~ 60 days after the order for relief~~; or.~~

~~(C) in a Chapter 13 case, no fewer than 21 days and no more than 50 days after the order for relief.~~

(2) *Effect of a Motion or an Appeal*. The United States trustee may set a later date for the meeting if there is a motion to vacate the order for relief, an appeal from such an order, or a motion to dismiss the case.

(3) *Place; Possible Change in the Meeting Date*. The meeting may be held at a place and in the manner designated by the United States trustee. ~~regular place for holding court.~~The meeting may be conducted in person or remotely. In person meetings may be held at a regular place for holding court, or at any place in the district designated by the United States trustee ~~Or the United States trustee may designate any other place in the district~~ that is convenient for the parties in interest. ~~If 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.~~

TAB 4B

MEMORANDUM

TO: ADVISORY COMMITTEE ON BANKRUPTCY RULES

FROM: CONSUMER SUBCOMMITTEE

SUBJECT: 25-BK-J – RULE 3001(c)

DATE: MARCH 16, 2026

We received a suggestion from Michael J. McCormick suggesting that Rule 3001(c) (which specifies required supporting information for a proof of claim) be modified. Rule 3001(c)(2)(C) currently requires the following information with respect to a claim secured by a mortgage on the debtor's principal residence:

> (C) for any claimed security interest in the debtor's principal residence:
> (i) Form 410A; and
> (ii) if there is an escrow account connected with the claim, an escrow-account statement, prepared as of the date the petition was filed, that is consistent in form with applicable nonbankruptcy law.

Mr. McCormick suggested that a new sentence be added to the end of clause (ii) stating: "In a case converted from chapter 7 to chapter 13, the escrow-account statement may be performed [sic] as of the date the case was converted to chapter 13."

In support of his suggestion Mr. McCormick cites two cases, Green Tree Acceptance, Inc. v. Hoggle (*In re* Hoggle), 12 F.3d 1008 (11th Cir. 1994) in which the court allowed the debtor to modify a confirmed chapter 13 plan to allow the debtor to cure postconfirmation defaults on a mortgage; and *In re* Davis-Peters, 669 B.R. 308 (Bankr. N.D. Ill. Ill. 2025) in which the court allowed the servicer to prepare the escrow-account statement required by Rule 3001(c)(ii) after the filing date as long as it was prepared "as of" the filing date, and explicitly stated that in a converted case it must still be prepared as of the filing date and not the date of conversion.

Rule 3001(c) calls for documentation required for the preparation of the original proof of claim, and reflects **prepetition** obligations as reflected in Official Form 410 and 410A. Section 348 of the Code explicitly states that conversion of a case "does not effect a change in the date of the filing of the petition," and nothing in § 502 or § 1322 changes the definition of "claim" or "default" to suggest that one should include **postpetition** amounts on a proof of claim after conversion of a chapter 7 case to one under chapter 13.

Conversion to chapter 13 does not affect the prepetition obligations, which can be paid over the life of the plan. Any postpetition obligations, including those for escrow-account adjustments, are amounts necessary to maintain the mortgage, not to cure a prepetition default. Therefore, they must be paid currently rather than added to the prepetition obligations.

As there is no basis in the Code for treating postpetition/preconversion escrow-adjustment amounts as prepetition claims, the Subcommittee recommends no change in response to this suggestion.

TAB 4C

MEMORANDUM

TO: ADVISORY COMMITTEE ON BANKRUPTCY RULES

FROM: CONSUMER SUBCOMMITTEE

SUBJECT: SUGGESTION FOR AMENDMENTS TO RULE 4004 (GRANTING OR DENYING A DISCHARGE)

DATE: MARCH 18, 2026

Judges Rebecca Connelly and Ben Kahn have submitted a suggestion (25-BK-N) to amend Rule 4004(a) and (c) to eliminate the mandate (or implication) that a court must grant a chapter 7 debtor a discharge—even though the debtor received a discharge in a prior case under the circumstances described in § 727(a)(8) or (9)—if no motion has been timely filed objecting to discharge on those grounds. Section 727(a)(8) denies a discharge to a chapter 7 debtor who previously received a discharge in a chapter 7 or 11 case filed within 8 years before the filing of the present case. And § 727(a)(9) denies the discharge if the debtor received a discharge in a chapter 13 case filed within 6 years before the filing of the present case, unless the plan paid 100% of the allowed unsecured claims or paid at least 70% of those claims and was proposed in good faith and was the debtor's best effort. The judges also suggest amending Rule 4004(a) to eliminate the deadline for filing an objection to discharge under § 1328(f).

Judges Connelly and Kahn argue that Rule 4004(c), as currently written, is inconsistent with §§ 727 and 1328 and thus violates the Bankruptcy Rules Enabling Act, 28 U.S.C. § 2075.

The Suggestion

Rule 4004(a) sets out the time limits in chapter 7, 11, and 13 cases for objecting to a debtor's discharge. Subdivision (c) then declares that in a chapter 7 case, "when the times to object to discharge and to file a motion to dismiss the case under Rule 1017(e) expire, the court must promptly grant the discharge"—unless one or more of 12 listed circumstances exist. Among the listed grounds for not promptly entering the discharge are the following:

- the debtor is not an individual;
- the debtor has filed a waiver of discharge;
- a complaint—or a motion under § 727(a)(8) or (a)(9)—objecting to the discharge is pending.[1]

The crux of Judges Connelly's and Kahn's suggestion is as follows:

[1] Prior to restyling, this provision read, "a complaint, or a motion under § 727(a)(8) or (a)(9), objecting to the discharge has been filed and not decided in the debtor's favor." Unlike the current provision, it did not require the complaint or motion to still be pending. Perhaps the restyled version assumes that it is implicit that if the court has already ruled to deny the discharge, it does not have to promptly enter it.

> The language of Rule 4004(c) acknowledges the court should enter the discharge order unless the debtor is not eligible for the discharge based on the language of Bankruptcy Code section 727(a)(1) or (a)(10), but not as to section 727(a)(8) or (9). Instead, Rule 4004(a)(1) provides a time period for the filing of a motion under section 727(a)(8) or (9), and subsection (c)(1) directs the bankruptcy court to issue the discharge order when that time period has passed and no such motion has been filed (and the other requirements of Rule 4004(c) are met). Consequently, a bankruptcy court following Rule 4004(c) will enter a discharge order for a debtor who is not eligible under Bankruptcy Code section 727(a)(8) or (9) simply because a motion or complaint raising section 727(a)(8) or (9) had not been timely filed.

The judges further point out that since 2010, when Rule 4004 was amended to include references to motions under § 727(a)(8) and (a)(9), "better tools became available for bankruptcy courts to identify when a prior discharge had been entered for a debtor." As a result, they say, "bankruptcy courts are able to identify and flag those cases in which a debtor had previously been granted a discharge and whether the prior discharge may render the debtor ineligible under section 727(a)(8) or (9)." Thus a motion by a trustee, creditor, or U.S. trustee may be unnecessary to invoke those grounds for denying a discharge.

In support of their suggestion, Judges Connelly and Kahn rely on *Filice v. United States (In re Filice)*, 580 B.R. 259 (Bankr. E.D. Cal. 2018). In that decision, Judge Christopher Klein vacated a chapter 7 debtor's discharge, finding that it had been mistakenly entered in violation of § 727(a)(8). In so ruling, the court concluded that "Rule 4004 is invalid as a violation of the Bankruptcy Rules Enabling Act, 28 U.S.C. § 2075, to the extent it requires entry of a discharge contravening § 727(a)(8) if no objection is timely filed." *Id.* at 260. The court explained:

> The effect of adding the express reference in Rule 4004(a) to § 727(a)(8) in 2010 was to create the misimpression that the court must enter a discharge in violation of § 727(a)(8) if there is not a timely objection even though the court knows that § 727(a)(8) forbids discharge. That is a substantive matter banned by the Bankruptcy Rules Enabling Act. 28 U.S.C. § 2075.

Id. at 265.

In addition to the rule's inconsistency with § 727(a)(8) and (a)(9), Judges Connelly and Kahn also assert that Rule 4004(a)(3) is inconsistent with § 1328(f), which provides that "the court shall not grant a discharge" in a chapter 13 case if the debtor received a discharge in a prior chapter 7, 11, or 12 case that was filed during the 4-year period before the present case was filed or in a prior chapter 13 case filed within 2 years before the present case. The inconsistency, and thus invalidity, they suggest is that "it establishes a deadline to file an objection to a chapter 13 discharge under section 1328(f) when that section establishes that the debtor may not receive a chapter 13 discharge by operation of law."

To address these issues, Judges Connelly and Kahn suggest the following amendments to Rule 4004:

Rule 4004. Granting or Denying a Discharge

(a) Time to Object to a Discharge; Notice.

(1) ***Chapter 7.*** In a Chapter 7 case, ~~a complaint or a motion under § 727(a)(8) or (9) objecting~~ an objection to a discharge must be filed within 60 days after the first date set for the § 341(a) meeting of creditors.

(2) ***Chapter 11.*** In a Chapter 11 case, a complaint objecting to a discharge must be filed on or before the first date set for the hearing on confirmation.

~~(3) *Chapter 13.* In a Chapter 13 case, a motion objecting to a discharge under § 1328(f) must be filed within 60 days after the first date set for the § 341(a) meeting of creditors.~~

(3)~~(4)~~ ***Notice to the United States Trustee, the Creditors, and the Trustee.*** At least 28 days' notice of the time for filing must be given to:

- the United States trustee under Rule 2002(k);
- all creditors under Rule 2002(f);
- the trustee; and
- the trustee's attorney.

* * * * *

(c) Granting a Discharge.

(1) ***Chapter 7.*** In a Chapter 7 case, when the times to object to discharge and to file a motion to dismiss the case under Rule 1017(e) expire, the court must promptly grant the discharge—except under these circumstances:

(A) the debtor is not an individual;
(B) ~~a complaint or a motion under § 727(a)(8) or (9) objecting~~ an objection to the discharge is pending;
(C) the debtor has filed a waiver under § 727(a)(10);
(D) a motion is pending to dismiss the case under § 707;
(E) a motion is pending to extend the time to file a complaint objecting to the discharge;
(F) a motion is pending to extend the time to file a motion to dismiss the case under Rule 1017(e)(1);
(G) the debtor has not fully paid the filing fee required by 28 U.S.C. § 1930(a)—together with any other fee prescribed by

the Judicial Conference of the United States under 28 U.S.C. § 1930(b) that is payable to the clerk upon commencing a case—unless the court has waived the fees under 28 U.S.C. § 1930(f);

(H) the debtor has not filed a certificate showing that a course on personal financial management has been completed—if such a certificate is required by Rule 1007(b)(7);

(I) a motion is pending to delay or postpone a discharge under § 727(a)(12);

(J) a motion is pending to extend the time to file a reaffirmation agreement under Rule 4008(a);

(K) the court has not concluded a hearing on a presumption—in effect under § 524(m)—that a reaffirmation agreement is an undue hardship; ~~or~~

(L) a motion is pending to delay discharge because the debtor has not filed with the court all tax documents required to be filed under § 521(f)~~.~~; or

(M) the debtor has been granted a discharge in a previous case under the section and within the applicable time periods provided in § 727(a)(8) or (9).

* * * * *

History of Relevant Provisions of Rule 4004(a) and (c)

From the initial promulgation of Rule 4004 in 1983, subdivision (a) has imposed deadlines for objecting to a discharge, and subdivision (c) has instructed the court to promptly or forthwith enter a discharge when the times to object and to seek dismissal of the case expire, unless certain circumstances exist. The listed circumstances have never included receiving a discharge in a prior case under the circumstances described in §§ 727(a)(8) and (9).

The references in Rule 4004 to motions under §§ 727(a)(8) and (9) and 1328(f) were added in 2010, along with amendments to Rule 7001 that excepted objections under those provisions from treatment as adversary proceedings.[2] Specific references had to be made to those provisions to distinguish them from objections that have to be raised in a complaint.

At the Advisory Committee meeting in September 2007, reporter Jeff Morris explained that the amendments were being proposed

> in response to an informal comment from Bankruptcy Judge Neil Olack. He said that the premise behind the proposed changes was the thought that an objection to the debtor's discharge based on information supplied by the debtor in the

[2] Rule 7001(d) includes in the list of adversary proceedings "a proceeding to revoke or object to a discharge—except an objection under § 727(a)(8) or (a)(9), or § 1328(f)."

> bankruptcy petition (i.e. the date of a prior bankruptcy case) did not require all the procedural protections of a full-blown adversary proceeding.

Minutes of Advisory Committee on Bankruptcy Rules, Meeting of Sept. 6-7, 2007, at 6.

A member of the committee noted that the amendments could serve to unify the procedure in the districts for raising such objections. According to Judge Wedoff,

> In some courts, . . . the clerk's office will withhold the discharge based on the dates of previous cases reported by the debtor in the petition even if no motion or adversary proceeding is filed at all. Other courts require that a motion be filed, and still others require a full-blown adversary proceeding.

Id.

In his report to the committee, Prof. Morris said that the Consumer Subcommittee considered whether "the rules should expressly govern the court's authority to deny the discharge on its own motion under §§ 727(a)(8) and (9) and 1328(f)." The subcommittee decided no, because it believed "the language of § 105(a) is sufficient to authorize the courts to act, so that no amendment to the rules is necessary. Indeed, inserting an express authorization in the rules on this issue could generate confusion in other rules which would not include such a directive." Agenda Book for Sept. 6-7, 2007, Meeting, at 51 (p. 2 of Consumer Subcommittee report).

At the meeting, a member suggested that there should be no deadline for raising an objection under § 1328(f), because the statute mandates that the court not grant a discharge if an earlier discharge falls within its provisions. Thus, it was argued, "the Court should not grant a discharge, no matter when it learns of a discharge in a prior case." Other committee members, however, pointed out that the rules already set deadlines notwithstanding similar language in § 727. Minutes at 7.

In response to the publication of the proposed amendments to Rules 4004 and 7001, only 3 comments were submitted. None raised questions about a court's authority to deny a discharge sua sponte under §§ 727(a)(8) and (9) and 1328(f) or about the propriety of imposing a deadline for objecting under § 1328(f). Agenda Book for Mar. 26-27, 2009, Meeting, at 268-74.

Does Rule 4004 Violate the Rules Enabling Act?

Judges Connelly and Kahn suggest amending Rule 4004(a) to eliminate express references to § 727(a)(8) and (9) in subdivision (a)(1)—which prescribes a deadline for objecting to discharge in a chapter 7 case—and deleting subdivision (a)(3)—which prescribes a deadline for objecting to discharge in a chapter 13 case under § 1328(f). These suggestions raise the question whether the rule's imposition of a deadline for objecting under these specific provisions is invalid under the Rules Enabling Act because of inconsistency with the language of §§ 727 and 1328. Section 727(a) provides that the "court shall grant the debtor a discharge, unless" one of the listed provisions applies, and § 1328(f) says that "the court shall not grant a discharge" if the debtor has received a discharge too recently.

As a general matter, procedural rules can impose times within which parties must take action to assert their rights under a statute or the Constitution. Indeed, the Supreme Court just ruled that Civil Rule 60(c)'s requirement that a motion for relief from a judgment be made "within a reasonable time" prevented a defendant from getting a default judgment set aside as void due to improper service. *Coney Island Auto Parts Unlimited, Inc. v. Burton*, 223 L. Ed. 2d 438 (2026). In reaching its decision, the Court stated that "the 'expression of legal rights is often subject to certain procedural rules,' and 'the failure to enter a timely objection' may result in the loss of a legal right." *Id*. at 444-45 (quoting *Insurance Corp. of Ireland v. Compagnie des Bauxites de Guinee*, 456 U.S. 694, 705 (1982)).

With respect to the time limits for objecting to discharge, the Supreme Court in *Kontrick v. Ryan,* 540 U.S. 443, 456 (2004), recognized the provisions of Rule 4004(a) and (b) as valid "claim-processing" rules that "serve three primary purposes. First, they inform the pleader, *i.e.*, the objecting creditor, of the time he has to file a complaint. Second, they instruct the court on the limits of its discretion to grant motions for complaint-filing-time enlargements. Third, they afford the debtor an affirmative defense to a complaint filed outside the Rules 4004(a) and (b) limits." In that case, it was the debtor who forfeited his rights by not objecting to an untimely objection in a timely manner.

In another recent Supreme Court decision, the Court reiterated the relatively lax standard for determining whether a federal rule of procedure violates the Rules Enabling Act:

> [The Federal Rule of Civil Procedure in question] governs so long as it is valid under the Rules Enabling Act, which requires that Federal Rules be procedural rather than substantive. The line between substance and procedure is hazy, and we draw it differently in different contexts. For purposes of the Rules Enabling Act, we use a modest test: whether the Federal Rule "really regulates procedure." Or put differently, "[w]hat matters is what the Rule itself *regulates*: If it governs only 'the manner and the means' by which the litigants' rights are 'enforced,' it is valid."
>
> In applying this analysis, we have "rejected every statutory challenge to a Federal Rule that has come before us."

Berk v. Choy, 223 L. Ed. 2d 463, 475 (2026) (citations omitted).

The reporter advised the Subcommittee that she believes that under these decisions and the cases they rely on, the time limits of Rule 4004(a) are valid under the Rules Enabling Act. Although §§ 727(a) and 1328(f) provide grounds for denying a debtor a discharge, the rules can specify how those provisions are enforced, including by imposing time limits for objecting. If waiting too long to challenge a judgment that is void under the Due Process Clause means that the judgment can nevertheless be enforced, then allowing a debtor to be discharged because no one timely objects should not be invalid.

Should Rule 4004 Be Amended?

The judges' suggestion raises the question whether the Advisory Committee was correct in 2007 in concluding that, despite the rule, a court can raise an objection to discharge under §§ 727(a)(8) and (9) and 1328(f) on its own. A recent First Circuit opinion provides some support for that view. In *Francis v. Desmond* (In re *Francis*), 996 F.3d 10 (1st Cir. 2021), the court of appeals upheld the bankruptcy court's sua sponte denial of a chapter 7 debtor's discharge for failure to obey court orders. Relying on the second sentence of § 105(a),[3] the court held that "[t]his unambiguous language makes it nose-on-the-face plain that the bankruptcy court, acting sua sponte, possesses the authority to deny a debtor a discharge in consequence of, say, his flagrant disregard of the bankruptcy court's lawful orders." *Id.* at 19.

Significantly, the *Francis* court did not refer to Rule 4004(c). Instead, it held that § 105(a) authorizes a court to deny a discharge on its own motion, notwithstanding § 727(c)(1)'s authorization of a trustee, creditor, or U.S. trustee to object to discharge. That leaves open the question of what effect Rule 4004(c) has on the analysis.

As Judges Connelly and Kahn suggest, the current wording of Rule 4004(c) seems inconsistent with the court having authority to withhold a discharge on its own—other than because the debtor is not an individual or the debtor filed a waiver of discharge. With respect to other § 727(a) grounds, the court "must promptly grant the discharge" after time for objecting expires, unless a complaint or motion objecting to discharge remains pending. It can be argued that, despite the wording of Rule 4004(c), § 105(a)—a statutory provision—trumps the rule and thus a court can deny a discharge on its own even if no timely complaint or motion has been filed. Even so, the rule's wording may mislead courts and parties to conclude otherwise. *See, e.g.,* 6 Collier on Bankruptcy ¶ 727.11 ("Although section 727(a)(8) could be read to permit a *sua sponte* denial, Federal Rule of Bankruptcy Procedure 4004(c) seems to preclude such an action. Rule 4004(c) permits a *sua sponte* delay or denial of discharge only in specified circumstances that do not include applicability of section 727(a)(8) or (9).")

Before deciding what, if any, amendments to propose to Rule 4004, the Subcommittee decided that it would be helpful to get a better idea of how courts are applying Rule 4004(c) and whether they are entering discharges for debtors who are not eligible for them under § 727(a)(8) or (9) or § 1328(f) because they believe the rule compels them to do so.[4] Discussion among Subcommittee members based on their personal experiences suggested that a lack of uniformity in courts' practices continues to exist, just as in 2007 when the Advisory Committee was considering the earlier amendments to Rule 4004. If the Advisory Committee agrees that a study would be useful, it could ask the FJC to gather information about courts' practices regarding the

[3] That sentence states, "No provision of this title providing for the raising of an issue by a party in interest shall be construed to preclude the court from, sua sponte, taking any action or making any determination necessary or appropriate to enforce or implement court orders or rules, or to prevent an abuse of process."

[4] Because Rule 4004(c) does not apply to chapter 13 cases, there is nothing in the rule that suggests that a court cannot act sua sponte to deny a discharge under § 1328(f). However, information recently brought to the Advisory Committee's attention shows that some courts, in the absence of a motion, nevertheless grant discharges to debtors who are ineligible under § 1328(f). *See* Suggestion 26-BK-3.

denial of discharge, including whether they act sua sponte when they are aware that a debtor received a discharge too recently in a prior case.

TAB 5

TAB 5A

MEMORANDUM

TO: ADVISORY COMMITTEE ON BANKRUPTCY RULES

FROM: FORMS SUBCOMMITTEE

SUBJECT: 24-BK-I – OFFICIAL FORM 101

DATE: MARCH 17, 2026

Mark A. Neal, Clerk of the Bankruptcy Court for the D. Md., submitted a suggestion, 24-BK-I, to modify the prompt for Question 4 in Part 1 on the Voluntary Petition for Individuals Filing for Bankruptcy (Official Form 101). Currently the question asks for "Your Employer Identification Number (EIN), if any." Mr. Neal notes that some pro se debtors are providing the employer identification number of their employers, not realizing that the question is attempting to elicit the EIN of the individual filing for bankruptcy if that individual is himself or herself an employer. Because multiple debtors may file who have the same employer and list that employer's EIN, the CM/ECF monitoring for repeat filings triggers a report erroneously suggesting that the debtor is not eligible because of prior filings.

At its meeting in September 2025 the Standing Committee approved for publication an amendment to the language of the prompt in Question 4 to add a new paragraph after the current language which states "Your Employer Identification Number (EIN), if any" which would read as follows:

EIN (Employer Identification Number) issued to you, if any.

Do NOT list the EIN of any separate legal entity such as your employer, a corporation, partnership, or LLC that is not filing this petition.

Committee Note

Question 4 has been amended to make it clear that only debtors who themselves have an employer identification number (EIN) should list it; they should not include the EIN of any entity not filing the petition.

No comments were submitted in response to the proposed amendment. Therefore, the Subcommittee recommends the amendment to the Advisory Committee for approval and submission to the Standing Committee for final approval.

Fill in this information to identify your case:

United States Bankruptcy Court for the:

_____ District of _____
(State)

Case number (*If known*): _____

Chapter you are filing under:
- ❑ Chapter 7
- ❑ Chapter 11
- ❑ Chapter 12
- ❑ Chapter 13

❑ Check if this is an amended filing

Official Form 101

Voluntary Petition for Individuals Filing for Bankruptcy 12/26

The bankruptcy forms use *you* and *Debtor 1* to refer to a debtor filing alone. A married couple may file a bankruptcy case together—called a *joint case*—and in joint cases, these forms use *you* to ask for information from both debtors. For example, if a form asks, "Do you own a car," the answer would be *yes* if either debtor owns a car. When information is needed about the spouses separately, the form uses *Debtor 1* and *Debtor 2* to distinguish between them. In joint cases, one of the spouses must report information as *Debtor 1* and the other as *Debtor 2*. The same person must be *Debtor 1* in all of the forms.

Be as complete and accurate as possible. If two married people are filing together, both are equally responsible for supplying correct information. If more space is needed, attach a separate sheet to this form. On the top of any additional pages, write your name and case number (if known). Answer every question.

Part 1: Identify Yourself

	About Debtor 1:	About Debtor 2 (Spouse Only in a Joint Case):
1. Your full name Write the name that is on your government-issued picture identification (for example, your driver's license or passport). Bring your picture identification to your meeting with the trustee.	_____ First name _____ Middle name _____ Last name _____ Suffix (Sr., Jr., II, III)	_____ First name _____ Middle name _____ Last name _____ Suffix (Sr., Jr., II, III)
2. All other names you have used in the last 8 years Include your married or maiden names and any assumed, trade names and *doing business as* names. Do NOT list the name of any separate legal entity such as a corporation, partnership, or LLC that is not filing this petition.	_____ First name _____ Middle name _____ Last name _____ First name _____ Middle name _____ Last name _____ Business name (if applicable) _____ Business name (if applicable)	_____ First name _____ Middle name _____ Last name _____ First name _____ Middle name _____ Last name _____ Business name (if applicable) _____ Business name (if applicable)
3. Only the last 4 digits of your Social Security number or federal Individual Taxpayer Identification number (ITIN)	xxx – xx – ____ ____ ____ ____ OR **9** xx – xx – ____ ____ ____ ____	xxx – xx – ____ ____ ____ ____ OR **9** xx – xx – ____ ____ ____ ____

	About Debtor 1:	About Debtor 2 (Spouse Only in a Joint Case):
4. EIN (Employer Identification Number) issued to you, if any. Do NOT list the EIN of any separate legal entity such as your employer, a corporation, partnership, or LLC that is not filing this petition.	__ __ – __ __ __ __ __ __ __ EIN __ __ – __ __ __ __ __ __ __ EIN	__ __ – __ __ __ __ __ __ __ EIN __ __ – __ __ __ __ __ __ __ EIN
5. Where you live	_____ Number Street _____ _____ City State ZIP Code _____ County **If your mailing address is different from the one above, fill it in here.** Note that the court will send any notices to you at this mailing address. _____ Number Street _____ P.O. Box _____ City State ZIP Code	**If Debtor 2 lives at a different address:** _____ Number Street _____ _____ City State ZIP Code _____ County **If Debtor 2's mailing address is different from yours, fill it in here.** Note that the court will send any notices to this mailing address. _____ Number Street _____ P.O. Box _____ City State ZIP Code
6. Why you are choosing *this district* to file for bankruptcy	*Check one:* ❑ Over the last 180 days before filing this petition, I have lived in this district longer than in any other district. ❑ I have another reason. Explain. (See 28 U.S.C. § 1408.) _____ _____ _____ _____	*Check one:* ❑ Over the last 180 days before filing this petition, I have lived in this district longer than in any other district. ❑ I have another reason. Explain. (See 28 U.S.C. § 1408.) _____ _____ _____ _____

Part 2: Tell the Court About Your Bankruptcy Case

7. The chapter of the Bankruptcy Code you are choosing to file under

Check one. (For a brief description of each, see *Notice Required by 11 U.S.C. § 342(b) for Individuals Filing for Bankruptcy* (Form 2010)). Also, go to the top of page 1 and check the appropriate box.

- ❑ Chapter 7
- ❑ Chapter 11
- ❑ Chapter 12
- ❑ Chapter 13

8. How you will pay the fee

- ❑ **I will pay the entire fee when I file my petition**. Please check with the clerk's office in your local court for more details about how you may pay. Typically, if you are paying the fee yourself, you may pay with cash, cashier's check, or money order. If your attorney is submitting your payment on your behalf, your attorney may pay with a credit card or check with a pre-printed address.
- ❑ **I need to pay the fee in installments**. If you choose this option, sign and attach the *Application for Individuals to Pay The Filing Fee in Installments* (Official Form 103A).
- ❑ **I request that my fee be waived** (You may request this option only if you are filing for Chapter 7. By law, a judge may, but is not required to, waive your fee, and may do so only if your income is less than 150% of the official poverty line that applies to your family size and you are unable to pay the fee in installments). If you choose this option, you must fill out the *Application to Have the Chapter 7 Filing Fee Waived* (Official Form 103B) and file it with your petition.

9. Have you filed for bankruptcy within the last 8 years?

- ❑ No
- ❑ Yes. District _____ When _____ Case number _____
  MM / DD / YYYY
  District _____ When _____ Case number _____
  MM / DD / YYYY
  District _____ When _____ Case number _____
  MM / DD / YYYY

10. Are any bankruptcy cases pending or being filed by a spouse who is not filing this case with you, or by a business partner, or by an affiliate?

- ❑ No
- ❑ Yes. Debtor _____ Relationship to you _____
  District _____ When _____ Case number, if known_____
  MM / DD / YYYY
  Debtor _____ Relationship to you _____
  District _____ When _____ Case number, if known_____
  MM / DD / YYYY

11. Do you rent your residence?

- ❑ No. Go to line 12.
- ❑ Yes. Has your landlord obtained an eviction judgment against you?
  - ❑ No. Go to line 12.
  - ❑ Yes. Fill out *Initial Statement About an Eviction Judgment Against You* (Form 101A) and file it as part of this bankruptcy petition.

Part 3: Report About Any Businesses You Own as a Sole Proprietor

12. Are you a sole proprietor of any full- or part-time business?

A sole proprietorship is a business you operate as an individual, and is not a separate legal entity such as a corporation, partnership, or LLC.

If you have more than one sole proprietorship, use a separate sheet and attach it to this petition.

- ❑ No. Go to Part 4.
- ❑ Yes. Name and location of business

_____
Name of business, if any

_____
Number Street

_____

_____ _____ _____
City State ZIP Code

Check the appropriate box to describe your business:

- ❑ Health Care Business (as defined in 11 U.S.C. § 101(27A))
- ❑ Single Asset Real Estate (as defined in 11 U.S.C. § 101(51B))
- ❑ Stockbroker (as defined in 11 U.S.C. § 101(53A))
- ❑ Commodity Broker (as defined in 11 U.S.C. § 101(6))
- ❑ None of the above

13. Are you filing under Chapter 11 of the Bankruptcy Code, and are you a *small business debtor*

For a definition of *small business debtor*, see 11 U.S.C. § 101(51D).

If you are filing under Chapter 11, the court must know whether you are a small business debtor so that it can set appropriate deadlines. If you indicate that you are a small business debtor, you must attach your most recent balance sheet, statement of operations, cash-flow statement, and federal income tax return or if any of these documents do not exist, follow the procedure in 11 U.S.C. § 1116(1)(B).

- ❑ No. I am not filing under Chapter 11.
- ❑ No. I am filing under Chapter 11, but I am NOT a small business debtor according to the definition in the Bankruptcy Code.
- ❑ Yes. I am filing under Chapter 11, I am a small business debtor according to the definition in the Bankruptcy Code, and I do not choose to proceed under Subchapter V of Chapter 11.
- ❑ Yes. I am filing under Chapter 11, I am a small business debtor according to the definition in the Bankruptcy Code, and I choose to proceed under Subchapter V of Chapter 11.

Part 4: Report if You Own or Have Any Hazardous Property or Any Property That Needs Immediate Attention

14. Do you own or have any property that poses or is alleged to pose a threat of imminent and identifiable hazard to public health or safety? Or do you own any property that needs immediate attention?

For example, do you own perishable goods, or livestock that must be fed, or a building that needs urgent repairs?

- ❑ No
- ❑ Yes. What is the hazard? _____

_____

If immediate attention is needed, why is it needed? _____

_____

Where is the property? _____
Number Street

_____

_____ _____ _____
City State ZIP Code

Part 5: Explain Your Efforts to Receive a Briefing About Credit Counseling

15. Tell the court whether you have received a briefing about credit counseling.

The law requires that you receive a briefing about credit counseling before you file for bankruptcy. You must truthfully check one of the following choices. If you cannot do so, you are not eligible to file.

If you file anyway, the court can dismiss your case, you will lose whatever filing fee you paid, and your creditors can begin collection activities again.

About Debtor 1:	About Debtor 2 (Spouse Only in a Joint Case):
You must check one:	*You must check one:*
❑ **I received a briefing from an approved credit counseling agency within the 180 days before I filed this bankruptcy petition, and I received a certificate of completion.** Attach a copy of the certificate and the payment plan, if any, that you developed with the agency.	❑ **I received a briefing from an approved credit counseling agency within the 180 days before I filed this bankruptcy petition, and I received a certificate of completion.** Attach a copy of the certificate and the payment plan, if any, that you developed with the agency.
❑ **I received a briefing from an approved credit counseling agency within the 180 days before I filed this bankruptcy petition, but I do not have a certificate of completion.** Within 14 days after you file this bankruptcy petition, you MUST file a copy of the certificate and payment plan, if any.	❑ **I received a briefing from an approved credit counseling agency within the 180 days before I filed this bankruptcy petition, but I do not have a certificate of completion.** Within 14 days after you file this bankruptcy petition, you MUST file a copy of the certificate and payment plan, if any.
❑ **I certify that I asked for credit counseling services from an approved agency, but was unable to obtain those services during the 7 days after I made my request, and exigent circumstances merit a 30-day temporary waiver of the requirement.** To ask for a 30-day temporary waiver of the requirement, attach a separate sheet explaining what efforts you made to obtain the briefing, why you were unable to obtain it before you filed for bankruptcy, and what exigent circumstances required you to file this case. Your case may be dismissed if the court is dissatisfied with your reasons for not receiving a briefing before you filed for bankruptcy. If the court is satisfied with your reasons, you must still receive a briefing within 30 days after you file. You must file a certificate from the approved agency, along with a copy of the payment plan you developed, if any. If you do not do so, your case may be dismissed. Any extension of the 30-day deadline is granted only for cause and is limited to a maximum of 15 days.	❑ **I certify that I asked for credit counseling services from an approved agency, but was unable to obtain those services during the 7 days after I made my request, and exigent circumstances merit a 30-day temporary waiver of the requirement.** To ask for a 30-day temporary waiver of the requirement, attach a separate sheet explaining what efforts you made to obtain the briefing, why you were unable to obtain it before you filed for bankruptcy, and what exigent circumstances required you to file this case. Your case may be dismissed if the court is dissatisfied with your reasons for not receiving a briefing before you filed for bankruptcy. If the court is satisfied with your reasons, you must still receive a briefing within 30 days after you file. You must file a certificate from the approved agency, along with a copy of the payment plan you developed, if any. If you do not do so, your case may be dismissed. Any extension of the 30-day deadline is granted only for cause and is limited to a maximum of 15 days.
❑ **I am not required to receive a briefing about credit counseling because of:** ❑ **Incapacity.** I have a mental illness or a mental deficiency that makes me incapable of realizing or making rational decisions about finances. ❑ **Disability.** My physical disability causes me to be unable to participate in a briefing in person, by phone, or through the internet, even after I reasonably tried to do so. ❑ **Active duty.** I am currently on active military duty in a military combat zone. If you believe you are not required to receive a briefing about credit counseling, you must file a motion for waiver of credit counseling with the court.	❑ **I am not required to receive a briefing about credit counseling because of:** ❑ **Incapacity.** I have a mental illness or a mental deficiency that makes me incapable of realizing or making rational decisions about finances. ❑ **Disability.** My physical disability causes me to be unable to participate in a briefing in person, by phone, or through the internet, even after I reasonably tried to do so. ❑ **Active duty.** I am currently on active military duty in a military combat zone. If you believe you are not required to receive a briefing about credit counseling, you must file a motion for waiver of credit counseling with the court.

Part 6: Answer These Questions for Reporting Purposes

16. What kind of debts do you have?

16a. **Are your debts primarily consumer debts?** *Consumer debts* are defined in 11 U.S.C. § 101(8) as "incurred by an individual primarily for a personal, family, or household purpose."

- ❑ No. Go to line 16b.
- ❑ Yes. Go to line 17.

16b. **Are your debts primarily business debts?** *Business debts* are debts that you incurred to obtain money for a business or investment or through the operation of the business or investment.

- ❑ No. Go to line 16c.
- ❑ Yes. Go to line 17.

16c. State the type of debts you owe that are not consumer debts or business debts.

_____

17. Are you filing under Chapter 7?

- ❑ No. I am not filing under Chapter 7. Go to line 18.
- ❑ Yes. I am filing under Chapter 7. Do you estimate that after any exempt property is excluded and administrative expenses are paid that funds will be available to distribute to unsecured creditors?
  - ❑ No
  - ❑ Yes

Do you estimate that after any exempt property is excluded and administrative expenses are paid that funds will be available for distribution to unsecured creditors?

18. How many creditors do you estimate that you owe?

- ❑ 1-49
- ❑ 50-99
- ❑ 100-199
- ❑ 200-999
- ❑ 1,000-5,000
- ❑ 5,001-10,000
- ❑ 10,001-25,000
- ❑ 25,001-50,000
- ❑ 50,001-100,000
- ❑ More than 100,000

19. How much do you estimate your assets to be worth?

- ❑ $0-$50,000
- ❑ $50,001-$100,000
- ❑ $100,001-$500,000
- ❑ $500,001-$1 million
- ❑ $1,000,001-$10 million
- ❑ $10,000,001-$50 million
- ❑ $50,000,001-$100 million
- ❑ $100,000,001-$500 million
- ❑ $500,000,001-$1 billion
- ❑ $1,000,000,001-$10 billion
- ❑ $10,000,000,001-$50 billion
- ❑ More than $50 billion

20. How much do you estimate your liabilities to be?

- ❑ $0-$50,000
- ❑ $50,001-$100,000
- ❑ $100,001-$500,000
- ❑ $500,001-$1 million
- ❑ $1,000,001-$10 million
- ❑ $10,000,001-$50 million
- ❑ $50,000,001-$100 million
- ❑ $100,000,001-$500 million
- ❑ $500,000,001-$1 billion
- ❑ $1,000,000,001-$10 billion
- ❑ $10,000,000,001-$50 billion
- ❑ More than $50 billion

Part 7: Sign Below

For you

I have examined this petition, and I declare under penalty of perjury that the information provided is true and correct.

If I have chosen to file under Chapter 7, I am aware that I may proceed, if eligible, under Chapter 7, 11,12, or 13 of title 11, United States Code. I understand the relief available under each chapter, and I choose to proceed under Chapter 7.

If no attorney represents me and I did not pay or agree to pay someone who is not an attorney to help me fill out this document, I have obtained and read the notice required by 11 U.S.C. § 342(b).

I request relief in accordance with the chapter of title 11, United States Code, specified in this petition.

I understand making a false statement, concealing property, or obtaining money or property by fraud in connection with a bankruptcy case can result in fines up to $250,000, or imprisonment for up to 20 years, or both. 18 U.S.C. §§ 152, 1341, 1519, and 3571.

✘ _____
Signature of Debtor 1

Executed on _____
MM / DD / YYYY

✘ _____
Signature of Debtor 2

Executed on _____
MM / DD / YYYY

For your attorney, if you are represented by one

If you are not represented by an attorney, you do not need to file this page.

I, the attorney for the debtor(s) named in this petition, declare that I have informed the debtor(s) about eligibility to proceed under Chapter 7, 11, 12, or 13 of title 11, United States Code, and have explained the relief available under each chapter for which the person is eligible. I also certify that I have delivered to the debtor(s) the notice required by 11 U.S.C. § 342(b) and, in a case in which § 707(b)(4)(D) applies, certify that I have no knowledge after an inquiry that the information in the schedules filed with the petition is incorrect.

✘ _____ Date _____
Signature of Attorney for Debtor MM / DD / YYYY

_____
Printed name

_____
Firm name

_____
Number Street

_____

_____ _____ _____
City State ZIP Code

Contact phone _____ Email address _____

_____ _____
Bar number State

For you if you are filing this bankruptcy without an attorney

If you are represented by an attorney, you do not need to file this page.

The law allows you, as an individual, to represent yourself in bankruptcy court, but **you should understand that many people find it extremely difficult to represent themselves successfully. Because bankruptcy has long-term financial and legal consequences, you are strongly urged to hire a qualified attorney.**

To be successful, you must correctly file and handle your bankruptcy case. The rules are very technical, and a mistake or inaction may affect your rights. For example, your case may be dismissed because you did not file a required document, pay a fee on time, attend a meeting or hearing, or cooperate with the court, case trustee, U.S. trustee, bankruptcy administrator, or audit firm if your case is selected for audit. If that happens, you could lose your right to file another case, or you may lose protections, including the benefit of the automatic stay.

You must list all your property and debts in the schedules that you are required to file with the court. Even if you plan to pay a particular debt outside of your bankruptcy, you must list that debt in your schedules. If you do not list a debt, the debt may not be discharged. If you do not list property or properly claim it as exempt, you may not be able to keep the property. The judge can also deny you a discharge of all your debts if you do something dishonest in your bankruptcy case, such as destroying or hiding property, falsifying records, or lying. Individual bankruptcy cases are randomly audited to determine if debtors have been accurate, truthful, and complete. **Bankruptcy fraud is a serious crime; you could be fined and imprisoned.**

If you decide to file without an attorney, the court expects you to follow the rules as if you had hired an attorney. The court will not treat you differently because you are filing for yourself. To be successful, you must be familiar with the United States Bankruptcy Code, the Federal Rules of Bankruptcy Procedure, and the local rules of the court in which your case is filed. You must also be familiar with any state exemption laws that apply.

Are you aware that filing for bankruptcy is a serious action with long-term financial and legal consequences?

- ❑ No
- ❑ Yes

Are you aware that bankruptcy fraud is a serious crime and that if your bankruptcy forms are inaccurate or incomplete, you could be fined or imprisoned?

- ❑ No
- ❑ Yes

Did you pay or agree to pay someone who is not an attorney to help you fill out your bankruptcy forms?

- ❑ No
- ❑ Yes. Name of Person_____.
  Attach *Bankruptcy Petition Preparer's Notice, Declaration, and Signature* (Official Form 119).

By signing here, I acknowledge that I understand the risks involved in filing without an attorney. I have read and understood this notice, and I am aware that filing a bankruptcy case without an attorney may cause me to lose my rights or property if I do not properly handle the case.

✘ _____	✘ _____
Signature of Debtor 1	Signature of Debtor 2
Date _____ MM / DD / YYYY	Date _____ MM / DD / YYYY
Contact phone _____	Contact phone _____
Cell phone _____	Cell phone _____
Email address _____	Email address _____

Committee Note

Question 4 has been amended to make it clear that only debtors who themselves have an employer identification number (EIN) should list it; they should not include the EIN of their employer or any other entity not filing the petition.

TAB 5B

MEMORANDUM

TO: ADVISORY COMMITTEE ON BANKRUPTCY RULES

FROM: FORMS SUBCOMMITTEE

SUBJECT: COMMENT ON PROPOSED AMENDMENT TO OFFICIAL FORM 106C

DATE: MARCH 10, 2026

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

Complicating the decision of how to respond to the suggestion was the fact that Form 106C—in response to a statement by the Supreme Court in *Schwab v. Reilly*, 560 U.S. 770 (2010)[1]—provides two options for claiming an exemption. The debtor can either list a specific dollar amount or can claim as exempt "100% of fair market value, up to any applicable statutory limit." If the latter option is chosen, there is no dollar amount that can be added.

The Advisory Committee resolved this problem by proposing an amendment to Form 106C to require the debtor to "[a]dd the dollar value of all entries [in Column C] with a specific amount." It also approved for publication the addition of a space on the form for the total value of the debtor's interest in property for which exemptions are claimed (in Column B).

The form was published last August, and one comment was filed in response. The National Association of Consumer Bankruptcy Attorneys ("NACBA") expressed concern about the wording of the directive to add the total value of the debtor's interest in property for which exemptions are claimed. It explained:

> The amendments add two entries for totals. One entry requires "all entries with a specific amount" from Column C. The other requires "all entries from column B". The difference in language could be read to imply that Column C permits entries without a specific amount, such as an entry saying the value of an asset is unknown, but Column B does not permit entries without a specific amount. Such an implication could support an argument that a debtor cannot list the value of an asset in Column B as unknown.

[1] The Court stated: "Where, as here, it is important to the debtor to exempt the full market value of the asset or the asset itself, our decision will encourage the debtor to declare the value of her claimed exemption in a manner that makes the scope of the exemption clear, for example, by listing the exempt value as 'full fair market value (FMV)' or '100% of FMV.'" 560 U.S. at 792-93.

Comment BK-2025-0002-0008 at 1.

NACBA argues that, although trustees sometimes press debtors to provide a specific dollar value of property for which an exemption is claimed, if that value is unknown, the debtor may state that. It cites as support *Taylor v. Freeland & Kronz*, 503 U.S. 638 (1992), which it says held that "a trustee who is uncertain about the value of an asset listed with a value of unknown has the ability to inquire about the underlying facts and object to an exemption if the trustee believes the value is above the applicable exemption limit."

NACBA urges the Advisory Committee to revise the form to "add the language 'with a specific amount' to the section calling for the total for Column B."

Recommendation

The suggestion that prompted the proposed amendments to Form 106C only sought a total value of the claimed exemptions, and not a total of the property values. The addition to the form of space for the latter was really an afterthought—for the sake of symmetry—with no significant Subcommittee discussion about it. During its meeting on February 26, the Subcommittee considered whether there is a need for a total of Column B. It decided that there is not, because trustees do not include that total in their final report and that figure has no significance in the bankruptcy case. **The Subcommittee therefore recommends that item 2.1 be deleted from the form as published and that, with that deletion and the renumbering of item 2.2, the amendment to Official Form 106C be recommended for final approval.**[2]

[2] NACBA's comment on the proposed amendments to Form !06C also said that the Advisory Committee might reconsider how the form implements the Supreme Court's suggestion in *Schwab.* The Subcommittee recommends not revisiting that issue.

Fill in this information to identify your case:

Debtor 1 _____
First Name Middle Name Last Name

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

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

Case number (If known) _____

❑ Check if this is an amended filing

Official Form 106C

Schedule C: The Property You Claim as Exempt

12/26

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

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

Part 1: Identify the Property You Claim as Exempt

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

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

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

2.1 **Add the dollar value of all entries with a specific amount from Column C, including any entries for pages you have attached.** $_____

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

Part 2: Additional Page

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

Committee Note

Part 1 of Official Form 106C is amended to add space for providing the total amount of column C—amount of the exemption claimed. In adding up the exemption amounts, the debtor should include only those exemptions claimed in specific dollar amounts.

TAB 5C

MEMORANDUM

TO: ADVISORY COMMITTEE ON BANKRUPTCY RULES

FROM: SUBCOMMITTEE ON FORMS

SUBJECT: SUGGESTION REGARDING OFFICIAL FORM 107 (STATEMENT OF FINANCIAL AFFAIRS)

DATE: MARCH 18, 2026

Bankruptcy attorney Stephen M. Dunne has submitted a suggestion (25-BK-K), proposing an amendment to the wording of an instruction for questions 4 and 5 on the Statement of Financial Affairs ("SOFA") for individuals. Currently the form states, "If you are filing a joint case and you have income that you receive together, list it only once under Debtor 1." Mr. Dunne suggests that the instruction be expanded to read:

> If you are filing a joint case, report each debtor's separate income in the appropriate column. For income that is jointly received (such as joint wages, business income, or jointly owned property), you may either (a) allocate it proportionally between Debtor 1 and Debtor 2, or (b) list the full amount under Debtor 1 and indicate in the description column that the income was jointly received. Do not omit joint income entirely.

Mr. Dunne says that the current instruction causes confusion and can lead to incomplete reporting, inconsistent practices, and increased risk of error or objection. It may erroneously appear that debtor 2 has no income or has failed to report it, and some lawyers fail to follow the instruction and list the joint income twice.

This instruction was added to the SOFA in 2015 when Form 107 was revised and renumbered as part of the Forms Modernization Project. It does not appear to have been a controversial addition. There was no discussion of this change at any Advisory Committee meeting or in comments submitted when the form was published. It was likely added to address an issue (how to report joint income) that the former SOFA did not address and to provide a uniform answer.

The Subcommittee discussed the suggestion at its meeting on February 26 and for several reasons recommends that the change suggested by Mr. Dunne not be proposed. First, the instruction has been on the form for 10 years, and Mr. Dunne is the first to suggest to the Advisory Committee that it is problematic. Second, rather than promoting uniformity, his instruction invites inconsistency in how joint income is reported. Third, if there is any uncertainty with the current form about whether joint filers have any joint income, they can be asked about it at the meeting of creditors. Finally, as a practical matter, there probably is not room on the form to add his lengthy instruction twice.

TAB 5D

MEMORANDUM

TO: ADVISORY COMMITTEE ON BANKRUPTCY RULES

FROM: FORMS SUBCOMMITTEE

SUBJECT: 25-BK-O – FORM 106C

DATE: MARCH 16, 2026

We received a suggestion from Judge Laurel Isicoff of the bankruptcy court in the S.D. Fla. with respect to question 3 of Part 1 of Form 106C. Florida, of course, has an unlimited homestead exemption. Therefore, whenever a debtor seeks to exempt his or her homestead, the debtor will generally check the box for "100% of fair market value, up to any applicable statutory limit" in Question 2 of Part 1 of the Schedule. However, even if the debtor puts in a dollar figure, under Florida law the debtor is claiming the full homestead as exempt (there are no partial homestead exemptions in Florida). Therefore, there is no basis for the trustee to object to a homestead exemption in Florida based on what is specified in Question 2 of Part 1 of the Form.

Section 522(p)(1) provides that if the debtor elects state exemptions the debtor may not exempt any amount of interest that was acquired by the debtor during the 1,215-day period preceding the filing date that exceeds $214,000. Question 3 of Part 1 of the Schedule is intended to provide information relating to this limitation, which could serve as a basis for the trustee to object to the homestead exemption.

Question 3 currently reads as follows:

3. **Are you claiming a homestead exemption of more than $214,000?**

☐ No

☐ Yes. Did you acquire the property covered by the exemption within 1,215 days before you filed this case?

☐ No

☐ Yes

Judge Isicoff notes that in Florida debtors skip Question 3 entirely, because all Florida debtors are claiming the entire amount of their homestead as exempt, and will never admit to the value of their equity in the homestead. Because they skip the question, they never answer the second question below the heading, which is answered only if the debtor checks "yes" for the first question: "Did you acquire the property covered by the exemption within 1,215 days before you filed this case?" She suggested reversing the two questions so that the timing question comes first. That way it will always be answered and the trustee will be on notice of the need to object to the homestead exemption if § 522(p)(1) is implicated.

After discussing Judge Isicoff's suggestion, the Subcommittee preliminarily expressed the view that the key information sought by the question is not the dollar amount of the homestead exemption (which would be unlimited in Florida, for example, and actually currently exceeds $214,000 in California) but whether the property was acquired during the period described in § 522(p)(1). Therefore, it might be preferable simply to eliminate the question about the value of the homestead property and modify question 3 to read as follows:

3. **If you are claiming a homestead exemption, did you acquire the property covered by the exemption within 1,215 days before you filed this case?**

☐ No
☐ Yes

If the debtor checks the "Yes" box, the trustee will be prepared to file an objection if the trustee has any concern about the value of the exempt homestead.

A Committee Note might read as follows:

Committee Note

Question 3 of Part 1 of the Form is amended to ask all debtors claiming a homestead exemption whether they acquired their interest in the homestead within 1,215 days of filing, a question that may implicate the limit on homestead exemptions imposed by § 522(p)(1) of the Code. It leaves to the trustee to object to the claimed amount if the limit applies.

Before making a recommendation to the Advisory Committee, the Subcommittee wishes to gather more information from the trustees and from the Executive Office for U.S. Trustees as to the potential impact of such a change. Therefore, the Subcommittee has deferred consideration of the suggestion until its fall meeting.

TAB 6

TAB 6A

MEMORANDUM

DATE: March 18, 2026

TO: Advisory Committee on Bankruptcy Rules

FROM: Catherine T. Struve

RE: Proposed draft amendments relating to self-represented litigants

Following in the agenda book are proposed draft amendments to Bankruptcy Rules 5005, 8011, 9006, and 9036. These amendments would implement changes developed by the project on self-represented litigants' filing and service. If approved for publication at the Advisory Committee's spring 2026 meeting, these amendments would form part of a package of proposed amendments (to the Appellate, Bankruptcy, Civil, and Criminal Rules) presented for approval for publication in summer 2026. This memo highlights matters for the Advisory Committee to consider as it determines whether to propose the amendments for publication.

To ground the Advisory Committee's review of the proposed amendments, included are (1) the proposed amendments to the four Bankruptcy Rules (the "Current Proposal")[1]; (2) a "Comparison to Subcommittee Version" showing how the Current Proposal differs from the version approved by the Bankruptcy Rules Committee's Technology, Privacy, and Public Access Subcommittee in February 2026;[2] and (3) a comparison chart of the proposed amended rule language (in clean form) across the Bankruptcy, Appellate, Civil, and Criminal rule sets.

Part I of this memo recounts that the provision on electronic filing access for self-represented litigants has been restructured to accord with guidance provided at the Criminal Rules Committee's fall 2025 meeting. Part II explains the Subcommittee's decision – reflected in the Current Proposal – to apply the new filing provision in the Bankruptcy Rules to self-represented "individuals." Part III collects other developments since the fall. And Part IV notes remaining variances in wording across the rule sets in the overall package.

1 As is the Advisory Committee's custom, proposed new rule text in the Current Proposal is colored red.

2 Like the Current Proposal, the Comparison to Subcommittee Version uses red text to denote proposed new rule text – except that the Comparison to Subcommittee Version uses blue text to show changes made subsequent to the Subcommittee's February 2026 review.

I. New structure of the e-filing provision

The new structure for the proposed e-filing provision grows out of discussions at the Criminal Rules Committee's fall meeting.

As a point of comparison, the sketch set out in the fall 2025 agenda books used a four-part structure for the provision on e-filing by self-represented litigants. Part (i) flipped the default principle (by providing that a self-represented litigant may "use the court's electronic-filing system to file papers and receive notice of activity in the case, unless a court order or by local rule prohibits the party from doing so"). Part (ii) provided that any local provision (extending beyond a particular litigant) that prohibits self-represented litigants from using the e-filing system "must include reasonable exceptions or must permit the use of another electronic method for filing papers and for receiving electronic notice of activity in the case." Part (iii) stated that "[a] court may set reasonable conditions and restrictions on unrepresented parties' access to the court's electronic-filing system." Part (iv) stated that the court may deny a person access to the e-filing system "and may revoke a person's previously granted access for not complying with the conditions authorized in (iii)."

That structure had a number of features that participants in prior discussions found valuable. But, on the other hand, some participants questioned the structure and wondered why parts (ii) and (iii) were separate, given that they are really two sides of the same coin. Here is the new structure (shown for illustrative purposes in a clean version that would become part of Bankruptcy Rule 5005(a)(3)):

> **(3) Electronic Filing and Signing.**
>
> * * *
>
> **(B) By an Unrepresented Individual—When Allowed or Required.**
>
> **(i) In General.** An unrepresented individual may use the court's electronic-filing system to file papers and receive notice of activity in the case, unless a court order or local rule prohibits the individual from doing so. An unrepresented individual may be required to file electronically only by order in a case or by a local rule that includes reasonable exceptions.
>
> **(ii) Conditions and Restrictions on Access.** A court may set and enforce reasonable conditions and restrictions on unrepresented individuals' access to the court's electronic-filing system (including by denying or revoking access for a particular unrepresented individual). But the court may

not prohibit all unrepresented individuals from using the system unless that prohibition includes reasonable exceptions or the court permits the use of another electronic method for filing papers and receiving electronic notice of activity in the case.

II. Application of e-filing provision to self-represented "individuals"

As shown in Part I, the self-represented litigant e-filing provisions proposed for Bankruptcy Rules 5005 and 8011 refer to access for unrepresented "individuals." Current Rules 5005 and 8011 also use the term "individual." In its February meeting, the Subcommittee considered and rejected the term "unrepresented party," because it is concerned that that term would erroneously suggest to readers that a nonhuman litigant could represent itself. To avoid that possibility, the Subcommittee determined that the Bankruptcy Rules should continue to use "individual," which is the term those rules use to refer to a human being.

By contrast, the draft rules that will be presented to the other three Advisory Committees will use "party" rather than "individual." The reason for using the term "party" in those provisions is that the amended SRL e-filing provisions flip the default presumption from one of non-access to one of access to the court's electronic-filing system. Once the presumption is inverted to say that self-represented litigants may e-file unless barred by order or local rule, participants in the SRL project have advocated using "party" so that lay people who are not parties to the case do not cite the rule as granting them access. We have heard from participants that, from the clerk's perspective, it's important that the rule draw that boundary. (And in the Criminal Rules context there is an additional reason to use "party" – that is, because that is the term used in current Criminal Rule 49(b)(3)(B), which deals only with electronic filing by a "party not represented by an attorney.")

As Professor Gibson succinctly put it, the choice between "party" and "individual" depends on a judgment call about "which is more likely (or more harmful): [1] having someone read 'unrepresented party' to mean any party (whether a real person or not) can appear without an attorney, or [2] having someone read 'unrepresented individual' to mean you don't need to be connected to a case to file a paper in it." Assuming that the Civil, Criminal, and Appellate rules will use "party" and the Bankruptcy rules will use "individual," the Standing Committee will need to consider whether the variance is justified. The variance may be justified by features specific to bankruptcy practice – that is, the number of artificial entities (e.g., small creditors) that may participate in a bankruptcy proceeding and might wish to appear without a lawyer. Meanwhile, the other three sets of rules already use words (to denote unrepresented litigants) that encompass artificial entities – they say either "person" (Civil and Appellate) or "party" (Criminal) – and we haven't heard of those terms giving rise to any erroneous assumptions that artificial entities can appear without a lawyer; so the Subcommittee's concern may not be as salient for the other three sets of rules.

III. Other developments since fall 2025

This section notes a few other issues and points out a few features of the Current Proposal. Parts III.A and III.B highlight two changes – made since fall 2025 – that were implemented in the draft that the Subcommittee already reviewed: the deletion of the provision addressing service of papers not filed (Part III.A) and a revision to the provision addressing service of sealed filings (Part III.B).

Part III.C notes that – after the Subcommittee meeting – changes were made to the provision addressing when service by the notice of case activity is complete. Part III.D notes an additional post-meeting change – that is, the substitution of "individual" or "entity" (as appropriate) for "person." Part III.E flags the late-arriving addition of a conforming amendment to Rule 9006(f)'s "three-day rule." Part III.F notes a few other changes made since the Subcommittee's meeting. The changes discussed in Parts III.C through III.F are, of course, reflected in the Current Proposal, but also can be readily spotted by scanning the Comparison to Subcommittee Version.

Finally, Part III.G notes a late-arriving question regarding the choice of wording for the provisions on service by electronic means.

A. Deletion of provision addressing service of papers not filed

The Rules currently don't specifically address manners of service for papers that aren't filed. Because some project participants had expressed interest in separately treating that topic, the fall 2025 sketch included a proposed rule on "Serving Papers That Are Not Filed" that specified that the applicable rule on service by means other than the notice of case activity "governs service of a paper that is not filed." There's a good argument, though, that such a provision is redundant: The rules governing method of service don't confine themselves to service of *filed* papers, except of course that the provision for service via the court's e-filing system will not be an option for non-filed papers.

This proposed provision did not attract support among other project participants. At the Criminal Rules Committee's fall 2025 meeting, it was suggested that we should ask the Clerk liaisons whether they saw a need for such a provision. None of the four Clerk liaisons voiced support for including such a provision. In addition, Brandy Lonchena (the Clerk liaison to the Criminal Rules Committee) consulted some other District Clerks about this question and reported that they, too, saw no reason to include such a provision. Accordingly, we have deleted the "service of papers not filed" provision from the Current Proposal.

B. Revision to provision on service of sealed filings

As the Committee knows, the goal of the service component of the project is to relieve self-represented litigants who file in paper from having to serve in paper when the recipient is

already receiving the electronic notice of case activity. As shown in the spring 2025 draft of Bankruptcy Rule 8011(c)(1), the service-related proposal provided that the notice of case activity constituted service on anyone registered to receive notices of case activity, but also stated that "a court may provide by local rule that if a paper is filed under seal, it must be served by other means."[3]

This winter, we focused on the fact that, in fall 2025, a number of federal courts "implemented new procedures to prevent sealed filings from being accessed or viewed electronically in CM/ECF."[4] The reporters and Clerk liaisons discussed whether the requirement of service of sealed documents by other means should be part of the national rule rather than being left up to local discretion. Participants concluded that a national rule requiring sealed filings to be served by other means was unnecessary because court practices for handling and serving sealed documents may continue to evolve. The group favored preserving flexibility by leaving the decision to local rules or orders rather than imposing a uniform national requirement.

Accordingly, we retained the provision for local control. To accord further flexibility to courts, we expanded that provision by adding "order or," thus: "a court may provide by order or local rule that if a paper is filed under seal, it must be served by other means."[5]

C. Provision on when service by notice of case activity is complete

The fall 2025 sketch essentially said that service by means of the notice of case activity is complete as of the notice's date ("A notice of case activity sent to a person registered to receive it through the court's electronic-filing system constitutes service on that person as of the notice's date."). This provision was designed to protect litigants whose deadlines run *from* the date of service, by ensuring that if there's a time lag in the courthouse (in scanning a paper filing and uploading it into CM/ECF) then that time lag will occur *before* the date of service. (Courts are pretty prompt in scanning and uploading; but still we have heard of one to two day delays between receipt and upload.)

But since the time of the Subcommittee's February meeting, we focused on the fact that the rules contain a number of provisions that require a litigant to *serve* an item *by* a certain date –

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3 Bankruptcy Rule 9036(c)(1) also included such a provision, but phrased slightly differently because that rule encompasses both notice and service.

4 https://www.gand.uscourts.gov/sites/gand/files/general-ordes/2025-09-24%20Standing_Order_25-02-Access_and_Management_of_Sealed_Documents-Revised.pdf . See also https://www.wiwd.uscourts.gov/sites/default/files/Sealed%20Documents_Electronic%20Access%20and%20Service.pdf .

5 Proposed Bankruptcy Rule 9036(c)(1)(B) likewise provides: "a court may provide by order or local rule that if a document is filed under seal, neither service nor notice occurs under this paragraph (c)(1)."

and in a close case, the fall 2025 draft might lead a court to conclude that service was untimely, if a self-represented litigant were to get their filing into the court's hands on the last day of the period but the court didn't upload it until a later date.

Accordingly, we modified the proposed provisions that address when service by means of the notice of case activity is complete to read as follows: "For any service deadlines, service by a notice of case activity is complete as of the date of filing. For any deadlines that run from the date of service, service [by a notice of case activity][6] is complete as of the notice's date." Variants of this language are now in proposed Bankruptcy Rules 9036(d) and 8011(c)(3), Appellate Rule 25(c)(4), Civil Rule 5(b)(2), and Criminal Rule 49(a)(3).[7] We have also deleted the words "as of the notice's date" from the provisions in Bankruptcy Rules 9036(c)(1) and 8011(c)(1), Appellate Rule 25(c)(1), Civil Rule 5(b)(2), and Criminal Rule 49(a)(3) stating that the notice of case activity constitutes service on persons registered to receive such notices.

D. Substituting "individual" or "entity" for "person"

Professor Gibson circulated to the Subcommittee a post-meeting revised draft of the proposals. In that email circulation, Professor Gibson explained that she had realized "that 'person' (as defined in sec. 101 of the Code) is never correct in these rules. It is always either over- or under-inclusive. If the reference is to a real, live human being, it should be 'individual.' ('Person' as defined includes partnerships and corporations.) And if the reference is to all types of parties, it should say 'entity,' because the definition of 'person' excludes governmental units and U.S. trustees."[8] Based on the email discussion that ensued, changes have been made to the proposed Bankruptcy Rules provisions to eliminate the use of "person."

Here are some notes about the provisions in which these changes have been made:

- The draft e-service provisions previously stated that "[a] notice of case activity sent to a person registered to receive it through the court's electronic-filing system" constitutes

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6 This bracketed language was not in the version approved by the Criminal Rules Committee's subcommittee – which originated this phrasing – but the bracketed language may be desirable for clarity, to flag that the sentence addresses completeness only for purposes of service by the notice of case activity, and not also for purposes of service by other means.

7 The language quoted in the text is used in proposed Rule 8011(c)(3). Proposed Rule 9036(d)(1) reads slightly differently because it deals with both service and notice: "For any notice or service deadlines, notice or service by a notice of case activity is complete as of the date of filing. For any deadlines that run from the date of notice or service, notice or service [by a notice of case activity] is complete as of the date of the notice of case activity."

8 As Professor Gibson noted, Bankruptcy Rule 9001(a) provides: "The definitions of words and phrases in §§ 101, 902, 1101, and 1502 and the rules of construction in § 102 apply in these rules."

service on that person.[9] The updated draft e-service provisions could use "individual" so long as the Advisory Committee is sure that only human beings currently can and will in future be registered users of CM/ECF and any future court e-filing systems. Or, if it's possible that now or in the future a nonhuman entity could register as a CM/ECF user, the Advisory Committee might consider using "entity" instead. As a basis for discussion, the Current Proposal shows "individual" and "entity" as bracketed options in proposed Rules 8011(c)(1) and 9036(c)(1).[10]

- The two e-signature provisions in existing Rules 5005(a)(3)(C) and 8011(e)(1) use "person" to denote an actor who signs an electronic filing ("A filing made through a person's electronic-filing account and authorized by that person –together with that

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9 The existing rules instead refer to "registered users." See Rule 8011(c)(2) ("Electronic service may be made by: (A) sending a document to a registered user by filing it with the court's electronic-filing system …."); and Rule 9036(b)(1) ("The clerk may send notice to or serve a registered user by filing the notice or document with the court's electronic-filing system."). That concise wording does not work for the proposed amended rules because it would create ambiguity as to the meaning of "registered user." Currently there appears to be only one intended meaning – "registered user" presumably refers to "the court's electronic-filing system." But the proposed amendments are also designed to account for service by means of courts' electronic-noticing programs (whereby non-CM/ECF-users sign up for electronic noticing from the court). So if we said "registered user" in the amended rules, uncertainty would arise as to what kind of "registered user" we meant – only registered users of CM/ECF, or also registered users of a court-based e-noticing system? We wish to encompass both of those types of registered users, and the phrasing "registered to receive it through the court's electronic-filing system" better accomplishes that.

10 In the course of these discussions, the question arose whether these provisions should refer (in the case of service on represented parties) to service on the lawyer or service on the represented party.

That question is explicitly answered for purposes of Rule 8011 by Rule 8011(b) ("Service on a party represented by counsel must be made on the party's counsel."). The provision should refer to service on the individual (or entity) that is the registered user; when a party is represented, that will be the attorney, and that's explicitly contemplated by Rule 8011(b).

The question is also (in my view) implicitly answered by current practice under existing Rules 9036(b)(1) ("The clerk may send notice to or serve a registered user by filing the notice or document with the court's electronic-filing system.") and 9036(c) ("An entity may send notice or serve a document in the same manner that the clerk does under (b), excluding (b)(2)(A) and (B)."). I presume that those provisions are understood to mean that one serves represented parties by filing the document in CM/ECF, which generates the NEF that goes to the registered user (the registered user being the attorney for the represented party). There's no express cognate in Rule 9036 to Rule 8011(b), but the rule seems to me to be founded on the same assumption. So in that rule, as well, it seems to me correct to refer to the individual or entity that is registered to receive the NEF through the court's e-filing system.

person's name on a signature block – constitutes the person's signature."). The Current Proposal changes "person" to "individual" in both rules.

- Current Rule 8011(d)(1)(B) uses "person" to refer to an actor who makes service; the Current Proposal changes that to "individual."

- Current Rules 8011(e)(1) and (2) use "person" twice – first to refer to including the electronic signature of a "person" filing electronically, and second to note the possibility that this "person" may be represented by counsel. The Current Proposal changes the first use of "person" to "individual" and the second use of "person" to "entity."

- The Current Proposal also changes "person" to "entity" in Rules 5005(c)(1) and (2), 8011(a)(2)(B), 8011(c)(2)(D), 8011(d)(1)(A), 8011(d)(1)(B)(ii) & (iii), and 9036(c)(2).

E. Conforming amendment to Rule 9006

In preparing the package of proposed amendments, I realized that a conforming amendment should be made to the "three-day rule" in Bankruptcy Rule 9006(f). This is because the proposed amendments will renumber current Civil Rule 5(b)(2) as 5(b)(3), and so the cross-reference in Bankruptcy Rule 9006(f) must be updated. That change is included in the Current Proposal.

F. Other changes made since the Subcommittee's February meeting

As you can see from the Comparison to Subcommittee Version, there are a few other aspects of the current draft that were not reviewed by the Subcommittee at its February meeting:

- Based on feedback from the style consultants, stylistic revisions have been made to the e-filing provisions in 5005(a)(3)(B)(ii) and 8011(a)(2)(B)(ii) and to proposed Rules 8011(c)(1), 8011(c)(3), 8011(c)(4), and 9036(c)(1).

- The phrase "through the court's electronic-filing system" has been inserted in Rule 8011(b).

    - In the proposal that went to the Subcommittee, proposed Rule 8011(b) read: "(b) Service of All Documents Required. Unless a rule requires service by the clerk or the document will be served under (c)(1), a party must, at or before the time of the filing of a document, serve it on the other parties to the appeal. Service on a party represented by counsel must be made on the party's counsel."

    - The revision inserts "through the court's electronic-filing system" before "under (c)(1)". This specification seems advisable now that Rule 8011(c)(1) contemplates locally-required "other means" for serving sealed filings.

- The Committee Notes to Rule 5005 and to Rule 8011(a)(2)(C) have been revised so that their structure more closely tracks that of the revised rule text.

    - In addition, these Committee Notes include a bracketed sentence concerning the permissibility of a local provision requiring unrepresented parties to obtain court permission to use the court's e-filing system. This language was included in the draft based on a suggestion from a member of the Criminal Rules Committee. The bracketed statement is: "For example, local provisions that require unrepresented individuals who seek to use the court's electronic-filing system to obtain permission from the judge to whom the case is assigned would count as including reasonable exceptions, so long as such permission is not unreasonably withheld in practice." On one hand, including this language would recognize existing practices in more than half of the federal courts of appeals and district courts.[11] On the other hand, because it would be challenging for an unrepresented party to demonstrate that a court unreasonably withholds permission in practice, one participant has raised a concern that this Note language might seem to bless local provisions that effectively deny e-filing to unrepresented parties in general.

G. Question regarding phrasing of provisions on service by electronic means

The proposed rules, like the existing rules, include provisions addressing what happens if the sender learns that electronic service did not reach the intended recipient. For example, current Rule 8011(c)(3) provides that "[s]ervice by electronic means is complete on filing or sending, unless the person making service receives notice that the document was not received by the person served." By contrast, the parallel provisions in current Civil Rule 5(b)(2)(E) and Criminal Rule 49(a)(3) use "learns" instead of "receives notice."[12] I would have thought that some readers might think "learns" is actually broader than "receives notice" (given the formal sound of the latter), which is why I initially thought it more cautious to use "learns." Thus, "learns" was the term that appeared in the draft amendments to Rules 8011 and 9036 reviewed by the Subcommittee.

But after the Subcommittee met, in the course of researching another matter, I found this passage in the June 2017 Standing Committee minutes:

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11 See Tim Reagan, United States District Courts' Local Rules and Procedures on Electronic Filing by Self-Represented Litigants (FJC 2025) at 1 (reporting that 54 federal districts "permit self-represented litigants to request permission to use the electronic filing system"); Tim Reagan, Carly Giffin, and Roy Germano, Federal Courts' Electronic Filing by Pro Se Litigants (FJC 2025) at 6-7 (reporting that seven courts of appeals "allow [pro se litigants to register as CM/ECF users] with individual permission").

12 Current Appellate Rule 25(c)(4) uses "is notified."

> The proposed amendments to the Bankruptcy Rules regarding electronic filing and service are not identical to the other rule sets' parallel provisions. Beyond bankruptcy-specific language derived from the Bankruptcy Code – e.g., use of the term "individual" rather than "person," and "entity" to describe a litigant represented by counsel – the amendments phrase their incomplete-service provisions differently. Instead of deeming electronic service complete unless the sender or filer "learns" or "is notified" that the paper was not received, the Bankruptcy Rules use the phrase "receives notice" to prevent litigants from "purposely ignor[ing] notice" to avoid "learning . . . that the document was not received." Because these linguistic disparities have existed since the various rule sets were adopted, the reporters agreed the provisions did not need to be reconciled."

Before reading that passage, I had not realized that there was a substantive reason for the "receives notice" language used in current Bankruptcy Rules 8011(c)(3) and 9036(d)(2) (which differs from the "learns" language currently used in other sets of rules). The distinction is a rather subtle one to my eye, and as noted above, I think there's actually a good argument that "learns" may be the broader term. But if the Committee wishes to preserve the existing "receives notice" language in the amendments going forward, then I assume it would want to use "receives notice that it did not reach" instead of "learns that it did not reach" in proposed Rules 8011(c)(1)(A), 8011(c)(2)(D), 9036(c)(1)(A), and 9036(c)(2) (with corresponding changes to the Committee Notes). To highlight this choice for the Committee, I show "learns" and "receives notice" as bracketed alternatives in the Current Proposal.

IV. Remaining variances across the rule sets in the package

We are proposing for publication possible amendments to Appellate Rule 25, Bankruptcy Rules 5005, 8011, 9006, and 9036, Civil Rules 5 and 6, and Criminal Rules 45 and 49.[13] As you can see from the comparison chart that follows this memo, we have tried to maintain parallel language across the proposals. But some variations have emerged as the committees have considered the proposals. In inter-committee projects like this one, we always prefer to use parallel language whenever possible; but the Standing Committee can be willing to approve deviations from parallel language where a particular rule set's needs justify those deviations. Below is a summary of the variances that have emerged and the reasons for them.

- Self-represented litigant ("SRL") provisions generally: "unrepresented" versus "self-represented"
    - The Bankruptcy, Civil, and Appellate Rules will use the term "unrepresented" to describe SRLs, whereas the Criminal Rule will use "self-represented." Though

13 The proposed amendments to Bankruptcy Rule 9006, Civil Rule 6, and Criminal Rule 45 merely update cross-references in the "three-day rules" in those rules; see Part III.E above.

the latter is preferred by many project participants, implementing that preference is not practicable in the Bankruptcy, Civil, and Appellate Rules because too many existing rules in those sets would have to be amended correspondingly.

  - This difference seems warranted by differences between the rules sets (that is, that the current Criminal Rules use the term "unrepresented" only in Rule 49), so my working assumption is that it will be fine with the Standing Committee for Criminal to take a different approach than the other Advisory Committees. Notably, the proposed amendments to Criminal Rule 17 use the term "self-represented," and the public comment on the Rule 17 proposal does not seem to have taken issue with the use of that phrase as a matter of terminology.

- SRL e-filing: "individual" versus "party"

  - To denote the type of SRL who is encompassed in the new default principle of access to the court's e-filing system, the Bankruptcy Rules Committee's Technology Subcommittee has decided that Bankruptcy Rules 5005 and 8011 should use "individual." By contrast, the proposed Appellate, Civil, and Criminal Rules use "party." See Part II above.

- SRL e-filing: "in the case" versus "in the party's case"

  - Proposed Bankruptcy Rules 5005(a)(3)(B)(i) and 8011(a)(2)(C)(i) refer to "receiv[ing] notice of activity in the case," while proposed Appellate Rule 25(a)(2)(C)(i), Civil Rule 5(d)(2)(B)(i), and Criminal Rule 49(b)(2)(B)(i) refer to "receiv[ing] notice of activity in the party's case." The latter three rules specify "in the party's case" because we have heard from clerk participants how important it is to make clear that the default principle of access to e-filing should extend only to the case in which the SRL is a party, and not to other cases. But the Bankruptcy Rules will say, simply, "in the case" – because in the bankruptcy context, there is a concern that saying "in the individual's case" would suggest that the denoted individual must always be the debtor, and that's not true, because the rule is designed to extend to self-represented human *creditors* as well.

- SRL e-filing: requirements to e-file

  - This variance is carried forward from the existing rules. Unlike the other SRL e-filing default rules, proposed Criminal Rule 49(b)(2)(B)(i) (like existing Criminal Rule 49(b)(3)(B)) contains no provision about the circumstances under which a SRL can be required to e-file, because the Criminal Rules Committee has made a judgment call that the Criminal Rule shouldn't authorize a court to require a SRL to e-file.

- E-filing and signatures:

    - Currently, all five relevant rules contain (with immaterial variations) the following provision, added in 2018: "A filing made through a person's electronic-filing account and authorized by that person, together with that person's name on a signature block, constitutes the person's signature." See, e.g., Appellate Rule 25(a)(2)(B)(iii).

    - As noted in Part III.D, the proposed amendments to the Bankruptcy Rules change their signature provisions to use "individual" instead of "person," because – to denote humans – the Bankruptcy Rules use the term "individual."

    - The Bankruptcy Code's definitions are not relevant to the non-bankruptcy rule sets, and "person" has been used in all the signature rules for nearly eight years without causing any perceptible problem, so no change to the non-bankruptcy rules' signature provisions is proposed for the other three sets of rules.

- Possible FRAP provision concerning nonparties permitted to e-file in the court below:

    - The Appellate Rules draft includes a sketch of a proposed Rule 25(a)(2)(C)(iii), which would broaden access to the court of appeals' e-filing system for a self-represented nonparty (e.g., an academic submitting an amicus brief) who was permitted to file electronically in the district court.

    - No similar provision is proposed for Bankruptcy Rule 8011(a)(2)(C) (which governs appeals from a bankruptcy court to a district court or BAP). That's because none is needed: Given Bankruptcy's decision to use "individual" instead of "party" to describe the self-represented litigants to which the e-filing provision applies, a human nonparty without a lawyer is already encompassed in the Bankruptcy SRL e-filing provisions.

- "Documents" versus "papers" (this one is not a substantive variation, but is an intentional one):

    - Bankruptcy Rule 5005, Civil Rule 5, Criminal Rule 49, and (in the main) Appellate Rule 25 use the word "paper," while Bankruptcy Rules 8011 and 9036 use the word "document." On the theory that internal consistency within a rule may be more valuable than consistency across rules, the proposals use "paper" in the amendments to Bankruptcy Rule 5005, Civil Rule 5, Criminal Rule 49, and Appellate Rule 25, but use "document" in the amendments to Bankruptcy Rules 8011 and 9036.

Rule 5005. Filing Papers and Sending Copies to the United States Trustee

(a) Filing Papers.

* * *

(3) Electronic Filing and Signing.

(A) By a Represented Entity--Generally Required; Exceptions. An entity represented by an attorney must file electronically, unless nonelectronic filing is allowed by the court for cause or is allowed or required by local rule.

(B) By an Unrepresented Individual—When Allowed or Required.

(i) In General. An unrepresented individual ~~not represented by an attorney: (i)~~ may ~~file electronically only if allowed by~~ use the court's electronic-filing system to file papers and receive notice of activity in the case, unless a court order or local rule~~; and~~ prohibits the individual from doing so. An unrepresented individual ~~(ii)~~ may be required to file electronically only by ~~court~~ order in a case~~,~~ or by a local rule that includes reasonable exceptions.

(ii) Conditions and Restrictions on Access. A court may set and enforce reasonable conditions and restrictions on unrepresented individuals' access to the court's electronic-

filing system (including by denying or revoking access for a particular unrepresented individual). But the court may not prohibit all unrepresented individuals from using the system unless that prohibition includes reasonable exceptions or the court permits the use of another electronic method for filing papers and receiving electronic notice of activity in the case.

(C) Signing. A filing made through ~~a person's~~ an individual's electronic-filing account and authorized by that ~~person~~ individual, together with the ~~person's~~ individual's name on a signature block, constitutes the ~~person's~~ individual's signature.

(D) Same as a Written Paper. A paper filed electronically is a written paper for purposes of these rules, the Federal Rules of Civil Procedure made applicable by these rules, and § 107.

(b) Sending Copies to the United States Trustee.

(1) Papers Sent Electronically. All papers required to be sent to the United States trustee may be sent by using the court's electronic-filing system in accordance with Rule 9036, unless a court order or local rule provides otherwise.

(2) Papers Not Sent Electronically. If an entity other than the clerk sends a paper to the United States trustee without using the court's electronic-filing system, the entity must promptly file a statement identifying the

paper and stating the manner by which and the date it was sent. The clerk need not send a copy of a paper to a United States trustee who requests in writing that it not be sent.

(c) When a Paper Is Erroneously Filed or Delivered.

(1) Paper Intended for the Clerk. If a paper intended to be filed with the clerk is erroneously delivered to ~~a person~~ an entity listed below, that ~~person~~ entity must note on it the date of receipt and promptly send it to the clerk:

- the United States trustee;
- the trustee;
- the trustee's attorney;
- a bankruptcy judge;
- a district judge;
- the clerk of the bankruptcy appellate panel; or
- the clerk of the district court.

(2) Paper Intended for the United States Trustee. If a paper intended for the United States trustee is erroneously delivered to the clerk or to another ~~person~~ entity listed in (1), the clerk or that ~~person~~ entity must note on it the date of receipt and promptly send it to the United States trustee.

(3) Applicable Filing Date. In the interests of justice, the court may order that the original receipt date shown on a paper erroneously delivered under (1) or (2) be deemed the date it was filed with the clerk or sent to the United States trustee.

Committee Note

Rule 5005(a)(3)(B) is amended to address electronic filing by unrepresented individuals. (Concurrent amendments are made to Rules 8011 and 9036 and to Civil Rule 5, Criminal Rule 49, and Appellate Rule 25.) The amendments expand the availability of electronic modes by which unrepresented individuals can file documents with the court and receive notice of filings that others make in the case.

Under amended Rule 5005(a)(3)(B)(i), the presumption is the opposite of the presumption set by the prior rule. That is, under the amended rule, unrepresented individuals are presumptively authorized to use the court's electronic-filing system to file documents in their case. If a court wishes to restrict unrepresented individuals' access to the court's electronic-filing system, it must adopt an order or local rule to impose that restriction.

Amended Rule 5005(a)(3)(B)(ii) states that the court may set reasonable conditions and restrictions on access by unrepresented individuals to the court's electronic-filing system. For example, access to electronic filing could be allowed only to unrepresented individuals who are not incarcerated (in light of the distinctive logistical considerations that apply in carceral settings), satisfactorily complete required training and certifications, and comply with other reasonable conditions on access.

Amended Rule 5005(a)(3)(B)(ii) expressly states that a reasonable restriction would include, where appropriate, orders barring a specific unrepresented individual from accessing the court's electronic-filing system or revoking a specific unrepresented individual's access to the court's electronic-filing system. Another example would be a local provision stating that certain types of filings cannot be filed by means of the court's electronic-filing system.

However, amended Rule 5005(a)(3)(B)(ii) also expressly prohibits a court from barring all unrepresented individuals from using the court's electronic-filing system, unless the court also either (1) includes reasonable exceptions to the prohibition, or (2) permits unrepresented individuals to use another electronic method for filing documents (such as by email or by upload through an electronic document submission system) and an alternative electronic means for receiving notice of court filings and orders (such as an electronic noticing program). [For example, local provisions that require unrepresented individuals who seek to use the court's electronic-filing system to obtain permission from the judge to whom the case is assigned would count as including reasonable exceptions, so long as such permission is not unreasonably withheld in practice.]

Rule 5005(a)(3)(C) is amended to reflect that courts' electronic-filing accounts are held by individuals and not by persons, as defined by § 101(41) of the Code. References to a "person" in Rules 5005(c)(1) and (2) are replaced by references to an "entity"; under § 101(15) of the Code "entity" is a broader term than "person" and the amendment ensures that the chosen term encompasses all of the listed types of recipients.

Rule 8011. Filing and Service; Signature

(a) Filing.

(1) With the Clerk. A document required or permitted to be filed in a district court or BAP must be filed with the clerk of that court.

(2) Method and Timeliness.

(A) Nonelectronic Filing.

* * *

(B) Electronic Filing.~~(i)~~ By a Represented ~~Person~~ Entity—Generally Required; Exceptions. An entity represented by an attorney must file electronically, unless nonelectronic filing is allowed by the court for cause or is allowed or required by local rule.

~~(ii)~~ **(C) Electronic Filing By an Unrepresented Individual—When Allowed or Required.**

(i) In General. An unrepresented individual ~~not represented by an attorney: •~~ may ~~file electronically only if allowed by~~ use the court's electronic-filing system to file documents and receive notice of activity in the case, unless a court order or ~~by~~ local rule prohibits the individual from doing so.~~; and~~ An unrepresented individual ~~•~~ may be required to file electronically only by ~~court~~ order in a case~~,~~ or by a local rule that includes reasonable exceptions.

(ii) Conditions and Restrictions on Access. A court may set and enforce reasonable conditions and restrictions on unrepresented individuals' access to the court's electronic-filing system (including by denying or revoking access for a particular unrepresented individual). But the court may not prohibit all unrepresented individuals from using the system unless that prohibition includes reasonable exceptions or the court permits the use of another electronic method for filing documents and receiving electronic notice of activity in the case.

~~(iii)~~ **(D) Electronically Filed Same as a Written Paper.** A document filed electronically is a written paper for purposes of these rules.

~~(C)~~ **(E) When Paper Copies Are Required.** No paper copies are required when a document is filed electronically. If a document is filed by mail or by delivery to the district court or BAP, no additional copies are required. But the district court or BAP may, by local rule or order in a particular case, require that a specific number of paper copies be filed or furnished.

(3) Clerk's Refusal of Documents. The court clerk must not refuse to accept for filing any document solely because it is not presented in proper form as required by these rules or by any local rule or practice.

(b) Service of All Documents Required. Unless a rule requires service by the clerk or the document will be served through the court's electronic-filing system under (c)(1), a party must, at or before the time of the filing of a document, serve it on the other parties to the

appeal. Service on a party represented by counsel must be made on the party's counsel.

(c) Manner of Service.

(1) Service by a Notice of Case Activity Sent Through the Court's Electronic-Filing System. A notice of case activity sent to an [individual] [entity][1] registered to receive it through the court's electronic-filing system constitutes service on that [individual] [entity], with these qualifications:

(A) such service is not effective if the filer [learns] [receives notice][2] that it did not reach the [individual] [entity] to be served; and

(B) a court may provide by order or local rule that if a document is filed under seal, it must be served by other means.

~~(1) Nonelectronic~~ **(2) Service by Other Means.** ~~Nonelectronic service~~ A document may also be served under this rule by ~~any of the following~~:

(A) personal delivery;

(B) mail; ~~or~~

(C) third-party commercial carrier for delivery within 3 days~~.~~; or

~~(2) Service By Electronic Means. Electronic service may be made by:~~

~~(A) sending a document to a registered user by filing it with the court's electronic-filing system; or~~

~~(B) using other~~ (D) electronic means that the ~~person~~ entity served has consented to in writing, but such electronic service is not effective

1 See Part III.D of accompanying memorandum.
2 See Part III.G of accompanying memorandum.

if the sender [learns] [receives notice][3] that it did not reach the entity to be served.

(3) When Service Is Complete.

(A) For Service by a Notice of Case Activity. For any service deadlines, service by a notice of case activity is complete as of the date of filing. For any deadlines that run from the date of service, service [by a notice of case activity][4] is complete as of the notice's date.

(B) For Service by Other Electronic Means. Service by other electronic means is complete on sending.

(C) For Service by Mail or Commercial Carrier. Service by mail or by third-party commercial carrier is complete on mailing or delivery to the carrier. ~~Service by electronic means is complete on filing or sending, unless the person making service receives notice that the document was not received by the person served.~~

(4) Definition of "Notice of Case Activity." The term "notice of case activity" includes a notice of docket activity, a notice of electronic filing, and any other similar electronic notice provided to case participants through the court's electronic-filing system to inform them of activity on the docket.

(d) Proof of Service.

(1) Requirements. A document presented for filing must contain either of the following

3 See Part III.G of accompanying memorandum.
4 See Part III.C of accompanying memorandum.

if it was served other than through the court's electronic-filing system:

(A) an acknowledgement of service by the ~~person~~ entity served; or

(B) proof of service consisting of a statement by the ~~person~~ individual who made service certifying:

(i) the date and manner of service;

(ii) the names of the ~~persons~~ entities served; and

(iii) the mail or electronic address, the fax number, or the address of the place of delivery--as appropriate for the manner of service--for each ~~person~~ entity served.

(2) Delayed Proof of Service. A district or BAP clerk may accept a document for filing without an acknowledgement or proof of service, but must require the acknowledgment or proof of service to be filed promptly thereafter.

(3) For a Brief or Appendix. When a brief or appendix is filed, the proof of service must also state the date and manner by which it was filed.

(e) Signature Always Required.

(1) Electronic Filing. Every document filed electronically must include the electronic signature of the ~~person~~ individual filing it or, if ~~the person~~ an entity is represented, the counsel's electronic signature. A filing made through ~~a person's~~ an individual's electronic-filing account and authorized by that ~~person~~ individual, together with that ~~person's~~ individual's name on a signature block, constitutes the ~~person's~~ individual's signature.

(2) Paper Filing. Every document filed in paper form must be signed by the ~~person~~

individual filing it or, if ~~the person~~ an entity is represented, by the ~~person's~~ entity's counsel.

Committee Note

Rule 8011 is amended to address two topics concerning self-represented litigants. (Concurrent amendments are made to Rules 5005 and 9036 and to Civil Rule 5, Criminal Rule 49, and Appellate Rule 25.) Rule 8011(a) is amended to expand the availability of electronic modes by which unrepresented individuals can file documents with the court and receive notice of filings that others make in the case. Rule 8011(c) is amended to address service of documents filed by an unrepresented individual in paper form. Because all such paper filings are uploaded by court staff into the court's electronic-filing system, there is no need to require separate paper service by the filer on case participants who receive an electronic notice of the filing from the court's electronic-filing system. Rule 8011(c)'s treatment of service is also reorganized to reflect the primacy of service by means of the electronic notice.

Subdivision (a)(2)(C). Under new Rule 8011(a)(2)(C)(i), the presumption is the opposite of the presumption set by the prior Rule 8011(a)(2)(B)(ii). That is, under new Rule 8011(a)(2)(C)(i), unrepresented individuals are presumptively authorized to use the court's electronic-filing system to file documents in their case. If a district court or BAP wishes to restrict unrepresented individuals' access to the court's electronic-filing system, it must adopt an order or local rule to impose that restriction.

New Rule 8011(a)(2)(C)(ii) states that the court may set reasonable conditions and restrictions on access by unrepresented individuals to the court's electronic-filing system. For example, access to electronic filing could be allowed only to unrepresented individuals who are not incarcerated (in light of the distinctive logistical considerations that apply in carceral settings), satisfactorily complete required training and certifications, and comply with other reasonable conditions on access.

New Rule 8011(a)(2)(C)(ii) expressly states that a reasonable restriction would include, where appropriate, orders barring a specific unrepresented individual from accessing the court's electronic-filing system or revoking a specific unrepresented individual's access to the court's electronic-filing system. Another example would be a local provision stating that certain types of filings cannot be filed by means of the court's electronic-filing system.

However, new Rule 8011(a)(2)(C)(ii) also expressly prohibits a court from barring all unrepresented individuals from using the court's electronic-filing system, unless the court also either (1) includes reasonable exceptions to the prohibition, or (2) permits unrepresented individuals to use another electronic method for filing documents (such as by email or by upload through an electronic document submission system) and an alternative electronic means for receiving notice of court filings and orders (such as an electronic noticing program). [For

example, local provisions that require unrepresented individuals who seek to use the court's electronic-filing system to obtain permission from the judge to whom the case is assigned would count as including reasonable exceptions, so long as such permission is not unreasonably withheld in practice.]

Subdivision (b). Prior Rule 8011(b) generally required that a party, "at or before the time of filing a document, [must] serve it on the other parties to the appeal." The rule exempted from this requirement instances when "a rule requires service by the clerk." The rule is amended to add a second exemption, for instances when "the document will be served through the court's electronic-filing system under (c)(1)." This amendment reflects that new Rule 8011(c)(1) encompasses service by the notice of case activity that results from the clerk's uploading into the system a paper filing by an unrepresented individual. (As to when such service is complete, see subdivision (c)(3)(A).)

Subdivision (c). Rule 8011(c) is restructured so that the primary means of service—that is, service by means of the court's electronic-filing system—is addressed first, in subdivision (c)(1). Prior Rule 8011(c)(1) is now Rule 8011(c)(2), which continues to address alternative means of service. New Rule 8011(c)(4) defines the term "notice of case activity" as any electronic notice provided to case participants through the court's electronic-filing system to inform them of a filing or other activity on the docket.

Subdivision (c)(1). Amended Rule 8011(c)(1) eliminates the requirement of separate (paper) service on a litigant who is registered to receive a notice of case activity from the court's electronic-filing system. Litigants who are registered to receive a notice of case activity include those litigants who are participating in the court's electronic-filing system with respect to the case in question and also include those litigants who receive the notice because they have registered for a court-based electronic-noticing program. (Prior Rule 8011(c)(2)(A)'s provision for service by "sending a document to a registered user by filing it with the court's electronic-filing system" had already eliminated the requirement of paper service on registered users of the court's electronic-filing system by other registered users of the system; the amendment extends this exemption from paper service to those who file by a means other than through the court's electronic-filing system.)

New Rule 8011(c)(1)(A) provides that service by means of the court's electronic-filing system is not effective if the filer learns that it did not reach the person to be served. This provision carries forward the principle previously contained in prior Rule 8011(c)(3).

New Rule 8011(c)(1)(B) states that a court may provide by order or local rule that if a paper is filed under seal, it must be served by other means. This sentence is designed to account for districts or BAPs in which parties in the case cannot access other participants' sealed filings via the court's electronic-filing system.

Subdivision (c)(2). Subdivision (c)(2) carries forward the contents of prior Rules

8011(c)(1) and (2), with three changes.

The subdivision's introductory phrase ("Nonelectronic service may be by any of the following") is amended to read "A document may also be served under this rule by." This locution ensures that what will become Rule 8011(c)(2) remains an option for serving any litigant, even one who receives notices of filing. This option might be useful to a litigant who will be filing non-electronically but who wishes to effect service on their opponent before the time when the court will have uploaded the filing into the court's system (thus generating the notice of case activity).

Prior Rule 8011(c)(2)(A)'s reference to "sending a document to a registered user by filing it with the court's electronic-filing system" is deleted, because this is now covered by new Rule 8011(c)(1).

The concept that service by other electronic means is not effective if the sender learns that the document was not received by the person served—previously contained in prior Rule 8011(c)(3)—is relocated to what now is Rule 8011(c)(2)(D).

Subdivision (c)(3). Rule 8011(c)(3) ("When Service is Complete") is amended to distinguish between service under new Rule 8011(c)(1)—that is, service by means of the notice of case activity—and service by "other electronic means."

When a litigant files a paper other than through the court's electronic-filing system, service on a litigant who is registered to receive a notice of case activity through the court's electronic-filing system occurs by means of the notice of case activity. But when the filing is made other than through the court's electronic-filing system, there can be a short time lag between the date the litigant files the document with the court and the date that the clerk's office uploads it into the court's electronic-filing system. Thus, new subdivision (c)(3)(A) provides that, for purposes of any deadlines for making service, service by a notice of case activity is complete as of the date of filing. But the amended rule provides that, for purposes of any deadlines that run from the date of service, service is complete as of the date of the notice of case activity. Thus, the amended rule ensures that if there is a delay between the date the court receives a filing not made through the electronic-filing system and the date the court uploads that filing into the electronic-filing system, that delay will not diminish the time allowed to the party whose deadline runs from the date of service.

Under subdivision (c)(3)(B), service by other electronic means continues to be complete on sending.

In addition to providing when service was complete, old Rule 8011(c)(3) addressed what happened if the person making electronic service received notice that the document was not received by the person to be served. The latter is now addressed by new Rules 8011(c)(1)(A) and (c)(2)(D), which provide that electronic service is not effective if the filer or sender learns that it

did not reach the person to be served.

Subdivision (c)(4). New Rule 8011(c)(4) defines the term "notice of case activity" as any electronic notice provided to case participants through the court's electronic-filing system to inform them of a filing or other activity on the docket. There are two equivalent terms currently in use: Notice of Electronic Filing and Notice of Docket Activity. "Notice of case activity" is intended to encompass both of those terms, as well as any equivalent terms that may come into use in future. The word "electronic" is deleted as superfluous now that electronic filing is the default method.

Rule 9006. Computing and Extending Time; Motions

* * *

(f) Additional Time After Certain Service. When a party may or must act within a specified time after being served and service is made by mail or under Fed. R. Civ. P. 5(b)(~~2~~3)(D) (leaving with the clerk) or (F) (other means consented to), 3 days are added after the period would otherwise expire under (a).

* * *

Committee Note

Subdivision (f) is amended to conform to the renumbering of Civil Rule 5(b)(2) as Rule 5(b)(3).

Rule 9036. Electronic Notice and Service

(a) In General. This rule applies whenever these rules require or permit sending a notice or serving a document by mail or other means.

(b) Notices from and Service by the Court.

(1) To Registered Users. The clerk may send notice to or serve a registered user by filing the notice or document with the court's electronic-filing system.

(2) To All Recipients. For any recipient, the clerk may send notice or serve a document by electronic means that the recipient consented to in writing, including by designating an electronic address for receiving notices. But these exceptions apply:

(A) if the recipient has registered an electronic address with the Administrative Office of the United States Courts' bankruptcy-noticing program, the clerk must use that address; and

(B) if an entity has been designated by the Director of the Administrative Office of the United States Courts as a high-volume paper-notice recipient, the clerk may send the notice to or serve the document electronically at an address designated by the Director, unless the entity has designated an address under § 342(e) or (f).

(c) Notices from and Service by an Entity. ~~An entity may send notice or serve a document in the same manner that the clerk does under (b), excluding (b)(2)(A) and (B).~~

(1) Notice of Case Activity Sent Through the Court's Electronic-Filing System. A notice of case activity sent to an [individual] [entity][5] registered to receive it through the court's electronic-filing system constitutes notice or service on that [individual] [entity], with these qualifications:

(A) such notice or service is not effective if the filer [learns] [receives notice][6] that it did not reach the [individual] [entity] to be notified or served; and

5 See Part III.D of accompanying memorandum.
6 See Part III.G of accompanying memorandum.

(B) a court may provide by order or local rule that if a document is filed under seal, neither service nor notice occurs under this paragraph (c)(1).

(2) Electronic Means Consented To. An entity may also send notice or serve a document by electronic means that the recipient consented to in writing, including by designating an electronic address for receiving notices. But such notice or service is not effective if the sender [learns] [receives notice][7] that it did not reach the entity to be notified or served.

(3) Definition of "Notice of Case Activity." The term "notice of case activity" includes a notice of docket activity, a notice of electronic filing, and any other similar electronic notice provided to case participants through the court's electronic-filing system to inform them of activity on the docket.

(d) When Notice or Service Is Complete; Keeping an Address Current.

(1) Notice of Case Activity Sent Through the Court's Electronic-Filing System. For any notice or service deadlines, notice or service by a notice of case activity is complete as of the date of filing. For any deadlines that run from the date of notice or service, notice or service [by a notice of case activity][8] is complete as of the date of the notice of case activity.

(2) Other Electronic Means. Electronic notice or service by other electronic means is complete upon ~~filing or~~ sending ~~but is not effective if the filer or sender receives notice that it did not reach the person to be notified or served~~.

7 See Part III.G of accompanying memorandum.
8 See Part III.C of accompanying memorandum.

(3) Keeping an Address Current. The recipient must keep its electronic address current with the clerk.

(e) Inapplicability. This rule does not apply to any document required to be served in accordance with Rule 7004.

Committee Note

Rule 9036 is amended to address service by unrepresented individuals. (Concurrent amendments are made to Rules 5005 and 8011 and to Civil Rule 5, Criminal Rule 49, and Appellate Rule 25.) Rule 9036(c) is amended to address service of documents filed by an unrepresented individual in paper form. Because all such paper filings are uploaded by court staff into the court's electronic-filing system, there is no need to require separate paper service by the filer on case participants who receive an electronic notice of the filing from the court's electronic-filing system. Conforming amendments are made to Rule 9036(d).

Subdivision (c). Rule 9036(c) previously stated simply that "[a]n entity may send notice or serve a document in the same manner that the clerk does under (b), excluding (b)(2)(A) and (B)." That provision could be read to exclude instances when an unrepresented individual files a document in paper form and the clerk's office scans the document and uploads it into the court's electronic-filing system. Thus read, the previous rules required separate (paper) service in such instances, even on litigants who were registered to receive a notice of case activity from the court's electronic-filing system. New Rule 9036(c) restates the substance of the service options previously incorporated by reference to Rule 9036(b), but does so in a way that changes the rule concerning service by a litigant who makes a filing other than through the court's electronic-filing system.

New Rule 9036(c)(1) eliminates the requirement of separate (paper) service on a litigant who is registered to receive a notice of case activity from the court's electronic-filing system. Litigants who are registered to receive a notice of case activity include those litigants who are participating in the court's electronic-filing system with respect to the case in question and also include those litigants who receive the notice because they have registered for a court-based electronic-noticing program. (Prior Rule 9036(c)'s provision for notice or service "in the same manner that the clerk does under" Rule 9036(b)(1) had already eliminated the requirement of paper service on registered users of the court's electronic-filing system by other registered users of the system; the amendment extends this exemption from paper service to those who file a document with the court by a means other than through the court's electronic-filing system.)

New Rule 9036(c)(1)(A) provides that notice or service by means of the court's electronic-filing system is not effective if the filer learns that it did not reach the person to be notified or served. This provision carries forward the principle previously contained in prior Rule

9036(d).

New Rule 9036(c)(1)(B) states that a court may provide by order or local rule that if a paper is filed under seal, notice or service must occur by other means. This is designed to account for districts or BAPs in which parties in the case cannot access other participants' sealed filings via the court's electronic-filing system.

What is now Rule 9036(c)(2) carries forward the prior option to effect notice or service by consented-to electronic means. It also provides that such notice or service is not effective if the sender learns that it did not reach the entity to be notified or served. This provision carries forward the principle previously contained in prior Rule 9036(d).

New Rule 9036(c)(3) defines the term "notice of case activity" as any electronic notice provided to case participants through the court's electronic-filing system to inform them of a filing or other activity on the docket. There are two equivalent terms currently in use: Notice of Electronic Filing and Notice of Docket Activity. "Notice of case activity" is intended to encompass both of those terms, as well as any equivalent terms that may come into use in future. The word "electronic" is deleted as superfluous now that electronic filing is the default method.

Subdivision (d). New subdivision (d)(2) carries forward the rule's prior treatment of the timing of notice or service by electronic means other than the court's electronic-filing system. New subdivision (d)(1) addresses the timing of notice or service through the court's electronic-filing system.

Previously, Rule 9036(d) provided simply that "Electronic notice or service is complete upon filing or sending but is not effective if the filer or sender receives notice that it did not reach the person to be notified or served." The adoption of new Rule 9036(c)(1) requires a change to Rule 9036(d): Under new subdivision (c)(1), when a litigant files a paper other than through the court's electronic-filing system, service on a litigant who is registered to receive a notice of case activity through the court's electronic-filing system occurs by means of the notice of case activity. But when the filing is made other than through the court's electronic-filing system, there can be a short time lag between the date the litigant files the document with the court and the date that the clerk's office uploads it into the court's electronic-filing system. Thus, new subdivision (d)(1) provides that, for purposes of any deadlines for notifying or making service, notice or service by a notice of case activity is complete as of the date of filing. But the amended rule provides that, for purposes of any deadlines that run from the date of notice or service, notice or service is complete as of the date of the notice of case activity. Thus, the amended rule ensures that if there is a delay between the date the court receives a filing not made through the electronic-filing system and the date the court uploads that filing into the electronic-filing system, that delay will not diminish the time allowed to the party whose deadline runs from the date of notice or service.

New subdivision (d)(2) carries forward—for notice or service by other electronic

means—the prior rule's treatment; that is, such notice or service is complete upon sending.

Prior Rule 9036(d)'s provision that electronic notice or service is not effective if the filer or sender receives notice that it did not reach the person to be notified or served is [slightly] revised and relocated to new Rules 9036(c)(1)(A) and 9036(c)(2).

Proposed amendments to Bankruptcy Rules 5005, 8011, 9006, and 9036:

Comparison of March 18, 2026 draft to version approved by the Bankruptcy Rules Committee's Technology, Privacy, and Public Access Subcommittee in February 2026

Blue text and the change bar in the left margin show the changes compared with the February 2026 version

Rule 5005. Filing Papers and Sending Copies to the United States Trustee

(a) Filing Papers.

* * *

(3) Electronic Filing and Signing.

(A) By a Represented Entity--Generally Required; Exceptions. An entity represented by an attorney must file electronically, unless nonelectronic filing is allowed by the court for cause or is allowed or required by local rule.

(B) By an Unrepresented Individual—When Allowed or Required.

(i) In General. An unrepresented individual ~~not represented by an attorney: (i)~~ may ~~file electronically only if allowed by~~ use the court's electronic-filing system to file papers and receive notice of activity in the case, unless a court order or local rule~~; and~~ prohibits the individual from doing so. An unrepresented individual ~~(ii)~~ may be required to file electronically only by ~~court~~ order in a case~~,~~ or by a local rule that includes reasonable exceptions.

(ii) Conditions and Restrictions on Access. A court may set and enforce reasonable conditions and restrictions on unrepresented individuals' access to the court's electronic-filing system (including by denying or revoking access for a particular unrepresented individual). But the court may not prohibit all unrepresented individuals from using the system unless ~~the court~~ that prohibition includes reasonable exceptions ~~to the prohibition~~ or ~~allows~~the court permits the use of another electronic method for filing papers and receiving electronic notice of activity in the case.

(C) Signing. A filing made through ~~a person's~~ an individual's electronic-filing account and authorized by that ~~person~~ individual, together with the ~~person's~~ individual's name on a signature block, constitutes the ~~person's~~ individual's signature.

(D) Same as a Written Paper. A paper filed electronically is a written paper for purposes of these rules, the Federal Rules of Civil Procedure made applicable by these rules, and § 107.

(b) Sending Copies to the United States Trustee.

(1) Papers Sent Electronically. All papers required to be sent to the United States trustee may be sent by using the court's electronic-filing system in accordance with Rule 9036, unless a court order or local rule provides otherwise.

(2) Papers Not Sent Electronically. If an entity other than the clerk sends a paper to the United States trustee without using the court's electronic-filing system, the entity must promptly file a statement identifying the paper and stating the manner by which and the date it was sent. The clerk need not send a copy of a paper to a United States trustee who requests in writing that it not be sent.

* * *

(c) When a Paper Is Erroneously Filed or Delivered.

(1) Paper Intended for the Clerk. If a paper intended to be filed with the clerk is erroneously delivered to ~~a person~~ an entity listed below, that ~~person~~ entity must note on it the date of receipt and promptly send it to the clerk:

- the United States trustee;
- the trustee;
- the trustee's attorney;
- a bankruptcy judge;
- a district judge;
- the clerk of the bankruptcy appellate panel; or
- the clerk of the district court.

(2) Paper Intended for the United States Trustee. If a paper intended for the United States trustee is erroneously delivered to the clerk or to another ~~person~~ entity listed in (1), the clerk or that ~~person~~ entity must note on it the date of receipt and promptly send it to the United States trustee.

(3) Applicable Filing Date. In the interests of justice, the court may order that the original receipt date shown on a paper erroneously delivered under (1) or (2) be deemed the date it was filed with the clerk or sent to the United States trustee.

Committee Note

Rule 5005(a)(3)(B) is amended to address electronic filing by unrepresented individuals. (Concurrent amendments are made to Rules 8011 and 9036 and to Civil Rule 5, Criminal Rule 49, and Appellate Rule 25.) The amendments expand the availability of electronic modes by which unrepresented individuals can file documents with the court and receive notice of filings that others make in the case.

Under amended Rule 5005(a)(3)(B)(i), the presumption is the opposite of the presumption set by the prior rule. That is, under the amended rule, unrepresented individuals are presumptively authorized to use the court's electronic-filing system to file documents in their case. If a court wishes to restrict unrepresented individuals' access to the court's electronic-filing system, it must adopt an order or local rule to impose that restriction.

~~Under~~Amended Rule 5005(a)(3)(B)(ii~~), a local rule or general court order that bars all individuals not represented by an attorney from using the court's electronic-filing system must include reasonable exceptions, unless that court permits the use of another electronic method for filing documents and receiving electronic notice of activity in an individual's case. But Rule 5005(a)(3)(B)(ii) makes clear~~) states that the court may set reasonable conditions and restrictions on access ~~to the court's electronic-filing system.~~

~~A court can comply with Rule 5005(a)(3)(B)(ii) by doing either of the following: (1) allowing reasonable access for~~by unrepresented individuals to the court's electronic-filing system~~, or (2) providing~~. For example, access to electronic filing could be allowed only to unrepresented individuals who are not incarcerated (in light of the distinctive logistical considerations that apply in carceral settings), satisfactorily complete required training and certifications, and comply with ~~an alternative electronic~~ other reasonable conditions on access.

Amended Rule 5005(a)(3)(B)(ii) expressly states that a reasonable restriction would include, where appropriate, orders barring a specific unrepresented individual from accessing the court's electronic-filing system or revoking a specific unrepresented individual's access to the court's electronic-filing system. Another example would be a local provision stating that certain types of filings cannot be filed by means of the court's electronic-filing system.

However, amended Rule 5005(a)(3)(B)(ii) also expressly prohibits a court from barring

all unrepresented individuals from using the court's electronic-filing system, unless the court also either (1) includes reasonable exceptions to the prohibition, or (2) permits unrepresented individuals to use another electronic method for filing documents (such as by email or by upload through an electronic document submission system) and an alternative electronic means for receiving notice of court filings and orders (such as an electronic noticing program). [For example, local provisions that require unrepresented individuals who seek to use the court's electronic-filing system to obtain permission from the judge to whom the case is assigned would count as including reasonable exceptions, so long as such permission is not unreasonably withheld in practice.]

~~For a court that adopts the option of allowing reasonable access to the court's electronic-filing system, the concept of "reasonable access" encompasses the idea of reasonable conditions and restrictions. Thus, for example, access to electronic filing could be restricted to non-incarcerated parties and could be restricted to those parties who satisfactorily complete required training and certifications and comply with reasonable conditions on access. Also, a court could adopt a local provision stating that certain types of filings cannot be filed by means of the court's electronic-filing system. The reasonable restrictions referred to in Rule 5005(a)(3)(B)(ii) include, where appropriate, orders barring a specific unrepresented individual from accessing the court's electronic-filing system. Under the rule, a court may deny a specific unrepresented individual access to the court's electronic-filing system and may revoke an unrepresented individual's access to the court's electronic-filing system without providing an alternative electronic-filing system for that individual.~~

Rule 5005(a)(3)(C) is amended to reflect that courts' electronic-filing accounts are held by individuals and not by persons, as defined by § 101(41) of the Code. References to a "person" in Rules 5005(c)(1) and (2) are replaced by references to an "entity"; under § 101(15) of the Code "entity" is a broader term than "person" and the amendment ensures that the chosen term encompasses all of the listed types of recipients.

Rule 8011. Filing and Service; Signature

(a) Filing.

(1) With the Clerk. A document required or permitted to be filed in a district court or BAP must be filed with the clerk of that court.

(2) Method and Timeliness.

(A) Nonelectronic Filing.

* * *

(B) Electronic Filing.~~(i)~~ By a Represented ~~Person~~ Entity—Generally Required; Exceptions. An entity represented by an attorney must file electronically, unless nonelectronic filing is allowed by the court for cause or is allowed or required by local rule.

~~(ii)~~ **(C) Electronic Filing By an Unrepresented Individual—When Allowed or Required.**

(i) In General. An unrepresented individual ~~not represented by an attorney: •~~ may ~~file electronically only if allowed by~~ use the court's electronic-filing system to file documents and receive notice of activity in the case, unless a court order or ~~by~~ local rule prohibits the individual from doing so.~~; and~~ An unrepresented individual ~~•~~ may be required to file electronically only by ~~court~~ order in a case~~,~~ or by a local rule that includes reasonable exceptions.

(ii) Conditions and Restrictions on Access. A court may set and enforce reasonable conditions and restrictions on unrepresented individuals' access to the court's electronic-filing system (including by denying or revoking access for a particular unrepresented individual). But the court may not prohibit all unrepresented individuals from using the system unless ~~the court~~

that prohibition includes reasonable exceptions ~~to the prohibition~~ or ~~allows~~the court permits the use of another electronic method for filing documents and receiving electronic notice of activity in the case.

~~(iii)~~ **(D) Electronically Filed Same as a Written Paper.** A document filed electronically is a written paper for purposes of these rules.

~~(C)~~ **(E) When Paper Copies Are Required.** No paper copies are required when a document is filed electronically. If a document is filed by mail or by delivery to the district court or BAP, no additional copies are required. But the district court or BAP may, by local rule or order in a particular case, require that a specific number of paper copies be filed or furnished.

(3) Clerk's Refusal of Documents. The court clerk must not refuse to accept for filing any document solely because it is not presented in proper form as required by these rules or by any local rule or practice.

(b) Service of All Documents Required. Unless a rule requires service by the clerk or the document will be served through the court's electronic-filing system under (c)(1), a party must, at or before the time of the filing of a document, serve it on the other parties to the appeal. Service on a party represented by counsel must be made on the party's counsel.

(c) Manner of Service.

(1) Service by a Notice of Case Activity Sent Through the Court's Electronic-Filing

System. A notice of case activity sent to an [individual] [entity][1] registered to receive it through the court's electronic-filing system constitutes service on that [individual ~~as of the notice's date. But~~] [entity], with these qualifications:

(A) such service is not effective if the filer [learns] [receives notice][2] that it did not reach the [individual] [entity] to be served; and

(B) a court may provide by order or local rule that if a document is filed under seal, it must be served by other means.

~~(1) Nonelectronic~~ **(2) Service by Other Means.** ~~Nonelectronic service~~ A document may also be served under this rule by ~~any of the following~~:

(A) personal delivery;

(B) mail; ~~or~~

(C) third-party commercial carrier for delivery within 3 days~~.~~; or

~~(2) Service By Electronic Means. Electronic service may be made by:~~

~~(A) sending a document to a registered user by filing it with the court's electronic filing system; or~~

~~(B) using other~~ (D) electronic means that the ~~person~~ entity served has consented to in writing, but such electronic service is not effective if the sender [learns] [receives notice][3] that it did not reach the entity to be served.

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1 See Part III.D of accompanying memorandum.
2 See Part III.G of accompanying memorandum.
3 See Part III.G of accompanying memorandum.

(3) When Service Is Complete.

(A) For Service ~~under (c)(1)~~by a Notice of Case Activity. For any service deadlines, service by a notice of case activity is complete as of the date of filing. For any deadlines that run from the date of service, service [by a notice of case activity~~.~~][4] is complete as of the notice's date.

~~(B)~~(B) For Service by Other Electronic Means. Service by other electronic means is complete on sending.

~~(C)~~(C) For Service by Mail or Commercial Carrier. Service by mail or by third-party commercial carrier is complete on mailing or delivery to the carrier. ~~Service by electronic means is complete on filing or sending, unless the person making service receives notice that the document was not received by the person served.~~

(4) Definition of "Notice of Case Activity." The term "notice of case activity" ~~in this rule~~ includes a notice of docket activity, a notice of electronic filing, and any other similar electronic notice provided to case participants through the court's electronic-filing system to inform them of activity on the docket.

(d) Proof of Service.

(1) Requirements. A document presented for filing must contain either of the following if it was served other than through the court's electronic-filing system:

(A) an acknowledgement of service by the ~~person~~ entity served; or

4 See Part III.C of accompanying memorandum.

(B) proof of service consisting of a statement by the ~~person~~ individual who made service certifying:

(i) the date and manner of service;

(ii) the names of the ~~persons~~ entities served; and

(iii) the mail or electronic address, the fax number, or the address of the place of delivery--as appropriate for the manner of service--for each ~~person~~ entity served.

(2) Delayed Proof of Service. A district or BAP clerk may accept a document for filing without an acknowledgement or proof of service, but must require the acknowledgment or proof of service to be filed promptly thereafter.

(3) For a Brief or Appendix. When a brief or appendix is filed, the proof of service must also state the date and manner by which it was filed.

(e) Signature Always Required.

(1) Electronic Filing. Every document filed electronically must include the electronic signature of the ~~person~~ individual filing it or, if ~~the person~~ an entity is represented, the counsel's electronic signature. A filing made through ~~a person's~~ an individual's electronic-filing account and authorized by that ~~person~~ individual, together with that ~~person's~~ individual's name on a signature block—constitutes the ~~person's~~ individual's signature.

(2) Paper Filing. Every document filed in paper form must be signed by the ~~person~~ individual filing it or, if ~~the person~~ an entity is represented, by the ~~person's~~ entity's counsel.

Committee Note

Rule 8011 is amended to address two topics concerning self-represented litigants. (Concurrent amendments are made to Rules 5005 and 9036 and to Civil Rule 5, Criminal Rule 49, and Appellate Rule 25.) Rule 8011(a) is amended to expand the availability of electronic modes by which unrepresented individuals can file documents with the court and receive notice of filings that others make in the case. Rule 8011(c) is amended to address service of documents filed by an unrepresented individual in paper form. Because all such paper filings are uploaded by court staff into the court's electronic-filing system, there is no need to require separate paper service by the filer on case participants who receive an electronic notice of the filing from the court's electronic-filing system. Rule 8011(c)'s treatment of service is also reorganized to reflect the primacy of service by means of the electronic notice.

Subdivision (a)(2)(C). Under new Rule 8011(a)(2)(C)(i), the presumption is the opposite of the presumption set by the prior Rule 8011(a)(2)(B)(ii). That is, under new Rule 8011(a)(2)(C)(i), unrepresented individuals are presumptively authorized to use the court's electronic-filing system to file documents in their case. If a district court or BAP wishes to restrict unrepresented individuals' access to the court's electronic-filing system, it must adopt an order or local rule to impose that restriction.

~~Under~~New Rule 8011(a)(2)(C)(ii~~), a local rule or general court order that bars all individuals not represented by an attorney from using the court's electronic-filing system must include reasonable exceptions, unless that court permits the use of another electronic method for filing documents and receiving electronic notice of activity in the party's case. But Rule 8011(a)(2)(C)(ii) makes clear~~) states that the court may set reasonable conditions and restrictions on access ~~to the court's electronic-filing system.~~

~~A court can comply with Rule 8011(a)(2)(C)(ii) by doing either of the following: (1) Allowing reasonable access for~~by unrepresented individuals to the court's electronic-filing system~~, or (2) providing unrepresented individuals with an alternative electronic means for filing (such as by email or by upload through an electronic document submission system) and an alternative electronic means for receiving notice of court filings and orders (such as an electronic noticing program).~~

~~For a court that adopts the option of allowing reasonable access to the court's electronic-filing system, the concept of "reasonable access" encompasses the idea of reasonable conditions and restrictions. Thus, for~~. For example, access to electronic filing could be ~~restricted to non-~~allowed only to unrepresented individuals who are not incarcerated ~~parties and could be restricted to those parties who~~(in light of the distinctive logistical considerations that apply in carceral settings), satisfactorily complete required training and~~/or~~ certifications, and comply with other reasonable conditions on access. ~~Also, a court could adopt a local provision stating that certain types of filings cannot be filed by means of the court's electronic-filing system. The reasonable restrictions referred to in Rule 8011(a)(2)(C)(ii)~~

New Rule 8011(a)(2)(C)(ii) expressly states that a reasonable restriction would include, where appropriate, orders barring a specific unrepresented individual from accessing the court's electronic-filing system~~. Under the Rule, a court may deny~~ or revoking a specific unrepresented ~~individual access~~individual's access to the court's electronic-filing system. Another example would be a local provision stating that certain types of filings cannot be filed by means of the court's electronic-filing system.

However, new Rule 8011(a)(2)(C)(ii) also expressly prohibits a court from barring all unrepresented individuals from using the court's electronic-filing system, unless the court also either (1) includes reasonable exceptions to the prohibition, or (2) permits unrepresented individuals to use another electronic method for filing documents (such as by email or by upload through an electronic document submission system) and an alternative electronic means for receiving notice of court filings and orders (such as an electronic noticing program). [For example, local provisions that require unrepresented individuals who seek to use the court's electronic-filing system to ~~the court's electronic-filing system and may revoke a self-represented party's access~~obtain permission from the judge to ~~the court's electronic-filing system without providing an alternative electronic-filing system for that individual.~~whom the case is assigned would count as including reasonable exceptions, so long as such permission is not unreasonably withheld in practice.]

Subdivision (b). Prior Rule 8011(b) generally required that a party, "at or before the time of filing a document, [must] serve it on the other parties to the appeal." The rule exempted from this requirement instances when "a rule requires service by the clerk." The rule is amended to add a second exemption, for instances when "the document will be served through the court's electronic-filing system under (c)(1)." This amendment ~~is necessary because~~reflects that new Rule 8011(c)(1) encompasses service by the notice of case activity that results from the clerk's uploading into the system a paper filing by an unrepresented individual. ~~In those circumstances, service will not occur "at or before the time of filing a document," but it will occur when the court's electronic-filing system sends the notice to the litigants registered to receive it.~~(As to when such service is complete, see subdivision (c)(3)(A).)

Subdivision (c). Rule 8011(c) is restructured so that the primary means of service—that is, service by means of the court's electronic-filing system—is addressed first, in subdivision (c)(1). Prior Rule 8011(c)(1) is now Rule 8011(c)(2), which continues to address alternative means of service. New Rule 8011(c)(4) defines the term "notice of case activity" as any electronic notice provided to case participants through the court's electronic-filing system to inform them of a filing or other activity on the docket.

Subdivision (c)(1). Amended Rule 8011(c)(1) eliminates the requirement of separate (paper) service on a litigant who is registered to receive a notice of case activity from the court's electronic-filing system. Litigants who are registered to receive a notice of case activity include those litigants who are participating in the court's electronic-filing system with respect to the

case in question and also include those litigants who receive the notice because they have registered for a court-based electronic-noticing program. (Prior Rule 8011(c)(2)(A)'s provision for service by "sending a document to a registered user by filing it with the court's electronic-filing system" had already eliminated the requirement of paper service on registered users of the court's electronic-filing system by other registered users of the system; the amendment extends this exemption from paper service to those who file by a means other than through the court's electronic-filing system.)

New Rule 8011(c)(1)(A) provides that service by means of the court's electronic-filing system is not effective if the filer learns that it did not reach the person to be served. This provision carries forward the principle previously contained in prior Rule 8011(c)(3).

New Rule 8011(c)(1)(B) states that a court may provide by order or local rule that if a paper is filed under seal, it must be served by other means. This sentence is designed to account for districts or BAPs in which parties in the case cannot access other participants' sealed filings via the court's electronic-filing system.

Subdivision (c)(2). Subdivision (c)(2) carries forward the contents of prior Rules 8011(c)(1) and (2), with three changes.

The subdivision's introductory phrase ("Nonelectronic service may be by any of the following") is amended to read "A document may also be served under this rule by." This locution ensures that what will become Rule 8011(c)(2) remains an option for serving any litigant, even one who receives notices of filing. This option might be useful to a litigant who will be filing non-electronically but who wishes to effect service on their opponent before the time when the court will have uploaded the filing into the court's system (thus generating the notice of ~~filing~~case activity).

Prior Rule 8011(c)(2)(A)'s reference to "sending a document to a registered user by filing it with the court's electronic-filing system" is deleted, because this is now covered by new Rule 8011(c)(1).

The concept that service by other electronic means is not effective if the sender learns that the document was not received by the person served—previously contained in prior Rule 8011(c)(3)—is relocated to what now is Rule 8011(c)(2)(D).

Subdivision (c)(3). Rule 8011(c)(3) ("When Service is Complete") is amended to distinguish between service under new Rule 8011(c)(1)—that is, service by means of the notice of case activity~~, which is complete as of the notice's date~~—and service by "other electronic means~~," which continues to be complete on sending.~~."

When a litigant files a paper other than through the court's electronic-filing system, service on a litigant who is registered to receive a notice of case activity through the court's

electronic-filing system occurs by means of the notice of case activity. But when the filing is made other than through the court's electronic-filing system, there can be a short time lag between the date the litigant files the document with the court and the date that the clerk's office uploads it into the court's electronic-filing system. Thus, new subdivision (c)(3)(A) provides that, for purposes of any deadlines for making service, service by a notice of case activity is complete as of the date of filing. But the amended rule provides that, for purposes of any deadlines that run from the date of service, service is complete as of the date of the notice of case activity. Thus, the amended rule ensures that if there is a delay between the date the court receives a filing not made through the electronic-filing system and the date the court uploads that filing into the electronic-filing system, that delay will not diminish the time allowed to the party whose deadline runs from the date of service.

Under subdivision (c)(3)(B), service by other electronic means continues to be complete on sending.

In addition to providing when service was complete, old Rule 8011(c)(3) addressed what happened if the person making electronic service ~~learned~~received notice that the document was not received by the person to be served. The latter is now addressed by new Rules 8011(c)(1)(A) and (c)(2)(D), which provide that electronic service is not effective if the filer or sender learns that it did not reach the person to be served.

Subdivision (c)(4). New Rule 8011(c)(4) defines the term "notice of case activity" as any electronic notice provided to case participants through the court's electronic-filing system to inform them of a filing or other activity on the docket. There are two equivalent terms currently in use: Notice of Electronic Filing and Notice of Docket Activity. "Notice of case activity" is intended to encompass both of those terms, as well as any equivalent terms that may come into use in future. The word "electronic" is deleted as superfluous now that electronic filing is the default method.

Rule 9006. Computing and Extending Time; Motions

* * *

(f) Additional Time After Certain Service. When a party may or must act within a specified time after being served and service is made by mail or under Fed. R. Civ. P. 5(b)(~~2~~3)(D) (leaving with the clerk) or (F) (other means consented to), 3 days are added after the

period would otherwise expire under (a).

* * *

Committee Note

Subdivision (f) is amended to conform to the renumbering of Civil Rule 5(b)(2) as Rule 5(b)(3).

Rule 9036. Electronic Notice and Service

(a) In General. This rule applies whenever these rules require or permit sending a notice or serving a document by mail or other means.

(b) Notices from and Service by the Court.

(1) To Registered Users. The clerk may send notice to or serve a registered user by filing the notice or document with the court's electronic-filing system.

(2) To All Recipients. For any recipient, the clerk may send notice or serve a document by electronic means that the recipient consented to in writing, including by designating an electronic address for receiving notices. But these exceptions apply:

(A) if the recipient has registered an electronic address with the Administrative Office of the United States Courts' bankruptcy-noticing program, the clerk must use that address; and

(B) if an entity has been designated by the Director of the Administrative Office of the United States Courts as a high-volume paper-notice recipient, the clerk may send the notice to or serve the document electronically at an address designated by the Director, unless the entity has designated an

address under § 342(e) or (f).

(c) Notices from and Service by an Entity. ~~An entity may send notice or serve a document in the same manner that the clerk does under (b), excluding (b)(2)(A) and (B).~~

(1) Notice of Case Activity Sent Through the Court's Electronic-Filing System. A notice of case activity sent to an [individual] [entity][5] registered to receive it through the court's electronic-filing system constitutes notice or service on that [individual ~~as of the date of the notice of case activity. But~~] [entity], with these qualifications:

(A) such notice or service is not effective if the filer [learns] [receives notice][6] that it did not reach the [individual] [entity] to be notified or served; and

(B) a court may provide by order or local rule that if a document is filed under seal, neither service nor notice occurs under this ~~Rule 9036~~paragraph (c)(1).

(2) Electronic Means Consented To. An entity may also send notice or serve a document by electronic means that the recipient consented to in writing, including by designating an electronic address for receiving notices. But such notice or service is not effective if the sender [learns] [receives notice][7] that it did not reach the ~~person~~entity to be notified or served.

(3) Definition of "Notice of Case Activity." The term "notice of case activity" ~~in this~~

5 See Part III.D of accompanying memorandum.
6 See Part III.G of accompanying memorandum.
7 See Part III.G of accompanying memorandum.

~~rule~~ includes a notice of docket activity, a notice of electronic filing, and any other similar electronic notice provided to case participants through the court's electronic-filing system to inform them of activity on the docket.

(d) When Notice or Service Is Complete; Keeping an Address Current.

(1) Notice of Case Activity Sent Through the Court's Electronic-Filing System. ~~–~~

~~Notice —~~For any notice or service~~—~~ deadlines, notice or service by a notice of case activity ~~sent to an individual registered to receive it through~~is complete as of the ~~court's electronic~~ date of filing ~~system~~. For any deadlines that run from the date of notice or service, notice or service [by a notice of case activity][8] is complete as of the date of the notice of case activity.

(2) Other Electronic Means. Electronic notice or service by other electronic means is complete upon ~~filing or~~ sending ~~but is not effective if the filer or sender receives notice that it did not reach the person to be notified or served~~.

(3) Keeping an Address Current. The recipient must keep its electronic address current with the clerk.

(e) Inapplicability. This rule does not apply to any document required to be served in accordance with Rule 7004.

Committee Note

Rule 9036 is amended to address service by unrepresented individuals. (Concurrent amendments are made to Rules 5005 and 8011 and to Civil Rule 5, Criminal Rule 49, and Appellate Rule 25.) Rule 9036(c) is amended to address service of documents filed by an unrepresented individual in paper form. Because all such paper filings are uploaded by court staff into the court's electronic-filing system, there is no need to require separate paper service

8 See Part III.C of accompanying memorandum.

by the filer on case participants who receive an electronic notice of the filing from the court's electronic-filing system. Conforming amendments are made to Rule 9036(d).

Subdivision (c). Rule 9036(c) previously stated simply that "[a]n entity may send notice or serve a document in the same manner that the clerk does under (b), excluding (b)(2)(A) and (B)." That provision could be read to exclude instances when an unrepresented individual files a document in paper form and the clerk's office scans the document and uploads it into the court's electronic-filing system. Thus read, the previous rules required separate (paper) service in such instances, even on litigants who were registered to receive a notice of ~~filing~~case activity from the court's electronic-filing system. New Rule 9036(c) restates the substance of the service options previously incorporated by reference to Rule 9036(b), but does so in a way that changes the rule concerning service by a litigant who makes a filing other than through the court's electronic-filing system.

New Rule 9036(c)(1) eliminates the requirement of separate (paper) service on a litigant who is registered to receive a notice of case activity from the court's electronic-filing system. Litigants who are registered to receive a notice of case activity include those litigants who are participating in the court's electronic-filing system with respect to the case in question and also include those litigants who receive the notice because they have registered for a court-based electronic-noticing program. (Prior Rule 9036(c)'s provision for notice or service "in the same manner that the clerk does under" Rule 9036(b)(1) had already eliminated the requirement of paper service on registered users of the court's electronic-filing system by other registered users of the system; the amendment extends this exemption from paper service to those who file a document with the court by a means other than through the court's electronic-filing system.)

New Rule 9036(c)(1)(A) provides that notice or service by means of the court's electronic-filing system is not effective if the filer learns that it did not reach the person to be notified or served. This provision carries forward the principle previously contained in prior Rule 9036(d).

New Rule 9036(c)(1)(B) states that a court may provide by order or local rule that if a paper is filed under seal, notice or service must occur by other means. This is designed to account for districts or BAPs in which parties in the case cannot access other participants' sealed filings via the court's electronic-filing system.

What is now Rule 9036(c)(2) carries forward the prior option to effect notice or service by consented-to electronic means. It also provides that such notice or service is not effective if the sender learns that it did not reach the entity to be notified or served. This provision carries forward the principle previously contained in prior Rule 9036(d).

New Rule 9036(c)(3) defines the term "notice of case activity" as any electronic notice provided to case participants through the court's electronic-filing system to inform them of a filing or other activity on the docket. There are two equivalent terms currently in use: Notice of

Electronic Filing and Notice of Docket Activity. "Notice of case activity" is intended to encompass both of those terms, as well as any equivalent terms that may come into use in future. The word "electronic" is deleted as superfluous now that electronic filing is the default method.

Subdivision (d). New subdivision (d)(2) carries forward the rule's prior treatment of the timing of notice or service by electronic means other than the court's electronic-filing system. New subdivision (d)(1) addresses the timing of notice or service through the court's electronic-filing system.

Previously, Rule 9036(d) provided simply that "Electronic notice or service is complete upon filing or sending but is not effective if the filer or sender receives notice that it did not reach the person to be notified or served." The adoption of new Rule 9036(c)(1) requires a change to Rule 9036(d): Under new subdivision (c)(1), when a litigant files a paper other than through the court's electronic-filing system, service on a litigant who is registered to receive a notice of ~~filing~~case activity through the court's electronic-filing system occurs by means of the notice of ~~filing. But that service does not occur "upon filing"~~case activity. But when the filing is made other than through the court's electronic-filing system~~. There~~, there can be a short time lag between the date the litigant files the document with the court and the date that the clerk's office uploads it into the court's electronic-filing system. Thus, new subdivision (d)(1) provides that, for purposes of any deadlines for notifying or making service, notice— or service— by a notice of ~~filing sent to an individual registered to receive it through the court's electronic-filing system~~case activity is complete as of the date of ~~the notice of~~ filing. But the amended rule provides that, for purposes of any deadlines that run from the date of notice or service, notice or service is complete as of the date of the notice of case activity. Thus, the amended rule ensures that if there is a delay between the date the court receives a filing not made through the electronic-filing system and the date the court uploads that filing into the electronic-filing system, that delay will not diminish the time allowed to the party whose deadline runs from the date of notice or service.

New subdivision (d)(2) carries forward—for notice or service by other electronic means—~~-~~the prior rule's treatment; that is, such notice or service is complete upon sending.

Prior Rule 9036(d)'s provision that electronic notice or service is not effective if the filer or sender ~~learns~~receives notice that it did not reach the person to be notified or served is [slightly] revised and relocated to new Rules 9036(c)(1)(A) and 9036(c)(2).

SRL provision comparison chart, March 20, 2026

This comparison chart shows – as clean rule text – the various SRL e-filing and service provisions, along with other related provisions in the affected rules.

Bankruptcy (not appellate)	Bankruptcy (appellate)	Appellate	Civil	Criminal
E-filing general rule:	***E-filing general rule:***	***E-filing general rule:***	***E-filing general rule:***	***E-filing general rule:***
Bankruptcy Rule 5005(a)(3)(A): **(3) Electronic Filing and Signing.** **(A) By a Represented Entity--Generally Required; Exceptions.** An entity represented by an attorney must file electronically, unless nonelectronic filing is allowed by the court for cause or is allowed or required by local rule.	Bankruptcy Rule 8011(a)(2)(B): **(B) Electronic Filing By a Represented Entity—Generally Required; Exceptions.** An entity represented by an attorney must file electronically, unless nonelectronic filing is allowed by the court for cause or is allowed or required by local rule.	FRAP 25(a)(2)(B): **(B) Electronic Filing by a Person Represented by Counsel--Generally Required; Exceptions.** A person represented by an attorney must file electronically, unless nonelectronic filing is allowed by the court for good cause or is allowed or required by local rule.	Civil Rule 5(d)(2)(A): **(2) Electronic Filing and Signing.** **(A) By a Person Represented by Counsel—Generally Required; Exceptions.** A person represented by an attorney must file electronically, unless nonelectronic filing is allowed by the court for good cause or is allowed or required by local rule.	Criminal Rule 49(b)(2)(A): **(2) Electronic Filing and Signing. (A) By a Party Represented by Counsel – Generally Required; Exceptions.** A party represented by an attorney must file electronically, unless nonelectronic filing is allowed by the court for good cause or is allowed or required by local rule.

E-filing SRL default rule:	*E-filing SRL default rule:*	*E-filing SRL default rule:*	*E-filing SRL default rule:*	*E-filing SRL default rule:*
Bankruptcy Rule 5005(a)(3)(B)(i): **(B) By an Unrepresented Individual—When Allowed or Required. (i) In General.** An unrepresented individual may use the court's electronic-filing system to file papers and receive notice of activity in the case, unless a court order or local rule prohibits the individual from doing so. An unrepresented individual may be required to file electronically only by order in a case or by a local rule that includes reasonable exceptions.	Bankruptcy Rule 8011(a)(2)(C)(i): **(C) Electronic Filing By an Unrepresented Individual—When Allowed or Required. (i) In General.** An unrepresented individual may use the court's electronic-filing system to file documents and receive notice of activity in the case, unless a court order or local rule prohibits the individual from doing so. An unrepresented individual may be required to file electronically only by order in a case or by a local rule that includes reasonable exceptions.	FRAP 25(a)(2)(C)(i): **(C) Electronic Filing by an Unrepresented Party--When Allowed or Required. (i) In General.** An unrepresented party may use the court's electronic-filing system to file papers and receive notice of activity in the party's case, unless a court order or local rule prohibits the party from doing so. An unrepresented person may be required to file electronically only by order in a case or by a local rule that includes reasonable exceptions.	Civil Rule 5(d)(2)(B)(i): **(B) By an Unrepresented Party—When Allowed or Required. (i) In General.** An unrepresented party may use the court's electronic-filing system to file papers and receive notice of activity in the party's case, unless a court order or local rule prohibits the party from doing so. An unrepresented person may be required to file electronically only by order in a case or by a local rule that includes reasonable exceptions.	Criminal Rule 49(b)(2)(B)(i): **(B) By a Self-Represented Party – When Allowed. (i) In General.** A self-represented party may use the court's electronic-filing system to file papers and receive notice of activity in the party's case, unless a court order or local rule prohibits the party from doing so.

E-filing SRL conditions:	*E-filing SRL conditions:*	*E-filing SRL conditions:*	*E-filing SRL conditions:*	*E-filing SRL conditions:*
Bankruptcy Rule 5005(a)(3)(B)(ii): **(ii) Conditions and Restrictions on Access.** A court may set and enforce reasonable conditions and restrictions on unrepresented individuals' access to the court's electronic-filing system (including by denying or revoking access for a particular unrepresented individual). But the court may not prohibit all unrepresented individuals from using the system unless that prohibition includes reasonable exceptions or the court permits the use of another electronic method for filing papers and receiving electronic notice of activity in the case.	Bankruptcy Rule 8011(a)(2)(C)(ii): **(ii) Conditions and Restrictions on Access.** A court may set and enforce reasonable conditions and restrictions on unrepresented individuals' access to the court's electronic-filing system (including by denying or revoking access for a particular unrepresented individual). But the court may not prohibit all unrepresented individuals from using the system unless that prohibition includes reasonable exceptions or the court permits the use of another electronic method for filing documents and receiving electronic notice of activity in the case.	FRAP 25(a)(2)(C)(ii): **(ii) Conditions and Restrictions on Access.** A court may set and enforce reasonable conditions and restrictions on unrepresented parties' access to the court's electronic-filing system (including by denying or revoking access for a particular unrepresented party). But the court may not prohibit all unrepresented parties from using the system unless that prohibition includes reasonable exceptions or the court permits the use of another electronic method for filing papers and receiving electronic notice of activity in the party's case.	Civil Rule 5(d)(2)(B)(ii): **(ii) Conditions and Restrictions on Access.** A court may set and enforce reasonable conditions and restrictions on unrepresented parties' access to the court's electronic-filing system (including by denying or revoking access for a particular unrepresented party). But the court may not prohibit all unrepresented parties from using the system unless that prohibition includes reasonable exceptions or the court permits the use of another electronic method for filing papers and receiving electronic notice of activity in the party's case.	Criminal Rule 49(b)(2)(B)(ii): **(ii) Conditions and Restrictions on Access.** A court may set and enforce reasonable conditions and restrictions on self-represented parties' access to the court's electronic-filing system (including by denying or revoking access for a particular self-represented party). But the court may not prohibit all self-represented parties from using the system unless that prohibition includes reasonable exceptions or the court permits the use of another electronic method for filing papers and receiving electronic notice of activity in the party's case.

E-filing & signature:	***E-filing & signature:***	***E-filing & signature:***	***E-filing & signature:***	***E-filing & signature:***
Bankruptcy Rule 5005(a)(3)(C): **(C) Signing.** A filing made through an individual's electronic-filing account and authorized by that individual, together with the individual's name on a signature block, constitutes the individual's signature.	Bankruptcy Rule 8011(e): **(e) Signature Always Required.** **(1) Electronic Filing.** Every document filed electronically must include the electronic signature of the individual filing it or, if an entity is represented, the counsel's electronic signature. A filing made through an individual's electronic-filing account and authorized by that individual—together with that individual's name on a signature block—constitutes the individual's signature. **(2) Paper Filing.** Every document filed in paper form must be signed by the individual filing it or, if an entity is represented, by the entity's counsel.	FRAP 25(a)(2)(D): **(D) Signing.** A filing made through a person's electronic-filing account and authorized by that person, together with that person's name on a signature block, constitutes the person's signature.	Civil Rule 5(d)(2)(C): **(C) Signing.** A filing made through a person's electronic-filing account and authorized by that person, together with that person's name on a signature block, constitutes the person's signature.	Criminal Rule 49(b)(2)(D): **(D) Signature.** A filing made through a person's electronic-filing account and authorized by that person, together with the person's name on a signature block, constitutes the person's signature.

Service required:	***Service required:***	***Service required:***	***Service required:***	***Service required:***
[NB: No need to revise Rule 5005(b) ("Sending Copies to the United States Trustee"), because it does not specify that sending must be "at or before the time of filing." Rule 9036 does not include a provision requiring service.]	Rule 8011(b): **(b) Service of All Documents Required.** Unless a rule requires service by the clerk or the document will be served through the court's electronic-filing system under (c)(1), a party must, at or before the time of the filing of a document, serve it on the other parties to the appeal. Service on a party represented by counsel must be made on the party's counsel.	FRAP 25(b): **(b) Service of All Papers Required.** Unless a rule requires service by the clerk or the paper will be served through the court's electronic-filing system under Rule 25(c)(1), a party must, at or before the time of filing a paper, serve a copy on the other parties to the appeal or review. Service on a party represented by counsel must be made on the party's counsel.	*[NB: No need to revise Civil Rule 5(a) ("Service: When Required"), because it does not specify that service must be "at or before the time of filing."]*	*[NB: No need to revise Criminal Rule 49(a)(1) ("Service on a Party. What is Required"), because it does not specify that service must be "at or before the time of filing."]*

Service by NCA:	*Service by NCA:*	*Service by NCA:*	*Service by NCA:*	*Service by NCA:*
Rule 9036(c)(1): **(c) Notices from and Service by an Entity. (1) Notice of Case Activity Sent Through the Court's Electronic-Filing System.** A notice of case activity sent to an [individual] [entity] registered to receive it through the court's electronic-filing system constitutes notice or service on that [individual] [entity], with these qualifications: (A) such notice or service is not effective if the filer [learns] [receives notice] that it did not reach the [individual] [entity] to be notified or served; and (B) a court may provide by order or local rule that if a document is filed under seal, neither service nor notice occurs under this paragraph (c)(1).	Rule 8011(c)(1): **(c) Manner of Service. (1) Service by a Notice of Case Activity Sent Through the Court's Electronic-Filing System.** A notice of case activity sent to an [individual] [entity] registered to receive it through the court's electronic-filing system constitutes service on that [individual] [entity], with these qualifications: (A) such service is not effective if the filer [learns] [receives notice] that it did not reach the [individual] [entity] to be served; and (B) a court may provide by order or local rule that if a document is filed under seal, it must be served by other means.	FRAP 25(c)(1): **(c) Manner of Service. (1) Service by a Notice of Case Activity Sent Through the Court's Electronic-Filing System.** A notice of case activity sent to a person registered to receive it through the court's electronic-filing system constitutes service on that person, with these qualifications: (A) such service is not effective if the filer learns that it did not reach the person to be served; and (B) a court may provide by order or local rule that if a paper is filed under seal or initiates a proceeding in the court of appeals under Rule 5, 6(c), 15, or 21, it must be served by other means.	Civil Rule 5(b)(2): **(b) Service: How Made.... (2) Service by a Notice of Case Activity Sent Through the Court's Electronic-Filing System.** A notice of case activity sent to a person registered to receive it through the court's electronic-filing system constitutes service on that person. For any service deadlines, service by a notice of case activity is complete as of the date of filing. For any deadlines that run from the date of service, service [by a notice of case activity] is complete as of the notice's date. But these qualifications apply: (A) such service is not effective if the filer learns that it did not reach the person to be served; and (B) a court may provide by order or local rule that if a paper is filed under seal, it must be served by other means.	Criminal Rule 49(a)(3): **(3) Service by a Notice of Case Activity Sent Through the Court's Electronic-Filing System.** A notice of case activity sent to a person registered to receive it through the court's electronic-filing system constitutes service on that person. For any service deadlines, service by a notice of case activity is complete as of the date of filing. For any deadlines that run from the date of service, service [by a notice of case activity] is complete as of the notice's date. But these qualifications apply: (A) such service is not effective if the filer learns that it did not reach the person to be served; and (B) a court may provide by order or local rule that if a paper is filed under seal, it must be served by other means.

Service / other electronic means:	***Service / other means:***	***Service / other means:***	***Service / other means:***	***Service / other means:***
[*NB: Rule 9036 focuses on electronic notice & service, so its "other means" provision focuses only on other electronic means.]* Rule 9036(c)(2): **(2) Electronic Means Consented To.** An entity may also send notice or serve a document by electronic means that the recipient consented to in writing, including by designating an electronic address for receiving notices. But such notice or service is not effective if the sender [learns] [receives notice] that it did not reach the entity to be notified or served.	Rule 8011(c)(2): **(2) Service by Other Means.** A document may also be served under this rule by: (A) personal delivery; (B) mail; (C) third-party commercial carrier for delivery within 3 days; or (D) electronic means that the entity served has consented to in writing, but such electronic service is not effective if the sender [learns] [receives notice] that it did not reach the entity to be served.	FRAP 25(c)(2): **(2) Service by Other Means.** A paper may also be served under this rule by: (A) personal delivery, including delivery to a responsible person at the office of counsel; (B) mail; (C) third-party commercial carrier for delivery within 3 days; or (D) sending it by electronic means that the person to be served has consented to in writing, but such electronic service is not effective if the sender learns that it did not reach the person to be served.	Civil Rule 5(b)(3): **(3) Service by Other Means.** A paper may also be served under this rule by: (A) handing it to the person; (B) leaving it: (i) at the person's office with a clerk or other person in charge or, if no one is in charge, in a conspicuous place in the office; or (ii) if the person has no office or the office is closed, at the person's dwelling or usual place of abode with someone of suitable age and discretion who resides there; (C) mailing it to the person's last known address—in which event service is complete upon mailing; (D) leaving it with the court clerk if the person has no known address;	Criminal Rule 49(a)(4): **(4) Service by Other Means.** A paper may also be served by: (A) handing it to the person; (B) leaving it: (i) at the person's office with a clerk or other person in charge or, if no one is in charge, in a conspicuous place in the office; or (ii) if the person has no office or the office is closed, at the person's dwelling or usual place of abode with someone of suitable age and discretion who resides there; (C) mailing it to the person's last known address – in which event service is complete upon mailing; (D) leaving it with the court clerk if the person has no known address;

			(E) sending it by electronic means that the person has consented to in writing—in which event service is complete upon sending, but is not effective if the sender learns that it did not reach the person to be served; or (F) delivering it by any other means that the person has consented to in writing—in which event service is complete when the person making service delivers it to the agency designated to make delivery.	(E) sending it by electronic means that the person has consented to in writing – in which event service is complete upon sending, but is not effective if the sender learns that it did not reach the person to be served; or (F) delivering it by any other means that the person has consented to in writing—in which event service is complete when the person making service delivers it to the agency designated to make delivery.

Service / completeness:	***Service / completeness:***	***Service / completeness:***	***Service / completeness:***	***Service / completeness:***
Rule 9036(d): **(d) When Notice or Service Is Complete; Keeping an Address Current.** **(1) Notice of Case Activity Sent Through the Court's Electronic-Filing System.** For any notice or service deadlines, notice or service by a notice of case activity is complete as of the date of filing. For any deadlines that run from the date of notice or service, notice or service [by a notice of case activity] is complete as of the date of the notice of case activity. **(2) Other Electronic Means.** Electronic notice or service by other electronic means is complete upon sending.	Rule 8011(c)(3): **(3) When Service Is Complete.** **(A) For Service by a Notice of Case Activity.** For any service deadlines, service by a notice of case activity is complete as of the date of filing. For any deadlines that run from the date of service, service [by a notice of case activity] is complete as of the notice's date. **(B) For Service by Other Electronic Means.** Service by other electronic means is complete on sending. **(C) For Service by Mail or Commercial Carrier.** Service by mail or by third-party commercial carrier is complete on mailing or delivery to the carrier.	FRAP 25(c)(4): **(4) When Service Is Complete.** **(A) For Service by Mail or Commercial Carrier.** Service by mail or by commercial carrier is complete on mailing or delivery to the carrier. **(B) For Service by a Notice of Case Activity.** For any service deadlines, service by a notice of case activity is complete as of the date of filing. For any deadlines that run from the date of service, service [by a notice of case activity] is complete as of the notice's date. **(C) For Service by Other Electronic Means.** Service by other electronic means is complete on sending.	*[Civil Rule 5 does not have a discrete subpart focused on completeness. Rather, the current rule addresses completeness in Rule 5(b)(2)(C), (E), and (F). The amended rule retains those mentions of completeness and addresses completeness for service by means of the NCA in Rule 5(b)(2).]* Civil Rule 5(b)(2): For any service deadlines, service by a notice of case activity is complete as of the date of filing. For any deadlines that run from the date of service, service [by a notice of case activity] is complete as of the notice's date.	*[Criminal Rule 49 does not have a discrete subpart focused on completeness. Rather, the current rule addresses completeness in Rules 49(a)(3)(A) & (B) and 49(a)(4)(C) & (E). The amended rule retains (though relocates) three of these mentions of completeness and addresses completeness for service by means of the NCA in Rule 49(a)(3).]* Criminal Rule 49(a)(3): For any service deadlines, service by a notice of case activity is complete as of the date of filing. For any deadlines that run from the date of service, service [by a notice of case activity] is complete as of the notice's date.

NB: The proposed language approved by the Criminal Rules Committee's subcommittee (which originated the latest phrasing of this provision) did not include the bracketed language. The bracketed language is offered for consideration because it may be desirable to make entirely clear that the second sentence, like the first, pertains only to service by a notice of case activity and not service by other means.

NCA defined:	***NCA defined:***	***NCA defined:***	***NCA defined:***	***NCA defined:***
Rule 9036(c)(3): **(3) Definition of "Notice of Case Activity."** The term "notice of case activity" includes a notice of docket activity, a notice of electronic filing, and any other similar electronic notice provided to case participants through the court's electronic-filing system to inform them of activity on the docket.	Rule 8011(c)(4): **(4) Definition of "Notice of Case Activity."** The term "notice of case activity" includes a notice of docket activity, a notice of electronic filing, and any other similar electronic notice provided to case participants through the court's electronic-filing system to inform them of activity on the docket.	FRAP 25(c)(5): **(5) Definition of "Notice of Case Activity."** The term "notice of case activity" includes a notice of docket activity, a notice of electronic filing, and any other similar electronic notice provided to case participants through the court's electronic-filing system to inform them of activity on the docket.	Civil Rule 5(b)(4): **(4) Definition of "Notice of Case Activity."** The term "notice of case activity" includes a notice of docket activity, a notice of electronic filing, and any other similar electronic notice provided to case participants through the court's electronic-filing system to inform them of activity on the docket.	Crim Rule 49(a)(5): **(5) Definition of "Notice of Case Activity."** The term "notice of case activity" includes a notice of docket activity, a notice of electronic filing, and any other similar electronic notice provided to case participants through the court's electronic-filing system to inform them of activity on the docket.

Certificate of service:	***Certificate of service:***	***Certificate of service:***	***Certificate of service:***	***Certificate of service:***
[NB: Rule 5005 doesn't discuss service, and while Rule 9036 addresses service, it does not address proof of service.]	*[NB: The overarching SRL project does not give rise to a need to revise Rule 8011(d)(1) ("Proof of Service. Requirements"), because it already uses the language "if it was served other than through the court's electronic-filing system," thus accommodating service (by means of the notice of case activity) of a filing made in paper form by a SRL. However, based on its review of bankruptcy-specific terminology, the Bankruptcy Rules Committee will update Rule 8011(d)(1) to use the terms "entity" and "individual" instead of "person."]*	*[NB: No need to revise FRAP 25(d)(1) ("Proof of Service"), because it already uses the language "if it was served other than through the court's electronic-filing system," thus accommodating service (by means of the notice of case activity) of a filing made in paper form by a SRL.]*	Civil Rule 5(d)(1)(B): **(B) Certificate of Service.** No certificate of service is required when a paper is served through the court's electronic-filing system under Rule 5(b)(2). When a paper that is required to be served is served by other means: (i) if it is filed, a certificate of service must be filed with it or within a reasonable time after service; and (ii) if it is not filed, a certificate of service need not be filed, unless filing is required by court order or by local rule.	Criminal Rule 49(b)(1): **(b) Filing.** **(1) When Required; Certificate of Service.** Any paper that is required to be served must be filed no later than a reasonable time after service. No certificate of service is required when a paper is served through the court's electronic-filing system under Rule 49(a)(3). When a paper is served by other means, a certificate of service must be filed with it or within a reasonable time after service or filing.

TAB 6B

MEMORANDUM

TO: ADVISORY COMMITTEE ON BANKRUPTCY RULES

FROM: TECHNOLOGY, PRIVACY AND PUBLIC ACCESS SUBCOMMITTEE

SUBJECT: 24-BK-D, 24-BK-E, 25-BK-F MINORS AND PSEUDONYMS AND SSN IN BANKRUPTCY APPEALS AND RELATED ISSUES

DATE: MARCH 16, 2026

All of the advisory committees have been considering 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. The Advisory Committee has previously decided to take no action on the suggestion from Senator Wyden (22-BK-I) 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 has proposed 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 including all exhibits and attachments. Third, it would require the use of pseudonyms rather than initials for minors' names. The revised Rule 49.1(a) would read as follows:

Rule 49.1. Privacy Protection for Filings Made with the Court

(a) Redacted Filings. Unless the court orders otherwise, ~~in~~ a party or nonparty making an electronic or paper filing with the court, including any exhibit or attachment, must: ~~that contains an individual's social-security number, taxpayer-identification number, or birth date, the name of an individual known to be a minor, a financial-account number, or the home address of an individual, a party or nonparty making the filing may include only:~~

(1) omit or completely redact all social-security or other taxpayer-identification numbers, including employer-identification numbers; and ~~the last four digits of the social-security number and taxpayer-identification number;~~

(2) if any of the following types of information appear in the filing, include only:

(A) the year of ~~the~~ an individual's birth;

(~~3~~B) a pseudonym in place of the name of an individual known to be a minor; ~~the minor's initials;~~

(4C) the last four digits of a financial-account number; and

(~~5~~D) the city and state of ~~the~~ an individual's home address.

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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.

At the Advisory Committee meeting in September 2025, the Advisory Committee made four decisions:

1. It continues to adhere to its position that no modification should be made to Rule 9037 to require complete redaction (rather than redaction to the last four digits) of social-security numbers because they are needed by creditors in bankruptcy cases.

2. It is willing to amend Rule 9037 to conform to the approach adopted by the Criminal Rules with respect to pseudonyms for minors.

3. Rule 9037(a) should treat individual tax-identification numbers the same way as social-security numbers for purposes of redaction, but should not require redaction of employer-identification numbers.

4. In an appeal to the district court from a bankruptcy court, the same privacy rule that otherwise applies in the district court (for civil and criminal cases) should apply.

No change to Rule 9037(a) is necessary to reflect the decisions described in items 1 and 3. To implement the second item above, amendments to Rule 9037(a) might be made to read as follows:

Rule 9037. Protecting Privacy for Filings ~~Privacy Protection For Filings Made with the Court~~

(a) Redacted Filings. Unless the court orders otherwise, in an electronic or paper filing made with the court, including any exhibit or attachment, that contains an individual's social-security number, taxpayer-identification number, or birth date, the name of an individual, other than the debtor, known to be and identified as a minor, or a financial-account number, a party or nonparty making the filing may include only:

(1) the last four digits of the social-security and taxpayer-identification number;

(2) the year of the individual's birth;

(3) ~~the minor's initials~~a pseudonym in place of the name of the individual known to be and identified as a minor; and

(4) the last four digits of the financial-account number.

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Committee Note

The changes to Rule 9037(a)(3) are made to conform the treatment of references to minors in filings in bankruptcy court to the changes to Fed. R. Crim. P. 49.1 and Fed. R. Civ. P. 52. Use of pseudonyms is more protective of the privacy and safety of the minors. The other conforming change in Rule 9037(a) makes clear that the redactions covered by the rule include exhibits and attachments.

The version of this amendment approved by the Subcommittee proposed an amendment to (a)(4) to require redaction of only an individual's financial-account number. It was the view of the associate reporter that this was a non-substantive clarifying change. Several of the other reporters disagreed, having interpreted the same language in their own rules as covering financial-account numbers of non-individuals as well. As there is no need to resolve that difference of opinion for purposes of these amendments—and given that Bankruptcy Form 206D and E/F request redacted financial-account numbers from non-individual debtors just as Form 106D and E/F do for individual debtors—the Advisory Committee may wish simply to leave the language in (a)(4) as it is without further amendment. The language above represents that view. That change has not been discussed with the Subcommittee.

With respect to item 4, the Appellate Rules Committee is considering an amendment to Appellate Rule 25(a)(5). Currently Rule 25(a)(5)(A) makes the bankruptcy privacy rule (Rule 9037) applicable to appeals of bankruptcy cases. The amendment would add a new Rule 25(a)(5)(C) that would require full redaction of SSNs in any filings in the courts of appeal, but would not apply to clerks forwarding the record. The language they are considering reads as follows:

Rule 25. Filing and Service

(a) Filing.

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(5) *Privacy Protection*.

(A) In General. An 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. In all other proceedings, privacy protection is governed by Federal Rule of Civil Procedure 5.2, except that Federal Rule of Criminal Procedure 49.1 governs when an extraordinary writ is sought in a criminal case.

(B) In a Petition Involving the Railroad Retirement Act. In all other proceedings, privacy protection is governed by Federal Rule of Civil

Procedure 5.2, except that Federal Rule of Criminal Procedure 49.1 governs when an extraordinary writ is sought in a criminal case.

(C) Redacting Social-Security Numbers and Taxpayer-Identification Numbers. Unless the court orders filing under seal, a party or nonparty must fully redact social-security numbers or other taxpayer-identification numbers, including employer-identification numbers, from any filing it makes, despite what Rule 25(a)(5)(A) allows. But this requirement does not apply to a clerk who forwards or makes the record available under Rule 6(b)(2)(C), Rule 6(c)(2), or Rule 11 or to an agency that files the record under Rule 17.

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To make the same rule applicable for appeals from the bankruptcy court to the district court or bankruptcy appellate panel, an amendment to Rule 8011 (the bankruptcy rule equivalent to Appellate Rule 25) could add a new Rule 8011(a)(4) to read as follows:

Rule 8011. Filing and Service; Signature

(a) Filing.

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(4) ***Privacy Protection.*** Unless the court orders filing under seal, a party or nonparty must fully redact social-security numbers or other taxpayer-identification numbers, including employer-identification numbers, from any filing it makes. But this requirement does not apply to a clerk who forwards or makes the record available under Rule 8005(b), 8010(b)(1), 8010(b)(2) or 8010(c)(2).

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Committee Note

Rule 8011(a) is amended to add a new paragraph (4) dealing with privacy protection. Rule 9037(a)(1) provides that filings in bankruptcy court may include the last four digits of a social-security number or taxpayer identification number and does not require redaction of employer-identification numbers. But for documents filed in an appeal complete redaction of those numbers are required. Although creditors may have need of those numbers while a matter is pending in the bankruptcy court, there is no need for them in publicly-filed documents in an appellate court, whether the district court or bankruptcy appellate panel. A similar rule (Fed. R. App. P. 25(a)(5)(C)) requires complete redaction for filings in the courts of appeals.

The redaction requirement is not applicable to a clerk who forwards or makes the record available under Rule 8005(b), 8010(b)(1), 8010(b)(2) or 8010(c)(2). The record can be sent as it is. The prohibition does apply, however, to any litigant who reproduces portions of the record in an appendix under Rule 8018.

The Subcommittee recommends that the proposed amendments to Rules 8011 and 9037 described above be recommended to the Standing Committee for publication at the same time as the proposed amendments to the privacy rules of the other committees.

TAB 6C

MEMORANDUM

TO: ADVISORY COMMITTEE ON BANKRUPTCY RULES

FROM: TECHNOLOGY, PRIVACY, AND PUBLIC ACCESS SUBCOMMITTEE

SUBJECT: 23-BK-D and 23-BK-J– PROPOSAL TO AMEND RULE 2002(o)

DATE: MARCH 16, 2026

We received a suggestion from the Clerk of Court for the Bankruptcy Court for the District of Minnesota, in which clerks of court for eight other bankruptcy courts in the Eighth Circuit joined, suggesting that Rule 2002(n) (now Rule 2002(o)) be amended to eliminate the requirement that the caption of every notice given under Rule 2002 comply with Rule 1005. The Bankruptcy Clerks Advisory Group submitted a second suggestion supporting that of the Clerk of Court for the Minnesota Bankruptcy Court and her colleagues.

Upon the recommendation of the Subcommittee and the Advisory Committee, the Standing Committee at its meeting in January 2024 approved for publication an amendment to Rule 2002(o) as follows:

(o) **Caption.** The caption of a notice given under this Rule 2002 must ~~conform to Rule 1005~~include the information that Form 416B requires. The caption of a debtor's notice to a creditor must also include the information that § 342(c) requires.

Committee Note

The amendment eliminates the requirement that all notices given under Rule 2002 include the caption required for the bankruptcy petition under Rule 1005. That caption requires, among other things, the debtor's employer-identification number, last four digits of the debtor's social security number or individual debtor's taxpayer-identification number, any other federal taxpayer-identification number and all other names used within eight years before filing the petition. Instead, most Rule 2002 notices may use the caption described in Official Form 416B, which requires only the court's name, the name of the debtor, the case number, the chapter under which the case was filed, and a brief description of the document's character. Rule 2002 notices sent by the debtor must also include the information that § 342(c) of the Code requires. The notice of the meeting of creditors, Rule 2002(a)(1), will continue to include all information required by Official Forms 309(A-I).

There were no comments on the suggested amendment. Therefore, the Subcommittee recommends the amended Rule 2002(o) to the Advisory Committee for its approval and submission to the Standing Committee for final approval.

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

Rule 2002. Notices

* * * * *

(o) Caption. The caption of a notice given under this Rule 2002 must ~~conform to Rule 1005~~ include the information that Form 416B requires. The caption of a debtor's notice to a creditor must also include the information that § 342(c) requires.

* * * * *

Committee Note

The amendment to Rule 2002(o) eliminates the requirement that all notices given under Rule 2002 include the caption required for the bankruptcy petition under Rule 1005. That caption requires, among other things, the debtor's employer-identification number, last four digits of the debtor's social security number or individual debtor's taxpayer-identification number, any other federal taxpayer-identification number, and all other names used within eight years before filing the petition. Instead, most Rule 2002 notices may use the caption described in Official Form 416B, which requires only the court's name, the name

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

of the debtor, the case number, the chapter under which the case was filed, and a brief description of the document's character. Rule 2002 notices sent by the debtor must also include the information that § 342(c) of the Code requires. The notice of the meeting of creditors, Rule 2002(a)(1), will continue to include all information required by Official Forms 309(A-I).

TAB 7

TAB 7A

MEMORANDUM

TO: ADVISORY COMMITTEE ON BANKRUPTCY RULES

FROM: BUSINESS SUBCOMMITTEE

SUBJECT: SUGGESTIONS FOR AMENDING RULE 9031 (USING MASTERS NOT AUTHORIZED)

DATE: MARCH 18, 2026

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.

The suggestions were submitted in January and February 2024. The Advisory Committee has since discussed whether to propose amendments to Rule 9031 at four meetings and has directed the Subcommittee to continue its consideration of the advisability of doing so. These discussions have been informed in part by the results of a survey of bankruptcy judges conducted by Dr. Carly Giffin of the Federal Judicial Center and a research memorandum prepared by the rules law clerk.

At the fall 2025 Advisory Committee meeting, the Subcommittee presented a draft of possible amendments to Rule 9031 in order to receive feedback from committee members about how the rule might authorize the use of masters. The Subcommittee took these comments into account in making some revisions to the draft at its meeting on February 10. **It then approved the draft as revised, which it recommends for publication.**

Part I of this memo sets out the proposed draft of an amended Rule 9031 and its Committee Note. Part II discusses the issues considered by the Subcommittee in revising the draft that was presented at the fall meeting.

Rule 9031. ~~Using~~ Masters ~~Not Authorized~~

~~Fed. R. Civ. P. 53 does not apply in a bankruptcy case~~.

(a) Appointment.

(1) ***Scope.*** A court may appoint a master only to:

(A) hold hearings, as needed, and make or recommend findings of fact on issues to be decided without a jury if appointment is warranted by:

(i) some exceptional condition; or

(ii) the need to perform an accounting or resolve a difficult computation of damages; or

(B) address pretrial and posttrial matters that cannot be effectively and timely addressed by an available bankruptcy judge of the district.

(2) ***Disqualification.*** A master must not have a relationship to the parties, attorneys, action, or court that would require disqualification of a judge under 28 U.S.C. § 455, unless the parties, with the court's approval, consent to the appointment after the master discloses any potential grounds for disqualification.

(3) ***Possible Expense or Delay; Preservation of the Estate.*** In appointing a master, the court must consider the fairness of imposing the likely expenses on the parties or the estate and must protect against unreasonable expense or delay. To the extent the master's compensation will be paid by the bankruptcy estate, the court must determine that the appointment is necessary to preserve the estate.

(b) Application of Civil Rule 53. Fed. R. Civ. P. 53(b)-(f) applies in a bankruptcy case, except that:

(1) the reference in Fed. R. Civ. P. 53(b)(2)(E) to fixing compensation under Rule 53(g) means fixing compensation under subdivision (c) of this rule; and

(2) if any part of the master's compensation will be paid from the estate:

(A) any professional person hired by the master must be a disinterested person;

(B) the employment is subject to the court's approval after notice; and

(C) the notice must include disclosures of the kind specified in Rule 2014(a)(2).

(c) Compensation.

(1) ***Fixing Compensation.*** Before or after judgment, the court must fix the master's compensation on the basis and terms stated in the appointing order, but the court may set a new basis and terms after giving notice and an opportunity to be heard. The compensation may include fees and expenses of the master and of any professional person hired by the master in compliance with (b)(2).

(2) ***Payment.*** The compensation must be paid:

(A) by a party or parties;

(B) from a fund or subject matter of the proceeding within the court's control; or

(C) from the bankruptcy estate, in which case payment must be made according to Rule 2016(a).

(3) ***Allocating Payment.*** If the compensation is to be paid by parties, the court must allocate payment among them after considering the nature and amount of the controversy, the parties' means, and the extent to which any party is more responsible than other parties for the reference to a master. An interim allocation may be amended to reflect a decision on the merits.

Committee Note

Rule 9031 is amended to authorize the use of masters in bankruptcy cases for certain purposes. Bankruptcy judges bear primary responsibility for the work of their courts. A master should be appointed only in limited circumstances. In no event should a master supplant the role of a trustee, debtor in possession, examiner, or other officer authorized by the Code.

Subdivision (a)(1) describes two different standards, relating to appointments for trial duties and appointments for pretrial or post-trial duties. Under paragraph (1)(A), a master can be appointed to hold hearings, as needed, and make or recommend findings of fact in a non-jury proceeding if the court finds that an exceptional condition exists or if the master is appointed to perform one of the duties specified in subparagraph (A)(ii). In an appropriate bankruptcy case, for example, the resolution of a difficult computation of damages might include the estimation of claims under § 502(c) of the Bankruptcy Code.

Subdivision (a)(1)(B) authorizes appointment of a master to address pretrial or post-trial matters. Appointment is limited to matters that cannot be addressed effectively and in a timely fashion by an available bankruptcy judge of the district. A master's pretrial or post-trial duties may include matters that could be addressed by a judge, such as reviewing discovery documents for privilege, or duties that might not be suitable for a judge. Some forms of settlement negotiations, investigations, or administration of an organization are familiar examples of duties that a judge might not feel free to undertake.

Subdivision (a)(2) governs disqualification. Masters are subject to the Code of Conduct for United States Judges, with exceptions spelled out in the Code. The standard of disqualification is established by 28 U.S.C. § 455. Because a master is not a public judicial officer, it may be appropriate to permit the parties to consent to appointment of a particular person as master in circumstances that would require disqualification of a judge.

When a master is appointed to perform duties that would otherwise be performed by the bankruptcy judge, the estate or parties incur added costs. For that reason, such appointments should be rare and, as subdivision (a)(3) provides, should protect against unreasonable expense and delay. In making the appointment, if the estate will bear the cost of using a master, the court must find that the appointment is necessary to preserve the estate, thereby qualifying the actual and necessary costs incurred as an administrative expense under § 503(b)(1) the Code.

Subdivision (b) incorporates most of Fed. R. Civ. P. 53(b)-(f). These provisions govern the order appointing a master; the master's authority, orders, and reports; and action on the master's order, report, or recommendation. Because a provision regarding payment from the estate is added in subdivision (c) to the provisions in Rule 53(g), the reference to that subdivision in Rule 53(b)(2)(E) should be read as referring to Rule 9031(c).

Because the Bankruptcy Code and Rules impose certain requirements for professional persons who will be paid from the estate, subdivision (b)(2) imposes those requirements on professionals who are hired by a master and will be paid from the estate.

Subdivision (c) governs compensation of the master. The basis and terms for fixing compensation should be stated in the order of appointment. The court retains power to alter the initial basis and terms, after notice and an opportunity to be heard, but should protect the parties against unfair surprise. If the master will be compensated by the bankruptcy estate, he or she must seek payment according to Rule 2016(a).

Part II. Issues Considered by the Subcommittee

(a) Appointment

(1) Scope

This section received the most comments at the fall meeting and raises the most fundamental issues about the purpose of an amended Rule 9031.

1. *Do we want a flexible rule or one narrowly tailored for bankruptcy cases?* This question was posed by a member of the Advisory Committee, and the answer to it affects the rest of the issues about how the rule should be drafted. The Kaplan and ABA suggestions propose adopting the flexible approach of Civil Rule 53, while others have suggested that an amended Rule 9031 primarily address personal injury and wrongful death claims or mass tort cases.

The Wright & Miller treatise explains that "judicial discretion and flexibility of use remain the hallmarks of practice under Rule 53." 9C Fed. Prac. & Proc. Civ. § 2602.1 (3d ed.). The Subcommittee concluded that following that flexible approach in amending Rule 9031 would have several advantages. Respondents to the FJC survey identified a number of situations in which they might want to appoint a master, and there might be situations not currently anticipated in which a master could be useful. A flexible rule could be used for multiple purposes. Moreover, adhering as much as possible to the civil rule would provide a well-developed body of caselaw to guide interpretation of an amended Rule 9031. Of course, the rule must be appropriate for the bankruptcy context, and most of the issues that follow address the ways in which Rule 53 should be tailored to meet that need. The Subcommittee thought that the goal should be to draft a rule that is flexible, while also being sensitive to preserving the bankruptcy estate and retaining the roles of Code-recognized officers.

2. *Should the provision of Rule 53(a)(1)(A)—which authorizes appointment of a master "to perform duties consented to by the parties"—be included?* The 2003 Committee Note to Rule 53 and the Wright & Miller treatise suggest that this provision is intended to limit the use of "trial masters" in jury cases to those in which the parties consent to the master performing certain duties.[1] That use of a master has become rare and would be even more so in bankruptcy cases. Although the language of the provision is not limited to that context, the Subcommittee was reluctant to expand the duties of a master beyond those authorized in (a)(1)(A) and (B) of the draft. Thus it did not include a consent provision.

3. *Should a master be authorized to "hold trial proceedings," "hold hearings," or neither?* Rule 53(a)(1)(B) is the other "trial master" provision of the civil rule. It is intended to be narrow, applying only under exceptional conditions or for certain specified tasks. The 2003 Committee Note describes those tasks as "essentially ministerial determinations that require mastery of much detailed information but that do not require extensive determinations of credibility." The Subcommittee thought that in the bankruptcy context it is more appropriate to

[1] 9C Fed. Prac. & Proc. Civ. § 2604 (3d ed.) ("Under the current version of Rule 53(a)(1)(A), which carries the 2003 amendment forward, masters now can be appointed in jury cases only when the parties have given their consent.").

refer to holding "hearings" rather than "trial proceedings." It added ", as needed," after "hearings" to make clear that in some situations a master might make or recommend findings of fact based on documentary evidence without the need to conduct a hearing.

4. *Should specific references be made to estimating claims, resolving an award of attorney's fees, or addressing discovery disputes?* The Subcommittee decided that subdivision (a)(1)(A) and (B) should track the language of the civil rule without adding examples of specific tasks to the text. It did, however, add to the Committee Note a statement that estimating claims under Code § 502(c) might be an appropriate duty for a master in certain cases.

(2) Disqualification

Is there any reason that the standard for disqualification of a master in the bankruptcy court should be different from the standard used in a civil case in the district court? The Subcommittee concluded that there is no reason for a different standard, so it retained the language of the civil rule.

(3) Possible Expense or Delay; Preservation of the Estate

Should the reference to preservation of the estate be retained? The Subcommittee concluded that it should be retained. Requiring attention to preservation of the estate addresses the concern raised by some that the use of masters will be at the expense of creditors. It also provides authority under the Code to pay masters from the bankruptcy estate as an administrative expense.

(b) Application of Civil Rule 53

1. *Should any other parts of Rule 53(b)-(f) be excluded?* The Subcommittee did not think so.

2. *Should the bankruptcy court's review of the master's findings of fact always be de novo?* This change from Rule 53(f)(3) in the earlier draft was prompted by Kyle Brinker's memo, in which he concluded that "[d]e novo review by the bankruptcy judge also would ensure that a master's appointment would not prevent a bankruptcy judge from 'hearing' or 'determining' bankruptcy cases and proceedings," as required by 28 U.S.C. § 157. The Subcommittee, however, concluded that, because the civil rule only dispenses with de novo review with the parties' consent and the court's approval, there was no reason to exclude the incorporation of Rule 53(f)(3).

3. *Should the disinterestedness standard of § 327 and the Rule 2014(a)(2) disclosure requirements apply to professionals hired by a master?* The Subcommittee concluded that there was no reason to treat these professionals differently from other professionals who are paid from the estate.

(c) Compensation

Should Rule 2016(a) be made applicable to payment of a master? That rule prescribes the procedure for obtaining from the estate payment for services rendered, and so the Subcommittee concluded that it was appropriate to apply the rule when a master is seeking compensation from the estate.

Committee Note

Should any changes be made to the Committee Note beyond those necessitated by revisions to the rule's text? The Subcommittee deleted as unnecessary two sentences at the end of the paragraph beginning on line 70, which discussed the declining use in civil cases of masters to handle core trial functions.

TAB 7B

MEMORANDUM

TO: ADVISORY COMMITTEE ON BANKRUPTCY RULES

FROM: BUSINESS SUBCOMMITTEE

SUBJECT: 25-BK-L – PROPOSAL REGARDING RULES 1007 AND 1014 AND VENUE

DATE: MARCH 16, 2026

Suggestion

We have received a suggestion from The National Bankruptcy Venue Committee suggesting additional disclosure of the choice of venue at the time a bankruptcy case is filed and requiring the court under some circumstances to either dismiss or transfer the case to a proper venue, or to hold a hearing on the venue selection.

The first suggestion they make is to add a sentence to the end of Rule 1007(a)(1) (which specifies requirements for disclosure of lists of creditors and the corporate ownership statement). The sentence which state, "In any chapter 11 case, the debtor shall file with the petition for relief a statement as prescribed by the Official Form ___ setting forth the reason why the petition was filed in the district."

They then propose a new Official Form that asks the chapter 11 debtor to state the reason for the choice of venue from among five choices: location of the Debtor's Domicile or Residence, location of the Debtor's Principal Place of Business, location of the Debtor's Principal Assets, location in which there is pending a case under title 11 concerning such person's affiliate, general partner, or partnership, or other (with a description of the reason). The form would also ask for copies of documents evidencing the selection be attached, and for the form to be signed under penalty of perjury.

The second suggestion is to add a new subsection (3) to Rule 1014(a) that would read:

"Regardless of whether a petition is filed in a proper district or an improper district, the court shall transfer the case or dismiss the case if the court determines, based on the evidence, that the venue was chosen for an improper purpose, including forum shopping or improper manipulation of business entity organization. Any party in interest may seek dismissal or transfer of venue based on the averments by the Debtor in Official Form ___, or alternatively the court may issue an order to show cause why a cause [sic] should not be transferred or dismissed based on the averments in Official Form ___. The court shall hold an expedited hearing on any motion or order to show cause under this rule and shall issue a decision within 14 days after the hearing."

Law and Rule on Venue

The statutory provision for venue in bankruptcy cases is in 28 U.S.C. § 1408, which reads as follows:

28 U.S. Code § 1408 - Venue of cases under title 11

Except as provided in section 1410 of this title [dealing with venue of cases ancillary to foreign proceedings], a case under title 11 may be commenced in the district court for the district—

(1) in which the domicile, residence, principal place of business in the United States, or principal assets in the United States, of the person or entity that is the subject of such case have been located for the one hundred and eighty days immediately preceding such commencement, or for a longer portion of such one-hundred-and-eighty-day period than the domicile, residence, or principal place of business, in the United States, or principal assets in the United States, of such person were located in any other district; or

(2) in which there is pending a case under title 11 concerning such person's affiliate, general partner, or partnership.

The Judicial Code also includes a provision for a change in venue, 28 U.S.C. § 1412, that reads as follows:

28 U.S.C. § 1412. Change of venue

A district court may transfer a case or proceeding under title 11 to a district court for another district, in the interest of justice or for the convenience of the parties.

Bankruptcy Rule 1014(a) deals with dismissal or transfer of cases filed in the proper district or improper district. It reads as follows:

Rule 1014. Transferring a Case to Another District; Dismissing a Case Improperly Filed

(a) Dismissal or Transfer.

(1) ***Petition Filed in the Proper District.*** If a petition is filed in the proper district, the court may transfer the case to another district in the interest of justice or for the convenience of the parties. The court may do so:

(A) on its own or on a party in interest's timely motion; and

(B) only after a hearing on notice to the petitioner, United States trustee, and other entities as the court orders.

(2) ***Petition Filed in an Improper District*.** If a petition is filed in an improper district, the court may dismiss the case or may transfer it to another district on the same grounds and under the same procedures as stated in (1).

Discussion

There has been concern about alleged misuse of the bankruptcy venue provisions of the Judicial Code for 40 years since the provisions of the Judicial Code were first enacted. The Bankruptcy Venue Reform Act, most recently introduced in the 118th Congress (2023-2024) as H.R. 1017, would, among other things, eliminate state of incorporation venue and would require corporations to file where their principal place of business or principal assets in the U.S. are located. It would also restrict the ability to file where an affiliate had filed. None of these bills has obtained much traction.

Therefore, the decision on whether to transfer a bankruptcy case when venue is appropriate under 28 U.S.C. § 1409 rests with the bankruptcy judge who is directed to make the decision "in the interest of justice or for the convenience of the parties." Critics claim the bankruptcy judge may be unlikely to relinquish cases with a national profile even when the interest of justice or the convenience of parties would suggest transfer is appropriate. But judges tend to defer to the decision of the debtor as to the appropriate venue for the case given that Congress has explicitly given them the choice.

The problem with the second suggestion made by The National Bankruptcy Venue Reform Committee is that it attempts to provide a different standard for transfer of a bankruptcy case than that provided by Congress. Congress did not state that there is such a thing as a selection of venue "for an improper purpose, such as forum shopping or improper manipulation of business entity organization." The statutory standard is "in the interest of justice or for the convenience of the parties." Any attempt to modify that standard or define it is an attempt to "abridge, enlarge, or modify any substantive right" which the bankruptcy rules may not do under the Rules Enabling Act, 28 U.S.C. § 2075.

The first suggestion – which is a disclosure requirement and does not run afoul of the Rule Enabling Act – has no proper purpose. The information about why a debtor has selected a particular venue can be obtained by the information contained in the petition. Form 201, questions 10 and 11, already ask whether there are any bankruptcy cases pending or being filed by an affiliate of the debtor, and why the case is being filed in this district. All interested parties have an opportunity to ask for additional information about the answers to those questions in the meeting of creditors under § 341, and can make a motion to the court to transfer the case under the standard of 28 U.S.C. § 1412, implemented by Bankruptcy Rule 1014(a). To the extent that the disclosure requirement is asking about the strategic decision by the debtor in selecting between districts where venue would be proper, it may infringe on protected attorney-client communications.

The Subcommittee recommends that the Advisory Committee take no action on this suggestion.

TAB 8

MEMORANDUM

TO: ADVISORY COMMITTEE ON BANKRUPTCY RULES

FROM: LAURA BARTELL, ASSOCIATE REPORTER

SUBJECT: RULE 8017 AMICUS AND RULE 8015 CERTIFICATE OF COMPLIANCE AND APPENDIX

DATE: MARCH 16, 2026

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 Appeals and Cross Border Insolvency Subcommittee submitted conforming amendments to Rule 8017 to the Advisory Committee for approval for publication at its meeting in September. Prof. Cathie Struve suggested at that time 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 as the amendments to Rule 8017. The Advisory Committee agreed and decided to defer approval of amended Rule 8017 until the conforming amendments were also presented for approval. The Appeals and Cross Border Insolvency Subcommittee once again approved language for the amended Rule 8017 and the conforming amendments to Rule 8015(h)(1) and the appendix at its meeting in February and was prepared to present those amendments to the Advisory Committee for approval for publication.

However, the reporters have been informed that the Advisory Committee on Appellate Rules and the Standing Committee have voted to withdraw the proposed amendments to Appellate Rule 29, together with conforming amendments to Appellate Rule 32 and the Appendix of Length Limits. The reporter to the Appellate Rules Committee assumes that the Supreme Court will choose not to adopt those amendments this spring and will instead allow further deliberations by the Committee.

In light of that development, I recommend that the Advisory Committee defer consideration of conforming amendments to Bankruptcy Rule 8017, 8015 and the appendix until the Appellate Rules Committee has finalized its proposals and made its recommendation to the Standing Committee, presumably at the June meeting. The Appeals and Cross Border Insolvency Subcommittee can then consider any changes to the drafts previously approved and make its recommendation to the Advisory Committee next fall.