ADVISORY COMMITTEE
ON
BANKRUPTCY RULES

September 23, 2026

AGENDA
Meeting of the Advisory Committee on Bankruptcy Rules
September 23, 2026 | Washington D.C.

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9. New business

10. Future meetings: The next meeting will be on April 7, 2027 in New Orleans, LA.

11. Adjourn

TAB 1

ADVISORY COMMITTEE ON BANKRUPTCY RULES

Chair	Reporter
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	Associate Reporter
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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
Diego Pestana, Esq. Office of the Deputy Attorney General (ex officio) United States Department of Justice Washington, DC	Damian S. Schaible, Esq. Davis Polk & Wardwell LLP New York, NY
Nancy J. Whaley, Esq. The Offices of Nancy J. Whaley Atlanta, GA	

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New York University School of Law
New York, NY

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United States Bankruptcy Court
Denver, CO

Advisory Committee on Bankruptcy Rules

Members	Position	District/Circuit	Start Date	End Date
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Daniel A. Bress	C	Ninth Circuit	2022	2028
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
Diego Pestana*	DOJ	Washington, DC	----	Open
Damian S. Schaible	ESQ	New York	2021	2026
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S. Elizabeth Gibson Reporter	ACAD	North Carolina	2008	Open
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* *Ex officio* representative on behalf of the Deputy Assistant Attorney General, Tax Division

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

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Consumer Subcommittee Hon. Michelle M. Harner, Chair Hon. Jeffery P. Hopkins Alane Beckett, Esq Jenny L. Doling, Esq. Prof. Scott Norberg Nancy Whaley, Esq. Ramona Elliott, Esq., EOUST liaison Kenneth Gardner, Clerk Carly Giffin, Federal Judicial Center	**Forms Subcommittee** Hon. Benjamin Kahn, Chair Alane Beckett, Esq. Jenny L. Doling, Esq. Diego Pestana, Esq., DOJ Nancy Whaley, Esq. Ramona Elliott, Esq., EOUST liaison Kenneth Gardner, Clerk Carly Giffin, Federal Judicial Center
Technology, Privacy, and Public Access Subcommittee Hon. Joan H. Lefkow, Chair Hon. Leigh May Hon. Benjamin Kahn Hon. Michelle M. Harner Hon. Jeffery P. Hopkins Prof. Scott Norberg Ramona Elliott, Esq., EOUST liaison Carly Giffin, Federal Judicial Center	
Appellate Rules Liaison: Hon. Daniel A. Bress	**Bankruptcy Committee Liaison:** Hon. Michelle M. Harner
Civil Rules Liaison: Hon. Catherine P. McEwen	

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Division Director

Elizabeth Wiggins, Ph.D., J.D.
Division Director

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

Effective (no earlier than) December 1, 2026

Current Step in REA Process:

- Transmitted to Congress (Apr 2026)

REA History:

- Transmitted to Supreme Court (Oct 2025)
- Approved by the Judicial Conference (Sept 2025)
- 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 Form 4	The proposed amendments to Form 4 simplify the form to reduce 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.	BK 9006
BK 3018	The proposed amendments to Rule 3018(c) 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) provide an additional reminder notice to 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 Rule 9006 to the proposed amendments to Rule 1007.	BK 1007
BK 9014	The proposed amendments to Rule 9014(d) relax the standard for allowing remote testimony in contested matters to "cause and with appropriate safeguards." The existing rule imports Civil Rule 43(a), requiring a showing of "good cause in compelling circumstances and with appropriate safeguards") and applies in contested matters and adversary proceedings.	BK 7043; 9017
BK 9017	The proposed amendments to Rule 9017 remove the reference to Civil Rule 43 to conform to the proposed amendments to Rule 9014(d) and new Rule 7043.	BK 7043; 9014(d)
BK 7043	New Rule 7043 provides that the standard set forth in Civil Rule 43 applies to remote testimony in adversary proceedings.	BK 9014; 9017
EV 801	The proposed amendments to Rule 801(d)(1)(A) 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:

- Approved by Standing Committee (June 2026 unless otherwise noted)[1]

REA History:

- Published for public comment (Aug 2025 – Feb 2026 unless otherwise noted)
- Approved for publication by Standing Committee (June 2025 unless otherwise noted)

Rule	Summary of Proposal	Related or Coordinated Amendments
AP 15	The proposed amendment to Rule 15 would remove the requirement that a party who files a petition for review of an agency order must refile or amend the petition after filing a request for rehearing before the agency.	
AP 29	The proposed amendments to Rule 29 set forth in renumbered Rule 29(a)-(d) would expand the disclosure obligations in amicus briefs filed at the initial stage of an appeal. Among other things, the amicus brief would be required to disclose whether the amicus is newly created and other information relating to its relationship to a party (such as whether a party has a majority ownership interest in the amicus) and nonparties (such as earmarked contributions to the amicus of more than $100). Rule 29(e) incorporates most of these expanded disclosures to amicus briefs filed during the rehearing stage. The proposed amendments also set the length limit for amicus briefs at the initial stage to a specific word limit of 6,500 words.	AP 32; Appendix of Length Limits
AP 32	The proposed amendments to Rule 32 conform to the proposed amendments to Rule 29.	AP 29; Appendix of Length Limits
AP Appendix of Length Limits	The proposed amendments to the Appendix of Length Limits conform to the proposed amendments to Rule 29.	AP 29; 32
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 clarify that the requested EIN (employer identification number) is the debtor's EIN and not the EIN of any separate legal entity such as an employer, corporation, partnership, or LLC.	
BK Official Form 106C	The proposed amendments to Form 106C would amend Form 106C to provide a total of the specific-dollar exemption amounts	

[1] Proposed amendments to Evidence Rule 609 were approved by the Standing Committee in June 2026, but approval was subsequently withdrawn in August 2026 to allow the Advisory Committee on Evidence Rules to further consider the proposed amendments.

Effective (no earlier than) December 1, 2027

Current Step in REA Process:

- Approved by Standing Committee (June 2026 unless otherwise noted)[1]

REA History:

- Published for public comment (Aug 2025 – Feb 2026 unless otherwise noted)
- Approved for publication by Standing Committee (June 2025 unless otherwise noted)

Rule	Summary of Proposal	Related or Coordinated Amendments
CR 17	The proposed amendments to Rule 17address third-party subpoenas for production. Among other things, the proposed amendments would expand the availability of such subpoenas for proceedings other than trial; alter the standard for when such subpoenas may be obtained; and address when a motion and order are required for third-party subpoenas and when a party may make its request *ex parte*. The proposed amendments would further address the place of production, procedures when information regarding a victim is sought, and other issues.	
CV 7.1	The proposed amendments to Rule 7.1(a) would 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 would require parties to state in their pretrial disclosures whether they expect any witness they call at trial to testify in person or remotely.	CV 45(c)
CV 41	The proposed amendments to Rule 41(a) would clarify that the rule permits the dismissal of one or more claims in an action rather than only allowing dismissal of the entire action and that 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(b) would 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) would add a "place of compliance" for subpoenas for remote testimony and would specify that it is "the location where the person is commanded to appear in person."	CV 26
CV 81	The proposed amendment to Rule 81(c) would clarify 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.	

Effective (no earlier than) December 1, 2028

Current Step in REA Process:

- Published for public comment (Aug 2026 – Feb 2027 unless otherwise noted)

REA History:

- Approved for publication by Standing Committee (June 2026 unless otherwise noted)

Rule	Summary of Proposal	Related or Coordinated Amendments
AP 25	The proposed amendments to Rule 25 would provide that an unrepresented party is presumptively authorized to use a court's electronic-filing system, subject to any reasonable conditions on access that a court may establish. This change would allow unrepresented litigants to file documents electronically and receive electronic notices of case activity. The proposed amendments would eliminate the requirement for an unrepresented party to make a separate (paper) service on a litigant who is registered to receive a notice of case activity from the court's electronic-filing system.	BK 5005, 8011, 9006, 9036; CV 5, 6; CR 45, 49
BK 2003	The proposed amendments would allow more time to convene the meeting of creditors in chapter 12 and 13 cases, extending the deadline in chapter 12 cases from 35 to 60 days, and in chapter 13 cases, from 50 to 60 days, after the order for relief. The proposed amendments would also expressly 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.	
BK 5005, 8011, 9006, & 9036	The proposed amendments to Rules 5005 and 8011 would provide that an unrepresented party is presumptively authorized to use a court's electronic-filing system in bankruptcy cases and bankruptcy appeals, subject to any reasonable conditions on access that a court may establish. In addition, the proposed amendments to Rule 8011 and Rule 9036 would eliminate the requirement of separate (paper) service on a litigant who is registered to receive electronic notices of case activity. Further, the proposed amendments would provide that if a document is filed under seal, a court may provide an order or local rule that the document be served by other means. In addition, Rule 8011(c)(3) and Rule 9036(d) would deal with the impact of delays between filing and uploading to the court's electronic-filing system. The proposed amendments to Rule 9006 would change a cross-reference to conform to the proposed amendments to Civil Rule 5.	AP 25; CV 5, 6; CR 45, 49
BK 9037	The proposed amendments to Rule 9037 would require the use of pseudonyms rather than initials when referencing minors in bankruptcy cases, and would clarify that the redaction and pseudonym requirements apply to exhibits and attachments to electronically filed court documents.	CV 5.2; CR 49.1
CV 5 & 6	The proposed amendments provide that an unrepresented party is presumptively authorized to use a court's electronic-filing system, subject to any reasonable conditions on access that a court may establish. This change would allow unrepresented litigants to both file documents electronically and receive notices of case activity and would eliminate the requirement for an unrepresented party to make a separate (paper) service on a litigant who is	AP 25; BK 5005, 8011, 9006, 9036; CR 45, 49

Effective (no earlier than) December 1, 2028

Current Step in REA Process:

- Published for public comment (Aug 2026 – Feb 2027 unless otherwise noted)

REA History:

- Approved for publication by Standing Committee (June 2026 unless otherwise noted)

Rule	Summary of Proposal	Related or Coordinated Amendments
	registered to receive a notice of case activity from the court's electronic-filing system.	
CV 5.2	The proposed amendments would require complete redaction of taxpayer identifying information, to include social security numbers, taxpayer identification numbers, employer identification numbers, and adoption taxpayer identification numbers, and would require the use of pseudonyms rather than initials when referencing minors. The proposed amendments would also clarify that these rules apply to exhibits and attachments to electronically filed court documents.	BK 9037; CR 49.1
CV 55	The proposed amendments to Rule 55(a) and (b)(1) would remove the requirement that the clerk "must" enter a default or default judgment, respectively, whenever the rules empower the clerk to do so. Instead, the proposed amendment would provide 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.	
CR 11	The proposed amendments to Rule 11(b)(1)(M) would remove the requirement that the court inform the defendant of possible departures under the U.S. Sentencing Guidelines in light of 2025 changes to the Guidelines eliminating most provisions on departures and revising the sentencing process.	CR 32
CR 32	The proposed amendment to Rule 32 would eliminate in its entirety subdivision (h) regarding possible departure from the U.S. Sentencing Guidelines in light of the 2025 changes to the Guidelines.	CR 11
CR 45 & 49	The proposed amendments to Rule 45 and Rule 49 provide that an unrepresented party is presumptively authorized to use a court's electronic-filing system, subject to any reasonable conditions on access that a court may establish. This change would allow unrepresented litigants to both file documents electronically and receive notices of case activity and would eliminate the requirement for an unrepresented party to make a separate (paper) service on a litigant who is registered to receive a notice of case activity from the court's electronic-filing system.	AP 25; BK 5005, 8011, 9006, 9036; CV 5, 6
CR 49.1	The proposed amendments require complete redaction of taxpayer identifying information, to include social security numbers, taxpayer identification numbers, employer identification numbers, and adoption taxpayer identification numbers in criminal cases, and would require the use of pseudonyms rather than initials when referencing minors. The proposed	BK 9037; CV 5.2

Effective (no earlier than) December 1, 2028

Current Step in REA Process:

- Published for public comment (Aug 2026 – Feb 2027 unless otherwise noted)

REA History:

- Approved for publication by Standing Committee (June 2026 unless otherwise noted)

Rule	Summary of Proposal	Related or Coordinated Amendments
	amendments would also clarify that these rules apply to exhibits and attachments to electronically filed court documents.	
EV 104	The proposed amendments to Rule 104(a) would codify the holding in *Bourjaily v. United States* that preliminary questions of fact are to be determined by a preponderance of the evidence standard. The proposed amendments to Rule 104(b) would eliminate the concept of "conditional" relevance and provide that to establish that evidence is relevant, the proponent must demonstrate that the trier of fact could reasonably find that requirements of Rule 401 have been met.	
EV 902	The proposed amendment to Rule 902(1)(A) would add Indian Tribes and Nations to the list of entities whose signed and sealed public records are self-authenticating.	

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
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.	• 6/23/2026: Placed on Senate Legislative Calendar under General Orders. Calendar No. 444 • 6/23/2026: Reported by Senator Grassley without amendment • 6/18/2026: Ordered to be reported without amendment favorably • 3/26/2025: Introduced in Senate; referred to Judiciary Committee
Protecting Our Courts from Foreign Manipulation Act of 2025	**H.R. 2675** *Sponsor:* Cline (R-VA) *Cosponsors:* 26 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.	• 6/15/2026: Placed on the Union Calendar, Calendar No. 608 • 6/15/2026: Reported (Amended) by the Committee on Judiciary • 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
Protecting Our Democracy Act	H.R. 8831 *Sponsor*: Raskin (D-MD) *Cosponsors*: 108 Democratic cosponsors	CV – New Rule(s)	**Most Recent Bill Text:** https://www.congress.gov/bill/119th-congress/house-bill/8831/text **Summary:** Companion to S. 2838. 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.	• 5/14/2026: Introduced in House and referred to the Committee on Oversight and Government Reform, the Judiciary, House Administration, the Budget, Transportation and Infrastructure, Rules, Foreign Affairs, Ways and Means, and Intelligence

Name	Sponsors & Cosponsors	Affected Rules	Text and Summary	Legislative Actions Taken
Closing Bankruptcy Loopholes for Child Predators Act of 2026	**H.R. 8589** *Sponsor:* Ross (D-NC) *Cosponsors*: Tenney (R-NY) Sykes (D-OH) De La Cruz (R-TX)	BR 2004, 9018	**Most Recent Bill Text**: https://www.congress.gov/119/bills/hr8589/BILLS-119hr8589ih.pdf **Summary**: Would amend Rule 2004 to allow for examination of abuse allegations against the debtor in Chapter 11 cases related to the alleged sexual abuse of a child, and amend Rule 9018 to restrict the court's ability to seal evidence of alleged crimes relating to the sexual abuse of a child (other than to protect the individual alleging abuse).	• 4/29/2026: Introduced in House and referred to the House Committee on the Judiciary
No Free Passes for Cronies Act	**H.R. 8392** *Sponsor*: Scanlon (D-PA)	CR 48	**Most Recent Bill Text:** https://www.congress.gov/119/bills/hr8392/BILLS-119hr8392ih.pdf **Summary:** Would amend Criminal Rule 48(a) to clarify that federal judges have the authority to accept or reject the government's motion to dismiss in "the interests of justice."	• 4/20/2026: Introduced in House and referred to the House Committee on the Judiciary
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

Name	Sponsors & Cosponsors	Affected Rules	Text and Summary	Legislative Actions Taken
Trafficking Survivors Relief Act	**H.R. 4323** *Sponsor*: Fry (R-SC) *Cosponsors*: 19 bipartisan cosponsors	CR 29	**Most Recent Bill Text:** https://www.congress.gov/119/plaws/publ73/PLAW-119publ73.pdf **Summary:** Permits 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 to the arrest and criminal proceedings be expunged from official records.	• 1/23/2026: Signed by President; became Public Law No. 119-73. • 12/18/2025: Passed Senate without amendment by unanimous consent. • 12/2/2025: Received in Senate; read twice. • 12/1/2025: Passed by voice vote • 10/17/2025: Placed on the Union Calendar, Calendar No. 299 • 9/10/2025: Committee Consideration and mark-up Session Held. Ordered to be Reported (Amended) by Voice Vote • 7/10/2025: Introduced in House and referred to Committee on the Judiciary
Protecting TPLF From Abuse Act	**H.R. 7015** *Sponsor:* Issa (R-CA) *Cosponsors*: Fitzgerald (R-WI) Baumgartner (R-WA) Flood (R-NE)	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
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: Committee Consideration and Mark-up Session Held. Ordered to be Reported (Amended) by the Yeas and Nays: 18-8. • 12/11/2025: Introduced in House; referred to Judiciary Committee

Name	Sponsors & Cosponsors	Affected Rules	Text and Summary	Legislative Actions Taken
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
Litigation Transparency Act of 2025	**H.R. 1109** *Sponsor:* Issa (R-CA) *Cosponsors:* 28 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
Protecting Our Courts from Foreign Manipulation Act of 2025	**S. 3180** *Sponsor*: Kennedy (R-LA) *Cosponsor*: Ricketts (R-NE)	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*: 10 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: Introduced in Senate; referred to Committee on Homeland Security and Governmental Affairs

Name	Sponsors & Cosponsors	Affected Rules	Text and Summary	Legislative Actions Taken
Lawsuit Abuse Reduction Act of 2025	**H.R. 5258** *Sponsor*: Collins (R-GA) *Cosponsors*: 6 Republican cosponsors	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*: 21 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
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*: 35 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

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: August 27, 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 a Rules Committee

Deepfakes and Authenticity

The Evidence Rules Committee has been exploring whether the authenticity standard should be made more stringent than it is now for potentially fabricated evidence created by artificial intelligence. The committee asked the Center to survey all federal judges to ascertain their experiences and views. In a memorandum submitted to the committee in time for its spring 2026 meeting, the Center reported fifteen occurrences of a deepfake challenge.

Current Research for Rules Committees

Depositions in Criminal Litigation

The Criminal Rules Committee is considering amendments to Rule 15 on depositions in criminal litigation following suggestions that the rule should facilitate more depositions. The Center has been asked to prepare research protocols.

Subpoenas in Criminal Litigation

The Criminal Rules Committee has asked the Center to prepare research on Rule 17 subpoenas in light of amendments approved by the Standing Committee that are expected to go into effect in December 2027.

Discharge in Bankruptcy Rule 4004(a) and (c)

The Bankruptcy Rules Committee is considering a suggestion that the current wording of Bankruptcy Rule 4004(a) and (c) may lead to disparate applications of the rule. A subcommittee has approved a research plan to gather information on current interpretations and implementations of the rule.

Third-Party Litigation Funding

The Center is providing the Civil Rules Committee with research support as the committee considers possible rules amendments on disclosure of litigation funding by third parties.

Temporary Administrative Stays in the Courts of Appeals

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

Completed Research for Other Judicial Conference Committees

Unredacted Personally Identifiable Information in Federal Court PACER Documents

At the request of the Committee on Court Administration and Case Management, the Center (1) enumerated, in a large sample of public filings, unredacted Social Security numbers, individual taxpayer identification numbers, birthdates, minors' names, financial account numbers, and, in criminal cases, individuals' home addresses; (2) determined whether unredacted personally identifiable information is more common in particular types of court filings and proceedings, especially pro se filings, guardian ad litem documents, filings in Social Security actions, notices of removal from state court, and proof-of-claim filings in bankruptcy cases; and (3) assessed how often full nongovernment party names are included in opinions and orders in Social Security and immigration cases (www.fjc.gov/content/399402/unredacted-personally-identifiable-information-federal-court-pacer-documents).

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 the Administration of the Bankruptcy System. The weights were approved by the Judicial Conference in March.

Current Research for Other Judicial Conference Committees

Pro Se Parties in Bankruptcy Litigation

The Center is providing the Committee on the Administration of the Bankruptcy System with research on pro se participation in bankruptcy litigation.

Potential Adjustment to the Case Weight for Mega Chapter 11 Cases

Following the Center's recently updated bankruptcy-court case weights, which are used when assessing the need for judgeships, the Committee on the Administration of the Bankruptcy System asked the Center to conduct a targeted study to determine whether the weight for mega Chapter 11 cases should be modified to address the level of activity in those cases and to account for the number of jointly administered cases under a lead mega Chapter 11 case.

Harm to Cooperators

At the request of the Committees on Court Administration and Case Management, Criminal Law, and Defender Services, the Center is updating its 2016 research on harm 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.

JUDICIAL GUIDES

Completed Judicial Guide

Manual on Recurring Issues in Criminal Trials

The seventh edition of what previously was called *Manual on Recurring Problems in Criminal Trials* was published in July (www.fjc.gov/content/400176/ manual-recurring-issues-criminal-trials). The manual addresses seven topics: Sixth Amendment rights, jury issues, witness statements and exculpatory evidence, enforcement of trial orders, trial performance of counsel, multiple defendants, and jury verdicts.

Judicial Guide 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).

HISTORY

Court of Appeals in Cases of Capture, 1780–1789

The Center's history webpages include information about various special federal courts, including the local courts for the District of Columbia, the Foreign Intelligence Surveillance Court, and the U.S. Court for Berlin (www.fjc.gov/history/courts/other-federal-courts). Recently added is information about the first federal court, the Court of Appeals in Cases of Capture, which heard appeals from state-court cases seeking maritime prizes (www.fjc.gov/history/courts/court-appeals-in-cases-capture-1780-1789).

Spotlight on Judicial History

Since 2020, the Center has posted twenty-seven short essays about judicial history on a variety of topics (www.fjc.gov/history/spotlight-judicial-history). Recently posted is "Early Radio in the Federal Courts" (www.fjc.gov/history/spotlight-judicial-history/early-radio-in-federal-courts).

Summer Institute for Teachers

In June 2026, the Center collaborated with the ABA to present a weeklong professional-development conference for teachers, focusing on three famous historical trials: Sedition Act Trials, *U.S. v. Guiteau*, and *Clay v. United States*. The Center presents information about these and other famous federal trials on its website (www.fjc.gov/history/cases/famous-federal-trials).

EDUCATION

Specialized Workshops

Workshop on Science-Informed Decision Making

This three-day workshop provided judges and probation and pretrial-services officers with insights from behavioral sciences on decision making in ordinary criminal cases.

The Constitution and the Courts at the 250th

This two-day workshop offered in collaboration with the National Constitution Center explored a variety of perspectives in the early national period about the best approach to interpret and implement the Constitution.

Search and Surveillance Warrants in the Digital Age

This three-day workshop recruited national experts from the technology industry and the legal community—judges, academics, and practitioners—to provide magistrate judges with instruction on the application of evolving Fourth Amendment law to digital search and surveillance warrants.

Antitrust Judicial Law and Economics Institute for Federal Judges

This two-day workshop provided judges with instruction on various antitrust issues, including market definition, market power, competitive effects, horizontal and vertical restraints, and monopoly power.

Distance Education

Court to Court: Access to the Courts—Electronic Filing for Pro Se Litigants

In this episode of the Center's periodic series of short documentaries, the District of Maryland and the Northern District of Illinois share their experiences with electronic filing by pro se litigants. A supplemental compilation of all ninety-four district courts' related local rules and procedures was published in 2025: "United States District Courts' Local Rules and Procedures on Electronic Filing by Self-Represented Litigants" (www.fjc.gov/content/391989/united-states-district-courts-local-rules-and-procedures-electronic-filing-self).

Court Web

This periodic webcast included as recent episodes "Generative Artificial Intelligence and the Federal Judiciary" (featuring Professor Gary Marchant, Arizona State University Sandra Day O'Connor College of Law Center for Law, Science and Innovation and Southern District of West Virginia Chief Judge Frank W. Volk), "Commemorating the 75th Anniversary of Judge J. Waties Waring's Visionary Dissent in *Briggs v. Elliott*" (featuring District of South Carolina Judge Richard Gergel), and "Navigating the Labyrinth: Immigration Court Fundamentals" (featuring District of Utah Magistrate Judge Dustin B. Pead).

Supreme Court Term in Review for Bankruptcy Judges

This annual webcast discusses some of the most significant Supreme Court decisions, including key bankruptcy cases.

Consumer Case-Law Update for Bankruptcy Judges

This quarterly webcast features discussions of consumer-bankruptcy case-law updates prepared 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).

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. A recent workshop for bankruptcy judges included the session "How the Federal Judicial Center's Research Division Supports the Bankruptcy Courts."

Mid-Career Seminar for U.S. Magistrate Judges

In partnership with the University of California, Berkeley Law School, the Center has developed this two-day program for magistrate judges with roughly eight to twelve years of experience.

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 April 15, 2026
Charlotte, N.C., and on Microsoft Teams

The following members attended the meeting in person:

Alane A. Becket, Esq.
Circuit Judge Daniel A. Bress
District Judge James O. Browning
Bankruptcy Judge Rebecca Buehler Connelly
Jenny Doling, Esq.
Bankruptcy Judge Michelle M. Harner
District Judge Jeffery P. Hopkins
District Judge Joan H. Lefkow
District Judge Leigh Martin May
Bankruptcy Judge Catherine Peek McEwen
Professor Scott F. Norberg
Damian S. Schaible, Esq.

The following members attended the meeting remotely:

Sean Day, Esq.
Nancy Whaley, Esq.

The following persons also attended the meeting in person:

Professor S. Elizabeth Gibson, Reporter
Professor Laura B. Bartell, Associate Reporter
District Judge James C. Dever III, Chair of the Committee on Rules of Practice and Procedure (the Standing Committee)
Edward Hartnett, Reporter to the Standing Committee
Ramona D. Elliott, Esq., Acting Director, Executive Office for U.S. Trustees
Kenneth S. Gardner, Clerk, U.S. Bankruptcy Court for the District of Colorado
Bankruptcy Judge Deborah Thorne, liaison from the Committee on the Administration of the Bankruptcy System
Carolyn Dubay, Administrative Office
Bridget M. Healy, Administrative Office
Rakita Johnson, Administrative Office
Sarah Sraders, Administrative Office
Carly E. Giffin, Federal Judicial Center
John Bircher, Chapter 7 and 12 Trustee
Andrea Dobin, Chapter 7 and 12 Trustee
Rebecca Garcia, Chapter 12 & 13 Trustee
Jennifer Holman, Standing Chapter 13 Trustee

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The following persons also attended the meeting remotely:

Professor Catherine T. Struve, Consultant to the Standing Committee
Dean Troy McKenzie, liaison from the Standing Committee
Shelly Cox, Administrative Office
Dana Elliott, Administrative Office
Tim Reagan, Federal Judicial Center
John Hawkinson, journalist
Merril Hirsch, Merril Hirsh PLLC
Kaiya Lyons, American Association for Justice
Angie Marshall, U.S. Bankruptcy Court, Indiana
Charles Morrison, Heritage Court Reporting
Lisa Mullen, Trott Law
Sai
Susan Steinman, American Association for Justice
Becky Yerak, Wall Street Journal

Discussion Agenda

1. **Greetings and Introductions**

Judge Rebecca Connelly welcomed the group and thanked the district court for hosting the meeting. She noted that two members of the Advisory Committee were attending remotely—Mr. Day and Ms. Whaley—as was Cathie Struve, consultant to the Standing Committee. Member Bankruptcy Judge Benjamin A. Kahn was unable to attend. She mentioned that this is Judge Browning's last meeting with the Advisory Committee and thanked him for his contributions. This was the first meeting for Judge Leigh Martin May as a member of the Advisory Committee and Ed Hartnett as Reporter to the Standing Committee, and she welcomed them.

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 noted that the Agenda Book includes the chart tracking proposed rules amendments and a summary of pending legislation. The package of rules that are scheduled to become effective Dec. 1 were sent to Congress on April 8.

2. **Approval of Minutes of Meeting Held on September 25, 2025**

The minutes were approved with one change—Ramona Elliot is the Acting Director of the Executive Office for U.S. Trustees, not the Director.

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3. Oral Reports on Meetings of Other Committees

(A) *Jan. 6, 2026, Standing Committee Meeting*

Judge Connelly gave the report.

The Standing Committee gave final approval without publication to technical amendments to Official Form 410C13-NR (Response to Trustee's Notice of Disbursements Made). The amendments corrected inadvertent errors, replacing the words "the date of this notice" in two places in Part 2 with "the date of this response." The Standing Committee gave retroactive effect to its approval effective Dec. 1, 2025, and agreed to give notice of its action to the Judicial Conference.

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

Judge Bress gave the report.

The Advisory Committee on Appellate Rules met on October 15, 2025, and would be meeting again on April 16, 2026.

Privacy Amendments

Based on discussions by the Appellate Rules Committee to date, the Federal Rules of Appellate Procedure (FRAP 25) would continue to track the privacy protection from the Bankruptcy Rules, except that social security numbers and taxpayer ID numbers would be redacted on appeal, because whatever the justification for permitting unredacted or partially redacted social-security numbers in other settings, there is no need for them in the publicly available papers filed by litigants in a court of appeals. Judge Bress noted that this would be discussed later in the meeting in connection with the privacy amendments to the Bankruptcy Rules.

Amicus Disclosures

In September 2025, the Judicial Conference sent to the Supreme Court proposed amendments to FRAP 29 and 32, which concerned disclosures for amicus briefs. These changes would have clarified the rules in several respects and expanded the required disclosures. As relevant here, they would have required the disclosure of certain brief-related contributions not only from nonmembers, as Rule 29 currently requires, but also from new members who had joined the organization within the previous 12 months.

Recently, the Appellate Rules Committee and the Standing Committee voted to withdraw those proposed amendments based on several concerns raised by the Executive Committee, chiefly: whether this provision could interfere with the privacy interests of those organizations and their members, who may be chilled from contributing to their organization's amicus briefs if they were required to announce their membership.

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Judge Bress said that the Appellate Rules Committee would be discussing next steps on this rule change at its meeting the following day, including possible revisions to the 12-month member rule.

Premature Petitions

In August 2025, proposed amendments to FRAP 15 were published for public comment. These amendments are intended to address an issue pertaining to review of administrative agency decisions. Under the current rule, if a party files a petition for review of an agency decision before the agency disposes of any petition for rehearing or reconsideration, the petition for review would be premature, and if the party did not file a second petition for review, the petition could not be considered.

The revision would track FRAP 4(a)'s general approach for premature notices of appeals from civil judgments, which would make a premature petition fully effective with respect to the original order once the agency has disposed of the rehearing petitions. A second petition would still be required if the party wishes to challenge the rehearing petition.

Judge Bress said that the Appellate Rules Committee received supportive public comments and that this would be taken up further at the April 16 meeting.

Matters Before Subcommittees

Judge Bress reviewed several matters being considered by subcommittees:

(1) *Intervention on appeal* -- A subcommittee is considering a possible new rule governing intervention on appeal, which would apply in exceptional cases when being an amicus is not enough. Judge Bress said that the Appellate Rules Committee discussed a draft of this rule in October and would be discussing further revisions on April 16.

(2) *Administrative stays* -- A subcommittee is considering a rule to govern the practice of administrative stays. In October 2025, it was decided to conduct more research in this area. It was remarked that this is an emerging and potentially controversial area, including in immigration cases. The Appellate Advisory Committee was planning to discuss the matter further on April 16.

(3) *Reopening time to appeal* -- A subcommittee is considering revisions to FRAP 4 to address the situation in which a party files a motion to extend the time to appeal and, while that motion is pending, files an untimely notice of appeal. The revision would say that if the district court grants the motion to reopen the time period, a party who has filed a notice of appeal need not file another one. Judge Bress said that this amendment will be discussed by the Appellate Advisory Committee on April 16, with a view to forwarding it to the Standing Committee and recommending that it be published for public comment.

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(4) *Treatment of Tribes* --The Appellate Rules refer to states, but not tribes, even though they are sovereigns and have sovereign interests. A subcommittee is examining places in the Rules where it may make sense to specifically reference Tribes.

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

Judge McEwen gave the report.

The Advisory Committee on Civil Rules met on October 24, 2025, and on April 14, 2026.

At the October 24 meeting, the Civil Rules Committee voted to recommend that the Standing Committee publish proposed amendments to Rule 55(a) and (b) for comment. On January 6, 2026, the Standing Committee approved the proposed amendments for publication in August 2026.

A proposed amendment to Rule 55(a) governing entry of default by the clerk would change the phrase "must enter the party's default" to "may enter the party's default" and would expressly add that the clerk "may refer the matter to the court for directions." Judge McEwen explained that 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 an FJC study that such consultation with the court on default matters occurs in a number of districts.

The Committee also proposed amending Rule 55(b)(1) governing the clerk's entry of a default judgment similarly. The amendment parallels the changes to Rule 55(a). It would change the wording "must enter judgment" 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.

Bankruptcy Rule 7055 adopts Civil Rule 55 by reference, so, if the amendments are approved, the same flexible standard would apply in bankruptcy adversary proceedings.

Judge McEwen reported that two information items were discussed that might have importance for the Bankruptcy Rules. The Cross-Border Discovery Subcommittee recommended dropping the idea of rulemaking in this area as rulemaking is not warranted. There are sufficient tools, such as in Civil Rule 16, which our Bankruptcy Rule 7016(a) adopts by reference, to manage cross-border discovery needs. The topic will be removed from the agenda. In addition, the Rule 43(a) Subcommittee decided to continue to investigate whether to propose amendment of Rule 43(a) to relax the standard for remote testimony at trial by removing the condition 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, given that it authorizes the use of affidavits, oral testimony, or depositions on motions but does not state whether oral testimony may be provided remotely.

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Judge McEwen said that at its April 14 meeting the Civil Rules Committee gave final approval and forwarded to the Standing Committee five sets of amendments:

(1) *Rule 7.1 on disclosures to permit judges to better determine whether financial issues preclude involvement in the case*. The amendment widens the disclosures by changing "corporation" to "business organization." Judge McEwen noted that Bankruptcy Rule 7007.1 does not adopt Rule 7.1 by reference, but it is "derived" from it and consideration should be given to whether a similar amendment is warranted. Bankruptcy Rule 7007.1 does not apply in contested matters under Bankruptcy Rule 9014.

(2) *Rule 41(a) to permit dismissal of fewer than all counts and fewer than all original parties in a case*. Bankruptcy Rule 7041 adopts Rule 41 by reference, with one condition that is not relevant to the Rule 41(a) amendment.

(3) *Rule 45(c)(1) to permit service of a subpoena nationwide to require a deponent to sit for a remote trial, hearing, or deposition at a location within 100 miles from where the deponent resides* and *Rule 26(a)(3)(A)(i) to require disclosure of whether witnesses expected to appear at trial will participate in person or remotely*. Bankruptcy Rules 7026 and 9016 adopt Rules 26 and 45 by reference.

(4) *Rule 81(c)(3) to establish a deadline for a jury demand post-removal when no jury demand has been made before removal*. Bankruptcy Rule 9015 adopts Rule 81(c) by reference.

(5) *Rule 45(b)(1), clarifying what "delivering" a subpoena means by providing more methods of service, including by U.S. mail or commercial carrier and, when good cause is shown, additional methods "reasonably calculated to give notice."* The amendments would also establish 14-day notice and remove the requirement to tender witness fees at the time of service. The Committee Note says that "[t]he amendment removes that ambiguity by providing that methods authorized under Rule 4(e)(2)(A) and (B) for service of a summons and complaint constitute effective service of a subpoena." Bankruptcy Rule 9016 makes Rule 45 applicable in bankruptcy cases.

The Civil Rules Committee is also recommending to the Standing Committee for publication amendments to three more sets of rules:

(1) Rule 5 permitting e-filing by self-represented litigants (SRLs) with reasonable exceptions, opposite of the current presumption.

(2) Rules 5 and 6 which (a) permit electronic service by an SRL on parties who register to receive service of case activity, even if the SRL files nonelectronically, (b) provide that for purpose of any deadline for making service, service by a notice of case activity is complete as of the date of filing but that for purposes any deadlines that run from the date of service, service is

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complete as of the date of the notice of case activity, and (c) specify that service is completed on filing unless the server learns that the paper served did not reach the person to be served.

(3) Rule 5.2 to require, among other changes, use of a pseudonym for a minor, rather than initials. Bankruptcy Rule 9037 requires use of a minor's initials, and Judge McEwen noted that proposed amendments to that rule would be discussed in the report of the Technology, Privacy and Public Access Subcommittee.

Judge McEwen said that the Civil Rules Committee continues to consider possible amendments to Rule 43(a) regarding remote testimony at trial and remote oral testimony. The proposed amendments would allow the court to permit contemporaneous remote testimony for good cause, without requiring "compelling circumstances." The Bankruptcy Rules were restyled throughout to require "cause" as opposed to the "good cause" standard the Civil Rule would require for trials in district court. Inasmuch as new Bankruptcy Rule 7043, set to become effective on December 1, 2026, adopts Rule 43 for trials in adversary proceedings, the proposed change to the rule would make "good cause" the standard for bankruptcy trials in adversary proceedings. Amended Bankruptcy Rule 9014, also scheduled to become effective on December 1, adopts a "cause" standard for remote testimony in contested matters. If an amended Rule 43 is ultimately adopted, the requirement for "compelling circumstances" will no longer apply in any bankruptcy proceedings.

(D) ***December 11-12, 2025, Meeting of the Committee on the Administration of the Bankruptcy System (the "Bankruptcy Committee")***

Judge Thorne provided the report. She noted that this was her first official report to the Advisory Committee in her capacity as liaison from the Bankruptcy Committee.

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New Bankruptcy Case Weights

Judge Thorne reported that the previous month, on recommendation of the Bankruptcy Committee, the Judicial Conference approved new bankruptcy case weights, which were derived from a 2023-2024 study of bankruptcy judge time usage conducted by the Federal Judicial Center (FJC) at the request of the Bankruptcy Committee. The prior case weights had been in effect for over 15 years. The new case weights became effective immediately and will be used going forward to calculate bankruptcy courts' judicial workloads (weighted caseloads), which are in turn used in evaluating bankruptcy judge resources for districts across the country. Approval of these new case weights is a very important step for the bankruptcy courts and the entire bankruptcy system.

Legislative Proposal Regarding Chapter 7 Debtors' Attorney Fees

As Judge Isicoff reported at previous meetings, in 2022, the Judicial Conference, on recommendation of the Bankruptcy Committee, adopted a legislative proposal related to chapter 7 debtors' attorney fees. The official language of the Judicial Conference's legislative proposal is to amend the Bankruptcy Code to "(1) except from discharge chapter 7 debtors' attorney fees due under any agreement for payment of such fees; (2) add an exception to the automatic stay to allow

for post-petition payment of chapter 7 debtors' attorney fees; and (3) provide for judicial review of fee agreements at the beginning of a chapter 7 case to ensure reasonable chapter 7 debtors' attorney fees." The Administrative Office transmitted the legislative proposal to Congress in 2023, and again in 2025, and Judge Thorne said the Bankruptcy Committee understood that the proposal continues to be reviewed by Congressional staff. 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 were to enact amendments to the Code based on this position, the Bankruptcy Committee anticipates that, at a minimum, conforming changes to the Bankruptcy Rules would be required. The Bankruptcy Committee will update the Advisory Committee on any progress in this area at future meetings.

Remote Testimony

The Bankruptcy Committee received an update at its meeting regarding the proposed amendments to Bankruptcy Rules 9014 and 9017 and creation of new Bankruptcy Rule 7043, which relate to the use of remote testimony in bankruptcy cases and proceedings. These amendments and new rule are on track to go into effect December 1 of this year, if all approvals are met in the ordinary course. The Bankruptcy Committee has been keenly interested in both the Judicial Conference's remote public access policy and these changes to the Bankruptcy Rules related to remote testimony and will continue to monitor both topics.

Proposed Draft Amendments Related to Self-Represented Litigants

Judge Thorne said that she was interested to read the item in the agenda book regarding suggestions to the various rules committees to allow greater access to electronic filing systems for self-represented litigants. She said that she looks forward to hearing this committee's continued discussion at the meeting on whether to join the other rules committees that are proceeding with amendments to their respective sets of rules in this area.

The Bankruptcy Committee is also studying issues related to pro se litigants in bankruptcy courts. 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, the Bankruptcy Committee identified for prioritization certain issues related to pro se bankruptcy filers. The FJC is assisting the Bankruptcy Committee's continued work in relation to pro se issues, and the Bankruptcy Committee will receive a report from the FJC at its upcoming June meeting.

Special Masters in Bankruptcy Cases

Judge Thorne was also interested to read the agenda item regarding the suggested rule amendment to permit special masters in bankruptcy cases. This is an area in which the Bankruptcy Committee was historically very engaged. She said that if the Advisory Committee or the Standing 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.

Proposal Regarding Venue

Finally, Judge Thorne said that she was interested to read the agenda item regarding a suggestion to amend the Bankruptcy Rules to require additional disclosure of the choice of venue at filing and to require in some circumstances that the court dismiss or transfer the case to a proper venue or hold a hearing on the venue selection. The Bankruptcy Committee has periodically considered venue reform since as early as 1996, but several times has declined to recommend that the Judicial Conference take a position. Leading bankruptcy groups outside the judiciary, including the National Conference of Bankruptcy Judges, the American Bankruptcy Institute, and the National Bankruptcy Conference, have also considered bankruptcy venue reform in the last decade, but none have been able to reach a consensus sufficient to take a formal position for or against reform. Again, if the Advisory Committee is interested in working with the Bankruptcy Committee to evaluate this issue, the Bankruptcy Committee would be able to assist.

4. **Report by the Consumer Subcommittee**

(A) ***Consideration of suggestion 24-BK-G to amend Rule 2003 with respect to the timing and location of § 341 meetings***

Judge Harner and Professor Gibson provided the report.

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 and location of meetings of creditors in response to the current practice of conducting the meetings remotely by means of Zoom. 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 (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 Subcommittee considered those proposed amendments and agreed on a draft for publication.

Professor Gibson presented language of the proposed amendments recommended by the Subcommittee, which appears in the Agenda Book at p. 102. The Subcommittee recommended that the date for the meeting of creditors in a chapter 12 or chapter 13 case be extended to 60 days (from the current 35 and 50 days, respectively). No change to the date for the meeting of creditors in a chapter 7 or chapter 11 case is contemplated by the amendments, and the Subcommittee recommended not adding language proposed by the trustee groups that would allow the U.S.

Trustee to convene the meeting at a later date (up to 60 days after the order for relief) "if appropriate."

The draft recommended by the Subcommittee also includes express authorization for 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. The Subcommittee decided that the value of having the rule expressly allow remote meetings outweighs the risk of challenges to pre-amendment remote meetings that were authorized by the EOUST. The style consultants requested a change to the language in line 28 on p. 103 of the Agenda Book by changing "In-person meetings" to "An in-person meeting."

The final sentence of the draft at lines 32-34 on p. 103 of the Agenda Book is included in brackets because the Subcommittee could not reach a consensus on whether it should be added. ACT12 and NABT believe 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 proposed adding a provision paralleling the provision that states where an in-person meeting must be located. They analogized 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 …, 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) with respect to the location of depositions).

The Subcommittee invited the views of the Advisory Committee on the last sentence, and asked for approval for publication of the amendments to Rule 2003.

The Advisory Committee approved for publication the amendments to Rule 2003(a)(1), and Rule 2003(a)(3) (with a change from the Style Consultants) with the exception of the bracketed language. The Advisory Committee then discussed the bracketed language.

Ms. Whaley said that the proposed language is an attempt to protect against potential litigation over the issue of where remote testimony takes place. Congress has delegated to the Advisory Committee the time, place, and manner of holding 341 meetings. This bracketed language specifies the place of those remote meetings, just as Civil Rule 30(b)(4) addresses the place of remote depositions (originally in the context of telephonic depositions). Debtors may be all over the country, creditors participating remotely, and even trustees. She said that the rule would be incomplete if it did not address the place of the meeting. The issue of where the trustee is sitting exists whether this language is included or not – that is a matter for the EOUST.

Ms. Elliot stated that this is a matter for the U.S. Trustee, not for the rule. The U.S. Trustee convenes the meeting. Trustees have to ask for permission to conduct a meeting outside of the district, and those procedures are working well. She does not find the deposition analogy relevant because it has a basis in statute. A Trustee does not sit as a person before whom a deposition is taken. The place of the 341 meeting is irrelevant. The testimony given is not dependent on state law where it takes place. This is more analogous to Rule 43 than to the rule governing depositions.

Judge Harner expressed her worries about unintended consequences if we include language that is not necessary, which Ms. Elliot says this bracketed language is not. Judge Connelly asked whether there is a problem created by the additional language. Dean McKenzie said he had problem with the sentence before the bracketed language. Does the U.S. Trustee specify the place, or the district? Judge Lefkow asked about the reference to place in the first sentence and then repeated in the third sentence. Ms. Elliot said it was intended to tie the language to the existing rule and thought including the reference to place in that third sentence was important. Professor Norberg said that if there is no statute or rule that turns on location of the 341 meeting, perhaps we should not include that bracketed language and should not include language designating the place for in-person meetings either. Judge Hopkins asked about non-U.S. Trustee districts. Ms. Elliot said they generally follow the practices of the EOUST. Ms. Whaley again emphasized that Congress said that the rules are supposed to designate the time, place and manner of these meetings. Leaving it to the EOUST makes the rules ambiguous for the participants. There should be certainty by providing guidance in the rule. Judge Thorne asks what happens when a case is transferred to another district after the 341 meeting. Judge Harner agrees that that could create uncertainty. Prof. Gibson said that it would be strange to eliminate the third sentence, which is in the unamended rule now.

Judge May moved to approve the language without the bracketed language but with the style consultant changes. The motion was seconded. Ms. Becket noted that if it is published without the bracketed language the public may not be able to comment on the bracketed language. The motion carried 10-4.

(B) ***Consideration of Suggestion 25-BK-J regarding Rule 3001***

Judge Harner and Professor Bartell provided the report.

The Advisory Committee received a suggestion from Michael J. McCormick suggesting that Rule 3001(c) (which specifies required supporting information regarding prepetition obligations 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."

Because postpetition/preconversion escrow-account adjustment amounts are not prepetition claims, and there is no basis in the Bankruptcy Code for treating them as such, the Subcommittee recommended no change in response to this suggestion. The Advisory Committee adopted the Subcommittee's recommendation.

(C) ***Consideration of Suggestion 25-BK-N regarding Rule 4004***

Judge Harner and Professor Gibson provided the report.

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 suggested 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. Rule 4004(c) seems to require the court to enter a discharge under circumstances when the debtor is not eligible for one simply because a timely motion objecting to discharge was not made.

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. 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.

Prof. Gibson reviewed the historical background of Rule 4004(a) and noted that the references in the rule to motions under §§ 707(a)(8) and (9) and 1328(f) were added in 2010 to distinguish them from provisions requiring commencement of an adversary proceeding. She said that the problem identified by the judges predates the 2010 amendment to the rule because the prior rule also imposed a deadline for objecting to discharge. She advised the Subcommittee that

she believes that 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. The Supreme Court has held 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). 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. The Advisory Committee indicated that it agreed with Professor Gibson's analysis of the Rules Enabling Act issue.

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. If the Advisory Committee agrees that a study would be useful, Prof. Gibson said that it could ask the FJC to gather information about courts' practices regarding the 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.

Judge Connelly commented that Judge Kahn agrees with her that there is a problem. Many courts may simply withhold discharge rather than entering an order denying discharge. While a court may have the power to sua sponte issue an order denying discharge, she thinks that there is a problem even if the court does not enter the order. Does the rule require the court to enter such an order? Judge Harner agrees that there is an inconsistency in the rule. A study may be helpful. Ken Gardner said that the clerk's office looks at whether the requirements listed in Rule 4004 are met, and then a discharge is issued. If the rule were clarified, it would be better for the clerks. He guesses that there may be inconsistency in treatment of the 727(a)(8) and (9) issue when there is no motion. Removing the requirement for a motion may be helpful according to Judge Thorne. Ms. Becket wants to know if courts are denying a discharge without a motion. Mr. Gardner said that the clerks may miss it in any event, even if the rule is amended. Ms. Doling said that she saw a discharge granted to an ineligible debtor when no motion was filed even since this proposal was made. Judge Harner asked Dr. Giffin whether this is something the FJC can help with. Dr. Giffin thought the FJC could be helpful.

The Advisory Committee asked the FJC for this help. Nancy Whaley offered to survey chapter 13 trustees on this issue as well. She wanted to make sure debtors are not receiving discharges for which they are not eligible in chapter 13.

5. Report by the Forms Subcommittee

(A) *Consideration of Form 101 for Final Approval*

Judge Connelly and Professor Bartell provided the report.

Draft

Amendments to the language of the prompt to Form 101, Question 4, to add a new paragraph regarding employer identification numbers were published last year. The amendment, which appears in the Agenda Book on p. 131, is intended to minimize the likelihood that a debtor may provide the employer identification number of the debtor's employer rather than the debtor's own number.

There were no comments in response to the proposed amendment. The Subcommittee recommended the proposed amendment to the Advisory Committee for final approval as published. However, since publication of the agenda book, the style consultants suggested changes to the prompt, and conforming changes to the prompt to Question 2. They suggested inserting the word "a" before "partnership" and "an" before "LLC" in Question 4 and, in both Question 4 and Question 2, inserting a comma after the words "any separate legal entity" and after "LLC." Those changes are purely grammatical.

The Advisory Committee approved the amendment and agreed to submit it to the Standing Committee for final approval.

(B) ***Consideration of Form 106C for Final Approval***

Judge Connelly and Professor Gibson provided the report.

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)—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. 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." (NACBA also suggested revisiting the approach taken on the form in response to *Schwab v. Reilly*.)

Draft

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 recommended 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 to the Standing Committee for final approval. The Subcommittee does not propose to revisit how to implement the *Schwab* decision.

The Advisory Committee gave final approval to the amendments to Form 106C with the deletion of item 2.1 and the renumbering of item 2.2 and agreed with the Subcommittee not to revisit *Schwab*.

(C) ***Consideration of Suggestion 25-BK-K regarding Form 107***

Judge Connelly and Professor Gibson provided the report.

Bankruptcy attorney Stephen M. Dunne 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 suggested 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 said 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 recommended 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.

Prof. Norberg thought that it might be valuable to add the last part of the suggestion, describing that the income is jointly received, but there is no column to do that.

The Advisory Committee accepted the recommendation of the Subcommittee.

(D) ***Consideration of Suggestion 25-BK-O regarding Form 106C***

Judge Connelly and Professor Bartell provided the report.

The Advisory Committee 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 has an unlimited homestead exemption. As a result, 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 an 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 asks first whether the debtor is claiming a homestead exemption of more than $214,000, no or yes. Only if the debtor marks the box "yes" does Question 3 ask whether the debtor acquired the property within 1,215 days before filing the case. 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. 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 ask simply about whether property claimed as exempt under the homestead exemption was acquired within 1,215 days before filing, as appears on p. 149 of the Agenda Book. Before making a recommendation to the Advisory Committee, the Subcommittee wishes to gather more information from 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.

Prof. Norberg suggested that the language should be changed to "acquired the property or any interest in the property" to pick up improvements to the homestead during the applicable period. The Advisory Committee thought that was a useful suggestion.

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

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

Judge Lefkow and Professor Struve 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.

At the Civil rules meeting, it recommended for publication its two rules implicated by the project.

The Bankruptcy portion requires amendments to four rules. She presented to the Advisory Committee the issues that needed to be resolved to finalize the draft amendments.

Draft

1. *Individuals, Persons, Parties, and Entities*. For Rules 5005 and 8011, when referring to unrepresented litigants, the Subcommittee decided to use the term "unrepresented individuals" rather than "unrepresented parties." This differs from Civil and Appellate, because those other rule sets never used "individuals" in their current rules. Civil and Appellate wanted to eliminate the implication that persons unconnected to the case could use the electronic filing system. The Subcommittee decided that "unrepresented party" should not be used in the bankruptcy rules because it could suggest that non-individual parties could represent themselves. As a policy matter, the Subcommittee believed it was less likely that individuals with no connection to the case might seek to make electronic filings than that non-individuals might take the proposed new Rule language as suggesting that they could represent themselves. Prof. Struve believes this lack of conformity can be justified to the Standing Committee by the bankruptcy context.

Prof. Norberg asked whether consideration was given to using the conforming language in the rule and putting something else in the note. Prof. Gibson said that unrepresented people are not likely to read the committee notes. Prof. Struve said that using unrepresented individual would avoid the issue. Ken Gardner said that clarity for the clerk's office is important, and using "individual" is clear. Judge Harner said that her clerk of court is very concerned about the proposal. He wants as many guardrails as possible, and he thinks that the proposal as drafted might lead to individuals who are not parties in interest filing on the docket; thus, Judge Harner suggested, the choice to use "individual" rather than "party" is something that we may want to revisit after publication.

Prof. Struve then highlighted the change of prior uses of the term "person" that appeared in the existing rules, probably as a result of carrying over language from other rule sets during prior rounds of coordinated amendments. In a number of places the proposals would replace "person" with "individual" or "entity." In Rule 8011(c)(1) on p. 170 of the Agenda Book, and in Rule 9036(c)(1) on p. 177 of the Agenda Book, there is bracketed language where there was a question which term should be used. Even if currently only individuals may register for electronic filing systems, she asked whether we want to use "entity" in case the electronic filing system changes. Prof. Struve recommended doing so. Prof. Gibson agreed. No objection was raised to the use of "entity" in Rule 8011(c)(1) on lines 47, 49 and 51 and in Rule 9036(c)(1) in lines 22, 24, and 26. The Committee Note will explain these changes.

Next she highlighted that Rule 5005(a)(3)(C) and Rule 8011(e) changed "person" to "individual" because only an individual can have a signature. If an entity is required to sign, the signature of counsel is required under Rule 8011(e). Only individuals may make service, so Rule 8011(d)(1)(B) was changed from "person". In multiple other rules, we propose to change "person" to "entity."

Judge Connelly asked about the impact of the amendments on case initiation. Prof. Struve said that the court can impose reasonable restrictions on use of the e-filing system, and that could include a limitation that prevents bankruptcy case initiation by e-filing. But it requires a decision by the individual court.

Draft

2. *Committee Note*. Prof. Struve then focused on the bracketed language in the committee note to Rule 5005 on lines 98-101 on p. 167 of the Agenda Book, and to rule 8011(a)(2)(C) on lines 145-149 on p. 173-74 of the Agenda Book, suggesting that local provisions requiring permission from the court for unrepresented individuals seeking to file electronically counts as reasonable exceptions, so long as the permission is not unreasonably withheld in practice. The Civil Rules Committee has decided to include the bracketed language. Prof. Gibson said that she supported including the bracketed language. Prof. Bartell expressed concern about how a judge could be asked for permission to file a case-initiating document if there is no judge assigned until after that document is filed. Judge Harner worries about the large number of petitions prepared by bankruptcy petition preparers. Prof. Struve emphasized again that a court could decide that no petitions could be filed by unrepresented litigants through the electronic-filing system. Ken Gardner asked about how the rule will be implemented for joint debtors. Judge May said she supports including the bracketed language. Judge Harner agreed, but wondered if the Advisory Committee should exclude the case initiation document. Prof. Struve said that this is the purpose of publication. Judge McEwen said that there will be many issues that need to be worked out. Ed Hartnett said that the Civil Rules Committee may have thought that having the language in the note may promote public comment.

3. *Notice of Case Activity*. Prof. Struve pointed out the language in brackets in Rule 8011(c)(3)(A) and Rule 9036(c)(d)(1) referring to service by a notice of case activity was adopted by the Civil Rules Committee. No one objected to doing the same in the Bankruptcy Rules.

4. *Learns v. Receives Notice*. Prof. Struve then discussed the bracketed language providing alternatives of "learns" or "receives notice" in the rules that discuss a litigant learning that its filing did not reach an entity that was to be electronically served – that is, Rules 8011(c)(1)(A), 8011(c)(2)(D), 9036(c)(1)((A), and 9036(c)(2). The parallel provisions in current Civil Rule 5 and Criminal Rule 49, as well as the proposed amendments to Civil Rule 5 just approved for publication by the Civil Rules Committee, use "learns" instead of "receives notice." The Bankruptcy Rules Committee at the time the rules were originally drafted made an intentional decision to use "receives notice" to avoid someone intentionally declining to "learn." Ms. Becket suggested "receives notice or otherwise learns". Judge Lefkow said that she thought "receives notice" is more formal. Prof. Gibson suggested that we should conform here. Perhaps the committee note could be expanded to state that receiving notice constitutes learning. Judge Harner supported adding something to the note, but agreed that the language should be consistent with Civil.

The Advisory Committee approved the amendments to Rules 5005, 8011, 9006 and 9036 with the following changes: Retaining the bracketed language in the Committee Notes to Rules 5005 and 8011(a)(2)(C); selecting "entity" rather than "individual" in the bracketed choices in the text of Rule 8011(c)(1) and Rule 9036(c)(1); selecting "learns" rather than "receives notice" in the bracketed choices in the text of Rules 8011(c)(1)(A), 8011(c)(2)(D), and 9036(c)(1)(A) and (2); adding language in the Committee Notes to Rules 8011 and 9036 to say that "learns" is intended to encompass "receives notice"; retaining the bracketed language in Rules 8011(c)(3)(A) and 9036(d)(1); and adding Committee Note language to explain the replacement of "person" with "individual" or "entity." The Advisory Committee directed that these proposed amendments be

forwarded to the Standing Committee for publication along with the comparable rules adopted by the other rules committees.

(B) Consider possible amendments related to privacy issues

Judge Lefkow and Professor Bartell provided the report.

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, including all exhibits and attachments. Third, it would require the use of pseudonyms rather than initials for minors' names. Since that time the other rules committees have been considering the same issues.

The proposed language of amended Criminal Rule 49.1(a) appears in the Agenda Book at p. 213. The Civil Rules Committee is proposing 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 agrees 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 or a bankruptcy appellate panel 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, the Subcommittee recommended amendments to Rule 9037(a)(3) which appear in the Agenda Book on p. 214. The language requires a pseudonym in place of the name of an individual known to be and identified as a minor in all filings made with the court, including exhibits or attachments.

As to the fourth issue, 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. The Advisory Committee previously agreed that the same redaction rule should apply to all bankruptcy appeals, wherever they are located.

To implement that decision, a new Part VIII privacy rule will be required. The proposed amendment to Rule 8011, conforming to the proposed amendment to Appellate Rule 25(a)(5), is in the Agenda Book on p. 216.

The Subcommittee recommended that the proposed amendments to Rules 8011 and 9037 be recommended to the Standing Committee for publication at the same time as the proposed amendments to the privacy rules of the other committees.

The Advisory Committee approved the proposed amendments and recommended them to the Standing Committee for publication.

(C) ***Consideration of Rule 2002 for Final Approval***

Judge Lefkow and Professor Bartell provided the report.

The Advisory Committee 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) to remove the requirement that notices given under Rule 2002 conform to Rule 1005, and instead required that such notices "include the information that Form 416B requires." The amended language appears on p. 219 of the Agenda Book.

There were no comments on the suggested amendment. Therefore, the Subcommittee recommended the amended Rule 2002(o) to the Advisory Committee for final approval and submission to the Standing Committee for final approval.

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Judge Connelly said that she thinks this is a great amendment. It also pursues the privacy issue because the redacted SSN will no longer appear in these notices.

The Advisory Committee approved the amendment and will forward it to the Standing Committee for final approval.

7. **Report of the Business Subcommittee**

(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***

Judge McEwen and Professor Gibson provided the report.

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. The draft appears on p. 225 of the Agenda Book. At line 21, the style consultants recommended changing the language to read "to the extent that the master's compensation."

Prof. Gibson then reviewed the key policy decisions made in creating the draft, which are discussed in her memo on p. 228 of the Agenda Book.

Judge McEwen suggested that the master should have the power to hold a hearing on pretrial and posttrial matters, so the language of proposed Rule 9031(a)(1), which appears in the Agenda Book at p. 225, should be amended to read:

> (1) *Scope*. A court may appoint a master only to hold hearings, as needed and make or recommend findings of fact on issues to be decided without a jury if appointment is warranted by:
>
> (A) some exceptional condition;

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(B) the need to perform an accounting or resolve a difficult computation of damages; or

(C) the need to address pretrial and posttrial matters that cannot be effectively and timely addressed by an available bankruptcy judge of the district.

Judge Harner asked whether masters could hold trial on evidentiary matters. The Subcommittee took out references to trials, so the master cannot hold a trial. Mr. Schaible asked clarification about whether settlement discussions would be covered by the revised language if it did not involve hearings. He wants the language to be as flexible as possible. Judge Connelly expressed concern that the amendment by Judge McEwen would limit flexibility. It was suggested that the language should not be amended as requested by Judge McEwen, but instead the language "including holding hearings, as needed" should be inserted at the end of (B).

Mr. Day said that the Office of Legal Counsel (OLC) has issued an opinion that stated that the proposal raises serious constitutional issues. He said that the proposal should provide for appointment or removal of masters by district judges, and control over masters by the district court, in order to avoid infringing on the powers of Article III courts. Prof. Gibson suggested that the OLC opinion relates only to non-core proceedings as to which the parties have not consented to jurisdiction. The opinion also does not address the de novo review of the bankruptcy judge, which is a key consideration for constitutional purposes. Dean McKenzie gave his response to the OLC opinion, and suggested that the ability of the Article III court to withdraw the reference in part was sufficient control over the bankruptcy court to pass constitutional muster. Judge Dever asked whether the Subcommittee had considered the OLC opinion, and noted that it was not included in the Agenda Book for the Advisory Committee. He said that the Standing Committee will want to know that the Subcommittee and the Advisory Committee have been deliberative about it.

In light of the comments of Judge Dever, the Advisory Committee decided to remand the proposed rule to the Subcommittee to consider the OLC opinion. The memos from the Rules Committee law clerk and the OLC will be included in the presentation to the Advisory Committee at its next meeting.

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

Judge McEwen and Professor Bartell provided the report.

The Advisory Committee received a suggestion from The National Bankruptcy Venue Committee regarding venue of a bankruptcy case which had two aspects. The first would require additional disclosure on a new Official Form specifying the basis for the choice of venue at the time a bankruptcy case is filed. The second would require the court, either sua sponte or on motion by a party in interest, to either transfer the case or dismiss it "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." The suggestion would also require an expedited hearing and decision if a party in interest seeks dismissal or transfer.

The decision on whether to transfer a bankruptcy case when venue is appropriate under 28 U.S.C. § 1408 rests with the bankruptcy judge who is directed under 28 U.S.C. § 1412 to make the decision "in the interest of justice or for the convenience of the parties." (The same standard applies under Fed. R. Bank. P. 1014 for transferring a case to another district.) Prof. Bartell said that the problem with the second aspect of the 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. Any attempt to modify that standard may "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 aspect of the 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. Question 11 lists as possible responses that "Debtor has had its domicile, principal place of business, or principal assets in this district for 180 days immediately preceding the date of this petition or for a longer part of such 180 days than in any other district," or "A bankruptcy case concerning debtor's affiliate, general partner, or partnership is pending in the 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 suggestion is asking debtors to disclose their discussions with counsel about the strategic decision in selecting between districts where venue would be proper, it may infringe on protected attorney-client communications.

The Subcommittee recommended that the Advisory Committee take no action on this suggestion.

Ed Hartnett stated that he does not disagree with the recommendation. However, he stated that the topic of venue more generally is within the scope of procedural rules under the Rules Enabling Act, 28 U.S.C. § 2072, which is applicable to Civil Rules, but not to Bankruptcy Rules, and allows rules to supersede statutes.

The Advisory Committee agreed with the recommendation of the Subcommittee.

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

(A) ***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 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 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 at this meeting for approval for publication.

However, since the Subcommittee meeting 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, Prof. Bartell recommended 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 Subcommittee can then consider any changes to the drafts previously approved and make its recommendation to the Advisory Committee next fall.

10. **New Business**

There was no new business.

11. **Future Meetings**

The fall 2026 meeting will be held on September 23, 2026, in Washington D.C.

12. **Adjournment**

The meeting was adjourned at 2:35 p.m.

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TAB 3

TAB 3A1

MINUTES

COMMITTEE ON RULES OF PRACTICE AND PROCEDURE

June 3-4, 2026

The Judicial Conference Committee on Rules of Practice and Procedure (the Standing Committee) met in Chicago, Illinois, on June 3 and 4, 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
Elizabeth J. Shapiro, Esq.[1]
Judge Amul R. Thapar
Bart H. Williams, Esq.

The following individuals also attended to support the work of the Standing Committee: Professor Edward Hartnett, Standing Committee Reporter; Carolyn A. Dubay, Secretary to the Standing Committee; Professor Catherine T. Struve (attended remotely), Professor Daniel R. Coquillette (attended remotely), Professor Bryan A. Garner, and Professor Joseph Kimble, 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 Stephen Sachs, Reporter (attended remotely)

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

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

Judge Robert J. Conrad, Jr., Director of the Administrative Office of the U.S. Courts, also attended. Other attendees (participating remotely) included: Bridget Healy, Esq. and Sarah A.

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

Sraders, Esq., Rules Committee Staff Counsel; Shelly Cox, Rules Committee Staff; and Dr. Tim Reagan, Senior Research Associate, Federal Judicial Center (FJC).

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. Dean Zachary Clopton, Dean of Northwestern Pritzker School of Law, also welcomed the attendees.

Judge Dever also paid tribute to Standing Committee member Judge D. Brooks Smith (3rd Cir.), who retired effective May 31, 2026. Judge Dever recounted Judge Smith's impressive career, noting that he had served as chief judge of the district court and Third Circuit and as Chair of the Judicial Conference Space and Facilities Committee, and been a member of the Criminal Rules Committee, the Committee on Judicial Conduct and Disability, and the Executive Committee. Judge Dever also read for the members a letter from Judge Brooks reflecting upon his time on the Standing Committee. Judge Dever then welcomed Judge Smith's successor, Judge Amul Thapar (6th Cir.) and announced that Judge Michelle Harner (Bankr. D. Md.) would become the chair of the Bankruptcy Rules Advisory Committee upon the end of the term of Judge Rebecca Connelly on September 30, 2026.

B. Discussion and Approval of the Meeting Minutes

Following these announcements, Judge Dever called for discussion and approval of the minutes of the January 6, 2026, meeting. After an opportunity for discussion and hearing no comments, upon motion and a second, with no opposition, the Standing Committee approved the minutes with one minor typographical correction.

C. 2025 Strategic Plan for the Judiciary

Judge Dever next asked the members for feedback on a request from Chief Judge Michael A. Chagares (3rd Cir.), Judiciary Planning Coordinator, to identify any agenda items that align with the Judicial Conference Executive Committee's priority goals from the 2025 Strategic Plan for the Judiciary. Judge Dever expressed support for prioritizing the use of public resources. After giving the members an opportunity to discuss the issue, upon motion and a second, with no opposition, the Standing Committee authorized the Chair, working with the Secretary, to respond directly to Chief Judge Chagares that the Committee would generally prioritize the goal to allocate and manage public resources more efficiently and effectively through the rules process.

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 included in the agenda book beginning on page 67. Ms. Dubay highlighted that final rule amendments had been delivered to Congress in April 2026, but that this package did not include Appellate Rules 29 and 32 and the Appendix of Length Limits, which were withdrawn for further consideration. Those amendments were withdrawn at the request of the Executive Committee of

the Judicial Conference for further consideration, and upon revision by the Appellate Rules Advisory Committee, they were submitted for final approval (see report of the Appellate Rules Advisory Committee).

E. Legislative Update

Ms. Dubay also provided an update on any pending legislation that directly or effectively amends the federal rules, referencing the chart of legislative proposals in the agenda book beginning on page 73. She drew the Standing Committee's attention to the Sunshine in the Courtroom Act of 2025, which would allow broadcasting in all court proceedings, including criminal proceedings, despite Criminal Rule 53's prohibition.

F. Federal Judicial Center Update

Dr. Tim Reagan provided the Standing 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 79. In addition to the topics covered in the report, Dr. Reagan stated that the FJC had recently released on the judiciary's intranet a video documentary featuring courts that allow *pro se* electronic filing.

2. JOINT COMMITTEE BUSINESS

Judge Dever then turned to joint committee projects and business.

A. Joint Subcommittee on Attorney Admission

Professor Bradt presented on behalf of the Joint Subcommittee on Attorney Admission. Professor Bradt explained that this project began in 2023 with a suggestion from Dean Alan Morrison of George Washington Law School arising from the challenges lawyers with nationwide practices face because of differing district court bar admission policies. For example, many districts require admission to the state bar in which the district sits, and that includes districts in a small number of states (four) that require taking the state bar exam in order to be admitted.

Professor Brandt then recounted how since 2023, the subcommittee engaged in a substantial amount of work, including six subcommittee meetings, formal and informal outreach to judges, state bars, and other important stakeholders. The results of this inquiry established that district courts do not favor national rule-making on this issue for a number of reasons, including their interest in sustaining their local court practices and ensuring adequate supervision of their own district bars. There was also some concern that, were such a proposal to be passed, district courts would enhance their local rules to require more engagement of local counsel. There were also various issues related to whether the proposal was appropriate for consideration under the Rules Enabling Act. With this background, Professor Bradt stated that it was the subcommittee's unanimous recommendation to end the project and disband the subcommittee. Professor Bradt also summarized Dean Morrison's comments in response to the subcommittee's recommendation.

The Committee then heard the views of various reporters and consultants, who expressed understanding of Dean Morrison's concern about the significant disparity among district court

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admission practices (including local residency requirements), but also advised caution in proceeding with national rulemaking on this issue for a variety of reasons. The consultants and reporters noted the Committee's earlier efforts to consider national rules of attorney conduct, which proved unsuccessful in light of concern for sustaining local and state authority over the practice of law. A reporter underscored caution about adopting a "one-size-fits-all" approach.

The members then discussed the subcommittee's recommendation.

A judge member expressed support for the subcommittee's recommendation after sharing his concern that national admission rules may inhibit the ability of individual judges to require higher standards of conduct and professionalism in their courtrooms (as set forth in standing orders, for example). Another member raised the issue of admission fees and asked whether that issue had been driving concerns behind the district court judges' objections. Professor Bradt noted that the FJC had completed a study on the amount of those fees and their variation and the use of such fees to fund important operations and provide support for pro bono staff attorneys and libraries. Professor Bradt emphasized, however, that while the issue of fees did come up with judges, potential loss of fees was not the primary concern, which focused on supervisory responsibilities and preserving local legal culture and traditions.

With no further discussion, upon motion and a second, with no opposition, the Standing Committee voted to conclude the attorney admission project and disband the subcommittee.

B. Electronic Filing and Service by Self-Represented Litigants

Professor Struve presented the self-represented litigant filing and service project to the Standing Committee relating to Appellate Rule 25; Bankruptcy Rules 5005, 8011, and 9036 (with a conforming amendment to Bankruptcy Rule 9006); Civil Rule 5 (with a conforming amendment to Civil Rule 6); and Criminal Rule 49 (with a conforming amendment to Criminal Rule 45).

Professor Struve explained that the proposed amendments were focused on two issues. First, the proposed amendments eliminate the requirement for self-represented litigants to complete a burdensome and redundant paper service of court filings (other than the initial pleading) if the litigant to receive such service already receives such documents through the court's electronic filing system or electronic noticing system. Second, the proposed amendments presumptively permit self-represented litigants to file court documents electronically, unless a court order or local rule bars them from doing so. If a court adopts a local rule barring self-represented litigants from using the court's electronic filing system, the proposed amendments further provide that any such local rule must either include reasonable exceptions to that prohibition or permit the use of another electronic method for filing documents and receiving electronic notice of activity in the case.

Professor Struve also informed the Committee that each of these proposed amendments was approved for publication by the relevant Advisory Committee, although the support of some members of the Bankruptcy Rules Advisory Committee extended only to publication for public comment with reserved skepticism as to whether the amendments would proceed to final approval. Professor Struve further explained that there are some variances in the proposed

amendments across the four rule sets to ensure consistency of language and application within the same rule set.

After providing this background, Professor Struve directed the Standing Committee's attention to language in the proposed common committee notes to Appellate Rule 25(a)(2)(C)(ii) (agenda book page 160), Bankruptcy Rule 5005(a)(3)(B)(ii) (agenda book page 139), Bankruptcy Rule 8011((a)(2)(C)(ii) (agenda book page 146), Civil Rule 5(d)(2)(B)(ii) (agenda book page 134), and Criminal Rule 49(b)(2)(B)(ii) (agenda book page 125). These committee note sections address whether a court may continue to require self-represented litigants to seek permission to use its electronic filing system under the new rule provisions. The Clerk of Court liaisons to the Advisory Committees had stressed that it would be useful for the committee note to expressly affirm the use of a permission-based system to help communicate clearly with self-represented litigants about the court's role in allowing such access. But some advisory committee members had raised concerns that the original proposed language might seem to approve standardless discretion concerning whether or not to grant permission. In response, the Appellate Rules Committee had approved revised note language that addressed those concerns. The Appellate Rules Committee's meeting occurred after the Bankruptcy Rules and Civil Rules Committees had met and approved the initial proposed language. The Criminal Rules Committee thereafter approved the language in the committee note as revised and approved by the Appellate Rules Committee.

To show the two versions of the language in the committee note, Professor Struve pointed to page 134 of the agenda book, the committee note for the proposed amendments to Civil Rule 5. The language in the first bracket (lines 220-223) is the language approved by the Bankruptcy Rules and Civil Rules Committees at their spring meetings. The language in the second bracket (lines 223-227) is the modified language approved by the Appellate Rules and Criminal Rules Committees. Professor Struve proposed that the Standing Committee approve the second bracketed alternative. Professor Marcus added that the Civil Rules Advisory Committee was not enthusiastic about the first bracketed language and did not have the second alternative before it at its spring meeting.

The members then discussed the proposed amendments.

A judge member asked whether there had been discussion about AI use among self-represented litigants and whether there were adequate protections to prevent disclosure of private information if documents are filed electronically and available for public access. Professor Struve responded that the surge in AI-assisted filings was not itself a topic of discussion, but that she believed that clerks would likely say that to the extent there are more filings, they would prefer not to receive them in paper form and scan them into the system. As for privacy, Professor Struve noted that the proposed rules would allow courts to establish a different system – such as an upload portal or requiring email submissions—that would allow the clerk's office to review filings from self-represented litigants before they are made available to the public. Further, Professor Struve added that any social security number in the filing would most likely be the filer's own number, in which case the filer would not be violating the privacy rules.

Another judge member expressed his support for the proposal, noting that it would save time and money and improve access to justice. As an example, he noted that one-third of all filings are

made after 5 p.m. Allowing self-represented litigants to use electronic filing and be able to file after 5 p.m. would make the system fairer. The judge member then asked whether the rule should be extended to allow self-represented nonparties to use electronic filing. Professor Struve responded that this issue had been discussed, particularly in the Criminal Rules context with respect to victims, and the choice was made to limit the presumptive access to e-filing to parties. This would not preclude a court from allowing electronic access to self-represented nonparties, but they would not receive the same presumptive right to use it as a default principle set forth in the revised rules.

Another judge member asked whether the Committee on Court Administration and Case Management (CACM) had been consulted on this project. Professor Struve explained that CACM had not been officially consulted, but CACM leadership and staff have been involved in a number of issues that overlap, including coordination on the Privacy Report to Congress. Judge Dever added that these proposed amendments are only at the publication stage, which will enable CACM to weigh in as well, and there will have to be coordination on training if the amendments are adopted, including training on privacy requirements.

The state judge member stated that his state recently moved to a rule that required self-represented litigants to file electronically unless they fell into an excepted group (such as confined persons) or filed a motion for good cause to not file electronically. He added that the state courts had not had problems with this new rule.

With no further discussion, upon motion and a second, with no opposition, the Standing Committee approved for publication and public comment the proposed amendments to Appellate Rule 25; Bankruptcy Rules 5005, 8011, and 9036 (with a conforming amendment to Bankruptcy Rule 9006); Civil Rule 5 (with a conforming amendment to Civil Rule 6); and Criminal Rule 49 (with a conforming amendment to Criminal Rule 45), as revised to include adoption of the second bracketed language approved by the Appellate and Criminal Rules Committees in the committee notes to Civil Rule 5(d)(2)(B)(ii) (page 134, lines 223-227), Bankruptcy Rule 5005(a)(3)(B)(ii) (agenda book page 139-140, lines 104-107), and Bankruptcy Rule 8011(a)(2)(C)(ii) (agenda book page 146, lines 151-154).

C. Privacy Rules Related to Taxpayer Identification Numbers and Minors

Judge Dever then turned to Ms. Dubay to present the proposed amendments to the privacy rules. Ms. Dubay noted that there were two privacy-related items on the agenda: (1) the proposed amendments to the privacy rules (Bankruptcy Rule 9037, Civil Rule 5.2, Criminal Rule 49.1), and (2) the Judicial Conference's biennial report to Congress regarding the status of the judiciary's efforts to address privacy concerns in public court filings.

Turning to the rule amendments, Ms. Dubay explained that initially the Advisory Committees had hoped to present a package of privacy amendments including updated privacy rules applicable in appeals through proposed amendments to Appellate Rule 25 and a new provision in Bankruptcy Rule 8011. The Appellate Rules Committee, however, decided at its spring meeting to further consider the proposed amendments given some concerns expressed about the redaction requirement in voluminous appendices. Ms. Dubay further explained that because of the desire for consistency with the approach to appeals, the Chair and Reporter of the Bankruptcy Rules

Advisory Committee would not put forward proposed amendments to Rule 8011 at this time to allow the members of the Bankruptcy Rules Advisory Committee to consider changes that the Appellate Rules Advisory Committee may suggest as to appeals. These changes would not affect the pending proposed privacy amendments Bankruptcy Rule 9037, Civil Rule 5.2, and Criminal Rule 49.1.

Like the package of proposed amendments regarding access to electronic filing and notice for self-represented litigants, Ms. Dubay noted that there is common language in the proposed committee notes that requires attention in light of a suggested modification received from the Department of Justice after the agenda book was published. The suggested revised committee note language was provided as a handout and is found immediately after page 587 of the agenda book.

Professor Hartnett, Reporter to the Standing Committee, added that the proposed amendments involved the replacement of minors' names with pseudonyms (rather than the use of initials) and complete rather than partial redaction of social security numbers (SSNs) and individual taxpayer identification numbers (ITINs). The amendments (to the Civil and Criminal Rules) would also clearly apply the redaction requirement to adoption taxpayer identification numbers (ATINs) and employer identification numbers (EINs). Professor Hartnett explained that the Advisory Committees generally considered the risk of fraud in making these recommendations, and although ATINs are low risk they were included to avoid confusion and for completeness.

Professor Beale, Reporter to the Criminal Rules Advisory Committee, then advised the Standing Committee that, to the extent that members were concerned that a minor could be identified because the parents are named publicly, the current rule does not prevent this because it only requires using a minor's initials. DOJ, which proposed the use of pseudonyms for minors in criminal cases, raised the concern that the existing rule with initials made it too easy to determine a minor's identity. The proposed amendment was narrow and responded only to this concern. Professor Beale also stated that strong concerns had been raised regarding protecting EINs, because EINs are used by individuals and not only corporate entities. Professor Beale added that DOJ's position was that EINs should not be redacted, but the Criminal Rules Advisory Committee believed that there was utility and convenience in treating all such numbers similarly, which also avoided the possibility of fraud.

Professor Hartnett then turned to the changes to the common committee note that DOJ had proposed. The proposed revision concerned the impact of expanding the redaction requirement to document exhibits and attachments, and whether this conflicted with the exemptions from the redaction requirement under subsection (b) of the current rules (exempting records of administrative proceedings, records of state court proceedings, and other court records). DOJ's proposed revision to the committee note to Civil Rule 5.2, Criminal Rule 49.1, and Bankruptcy Rule 9037 would make clear that the exemptions in subsection (b) still apply. Professor Beale added that although the Criminal Rules Advisory Committee had not had the opportunity to consider this proposed clarification, the revision was acceptable to the Criminal Rules Chair and Reporters.

The members then discussed the proposed amendments.

A judge member asked whether the Advisory Committees had considered full redaction of financial account numbers with respect to the risk of fraud. Professors Beale and King, Reporters to the Criminal Rules Committee, explained although the Committee learned there was a risk that someone could replicate an entire SSN with access to the last four digits, it had received no information that the same risk existed for financial account numbers.

On the issue of pseudonyms for minors, another lawyer member said that in some cases, due to the sensitive nature of the allegations, courts have permitted non-minor plaintiffs to use pseudonyms rather than initials because of a concern that the plaintiffs would otherwise be identifiable. She offered an example of the Uber sexual assault MDL cases and said that this practice was working well there. Professor Beale said that her understanding was that the practice of using pseudonyms was already widespread in criminal cases. Professor Garner asked whether the proposed amendments should include any guidance to courts on devising pseudonyms. He expressed concern that a judge may create a distinctive pseudonym, causing an innocent person with that name to be misidentified as the person involved.

On the issue of exemptions and the requirement to redact exhibits and attachments, Ms. Shapiro, on behalf of DOJ, said that the discussion of the exemptions versus the redaction rule was one of the most significant items of debate when the privacy rules were originally drafted some twenty years ago. DOJ's concern was that the proposed amended note language regarding exhibits and attachments could create some confusion about whether it was meant to supersede the exemptions in subsection (b). DOJ had therefore suggested a friendly amendment to the committee note to make clear that the rest of the rule remains intact. Professor Capra, Reporter to the Evidence Advisory Committee, noted that CACM was involved with the privacy rules when they were originally adopted, and expressed deep concern about the burdens of redaction. He suggested that these burdens may not be as great today with the potential for AI to assist in the redaction process.

A lawyer member asked generally whether the exemptions from the redaction requirement in subsection (b) were so broad that they undermined the proposed rule amendments. Professor Hartnett responded that this issue had been discussed, and there was concern about imposing new requirements on state administrative records that previously were not required to be redacted. The lawyer member acknowledged that it would be difficult to redact a voluminous record, but the committee note to the privacy amendments referred to parts of the record that are attached as exhibits, which may be lengthy but not as lengthy as an entire administrative record or entire state court proceeding. Professor Beale added that the language requiring redaction in documents and exhibits flowed from the FJC research on when SSNs are most often erroneously included in public filings. Dr. Reagan added that the CACM study involved a very exhaustive investigation into unredacted SSNs, and he examined civil, criminal, and appellate cases. He found that unredacted SSNs appear most often in exhibits, not in briefs.

Professor Beale also noted that under the proposed amended rule, the parties would be responsible for redactions and for choosing a pseudonym. The committee note advises that where possible gender-neutral pseudonyms should be used, but provides flexibility because in some cases, gender may be relevant. A judge member asked whether self-represented litigants needed to use pseudonyms when identifying minors and expressed concern that that in habeas proceedings, for example, a petitioner convicted of molesting a minor may be able to file a

habeas petition with the minor's name in the filing. Professor Beale responded that this was beyond the scope of the current proposal to change the use of initials to pseudonyms.

Another judge member added that she had no issue with the limited amendments proposed but thought that the time may have come to review the exemptions in subsection (b). A lawyer member agreed and proposed adding a question about exemptions when the proposed amendments are published for public comment. As to the committee note language, the lawyer member thought that the exemptions should not apply to something that would be filed electronically because it would undermine exactly what the privacy rules intend to do.

Judge Dever then asked Ms. Shapiro whether DOJ would oppose publication for public comment if the proposed amendments included the committee note language approved by the Advisory Committees. Ms. Shapiro responded that DOJ wanted the proposed amendments published for public comment to achieve the initial objective of using pseudonyms rather than initials for minors. If the additional language proposed by DOJ was not accepted, however, this would not change what the rule required and the exemptions would still apply. Judge Dever next asked the Advisory Committee Chairs and Reporters if they had anything further to add. Regarding the Criminal Rules, which had taken the lead on the privacy amendments project, Judge Mosman supported publication of the proposed amendments, with or without the proposed addition from DOJ, and reviewing the exemptions at a future date. Judge Connelly added that the proposed amendments to Bankruptcy Rule 9037 included the language about exhibits and attachments and replacing minors' initials with pseudonyms but did not include full redaction of SSNs because of the special needs in bankruptcy cases to identify the debtor. Professor Bartell added that EINs are also not included in the proposed amendments to Rule 9037 because EINs are affirmatively required on a petition and further, the Bankruptcy Rules Committee saw no reason to extend protections to non-individuals, which would happen if EINs were uniformly redacted.

A judge member then raised the issue of whether this amendment would require a judge to let a person proceed under a pseudonym, such as in a Title 9 or Individuals with Disabilities Education Act (IDEA) case, which may conflict with a body of law instructing judges on whether to allow someone to proceed under a pseudonym or not. Professor Marcus said that the existing case law was not meant to be changed by these amendments. Judge Dever asked whether the lawyer member who had previously shared her experience with pseudonyms in MDLs could respond to the judge member's question. The lawyer member responded that in the Uber MDL, there were different approaches to pseudonyms and it seemed to be an evolving practice. Judge Dever added that in his experience in criminal cases, DOJ had been using pseudonyms for quite some time.

Judge Dever then focused the discussion on whether the committee members preferred the new DOJ-proposed language in the committee note to the language approved by the Advisory Committees. A judge member said that she favored including the revised DOJ language. A lawyer member agreed and reiterated the suggestion to also ask a question in the published proposal about revising subsection (b) on exemptions and supported clarifying that amending the rule to address the exemptions in (b) would not apply to exhibits and attachments filed with a pleading. Professor Hartnett added that there had been occasions where questions were posed, and Professors Marcus, Beale, and Kimble suggested including the text of subsection (b) in the published version of the rule. Ms. Shapiro, on behalf of DOJ, agreed with including subsection

(b) in the published materials, but advised against including a question because this would distract from the changes being proposed for subsection (a). Another judge member, however, supported including a question because he thought that otherwise the exceptions would swallow the rule.

Judge Dever then observed that there was consensus on publishing the text of subsection (b) on exemptions even if it was not the subject of the proposed amendments and the proposed committee note as revised by DOJ. Judge Dever also expressed his view that it was rare for the committees to ask specific questions when publishing proposed amendments for public comment, and he thought the committees would receive robust commentary even without a specific question or prompt. Judge Dever also supported adding the text of subsection (c). As an additional note, Professor Hartnett added that there were minor technical differences in cross-references in the proposed committee notes because Criminal Rule 49.1 and Civil Rule 5.2 have their protective order provision in subsection (e), while Bankruptcy Rule 9037's protective order provision is in subsection (d). Professor Hartnett also pointed out a typographical error that required changing a cross-reference to Rule "5.2" and not "52."

With no further discussion, upon motion and a second, with no opposition, the Standing Committee approved for publication and public comment the proposed amendments to Criminal Rule 49.1, Civil Rule 5.2, and Bankruptcy Rule 9037, including publication of the entire text of each rule, the technical corrections, and the text suggested by the DOJ to be added to the end of the committee notes found on page169 (Criminal Rules), page 172 (Civil Rules), and page 174 (Bankruptcy Rules) of the agenda book.

D. Draft 2026 Privacy Report to Congress

Following approval of the proposed privacy amendments for publication and public comment, Ms. Dubay presented the 2026 Privacy Report to Congress for the Standing Committee's approval. She explained that the report is required by law every two years, and that if approved by the Standing Committee, it would be transmitted to the Judicial Conference at its September session for approval, and if so approved, the Director of the Administrative Office of the U.S. Courts would transmit the report to Congress.

Ms. Dubay then provided background on the development of the report. She explained that the report was a product of work and coordination between the Rules Committee Staff, CACM staff, and the FJC. She also advised that the CACM Privacy Subcommittee had reviewed the draft report and recommended that CACM endorse the report, which it did at its May 27, 2026, meeting. Ms. Dubay also noted that CACM approved the FJC's most recent report on privacy issues, which appears at the end of the agenda book, and thanked Kristin Garri for her work on the project. Ms. Dubay also noted that the reporters had all weighed in on the report and thanked them for their work.

With no questions or further discussion, upon motion and a second, with no opposition, the Standing Committee approved the 2026 Privacy Report to Congress, including any necessary modifications to reflect the Committee's action on the privacy amendments, and recommended its adoption.

3. ACTION ITEMS – REPORTS OF THE ADVISORY COMMITTEES

The Standing Committee next heard reports on action items from each of the five Advisory Committees.[2] A list of changes made by the Standing Committee to proposed amendments presented for final approval are set forth in Appendix A to these minutes.

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

Judge Eid presented action items on behalf of the Advisory Committee on Appellate Rules, which last met on April 16, 2026, in Charlotte, North Carolina. The first item was to request final approval of amendments to Rule 29, and conforming amendments to Rule 32 and the Appendix of Length Limits, relating to amicus briefs. The second item was to request final approval of amendments to Rule 15 relating to petitions for review of agency decisions. The Advisory Committee had no proposed amendments for publication and public comment to present beyond the proposed amendments to Rule 25 as part of the package of amendments relating to electronic notice and filing by self-represented litigants approved earlier in the meeting. The Advisory Committee's report and the draft minutes of its last meeting are included in the agenda book beginning on page 190.

Prior to turning to the action items, Judge Eid introduced the Advisory Committee's new reporter, Professor Stephen Sachs of Harvard Law School. Judge Eid also thanked Professor Hartnett for his tremendous service while serving as reporter to the Appellate Rules Committee.

1. *Amendments for Final Approval*

a. Rules 29, 32, and the Appendix of Length Limits (Amicus Briefs)

Judge Eid presented the Advisory Committee's request for final approval of amendments to Rule 29, along with conforming amendments to Rule 32 and the Appendix of Length Limits, found on page 231 of the agenda book. Judge Eid began with background as to why these proposed amendments were to be considered again after the Committee's final approval in June 2025 and subsequent approval by the Judicial Conference and transmission to the Supreme Court. Judge Eid explained that in early 2026, the Judicial Conference Executive Committee expressed concerns about language in proposed Rule 29(e)(2) relating to the disclosure requirements regarding new members of an amicus organization. To address these concerns, the Appellate Rules Advisory Committee and the Standing Committee voted to withdraw the proposed amendments for further consideration. The Supreme Court approved that request and the proposed amendments to Rules 29 and 32 and the Appendix of Length Limits were not forwarded to Congress.

The Advisory Committee then revisited the proposed amendments at its spring 2026 meeting, concentrating on the Executive Committee's concern about the new member provision. The proposed committee note had described this as an anti-evasion rule, treating new members of an amicus as if they were non-members. The concern about the rule was that an organizational amicus would have to disclose the identities of its contributing new members, which could dissuade either the organization or its new members from participating and filing a brief in the

[2] Information items presented by the Advisory Committees are set forth in Part 4 of these minutes.

first place. At its spring meeting, the Advisory Committee also considered the extent of the negative reaction to the proposal not only from the Executive Committee, but from the public during the public comment period. The Advisory Committee voted 5-1, with one abstention, to remove the new member provision from the proposal.

Additionally, Judge Eid explained that two additional modifications were proposed. First, after the amendment package was submitted to the Supreme Court, an ambiguity was identified in the language of proposed Rule 29(c) requiring a party or its counsel to make certain disclosures if the amicus failed to do so (the backup disclosure requirements). After discussion, the Advisory Committee voted without opposition to rephrase the requirement, removing proposed Rule 29(c) and inserting clarifying language into proposed Rule 29(b). Second, the Advisory Committee approved the removal of an erroneous cross-reference to Rule 29(a)(5). Judge Eid also reported that the Advisory Committee considered whether to submit these revisions for an additional round of public comment. Because the issue of the new member provision had been exhaustively discussed by the Advisory Committee, the Standing Committee, and public commenters, and the other revisions were technical in nature, the Advisory Committee voted without opposition to seek final approval without republication.

Before turning to member discussion, Professor Beale raised a question about the removal of language on page 193 of the agenda book indicating that the new member provision was stricken along with the provision requiring a new organization to disclose the date of its formation. Professor Sachs responded that it was stricken because it was duplicative (with the other provision found on page 234, lines 61 to 63 of the agenda book).

The members then discussed the proposed amendments.

A judge member raised a question about the text on page 234, line 58 of the agenda book requiring the amicus to provide an explanation of both how the brief will help the court and how the perspective of the amicus will help the court. He asked why an amicus should have both obligations. Professor Sachs responded that this requirement puts the onus on the amicus to tell the court how its brief provides information in addition to what the parties have said. The judge member and an attorney member then briefly discussed how the timing provisions of the rule, which were not being amended, operated in practice.

Following this discussion, upon a motion and a second, with no opposition, the Standing Committee gave final approval to the amendments to Rules 29 and 32 and the Appendix of Length Limits and recommended their adoption.

b. <u>Rule 15</u>

Judge Eid next presented the Advisory Committee's request for final approval of amendments to Rule 15, which concerns petitions for review or enforcement of agency orders. The text of the proposed amendment begins on page 227 of the agenda book, and the written report begins on page 195.

Judge Eid explained that the proposed amendments to Rule 15 were designed to address the "incurably premature" doctrine, under which certain petitions to rehear or reconsider an agency decision render the decision nonreviewable in a court of appeals; in such cases a pending petition

for review of the agency decision must be dismissed, and a new petition for review must be filed after the agency disposes of the rehearing petition. Judge Eid stated that the amendment was intended to mirror previous amendments to Rule 4, which deals with appeals from district court judgments. Rule 4 used to work in a similar way as Rule 15, with various post-judgment motions resulting in the dismissal of a premature notice of appeal, but Rule 4 was amended to provide that a premature notice of appeal becomes effective when the post-judgment motion is decided. The proposed amendments to Rule 15 would do the same for a premature petition for review.

Judge Eid reported that the Advisory Committee received three public comments on the proposed amendments, all of which were broadly supportive and conveyed no specific concerns. Judge Eid also noted that the Advisory Committee made two post-publication changes. First, it renumbered the proposed new subdivision from (d) to (f) to avoid confusion with the existing rule structure. Second, to avoid attempts to obtain premature review of orders that are non-final for reasons other than a pending rehearing petition, the Advisory Committee added language reaffirming that the order in question must be otherwise reviewable. The Advisory Committee voted unanimously to seek final approval of the proposed amendments to Rule 15. Professor Hartnett added that there were a few minor technical corrections made to the text of the rule after the Advisory Committee met that were included in the updated agenda book materials.

Following this discussion, upon a motion and a second, with no opposition, the Standing Committee gave final approval to the amendments to Rule 15 and recommended its adoption.

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

Judge Connelly presented action items on behalf of the Advisory Committee on Bankruptcy Rules, which last met on April 15, 2026, in Charlotte, North Carolina. These action items included requests for final approval of amendments to Rule 2002, Form 101, and Form 106C and a request for approval for publication and public comment on proposed amendments to Rule 2003. This latter request was in addition to the requests for publication and public comment on the proposed amendment packages relating to privacy and electronic notice and filing for self-represented litigants. The Advisory Committee's report and the draft minutes of its last meeting are included in the agenda book beginning on page 190.

Prior to turning to the action items, Judge Connelly thanked Judge Dever for his kind comments earlier in the meeting and for the opportunity to serve as chair of the Bankruptcy Rules Committee, which she described as a fabulous and enriching experience.

1. *Amendments for Final Approval – Rule 2002, Form 101 and Form 106C*

Judge Connelly reported on the Advisory Committee's request for final approval of amendments to Rule 2002 and to Official Forms 101 and 106C. The text of the proposed amendments begins on page 286 of the agenda book, and the written report begins on page 252.

With respect to Rule 2002, which relates to notices, Judge Connelly explained that the current version of Rule 2002(o) requires that captions of every notice given under Rule 2002 comply with Rule 1005. Rule 1005 requires, among other things, the debtor's name and the last four digits of the social-security number or individual debtor's taxpayer-identification number. The

Advisory Committee received a suggestion from clerks of court to amend the rule to reduce the burden on the clerks by requiring captions of Rule 2002 notices to include only the name of the court, the names of the debtor, the case number, the chapter under which the case was filed, and a description of the document's character. Judge Connelly reported that after the proposed amendment was published no comments or opposition were received regarding this change.

Judge Connelly then turned to the Advisory Committee's request for final approval of amendments to Official Form 101, the initial petition for an individual's bankruptcy case. In the petition, a debtor must set forth identifying information, including who the debtor is, the lsat 4 digits of the debtor's SSN, the debtor's address, and if they have one, an EIN. Judge Connelly noted that the way the form asked for the EIN sometimes induced self-represented debtors to list the EIN of their employer rather than their own, triggering concerns when multiple bankruptcy petitions listed the same EIN. The amendment, suggested by a clerk of court, clarifies in the instructions that the petitioner is to disclose the petitioner's EIN, not the EIN belonging to someone else, including the petitioner's employer. Judge Connelly reported that no comments or opposition were received regarding this change after publication.

Finally, Judge Connelly presented the Advisory Committee's request for final approval of amendments to Official Form 106C, which relates to property that can be claimed as exempt. The form is part of the package that every debtor must file to initiate a bankruptcy case and is where an individual debtor claims property exemptions. In the current version of Form 106C does not contain the total value of the property claimed as exempt. This omission requires trustees to manually add up the claimed exemptions to prepare their final report. A suggestion was made to amend Form 106C to require a statement of the total value of the claim exemptions. The Advisory Committee proposed amending the form to require a total for all entries (in Column C) that are stated in a specific amount. It also considered a second change to Form 106C to provide a total dollar value for Column B (which identifies the dollar value of the debtor's portion of the property for which exemptions are claimed). Judge Connelly reported that when the proposed amendments were published, the National Association of Consumer Bankruptcy Attorneys objected to the wording of the requirement to total column B, and based on that opposition, the Advisory Committee decided that only the total for column C would be included in the amendment.

The members then discussed the proposed amendments.

A judge member raised a question about the committee note for Rule 2002(o) relating to captions for notices and asked why the committee note referred to "most" notices, and why in one part it states "may" use the caption in Official Form 416B and why the note goes on to state that debtor notices "must" include the information in Section 342(c) of the Bankruptcy Code. Professor Bartell and Judge Connelly explained that the committee note was referring to notices other than the initial notice of bankruptcy, so "most" means all other notices. As to the "may" versus "must" language, not all notices under Rule 2002 are sent by the debtor, such as the notice of a meeting of creditors, so the language includes the additional statutory requirement for debtors. Another member asked a style question about Rule 2002(o) where it refers "this Rule 2002" and not simply "this rule." Professor Garner explained that this reference follows the style guide to make clear that when a rule refers to itself in a subpart of the rule, it is referring to the rule in its entirety, not simply the subpart.

A judge member asked a question about Official Form 106C and whether every entry in Column C had to have a specific amount to include in the total. Judge Connelly and Professor Bartell explained that the total only includes those entries in Column C that have a specific amount. Debtors have the option in Column C to provide either a specific amount or claim 100% of the fair market value of an exemption, up to any applicable statutory limit, such as the debtor's proceeds from a personal injury case. The total amount in the revised Form 106C would total only those items where the specific dollar amount is listed and not those where the box is checked for the fair market value.

The following day, during discussion of information items, another judge member asked about another pending suggestion to amend Official Form 106C. Professor Bartell explained that, due to the order in which certain questions were asked on the current form, debtors in Florida — where there is an unlimited homestead exception—do not answer a question that could reveal that they are subject to a federal limit on their exemption. The Advisory Committee is considering modifying the form so this question is asked in a way that debtors in Florida have to answer.

Following this discussion, upon a motion and a second, with no opposition, the Standing Committee gave final approval to the amendments to Rule 202, Official Form 101, and Official Form 106C and recommended their adoption.

2. *Preliminary Drafts for Publication and Public Comment – Rule 2003*

Judge Connelly next presented the Advisory Committee's request for approval for publication and public comment on proposed amendments to Rule 2003, which concerns holding a meeting of creditors. The text of the proposed amendments begins on page 301 of the agenda book, and the written report begins on page 254.[3]

Judge Connelly explained the meeting of creditors is required in Section 341 of the Bankruptcy Code and involves an examination of the debtor conducted by a trustee. Under the current rule, the meeting of creditors must be held no fewer than 21 and no more than 40 days after the order for relief in a chapter 7 or chapter 11 case, no fewer than 21 and no more than 35 days after the order for relief in a chapter 12 case, and no fewer than 21 and no more than 50 days after the order for relief in a chapter 13 case. The rule also requires that the meeting "be held at a regular place for holding court or at any other place designated by the United States trustee within the district convenient for the parties in interest." A suggestion was made by trustees to amend the rule to allow the meeting of creditors to be held no more than 60 days after the order for relief in chapter 12 and chapter 13 cases, and to revise the language to recognize that these meetings may be held remotely. The U.S. Trustee raised concerns about this suggestion but reached an agreement with the trustees who made the suggestion and the Advisory Committee now recommends publication of these proposed amendments. Professor Gibson noted that after

[3] As noted earlier in these minutes, this request was made in addition to the prior requests for approval for publication for public comment on the proposed amendments relating to privacy (Rule 9037) and electronic notice and filing by self-represented litigants (Rules 5005, 8011, and 9036, with a conforming amendment to Rule 9006).

approval by the Advisory Committee the last paragraph of the committee note was corrected to include a phrase that was previously left out.

The members then discussed the proposed amendments.

A judge member asked why there was a comma after the word "court" on page 302, line 31. Professor Kimble said that the comma made clear that "designated by the United States trustee" modified only "any place in the district," not "a regular place for holding court[.]" The judge member and the Style Consultants then discussed other options for making the language clear, including by adding "either" before "at" on line 30. Judge Connelly preferred to solicit public comment on the version approved by the Advisory Committee, which had been approved by the Executive Office of U.S. Trustee. Ms. Shapiro, on behalf of DOJ, underscored that the proposed language was sensitive to the trustees and there was careful negotiation on this language. Dean McKenzie, as liaison from the Standing Committee to the Bankruptcy Rules Committee, concurred with the suggestion not to alter the language prior to publication for public comment.

Following this discussion, upon a motion and a second, with no opposition, the Standing Committee approved the proposed amendments to Rule 2003 for publication and public comment.

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

Judge Vance presented action items on behalf of the Advisory Committee on Civil Rules, which last met on April 14, 2026, in Charlotte, North Carolina. The Advisory Committee's report and the draft minutes of its last meeting are included in the agenda book beginning at page 305. The action items sought final approval of proposed amendments to Rule 7.1, Rule 41(a), Rule 45(b) and (c), Rule 26, and Rule 81. The Advisory Committee had no proposed amendments for publication and public comment to present beyond the proposed amendments to Rule 5.2 as part of the privacy amendments, and Rules 5 and 6 as part of the package of amendments relating to electronic notice and filing by self-represented litigants approved earlier in the meeting.

1. *Amendments for Final Approval*

a. Rule 7.1

Judge Vance presented the Advisory Committee's request for final approval of amendments to Rule 7.1. The text of the proposed amendments appears on page 388 of the agenda book, and the written report begins on page 307.

Judge Vance explained that the proposed amendments were designed to facilitate judges' compliance with recent guidance from the Code of Conduct Committee that a judge's financial interest in an owner of ten percent or more of a party creates a rebuttable presumption of recusal. The proposed amendments (1) replace references to "corporations" with the broader term "business organization"; and (2) add a requirement that a party disclose business organizations that directly or indirectly own ten percent or more of the party (e.g., corporate parents or grandparents).

Judge Vance next informed the Committee that during the publication period, the Advisory Committee received eight written comments and four witnesses testified about the rule. Most of the commentary expressed support for the rule changes, noting that the rule would assist judges in making informed recusal decisions. Following this feedback, the Advisory Committee voted unanimously to recommend final adoption of the Rule 7.1 amendments as published.

After an opportunity for discussion and hearing no comments, upon a motion and a second, with no opposition, the Standing Committee gave final approval to the amendments to Rule 7.1 and recommended its adoption.

b. Rule 41(a)

Judge Vance next presented the Advisory Committee's request for final approval of amendments to Rule 41(a). The text of the proposed amendments appears on page 394 of the agenda book, and the written report begins on page 308.

Judge Vance explained that the current rule refers to plaintiff's dismissal of an action, which led to conflicting interpretations of whether the rule permitted dismissal only of entire cases or narrower dismissal of claims or parties. The proposed amendments to Rule 41(a) would clarify that narrower dismissals are permitted to conform to the widespread practice developed in multi-claim and multi-party litigation to narrow the issues and facilitate settlement. The proposed amendments also clarify that only the parties who have appeared and remain in the case must sign a stipulation of dismissal.

Judge Vance further reported that during the publication period, three witnesses testified and 28 written comments were received. All of the feedback was favorable and lauded the amendments as eliminating procedural barriers to streamlining cases, facilitating settlements, and eliminating confusion among the circuits. The Advisory Committee voted unanimously to recommend final approval of the proposed amendments to Rule 41(a) as published.

After an opportunity for discussion and hearing no comments, upon motion and a second, with no opposition, the Standing Committee gave final approval to the amendments to Rule 41(a) and recommended its adoption.

c. Rule 45(c)

Judge Vance then presented the Advisory Committee's request for final approval of amendments to Rule 45(c). The text of the proposed amendments appears on page 403 of the agenda book, and the written report begins on page 309.

Judge Vance reported that the main purpose of the amendments is to address the Ninth Circuit's decision in *In re Kirkland*, which interpreted Rule 45(c) to mean that a subpoena could not compel remote trial testimony from a witness outside the geographic limits in Rule 45(c)(1), even if a court found that the Rule 43(a) requirements for remote testimony had been satisfied. The proposed amendments would clarify that a court's subpoena power for remote trial testimony extends nationwide, so long as the witness is not required to appear and give the remote testimony from a location farther than the distance authorized in Rule 45(c)(1).

Judge Vance also reported that during the publication period, the Advisory Committee received 31 public comments and testimony from 10 witnesses, most of which favored the amendment. A few comments opposed the amendments on the merits and argued that they should be deferred until the Advisory Committee completed its consideration of proposed amendments to Rule 43(a) governing remote testimony in general. A few other comments offered stylistic changes.

Judge Vance then advised the Committee that after hearing the testimony and reviewing the public comments, the Advisory Committee concluded that there was no reason to defer amending Rule 45(c) in light of continued reliance on the *Kirkland* decision. The Advisory Committee decided, however, to modify the fourth paragraph of the committee note. These modifications included clarification to wording that suggested that Rule 43(a) standard for remote trial testimony could apply to non-trial remote testimony in hearings. Judge Vance also noted a technical change made later to delete the cross-reference to Rule 26(a)(3)(A)(i) as potentially confusing and unnecessary.

The members then discussed the proposed amendments briefly, with a judge member commenting that this was a very good rule amendment and that he was supportive of the changes.

With no further discussion, upon a motion and a second, with no opposition, the Standing Committee gave final approval to the amendments to Rule 45(c) and recommended their adoption.

d. Rule 26

Judge Vance next presented the Advisory Committee's request for final approval of amendments to Rule 26(a)(3). The text of the proposed amendments appears on page 391 of the agenda book, and the written report begins on page 310.

Judge Vance explained that the proposed amendments to Rule 26(a)(3) would be a small change to clarify pre-trial disclosure of trial witnesses who are expected to testify remotely, which is necessary because of the need to address the issue of court permission for remote trial testimony under Rule 43(a). Judge Vance noted that the proposed amendments attracted very little public commentary, some of which were based on the misapprehension that the rule applied to initial disclosures, not the disclosures made at least thirty days before trial. The Advisory Committee voted unanimously to recommend final approval of the proposed amendment as published.

The members then discussed the proposed amendments.

A lawyer member asked whether the proposed amendment was intended to disclose earlier in the process whether a party was proffering a remote witness. Professor Marcus responded affirmatively. A judge member then asked about the word "will" on page 392, line 20 of the agenda book, when whether the person can be called as a remote witness depends on the court's permission. Professor Marcus acknowledged that a judge may deny a request for remote testimony, but the Rule 26 disclosure is accurate at the time it is made. Judge Dever added that the committee note on page 393, lines 37-39, talked about alerting the parties and the court that a party "proposes to present" witnesses remotely. The judge member suggested replacing the word

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"will" with "is proposed to" to incorporate some concept of expectation as to what the party will present.

Another judge member asked whether there was any discussion about what lawyers would do to comply with this new disclosure because he could imagine lawyers disclosing that they expect to call a witness in person, but may later need to ask for the witness to appear remotely. A lawyer member added the concern that parties may start listing every witness as potentially remote to preserve the right to call that witness remotely later. Another lawyer member suggested that the adversary nature of the proceedings would result in parties specifying who they truly intend to present remotely, and counterintuitive trial strategy for a party to list all witnesses as remote if there was no need to present their testimony remotely. Judge Dever further added that in his experience, case management orders usually provide a period for people to object to pretrial disclosures.

As to the suggestion from the judge member to modify the text language to conform to the committee note, Professor Beale suggested that the language on page 392, line 20 be modified to read "it expects the testimony to be in person or remote." Professor Kimble endorsed this language as a matter of style.

With no further discussion, upon a motion and a second, with no opposition, the Standing Committee gave final approval to the amendments to Rule 26(a)(3)—as revised to read "it expects the testimony to be in person or remote" and set forth in the Appendix to these minutes—and recommended their adoption.

e. Rule 45(b)

Judge Vance presented the Advisory Committee's request for the Standing Committee to recommend final approval by the Judicial Conference of amendments to Rule 45(b)(1). The text of the proposed amendments appears on page 398 of the agenda book, and the written report begins on page 310.

Judge Vance explained that the proposed amendments were designed to clarify the authorized methods of delivery of a subpoena to the named person. First, the amendments would authorize service of a subpoena by the service methods permitted in Rule 4(e)(2)(A) and (B) for service of a summons and complaint. Second, the proposed amendments would authorize service by U.S. mail or commercial carrier, if the chosen method provided confirmation of actual receipt. Third, it would authorize the court, for good cause, to permit another method of service that was reasonably calculated to give notice. Judge Vance further explained that the proposed amendments would (1) add a 14-day notice requirement for subpoenas requiring appearances for trials, hearings, or depositions; and (2) allow the witness fee to be tendered at the time and place of appearance instead of at the time of service.

Judge Vance then reported that the Advisory Committee heard testimony from 11 witnesses and received close to 200 comments, most of which were from professional process servers who opposed the rule change as either detrimental to their business or having other fundamental defects. After review of these concerns, the Advisory Committee concluded that these objections were not persuasive and did not warrant a change to the published rule. The Advisory Committee

did vote, however, to modify the third paragraph of the committee note to address certain concerns raised by committee members regarding service by U.S. mail or commercial carriers. The Advisory Committee voted to modify the committee note to specify that for service by U.S. mail or commercial carriers, the person identified in either Rule 45(b)(1)(A)(i) or (ii) must receive the service. The modification to the committee note also removed a potentially confusing reference to Rule 45(b)(4). The Advisory Committee's changes to the committee note are identified on page 311 of the agenda book. With this change to the committee note after publication, the Advisory Committee voted unanimously to recommend final approval of the amendments to Rule 45(b)(1).

Professor Marcus added that several public comments raised concerns about the language that the subpoena must be delivered at an individual's dwelling or usual place of abode with someone of suitable age and discretion who resides there, even though this language was taken directly from Rule 4. Additionally, many process servers commented that a process server is necessary. But the rule does not currently say this. It requires someone who is at least 18 years old and not a party to the action. Perhaps many people would prefer to have a professional handling service, but the rule does not require it.

The members then discussed the proposed amendments.

A judge member asked why the committee note was modified to address confirmation of actual receipt by the subpoena recipient but the text of the rule did not say this. A lawyer member added that the last paragraph of the committee note also suggested that tender of the fee at time of service was only required where practicable, but the rule text does not say this. As to the latter question, Professor Marcus responded that it is possible to change the rule language, but the rule does not make service ineffective if the fee is not tendered at the same time. As to the former question, Professor Marcus thought that the rule was clear that if a party had to confirm actual receipt, the receipt would need to be by someone who would have been a proper recipient. A judge member then asked why the rule no longer requires tender of payment at the time of service. Professor Marcus responded that the Advisory Committee had learned that delivering the check was sometimes an obstacle to fulfilling the service and that lawyers who want witnesses to appear would not want the cost of travel to stand in the way. Additionally, the Advisory Committee heard that attorneys may not want to serve those subpoenas with the fee if a case may settle and may prefer to instead to pay the fees when the witness appears. The judge member then asked whether there were ever instances of witnesses not being paid when they appeared to testify. Professor Marcus said that the rule requires payment at the time the witness appears, not after the testimony occurs, which prevents a party from saying that they would not pay a witness unless they like what the witness has to say.

Judge Dever suggested that revisions to the proposed rule text may be appropriate in accordance with the committee members' suggestions. After a break, Judge Vance and Professor Marcus proposed new language for the rule text on page 399, line 23 of the agenda book to add, after "of actual receipt," the following: "by a person identified in (i) or (ii)[.]" This change would align with the language in the committee note on page 401, line 67.

With no further discussion, upon a motion and a second, with no opposition, the Standing Committee gave final approval to the amendments to Rule 45(b)(1)—as revised to include "by a

person identified in (i) or (ii)" and set forth in the Appendix to these minutes—and recommended their adoption.

f. Rule 81

Judge Vance presented the Advisory Committee's request for final approval of amendments to Rule 81, which concerns jury demands after removal. The text of the proposed amendments appears on page 408 of the agenda book, and the written report begins on page 312.

Judge Vance explained that the proposed amendments were designed to eliminate uncertainty about whether and when a jury demand is required after a state case is removed to federal court. The proposed amendments: (1) preserve the right to a jury trial if a jury demand is made before removal; and (2) allow a jury demand under Rule 38(d) after removal if no demand was made in the state court if made within 14 days from when a party files a notice of removal or is served with a notice of removal by another party. Judge Vance added that there were four comments on the rule after publication, all favorable. The Advisory Committee voted unanimously to recommend final approval of the amendment to Rule 81(c)(3) as published.

Following this presentation, Professor Beale raised a question regarding language on page 409, lines 18 to 20, about whether the word "one" refers to a jury trial. Judge Vance confirmed that this was correct, and Professor Kimble said that he thought that the language was clear as a matter of style.

With no further discussion, upon a motion and a second, with no opposition, the Standing Committee gave final approval to the amendments to Rule 81 and recommended their adoption.

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

Judge Mosman presented action items on behalf of the Advisory Committee on Criminal Rules, which last met on April 29, 2026, 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 413. The action items sought final approval of amendments to Rule 17 and proposed amendments to Rules 11 and 32 for publication and public comment. The proposed amendments for publication and public comment were in addition to the proposed privacy amendments and amendments relating to electronic notice and filing by self-represented litigants approved earlier in the meeting.

1. *Amendments for Final Approval – Rule 17*

Judge Mosman presented the Advisory Committee's request for final approval of amendments to Rule 17 relating to subpoenas for production in criminal cases. The text of the proposed amendments appears on page 490 of the agenda book, and the written report begins on page 414.

Judge Mosman explained the major changes proposed in the rule amendments, which are outlined on page 417 of the agenda book. First, the amendments expand the scope of proceedings for which a subpoena is available from trials to also include detention hearings, sentencing hearings, and the like. Second, the amendments relax the evidentiary standard for subpoenas to a "likely to be admissible" standard. Third, the amendments clarify when a motion and order is required to obtain a subpoena. Fourth, the amendments allow *ex parte* requests for subpoenas

upon a showing of good cause. Finally, the amendments allow direct production of responsive items to counsel in some instances. Judge Mosman further informed the Committee that the Advisory Committee received significant public comments, both written and oral, during the public comment period noting that the oral testimony was entirely from victims' representatives.

Judge Mosman next described the Advisory Committee's changes to the proposed amendments after publication, described in detail in the Committee Report starting at page 410 of the agenda book, noting that any changes were adopted unanimously after serious and substantial discussions. These post-publication changes included changes to Rule 17(a) (a technical correction making explicit that a subpoena can require testimony, production, or both testimony and production); Rule 17(c)(3)(A) (clarifying that a motion and order for a subpoena seeking personal or confidential information about a victim from a third party is required when the third party receiving the subpoena is a victim); and Rule 17(c)(5) (addition of presumptive requirement of return to the court for subpoenas requiring the production of personal and confidential information about a victim).

Judge Mosman added that the Advisory Committee also concluded that none of the proposed post-publication changes to Rule 17 required republication. Professor Coquillette later added that deciding whether republication is required depends on whether there are people who are interested in the rule change who are taken by surprise by a new rule, and he did not feel that in this context people would be taken by surprise by the proposed changes after publication.

On the Advisory Committee's post-publication changes to Rule 17(c)(3)(A) (and a corresponding change in the committee note), Judge Mosman explained that the Advisory Committee decided to add "including a victim" in this portion of the rule to make clear that victims are third parties for purposes of the protection of this particular rule. This change reflected concerns from a commenter, Professor Paul Cassell, that the rule, which requires a motion and order for subpoenas seeking personal and confidential information about victim from a third party, as well as notice to the victim whose information is sought, did not apply to subpoenas seeking such information from victims themselves, because they were not "third parties."

Judge Mosman next explained changes to Rule 17(c)(5) regarding the place of production with a corresponding change to the committee note. The commenters expressed strong concerns with privacy and safety based on information gained from records, such as medical or psychiatric records, that would reveal when and where recurring appointments were held. This information could make its way from counsel to the client putting the person in danger of unauthorized contact. As amended after publication, Rule 17(c)(5) added "unless the court orders otherwise" to clarify that the court would retain discretion to order otherwise. Judge Mosman also explained that absent the court ordering otherwise, the defaults set forth in the rule would apply (such as return to the court if the subpoena is issued by a self-represented party or requires the production of personal or confidential information about a victim). Professor Beale directed the Committee to page 422 of the agenda book, which contained a description of how the process had been working in many districts to allow victims the opportunity to ask the court to impose limitations or to negotiate with the party seeking that material. Professor Beale also explained that while this may be a substantial change to the published rule on place of production because it altered the default, republication was not required because this change put back in place the current

practice and there was no controversy in the Advisory Committee, from the defense lawyers, judges, or prosecutors, as to whether this should be done.

The members then discussed in detail the proposed amendments over the course of the first and second days of the meeting. Those discussions included the following comments and feedback.

First, a judge member asked about two potential language changes in proposed Rule 17(c)(2)(B) on page 493: (1) on line 53, change the word "seek" to match language elsewhere in the rule saying "requires production of" something; and (2) on lines 56-57, remove the words "to the party" to read simply "are not reasonably available from another source." The judge member also asked about a change in proposed Rule 17(c)(2)(C) on page 493, line 66, to update the reference from "(3) or (4)" to include the subsection (c). Professors Beale and King supported the changes to the word "seek" and adding subsection (c) to the references to (3) and (4). As to the suggestion to remove "to the party," Professors Beale and King explained that the language "to the party" is necessary because some information that the subpoena seeks may not be available to the defense but may be available to the government. For example, under the Stored Communications Act, the government could get information that an individual could not and therefore that information would not be reasonably available to the person who needed it. In light of this explanation, the judge member agreed that the language in proposed Rule 17(c)(2)(C) need not be changed.

Second, the judge member raised concerns about the committee note to Rule 17(c)(6), which he felt should address a timing issue with respect to the required disclosure of an item received in response to the subpoena and Rule 16, which is referenced in the committee note (page 511, line 527-531). The judge member had concerns about Rule 16, which only requires production of discoverable items "before trial," and the timing of the disclosure under the proposed amendments to Rule 17(c)(6) at earlier proceedings (such as detention hearings and suppression hearings). This timing could lead to a surprise for the opposing party when the document received under the subpoena is introduced, and he anticipated disputes about timing issues like this that are not addressed in the committee note.

Professor King explained in response to these concerns that the point of the proposed amendments to Rule 17(c)(6) was to address case law from some districts that required a party seeking a subpoena to disclose everything received in response to that subpoena to the other side—even if the request for the subpoena was an *ex parte* application. The proposed amendments in Rule 17(c)(6) seek to maintain the protections and scope of discovery under Rule 16 when the items are received through a Rule 17 subpoena. With the focus on this goal, the timing of disclosures was not addressed in the proposed amendments in Rule 17(c)(6). That issue, as Professor King explained, would be determined by case law or another rule. Professor Beale added that Rule 17 reflects the notion that whatever a party gathers by subpoena or by its own investigative efforts is not discoverable until the trial itself. Judge Dever further added that Rule 16, and not amended Rule 17, would have to answer when the items are discoverable. Judge Mosman also responded that there may be a weakness in Rule 16, which only requires disclosure before trial, with the adoption of the proposed amendments to Rule 17 on pretrial subpoenas for production, but courts could continue to handle issues of timing through existing practices relating to discovery when suppression and detention hearings take place. Judge Dever added that in his experience, if information was received at a hearing that a party had not seen, it

would not be uncommon for a lawyer to ask for a brief adjournment of the hearing to review the evidence presented.

The members then discussed potential revisions to the text of Rule 17(c)(6) to address the concerns raised. On page 497, lines 133-137, the judge member suggested the following: (1) insert the word "only" after "party" on line 134; (2) remove the word "only" from line 136, and (3) add "and when" to lines 136-137. The suggested text would read, "[a] party only must disclose to an opposing party an item that the party receives from a subpoena recipient if and when the item is discoverable." Professor Hartnett supported adding the language "if and when" to clarify the intent to refer readers to Rule 16 on the timing of discovery. Both Judge Mosman and another judge member said that they did not see any downside to including the "if and when" language, although this language would not address the timing issue. Professor Garner added that as a matter of style, if the addition of "if and when" is adopted, the "only" should not be moved within the provision and should say "only if and when." He also offered two alternative language choices - that a party must disclose "as soon as the item becomes discoverable" or that a party "need not disclose to an opposing party an item receives from a subpoena's recipient unless and until the item becomes discoverable."

The judge member also raised concerns about use of the language "must" disclose in the beginning of the text to Rule 17(c)(6) (page 497, line 134), which he felt could raise an issue of reciprocal discovery that could be very concerning to both the government and the defense. Judge Mosman agreed that the word "must" could be removed.

The members also discussed whether reference to case law would be appropriate in the committee note to address the interplay between Rule 17 and Rule 16. A judge member asked whether reference to case law from judges who have already allowed pretrial subpoenas even without the amendments to Rule 17 would be helpful on the disclosure issue. Professor King said that there were districts where third-party subpoenas were allowed for non-trial hearings and judges had managed those situations as needed such as by allowing a recess if necessary to accommodate the other party or issuing a standing order addressing subpoenas for non-trial hearings. Professor Coquillette added that it was dangerous to reference case law to make a point in the committee note because the committee note could not be changed unless the rule was changed. If a case were overruled or changed in a significant way, the rule would still contain a clearly misleading committee note. Professor Capra added to this discussion by noting that the only case cited in the committee note was *Nixon*, which could not be avoided given the nature of the amendments. A lawyer member said that he thought the suggestion was not to add specific cases to the committee note, but to instead point out that there was case law governing the timing of discovery, which would not run afoul of the rule against citing cases.

Following this discussion, Judge Dever asked Professor Garner for his views on proposed revisions to the rule text to address the concerns discussed. Professor Garner responded that he understood the consensus to be that on page 497, line 134, the text in Rule 17(c)(6) would read, "party need not disclose to an opposing party an item the party received from a subpoena's recipient unless and until the item becomes discoverable." Alternatively, the rule could move "unless and until" to the beginning of the sentence, such that it would say that "unless and until it becomes discoverable, a party need not disclose . . ." A judge member however, felt that the

issue was the word "discoverable" in 17(c)(6), which does not answer the timing question. He did not think that adding "if and when" would solve the timing problem.

The members then discussed the committee note's language with respect to Rule 17(c)(6) and discovery. Professor Beale and Professor King then offered suggestions for revisions to the committee note based on the feedback. This included revising the committee note (page 511, line 530) to refer to "other discovery rules and applicable case law"; to add "and the timing of such disclosure" after "subpoena" on page 511, line 529; and to restate the sentence as "Rule 16, other discovery rules, and applicable case law" on line 530. A judge member also noted that the existing committee text (page 511, line 530) stating that "Rule 17 does not modify that carefully developed law" was not accurate because one of the purposes of the change to Rule 17 was to modify case law holding that parties must deliver subpoena responses to each other regardless of discovery obligations. Professor Beale agreed the language could be changed regarding Rule 16 to be clearer. Professor Garner also noted generally referencing "case law" was unclear as to whether that referred to case law as it existed as of the adoption of the rule or referred to an ongoing evolution of case law that would come after adoption of the rule. A consensus was then reached to delete reference to the words "case law" in the committee note.

Professor Sachs suggested that instead of case law, the committee note could reference "other applicable sources of law" to make the point that there are other authorities which govern this issue. Professor Beale responded that a general reference would not work because the rule change was intended to limit the ability of courts to require things that were not governed by existing discovery requirements, especially on the part of defendants. A judge member then asked if Rule 17(c)(6) was needed if the only purpose was to stop judges from ordering defendants to disclose things that they otherwise would not need to under Rule 16. The judge member suggested that if it needed to be included, it could say that the rule does not create disclosure obligations separate from those that already exist. With this feedback, Judge Dever suggested returning to this issue the next day to give the reporters time to develop revised language for Rule 17(c)(6).

Judge Mosman then directed the Committee's attention to the committee note to Rule 17(c)(3) (lines 422-436 on page 508 of the agenda book) regarding *ex parte* applications for subpoenas for personal and confidential information (a good cause standard to proceed ex parte) and the notice to victims requirement (required absent "exceptional circumstances"). The Advisory Committee revised language in this section of the committee note after it heard testimony from victims' rights advocates that the "exceptional circumstances" exception to the notice requirement, if satisfied by the disclosure of sensitive defense strategy, will be interpreted too broadly to almost always apply. In an effort to strengthen protections to victims, the Advisory Committee revised the committee note accompanying the new provision allowing an *ex parte* subpoena for good cause to emphasize the important distinction between the good cause requirement for an *ex parte* motion—which does require laying out defense strategy to some degree—and the mere notice requirement—which requires only notice there is a subpoena but not an explanation of what was requested in the subpoena. Professor Beale and Professor King that the *ex parte* provision was not intended to create "exceptional circumstances" or erode the notice requirement, and that the new committee note explains how the new provision on good cause for *ex parte* applications relates to the existing notice requirement for victims. Finally, Judge Mosman noted that on line 426 of the committee note to Rule 17(c)(3), the words "a

showing" appear in brackets as a stylistic suggestion he made for the Standing Committee to consider.

As a final post-publication change, Judge Mosman next turned to the committee note's discussion of Rule 17(c)(2)(B)(iii) (requiring that each item requested in the subpoena either be, or contain information that is, "likely to be admissible as evidence in the designated proceeding"), and revisions made to lines 326-328 on page 505. The Advisory Committee made changes to language in the committee note regarding the modified *Nixon* standard because the previous sentence had been wordy and unclear.

Judge Mosman then explained that the Advisory Committee recommended no change to the published rule on the expanded scope of proceedings in which subpoenas are available, despite hearing opposition from victims' advocates who argued it would greatly expand the use of subpoenas for victim information. Judge Mosman noted that a substantial number of districts already did not limit Rule 17 subpoenas to trial, many cases are resolved without any pretrial hearings, and few sentencing hearings involve third-party information that involves a subpoena. Two lawyer members asked whether the testimony from victims' advocates included specific examples of how expanded access to subpoenas in districts that allowed it had created a problem. Judge Mosman and Professor Beale responded that this question was asked at the hearings and no one could provide specific examples. The lawyer member then asked whether the victims' advocates had an alternative proposal for Rule 17. Judge Mosman answered that they offered an unworkable suggestion to restrict it to trials and to have a carve-out for victims or certain kinds of crimes if it were expanded beyond trials. Professor Beale added that while the victims' advocates opposed the amendments, if the rule were to be amended, they vociferously opposed the *ex parte* provisions, the expansion to proceedings other than trial, and the loosening of the *Nixon* standard.

A judge member then asked whether the Advisory Committee heard from any tribes on this issue. Professor Beale said that while the Advisory Committee had not heard from anyone in tribal government, when the Advisory Committee met in Phoenix at an earlier meeting to evaluate the proposed amendments, it heard from several local witnesses about their experiences with looser standards and more subpoena availability. Many of the people from Arizona, including the prosecutor, stated that they had not been applying *Nixon* strictly for years and had not had any difficulty. Judge Mosman added that the Advisory Committee heard from one witness from Oregon, whose responsibilities included working with tribal governments and victims from tribal cases, and the issue of tribes was not raised.

Judge Mosman then turned to another public comment that did not lead to a revision of the published rule. One commenter suggested that the Supreme Court precedent (*Carpenter*) regarding cell site location information suggested that the expansion of subpoenas would run afoul of the Fourth Amendment. Judge Mosman stated that while *Carpenter* may have been limited to its facts and not applicable to any kind of information that might be sought in Rule 17 subpoenas, the Advisory Committee was concerned about privacy interests in personal and confidential information. As a result, after a lengthy discussion, and as discussed on page 433 of agenda book, no text change was recommended for the rule, but the Advisory Committee added a short statement to the committee note about judicial oversight, reminding readers that judges have the ability in some instances to impose greater protections. The Advisory Committee also

suggested other approaches to protect privacy interests, including facilitating the development of best practices and working with the FJC to monitor the implementation of these amendments to see whether problems develop. Professor Beale added that the Advisory Committee expected that once the rule goes into effect, it would start to see the development of best practices, local options, and any problems that may arise and that by closely monitoring the situation, the Advisory Committee would be able to take appropriate action. Professor Coquillette expressed disagreement, however, with putting guidance in the committee note rather than a bench book. A lawyer member said that he supported the Advisory Committee's approach to privacy protection because personal and confidential information is now held by many third parties, and sometimes those third parties are not vigilant about protecting it. Judge Mosman also added that seeking personal and confidential information, independent of Rule 17, involved application of many state and federal privacy laws. A judge member also expressed support for the Advisory Committee's approach and noted that many judges look at the committee notes for guidance before exploring best practices. Judge Dever added that guidance in the committee note could remind judges that they also have the power to address issues in protective orders.

At the close of this discussion, a judge member spoke in favor of the proposed amendments and that hearing about how the current rule was being implemented in different ways across the country convinced him that significant amendments to Rule 17 were necessary. He also noted that there would likely still be variability in how judges approach it, but that this could be valuable as the Advisory Committee gained more information over time. He also stated his feelings that the rule did a careful job of balancing competing concerns.

With this feedback, and after adjourning until the next day to allow time to revise the rule, Judge Mosman presented a revised version to the text of Rule 17(c)(6) to solve the problem of judges who make Rule 17(c) subpoenas contingent upon disclosure to other parties. Judge Mosman added that the language in brackets was supported by the reporters but DOJ would like the bracketed language eliminated. Judge Mosman stated that the committee note, on page 510, line 512, quoted the former language in (c)(6), so that would need to be changed to match the new language.

The revised language to replace the text on page 497, lines 134-137, would read as follows:

> Disclosure and discovery requirements [established by the Constitution, statute, and other rules] are not altered by this rule, and govern the disclosure of produced items to a party that did not request the subpoena.

Professor Garner said that if the bracketed language were removed, the comma after "rule" should be removed. Professor Beale added that the title of (c)(6) would be revised to, "Disclosing to Other Parties the Items Produced." Professor Bartell said that the revised language essentially said that disclosure and discovery requirements govern disclosure, and questioned whether that was the intent. Professor King said that the word "discoverable" in the formerly proposed (c)(6) raised concerns about how this applied to non-trial proceedings. Inserting "disclosure" not only added a set of law to the discovery rules for trial, but also added disclosure rules imposed by the Constitution that were not part of discovery. Professor Bartell said that she understood this, but questioned whether the end of the provision should say "govern

the disclosure and discovery," or "govern the production of items to a party that is not requesting to see it."

A judge member asked for more information on concerns about including the bracketed language. Judge Mosman said that his concern with deleting the language was that, if the rule simply says that "disclosure and discovery requirements are not altered by this rule," it leaves open the possibility that a court order or other local rule might still remain in place. If the rule says that the only place a court can look for these requirements are the Constitution, statute, and other rules, it means that the court cannot find them in its own local rule requiring disclosure. Ms. Shapiro, on behalf of DOJ, stated her concern that by listing out sources in this new version, it would prevent judges from issuing orders with disclosure requirements that are not covered by the Constitution, statute, or other rules. A party might argue that the court cannot order something to be disclosed because it was not otherwise in the rule, statute, or Constitution.

Another judge member asked whether "other rules" in the bracketed language could be interpreted to mean "local rules." Ms. Shapiro said yes, this was another concern, whether "other rules" referred only to federal rules. Professor Sachs suggested changing "other rules" to "other law," given that there may be common law on this issue. He also suggested beginning the provision by saying "Any disclosure and discovery requirements," to avoid suggesting that there are such requirements. Professor Capra suggested ending the sentence after "rule," but committee members said that the second clause was the most important point in the provision. Professor Garner expressed his support for using "other law," to foreclose the possibility of including local rules, which he thought would arguably be included in "other rules." Other members argued that rules were law, and court orders would be considered law as well.

Another judge member had concern that about removing the strong language in the original draft stating that a party must disclose "only if" the information was discoverable. With the revised language, a judge could still conclude that revised Rule 17 did not change the parties' obligations, but those obligations existed now, and courts had issued orders saying that a party must turn over any information obtained in response to its subpoena. Professor Beale responded that those who discussed the revisions considered saying that a court "must not" order disclosure unless discovery was otherwise required. A lawyer member asked whether the point was not to say that courts cannot do something, but instead that this particular rule does not authorize them to impose a disclosure requirement other than those established by other laws. Professor Beale said that some judges already thought that they had this authority and that fairness requires disclosure to the other party. That authority was not previously in Rule 17, so these judges may still find that authority elsewhere, outside of Rule 17. The lawyer member said that this proposed language would not prevent those judges from doing so, because it would confirm that other existing law gives courts authority to require disclosure.

With this additional feedback another draft version of Rule 17(c)(6) was provided for the Committee's consideration:

> This rule does not
>
> (a) authorize the court to disclose—or require disclosure of—a produced item to a party that did not request the subpoena; or

(b) alter the disclosure requirements set by the Constitution, a statute, or other rule.

Professor Beale said that this language responded to the fact that if the material were produced to the court, the court could simply tell the clerk to send it to all parties. She thought, however, that the original language worked well. Ms. Shapiro, on behalf of DOJ, said that this language said that was incorrect, because it said that the rule did not authorize the court to disclose a produced item to a party that did not request it, but it may be that the item was discoverable, so the court should be ordering it disclosed. Professor Struve suggested that "other authorities" might be an option, rather than "other rules."

A judge member strongly opposed this proposed language because he felt it stated the opposite of what the original draft Rule 17(c)(6) had said, which was that a party "must disclose." The revised draft said that the rule did not even authorize the court to disclose. He suggested that the Committee focus instead on the first language suggested and debate whether to include the bracketed language. He favored removing the bracketed language so that courts retained whatever existing timing rules they had on reciprocal discovery. Professor Kimble added that the Standing Committee was trying to avoid saying that the court "must not," do something but there were 22 uses of "must not" in the Criminal Rules and there was no strict policy against saying that the court "must not" do something. Another judge member said that he had also found a few instances of the Criminal Rules stating that "the court must not," and those were situations where a statute explicitly prohibited the court from doing something. Here, however, the Committee would be saying that a court "must not" require disclosure, which would be difficult because it could not foresee all of the circumstances that could arise.

Taking this feedback, Judge Mosman agreed that neither revision completely accomplished what the Advisory Committee had hoped to accomplish, but the case law and the revised language and committee note would teach judges that they could not condition use of Rule 17 subpoenas categorically on disclosure of everything obtained through a subpoena. He then recommended moving forward with one of the two versions of the language first proposed this morning, either with or without the brackets. For further clarity, Judge Dever asked whether anyone other than DOJ was opposed to including the bracketed language and changing "rules" to "law." Two judge members said that they preferred not to include the bracketed language but were not opposed to it. A third judge member agreed and suggested saying, "This rule does not require the disclosure of produced items to a party that did not request the subpoena. Disclosure and discovery requirements are not altered by this rule." Professor Garner suggested instead saying, "Discovery and disclosure requirements, which are not altered by his rule, govern the disclosure." Judge Dever then suggested that Judge Mosman and the reporters settle on another revision.

After additional break, Judge Mosman presented the following language for Rule 17(c)(6):

Disclosing to Other Parties the Items Produced. This rule does not require the disclosure of produced items to a party that did not request the subpoena. Disclosure and discovery requirements are not altered by this rule.

He also proposed two changes to the committee note: first, to change the quoted text of (c)(6) to match the new language, and second to add "regulation and timing regarding" before

"disclosure" on line 527 on page 511. Judge Mosman said that this language made the point that use of Rule 17 subpoenas should not be conditioned upon automatic disclosure to other parties. It also changed the title of (c)(6) to match the usage elsewhere in the rule. Professor Sachs clarified that the language in the committee note would now say that "the regulation . . . is regulated by . . ." He suggested changing "regulated" to "governed," and others suggested changing "is" to "are," since there were multiple subjects (regulation and timing).

Professor Beale then set forth the proposed changes. On page 493, line 53, "seek" would be changed to "require production of[.]" On that same page, line 66, "(c)" would be inserted before "(3)[.]" On page 506, line 376, "(c)" would be added before "(3)" and at line 384, "(c)" would be inserted before "(2)[.]" On page 508, line 426, the brackets would be deleted. On pages 510 and 511, the committee note would be changed as just discussed. Paragraph (c)(6) would be revised as just discussed.

With no further discussion, upon a motion and a second, with no opposition, the Standing Committee gave final approval to the amendments to Rule 17— as revised to include the changes discussed in the prior three paragraphs and set forth in the Appendix to these minutes— and recommended their adoption.

2. *Preliminary Drafts for Publication and Public Comment*

a. Rule 11

Judge Mosman next presented the Advisory Committee's request for approval for publication for public comment on proposed amendments to Rule 11. The text of the proposed amendments begins on page 521 of the agenda book, and the written report begins on page 447. Judge Mosman began by explaining that the amendments to Rules 11(b)(1)(M) were driven by 2025 amendments to the U.S. Sentencing Guidelines, which eliminated the concept of departures. As a result, as Professor Beale added, the proposed changes would delete the language requiring the sentencing judge to inform the defendant of possible "departures under the Sentencing Guidelines." Judge Mosman further added that tying language in Rule 11 to the Sentencing Guidelines was impractical because it would require a change every time the Sentencing Guidelines changed.

The members then discussed the proposed amendments.

A judge member raised concerns that the proposed amendments went further than removing the reference to departures and deleted the language requiring the judge to inform the defendant that the court has an obligation to calculate the applicable Sentencing Guideline range. Professor Beale responded that under the new two-step process in the Sentencing Guidelines, after determining the Guideline range, the court must consider the other applicable factors in § 3553. The Rule 11 Subcommittee felt that the rule text should follow this simplified instruction. The judge member agreed but said that some case law provides that a judge has an independent obligation to calculate the range, and if the rule just refers to the Sentencing Guidelines, then this suggests the judge has a smaller obligation than to accurately determine what the Guideline range is before applying the § 3553(a) factors.

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Other judges then discussed their views on this issue, some saying that there is no independent obligation outside of what § 3553(a) provides, and others supporting the idea that the judge does have an independent obligation that should be recited to the defendant. During this discussion, Judge Mosman reminded members that Rule 11 refers only to what the court must tell a defendant at a plea colloquy. Professor King responded that DOJ, the defense bar, the subcommittee, and the Advisory Committee felt that the language in Rule 11 should not include calculating the advisory guideline range because of the simplification process that the Guidelines were currently undergoing and the proposed amendments were designed to avoid having to change Rule 11 again. Judge Vance stated, however, that the proposed amendment may communicate to judges that they no longer had to actually calculate the range by assessing the Guidelines.

Following this discussion, the members discussed possible changes to the language in the proposed rule text. Judge Furman suggested that the language "including the Sentencing Guidelines" at the end of the proposed rule was unnecessary because that factor is listed in § 3553(a) and did not need to be repeated. Professor King responded that the Rule 11 Subcommittee had debated whether to include a reference to the Sentencing Guidelines at all because they are part of the statute but decided to leave it in because judges are accustomed to it.

The members, advisory committee chairs, and reporters then discussed potential revisions that could be made to address the concerns raised about informing defendants of the obligation to calculate the range. Suggestions included bracketing some words or omitting only the words "possible departures under the Sentencing Guidelines." A judge member suggested including more words in brackets so that the Advisory Committee could obtain more public feedback. Judge Mosman suggested that the Committee consider whether to approve the Advisory Committee's proposed language with the addition of bracketing "calculate the applicable Sentencing Guidelines." The provision would read, "in determining a sentence, the court's obligation to [calculate the applicable sentencing guideline range and] consider the factors under 18 U.S.C. § 3553, including the Sentencing Guidelines." Judge Furman asked whether it would be necessary to include two references to the Sentencing Guidelines. After further discussion, Judge Mosman said that he and the reporters would propose language for the Committee's consideration the following morning.

After the midmorning break on the second day, Judge Mosman proposed language for the Standing Committee's consideration that would remove "possible departures under the Sentencing Guidelines," from Rule 11(b)(1)(M), such that the rule would read:

> (M) in determining a sentence, the court's obligation to calculate the applicable sentencing-guideline range and to consider that range and other sentencing factors under 18 U.S.C. § 3553(a);

Following this discussion, upon a motion and a second, with no opposition, the Standing Committee approved the proposed amendments to Rule 11 as revised for publication and public comment.

b. Rule 32

Judge Mosman then presented the Advisory Committee's request for approval for publication for public comment on proposed amendments to Rule 32. The text of the proposed amendments begins on page 523 of the agenda book, and the written report begins on page 450. Judge Mosman explained that this proposed amendment, which relates to the amendment to Rule 11, addresses current language in Rule 32(h) referring to possible departure under the Guidelines. The amendment would strike the language in Rule 32(h) and mark it reserved in order to preserve the numbering system in the rule.

With no questions or further discussion, upon a motion and a second, with no opposition, the Standing Committee approved the proposed amendments to Rule 32 for publication and public comment.

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

Judge Furman presented the action items on behalf of the Advisory Committee on Evidence Rules, which last met on May 7, 2026, 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 525.

1. *Amendments for Final Approval*

a. Rule 609

Judge Furman presented the Advisory Committee's request for final approval of amendments to Rule 609. The text of the proposed amendments begins on page 572 of the agenda book, and the written report begins on page 526.

Judge Furman provided background on the proposed amendments to Rule 609, which governs impeachment through prior convictions. The proposed amendments add a single word, "substantially," to Rule 609(a)(1)(B), to make the balancing test a bit more favorable to a testifying defendant. The other proposed amendment was to address a split in authority under Rule 609(b) because the rule did not prescribe the endpoint of the ten-year period for older convictions. The proposed amendment to Rule 609(b) clarifies the end date to be the date trial begins.

During the public comment period, the Advisory Committee received fifteen comments, including comments from the Magistrate Judges Association, the American College of Trial Lawyers, the New York City Bar, the National Association of Criminal Defense Lawyers, and others. The comments were strongly supportive with the sole critical comment proposing a different endpoint under Rule 609(b), which the Advisory Committee had previously considered and rejected. Judge Furman also noted that one comment urged the Advisory Committee to address the Supreme Court decision that made the court's decision appealable only if the defendant took the stand, but the Advisory Committee had already decided not to do address that issue. With no changes after publication, the Advisory Committee recommended final approval of the amendments by a 7-2 vote, with DOJ in the majority.

The members then discussed the proposed amendments.

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A judge member raised a question about language in the committee note and whether it would allow the prosecutor to explore details of the crime underlying the past conviction. Judge Furman responded that the rule amendment would not alter the existing law, but the committee note did address a problem in which some courts had allowed prosecutors to ask only about the fact of the conviction itself, which left the jury guessing what the nature of the felony was. Judge Furman said that the committee note did include, at the Standing Committee's suggestion, the language, "absent agreement by the parties," because there could be situations where the defendants preferred allowing more questions. Professor Capra added that there is substantial case law saying that the questioning cannot delve into the facts of the prior conviction, and the committee note states that Rule 608 cannot be used as an end-run around the limitations in Rule 609.

With no further discussion, upon a motion and a second, with no opposition, the Standing Committee gave final approval to the amendments to Rule 609 and recommended their adoption.

2. *Preliminary Drafts for Publication and Public Comment*

a. Rule 902(1)

Judge Furman next presented the Advisory Committee's request for approval of publication for public comment on a proposed amendment to Rule 902(1). The text of the proposed amendment begins on page 582 of the agenda book, and the written report begins on page 527.

Judge Furman reported that the proposed amendment would add federally-recognized Indian tribes and nations to the list of entities in Rule 902(1)(A) whose sealed and signed public documents are self-authenticating. Judge Furman noted that this amendment was suggested by Judge Frizzell in the Northern District of Oklahoma and has gained more significance after the Supreme Court's decision in *McGirt v. Oklahoma*, 591 U.S. 894 (2020), which expanded federal jurisdiction in Indian country. Judge Furman also noted that the Advisory Committee solicited input from the tribes themselves and Judge Furman wrote to the 578 federally recognized tribes and nations. Although only eight responses were received from the tribes and nations, all strongly supported the proposed amendment to recognize tribal sovereignty and dignity and address the burden and expense of sending people from the tribes long distances to authenticate records.

Judge Furman and Professor Capra then explained the difference of opinion on the issue expressed by Ms. Shapiro on behalf of DOJ in support of the amendment, and the Federal Defender, who opposes it and voted against moving forward with publication. The Federal Defender felt that such records could be admitted under either the business records exception or Rule 902(11) and that authentication problems in cases were the result of prosecutor problems and not the rules. The Federal Defender also cited inconsistent and problematic record-keeping among tribes and the fact that some tribes did not have robust FOIA-type disclosure rules and therefore restricted access to their records. Professor Capra added that the Federal Defender was concerned that a party would no longer receive a Rule 902(11) certificate signed by a real person that described how the records were kept. Judge Furman added that the FJC had done some research into how often this issue came up, and it was very rarely litigated.

The members then discussed the proposed amendment.

A lawyer member who practices in civil litigation added that federally recognized tribes are increasingly appearing as government entity plaintiffs in civil litigation, particularly environmental litigation. She supported the amendment for both symbolic dignitary inclusion and practical application to tribes as parties to civil cases because it would make the discovery burden they face equal to that of other government parties. Ms. Shapiro, on behalf of DOJ, expressed support for the rule to put federally-recognized tribes on the same footing as the smallest territories or municipalities. She also noted that the rule amendment would not prevent anyone from challenging the authenticity of these records at trial. Judge Furman added that the committee note underscored the point that the amendment did not preclude challenging the documents at trial.

With no questions or further discussion, upon a motion and a second, with no opposition, the Standing Committee approved the proposed amendment to Rule 902(1) for publication and public comment.

b. Rule 104

Judge Furman presented the Advisory Committee's request for approval of publication for public comment on proposed amendments to Rule 104. The text of the proposed amendments begins on page 584 of the agenda book, and the written report begins on page 528.

Judge Furman explained that the proposed amendment to Rule 104(a) is intended to codify the Supreme Court's decision in *Bourjaily v. United States*, 483 U.S. 171 (1987), which held that the preponderance of the evidence standard applies in deciding preliminary questions under the rule. The proposed amendment to Rule 104(b) would eliminate the confusing concept of conditional relevance and incorporate the standard for determining whether evidence is relevant from the Supreme Court's holding in *Huddleston v. United States*, 485 U.S. 681 (1988). Judge Furman further added that the Advisory Committee considered adding the *Huddleston* standard into Rule 401 insofar as it defines relevance. Because there is a great deal of case law interpreting Rule 104(b), however, the Advisory Committee decided to simply amend Rule 104(b).

Professor Capra added the amendment to Rule 104(a) was also necessary because one of the concerns with proposed new Rule 707 (governing opinions generated by artificial intelligence) was whether the preponderance of the evidence standard needed to be put in new Rule 707 as found in Rule 702. Amending Rule 104(a) to include the preponderance standard would eliminate the need for this addition to new Rule 707 if adopted, or to any other rule that is amended in the future. Judge Furman also noted that at the Advisory Committee meeting, a Standing Committee member had suggested amending Rule 104(a) and not 104(b), but the Advisory Committee decided that without the amendment to Rule 104(b) to include the proper standard, a court could inadvertently conclude that relevance questions are subject to the preponderance standard.

During his presentation, Judge Furman also called the Committee's attention to two stylistic changes that needed to be made to the committee note to change the word "relevancy" to "relevance" (page 587, lines 87 and 94). Professor Kimble also raised a style point and said that

on lines 6-7, "Unless otherwise provided in these rules" should instead say, "Unless these rules provide otherwise."

The members then discussed the proposed amendments.

A judge member asked whether there was a problem in courts applying the improper standard under Rule 104(b) that needed to be corrected. Professor Capra responded that there were many points of confusion in Rule 104(b), including that the term "condition" could be misinterpreted to mean any condition to admissibility, not just a conditional fact. Professor Capra also pointed to clarifying that the lower standard of proof applies.

Another judge member asked whether the explanation of relevance and examples set forth in the committee note (page 587, line 78) was necessary. Judge Furman said that it could be taken out, but said that this was only for publication, and was intended to explain the "common knowledge and experience" language set forth in the rule. A lawyer member said that he found the comment helpful to understand "common knowledge and experience." The judge member agreed that for purposes of publication, the example was fine.

Another judge member raised a concern about language in the committee note (page 587, line 88) stating that the judge "would" overrule the objection, but on line 92, the committee note said that the judge "would likely" reach a certain conclusion. At his suggestion, Professor Capra agreed to add the word "likely" to line 88 as well.

With no further questions or discussion, upon a motion and a second, with no opposition, the Standing Committee approved the proposed amendments to Rule 104 for publication and public comment, as revised to modify the rule text on page 584, line 6-7 (changing "Unless otherwise provided in these rules" to "Unless these rules provide otherwise"); and the committee note on page 587 (changing "relevancy" to "relevance" on lines 87 and 94, and adding "likely" after "would" on line 88).

4. INFORMATION ITEMS – REPORTS OF THE ADVISORY COMMITTEES

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

Judge Eid referred to the Advisory Committee's report, which begins on page 196 of the agenda book, for information items. She also highlighted and solicited feedback on the Advisory Committee's consideration of new Rule 12.2 governing intervention on appeal. Judge Eid summarized the information in the Advisory Committee's report, noting that whether to create a rule about intervention on appeal had been discussed for quite some time, and concerns had previously been raised that creating such a rule would incentivize people to move to intervene. The Advisory Committee decided, however, that a rule was necessary to give structure to the practice through a narrow rule that would also avoid an onslaught of meritless motions to intervene. She also described the structure of the proposed rule as set forth in the Advisory Committee report.

The members then discussed the proposal for new Rule 12.2.

A judge member suggested that the description of intervention as "disfavored" in subdivision (b) might be superfluous, given the language in that subdivision reserving intervention for exceptional cases. As for timing, the judge member also suggested that the proposed language "as soon as is practical after the appeal is docketed" in (c)(1) may prove difficult when administrations change, because the government may take a different position at that point. As for the choice of language between "legally protected" or "legally cognizable" interest stated in subdivision (e)(4)(B), the judge member said that he would remove both modifiers. Finally, he asked why (e)(3) referred to the United States' "foreign-relations interests" as a ground for intervention. Ms. Shapiro, on behalf of DOJ, later responded that subparagraph (e)(3) was proposed to accommodate specific government interests in things like state secrets privilege that can arise in private litigation, or protecting classified information, or uniquely governmental interest that relate to protection of national security.

The academic member raised the issue of whether this rule was truly necessary, given that courts of appeal had been using Civil Rule 24's provisions and given that intervention on appeal is rare. A lawyer member stated that while he had only had a few matters involving intervention on appeal and had learned that appellate courts are essentially using a modified Civil Rule 24, he did not think that this was ideal. Another lawyer member added that she had only seen a few intervention requests in civil appeals, but that recently there has been a significant uptick in AI-assisted pro se filings for intervention at the appellate level such that creating a strict rule would be helpful.

During the members' discussion, the reporters and consultants also provided suggestions. Professor Garner added that if the title of subdivision (d) were changed from "Grounds for Mandatory Intervention" to "Mandatory Intervention," then the title of subdivision (e) should be changed from "Other Grounds for Intervention" to perhaps "Permissive Intervention" to make it parallel. A lawyer member suggested not using the term "permissive intervention" because, in the Civil Rules, permissive intervention required a lesser showing. Another judge member suggested merging (d) and (e) in the proposed rule and titling the new subdivision, "Grounds for Intervention." Within that new subdivision, one paragraph could address when the court may permit intervention, and another paragraph could address when the court must permit intervention. Professor Sachs later clarified that Civil Rule 24 is much more flexible than what the Appellate Rules Advisory Committee was proposing and that the Committee had generally been averse to the concept of "permissive intervention" in appeals.

Professor Bartell suggested looking at Bankruptcy Rule 8013(g) on intervention on appeal. Professor Hartnett noted there are competing themes among circuit judges who either apply Civil Rule 24 on appeal and others who adhere to a more traditional notion that intervention on appeal was for rare and exceptional circumstances; the goal of the new rule would be to get ahead of this divide. Professor King pointed out that that the Rule 12.2 language proposed carving out § 2254 and § 2255 motions in subdivision (a) but should also include § 2241 motions.

Judge Eid thanked the Standing Committee members for their input on the draft proposed rule.

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

Judge Connelly referred to the information items from the Advisory Committee report, beginning on page 255 of the agenda book. She then highlighted one of the issues under consideration involving potential amendments to Bankruptcy Rule 9031, which provides that Civil Rule 53—which authorizes the use of masters—does not apply in a bankruptcy case. The Advisory Committee had received two suggestions to amend the rule to permit masters in a bankruptcy case. The Advisory Committee was considering a draft amendment to allow masters, but on March 17, 2026, the DOJ Office of Legal Counsel issued a published opinion suggesting that the use of masters by bankruptcy judges would be unconstitutional. The Advisory Committee has decided to defer further consideration of this issue until its fall meeting.

Judge Connelly then explained the nature of the DOJ objection. Bankruptcy judges, who are Article I judges, are referred cases that fall within the district court's original jurisdiction. If it is a core bankruptcy proceeding, the bankruptcy judge has the authority to issue a final ruling. If it is not a core proceeding, the bankruptcy judge may issue a ruling with the parties' consent. If the parties do not consent, the bankruptcy judge may issue proposed findings of fact and conclusions of law, and the district judge enters a final judgment. One concern was whether, in a non-core proceeding where the parties do not consent to the bankruptcy court's final authority, the bankruptcy judge could appoint a special master when the bankruptcy judge could not enter a final ruling. Professor Gibson added that the rule would also apply to district judges who are exercising bankruptcy jurisdiction, but the constitutional issues would not apply in those cases.

A judge member noted his general skepticism regarding masters because of cronyism and paying the master could leave less money available for the estate. Another judge member echoed those concerns and added that bankruptcy judges in his court were uniformly against the proposal. Professor Bartell observed, however, that having a rule that explicitly barred the appointment of a special master in bankruptcy cases but not civil cases seemed strange, especially as the cronyism argument could be applied to many areas of the law, and further, she did not think that the DOJ opinion was persuasive as to why there was a constitutional concern with this rulemaking.

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

Judge Vance reported on several information items detailed in the Advisory Committee report beginning on page 313 of the agenda book.

1. *Potential Amendments to Rule 43 on Remote Trial Testimony*

Judge Vance first highlighted the status of the Advisory Committee's work on potential amendments to Rule 43(c) regarding remote trial testimony, which the Standing Committee had already expressed concerns about loosening the standard for remote trial testimony at its January 2026 meeting.

Judge Vance reported that since that time, the Rule 43 Subcommittee had met three times to consider those concerns and had received research from Ms. Sraders, Counsel to the Civil Rules Committee. The research showed that judges were relying on the 1996 committee note to insist that unforeseeable last-minute developments were generally the only thing that could satisfy the

"compelling circumstances" standard in Rule 43. After much deliberation, the Rule 43 Subcommittee still favored removing the "compelling circumstances" requirement from the rule, but it had substantially revised the proposed committee note, found on page 316 of the agenda book. The revised note made clear that the rule does not authorize fully remote trials, and that the judge was not required to authorize remote testimony even if the parties agreed to it. A court can authorize remote testimony only on an individualized showing of good cause to a particular witness. The rule does not affect any other aspect of trial. The revised note stated that witness inconvenience alone was not grounds to authorize remote testimony, and emphasized that the good cause determination required an assessment of the circumstances in the particular case, always mindful of the importance of in-person testimony. The note explained why the 1996 requirement of "compelling circumstances" a term used nowhere else in the Civil Rules, warranted re-examination. It pointed out that when a witness cannot attend trial, the choice was not between in-court testimony and remote live testimony, but between remote live testimony and depositions.

A number of members expressed concern that removing the "compelling circumstances" language would be read as a softening of the rule to allow greater use of remote trial testimony. Judge Vance explained that one of the reasons to take it out was that the 1996 committee note explaining that language had been interpreted by some judges to confine remote testimony to last-minute emergencies. Other members did not feel that the language of Rule 43 was causing any problems, and that the practices of some judges who interpreted the rule strictly did not necessitate a rule change.

A judge member also offered specific feedback on the proposed committee note. First, he suggested explicit recognition in the rule text that allowing remote testimony is a case management issue in the trial judge's discretion and not to be reviewed on appeal under a "good cause" standard. Even if the parties agree to it, the judge is not required to allow it. Second, on page 317, the proposed committee note states that judges had found the "compelling circumstances" requirement too constricting, but he did not know any judges who felt this way. Third, the following paragraph said that some jurors found video testimony easier to view than in-person testimony, but the judge member suggested that this seemed like a courtroom configuration problem, not an issue with the rule. Fourth, he disagreed with the conclusion in the proposed committee note that designating portions of a deposition was a time-consuming process that would be obviated by live remote testimony. Finally, where the last sentence of the proposed committee states "Court approval is essential to management of remote trial testimony," the judge member questioned what it meant in the context of this rule amendment.

One member added that he supported a very limited amendment to the rule to address the concerns about interpretation of the 1996 committee note. He noted that the draft committee note on page 318 stated that remote testimony may be more acceptable for a less significant witness, and he agreed with this concept. He also asked whether any thought had been given to a preference for remote testimony in a more formal setting, such as a courthouse, compared to a witness's basement. Judge Vance noted that the parties generally work these issues out on their own.

Other members noted disagreement with the existing committee note because if a witness cannot be in person, live remote testimony is better than a video deposition or reading a deposition

transcript. Judge Dever added, however, that remote testimony would not save the district judges time from resolving deposition designation objections because every attorney would designate portions of the depositions in case the technology failed. Another judge stated that he would support changing the committee note to say that deposition transcripts are not superior to live remote testimony. As to the rule text, however, he thought that while most judges would prefer remote testimony to depositions, that should be left to the trial court's discretion.

Another lawyer member also expressed her preference for live in-court testimony, but noted that there had been a lot of experimentation and experience with hybrid trials and remote depositions since the COVID-19 pandemic. The rule change, however, would signal to practitioners that there may be more flexibility if they could show good cause in a given case. This standard could also make trials less expensive, more accessible, and shorter. Overall, the lawyer member supported publishing a rule for public comment to see whether the legal community would support a change to enable courts to have trials more efficiently and less expensively.

A judge member suggested that the Advisory Committee review the Texas Supreme Court's rule on remote testimony. Judge Vance responded that Justice Jane Bland from the Texas Supreme Court is on the Rule 43 Subcommittee and supports remote testimony in Texas because of the huge distances in Texas and the types of cases in state courts. Another judge member added that almost all state civil trials in Minnesota are now fully remote.

As a practical matter, a judge member asked for clarification as to when the Committee can change the committee note for a rule if there are no changes to the rule itself. Several of the reporters responded that an existing committee notes cannot be changed, and new committee notes are intended to explain a change in the rule text. Professor Hartnett added that the Committee could consider revising the text of the rule to say that compelling circumstances need not arise at the last minute, or that, in determining whether there were compelling circumstances, live remote testimony was generally preferable to a deposition. Professor Capra agreed with Professor Hartnett's suggestion, and proposed using the term "foreseeable." He also thought that it might be helpful to structure the rule to accommodate different choices in testimony available to the court; for example, the standards a court might use when deposition testimony is available versus when it is not. Professor Bartell added that Bankruptcy Rule 7043 bore on this same topic and recommended that the reporters look at the public commentary received for that rule when it was published.

c. Third-Party Litigation Funding

Judge Vance next directed the Committee's attention to the Advisory Committee's work on third-party litigation funding (TPLF), which is described on page 351 of the agenda book. Judge Vance reported that the TPLF Subcommittee continued to consider a disclosure rule for third-party litigation funding in Rule 26(a)(1) or including third-party litigation funding as a matter a court can consider and take action on under Rules 16 or 16.1. She also described the practice in the District of New Jersey, which requires certain disclosures and contemplates discovery under limited circumstances regarding the terms of the funding agreement. Judge Vance also noted that the FJC is currently studying the experience under the New Jersey rule and the TPLF Subcommittee continues to evaluate how to define the types of funding arrangements that would trigger disclosure, what should be disclosed to whom, whether it should go to the court alone or

to all parties, what the court can do with the information, and whether to authorize discovery. With that introduction, Judge Vance asked for the Standing Committee's views on the aforementioned issues.

A judge member asked for more information on the New Jersey disclosure rule. Judge Vance explained that both sides were told to make the disclosures, if any, on the record, and that judges were mostly concerned with knowing who had the power to settle and make decisions about case strategy. She added that in a class action or MDL case, the judges want to know whether any of the representatives have conflicts or would be compromised by funding arrangements. Later in the discussion, the academic member mentioned that he heard that it was not uncommon for funders to require their lawyer to approve the litigation strategy at every step.

Another judge member said that he issued a standing order based on the New Jersey rule, as had other districts. He added that the Northern District of California has a rule that essentially applies only to class actions; some Texas courts require disclosures; and more than 25% of appellate and district courts require some sort of real party in interest disclosure. He also shared that he had enforced the rule and uncovered real abuses and violations of professional conduct, such as aggregating a pool of clients to be represented by the same law firm. Later in the discussion, a lawyer member also raised ethical concerns in third-party litigation funding, adding that there was tremendous pressure for profitability within law firms, which is leading to more plaintiff-side contingency matters. At the same time, funders (as he understood the practice) would only provide funding if there were enough cases to aggregate (15-25). He thought this had negative effects on the lawyer's ethical duties in an individual case, and also wondered what judges thought about having a completely unrelated matter, with different parties and a different topic, potentially impacting the case in front of them. The judge member continued that he issued his standing order in 2022 and about 15% of his cases had made a disclosure of third-party litigation funding. The judge member also said that he had recently issued a standing order requiring anyone seeking pro hac vice to certify that they were complying with ABA Model Rule 5.4 that they were not sharing fees.

A lawyer member asked whether there was significant opposition to a disclosure rule. Judge Vance said that some funders had told her that they would not oppose a pure disclosure request, but the issue was with discovery. Another lawyer member noted that disclosure rules like the Northern District of California's rule had been in place for some time and that MDL transferee judges will often, as a matter of case management and selecting leadership, require at least disclosure in chambers of funding arrangements.

A judge member thought that it would be helpful to have something in the rule that specifically authorized the court to inquire about third parties. Professor Marcus responded that he did not think judges were currently unable to require disclosures of funding. Instead, Professor Marcus suggested that the question might be framed as whether disclosure should always be required even without a request from the presiding judge. Professor Marcus also noted that the EU was gradually moving towards regulating third-party funding.

With this feedback, Judge Vance thanked the Committee.

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

Judge Mosman stated that the Advisory Committee's work on Rules 15 and 40 was summarized in the agenda book and he had nothing further to add.

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

Judge Furman reported on several information items contained in the Advisory Committee report, found beginning on page 530 of the agenda book.

1. *Artificial Intelligence*

Judge Furman first provided an update on the Advisory Committee's work concerning artificial intelligence in two areas: (1) the reliability of machine-generated output offered without an expert witness (either by a lay witness or pursuant to Rule 902(13)), and (2) the authenticity issue posed by "deepfakes."

On the first issue, Judge Furman reported that after publication of new Rule 707 on machine-generated opinions, the Advisory Committee received 59 written comments and about a dozen witnesses testified at two hearings. The feedback from the public was mixed between unqualified support, supportive with revisions, and opposed. Judge Furman described some of the criticisms of the proposed rule, which focused on issues ranging from overbreadth or vagueness of terms and exceptions, the interaction with Rule 702, and general concerns about the prematurity or lack of need for the rule. Another issue raised was the potential need for the civil and criminal rules to be modified to require disclosure of AI-generated opinion evidence in advance of trial. Judge Furman also advised the Committee that in response to this feedback, the Advisory Committee revised the rule (as set forth in the Committee Report beginning on page 534). At the Advisory Committee's spring meeting, however, and at the suggestion of Judge Dever, the Advisory Committee decided to take the potential rule amendment under further advisement and hold a mini-conference with panels of technical experts and experienced lawyers at its fall 2026 meeting.

On the second issue, Judge Furman reported that the Advisory Committee continues to consider a proposed amendment to Rule 901(c) to address authentication of an item of evidence that one side claims is a deepfake. Because the existing authenticity standard is relatively low, the Advisory Committee is considering a proposed amendment that would create a burden-shifting framework where the opponent of the evidence would have to make a threshold showing enough for a reasonable person to find that an item was fabricated or altered by generative artificial intelligence. If that showing were made, the burden would shift to the proponent of the evidence to show, by a preponderance of the evidence, that the item was authentic. Judge Furman also described the results of an FJC sent a survey at the request of the Advisory Committee. The survey results, discussed in the Advisory Committee's report, showed that 15 judges reported that they have encountered a deepfake challenge and a strong majority indicated that if such an issue arose, they would require a showing akin to what the proposed rule provides (even without a rule in place). Judge Furman and Professor Capra also discussed a recent New York Court of Appeals decision relating to deepfakes indicating that the issue is coming up in state courts as well. To gather more expert input, however, the Advisory Committee decided to address the

issue of deepfakes at the mini-conference at the fall meeting along with its consideration of new Rule 707.

Following this report, Judge Furman solicited the Standing Committee's views on the need for rule amendments and whether the working drafts took the right approach. Professor Capra added that this was the first time in his experience that a rule published for public comment did not go forward. He expressed that he had hoped that the public feedback would be an opportunity for the Advisory Committee to learn from the comments, but he did not believe the Advisory Committee learned much because most of the practicing lawyers were misunderstanding the rule. For this reason, refining the rule with the help of experts at a mini-conference would be very helpful in drafting a better rule.

A judge member supported the approach and thought information gathering was exactly what the Advisory Committee needed. Judge Furman noted that there was a concern that the technology was moving very quickly and the rules would not be adequate to address it given that the rulemaking process takes a long time. A lawyer member supported moving forward to demonstrate that the rules process is not merely reactive and suggested not waiting until the problem became unbearable to try to address it. Professor Marcus added that he and Professor Capra had discussed some coordination with the Civil Rules Advisory Committee on definitions and to determine if the civil disclosure rules would need to be amended if Evidence Rule 707 went forward in order to get those issues before the court in a timely fashion.

d. Rules 703 and 606(b)

Judge Furman concluded his report on information with an update on the Advisory Committee's consideration of two other potential amendments to address Supreme Court decisions potentially impacting the constitutionality of Rule 703 and Rule 606(b). First, the Advisory Committee is considering potential amendments to Rule 703 to add a "red flag" noting possible constitutional concerns in light of the Supreme Court's decision in *Smith v. Arizona*, 602 U.S. 779 (2024). The Advisory Committee is concerned that if construed broadly, it could prohibit reliance on a non-testifying expert, but is waiting to see if the Supreme Court takes up a circuit split on this issue. Second, in light of potential action on Rule 703, the Advisory Committee also revisited whether to add "red flag" language to Rule 606(b) in light of the Supreme Court's decision in *Peña-Rodriguez v. Colorado*, 580 U.S. 206 (2017), but decided that it was not warranted.

5. CONCLUDING REMARKS AND ADJOURNMENT

Judge Dever concluded by thanking the Standing Committee members for their hard work and adjourned the meeting. The next meeting would take place in Washington, D.C. on January 5, 2027.

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APPENDIX

Summary of Standing Committee Revisions to Final Amendments

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

Civil Rule 26(a)(3)

The proposed amendments to Civil Rule 26(a)(3) begin on page 391of the agenda book. The Standing Committee discussed and approved one change to the rule text:

1. Page 392, line 20: "it expects" was inserted before "whether" and the word "will" was changed to "to." Lines 20-21 as revised read "whether it expects the testimony to be in person or remote."

Civil Rule 45(b)(1)

The proposed amendments to Civil Rule 45(b)(1) begin on page 398 of the agenda book. The Standing Committee discussed and approved one change to the rule text:

1. Page 399, line 23: "by a person identified in (i) or (ii)" was inserted after "actual receipt."

Criminal Rule 17

The proposed amendments to Criminal Rule 17 begin on page 490 of the agenda book. The Standing Committee discussed and approved the following changes to the rule text:

1. Page 497, lines 133 through 137, were replaced with the following: "(6) *Disclosing to Other Parties the Items Produced.* This rule does not require the disclosure of produced items to a party that did not request the subpoena. Disclosure and discovery requirements are not altered by this rule."

The Standing Committee discussed and approved the following changes to the committee note:

1. Page 510, lines 512 through 515: "A party must disclose to an opposing party an item the party receives from a subpoena's recipient only if the item is discoverable under these rules" was replaced with "This rule does not require the disclosure of produced items to a party that did not request the subpoena. Disclosure and discovery requirements are not altered by this rule."

2. Page 511, line 527: "the regulation and timing regarding" was inserted before "disclosure."

3. Page 511, line 529: "is" was replaced by "are."

Draft

TAB 3A2

Agenda E-19 (Summary)
Rules
September 2026

SUMMARY OF THE

REPORT OF THE JUDICIAL CONFERENCE

COMMITTEE ON RULES OF PRACTICE AND PROCEDURE

The Committee on Rules of Practice and Procedure recommends that the Judicial Conference:

1. Approve the proposed 2026 Report of the Judicial Conference of the United States on the Adequacy of Privacy Rules Prescribed Under the E-Government Act of 2002, as set forth in Appendix A, and ask the Administrative Office Director to transmit it to Congress in accordance with the law ..... p. 4

2. Approve the proposed amendments to Appellate Rules 15, 29, and 32 and to the Appendix of Length Limits, as set forth in Appendix B, and transmit them to the Supreme Court for consideration with a recommendation that they be adopted by the Court and transmitted to Congress in accordance with the law ..... pp. 5-8

3 a. Approve the proposed amendments to Bankruptcy Rule 2002, as set forth in Appendix C, and transmit them to the Supreme Court for consideration with a recommendation that they be adopted by the Court and transmitted to Congress in accordance with the law; and

   b. Approve, effective December 1, 2026, the proposed amendments to Bankruptcy Official Forms 101 and 106C, as set forth in Appendix C, for use in all bankruptcy proceedings commenced after the effective date and, insofar as just and practicable, all proceedings pending on the effective date ..... pp. 9-10

4. Approve the proposed amendments to Civil Rules 7.1, 26, 41, 45, and 81, as set forth in Appendix D, and transmit them to the Supreme Court for consideration with a recommendation that they be adopted by the Court and transmitted to Congress in accordance with the law ..... pp. 13-15

5. Approve the proposed amendments to Criminal Rule 17, as set forth in Appendix E, and transmit them to the Supreme Court for consideration with a recommendation that they be adopted by the Court and transmitted to Congress in accordance with the law ..... pp. 18-19

NOTICE
NO RECOMMENDATIONS PRESENTED HEREIN REPRESENT THE POLICY OF THE JUDICIAL CONFERENCE UNLESS APPROVED BY THE CONFERENCE ITSELF.

(Rev. 8/27/26)

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

- E-Filing and Service by Self-Represented Litigants..... pp. 2-3
- Privacy Rules for Taxpayer Information and Minors' Names.....p. 3
- Federal Rules of Appellate Procedure ..... pp. 8-9
- Federal Rules of Bankruptcy Procedure ..... pp. 10-13
- Federal Rules of Civil Procedure..... pp. 16-18
- Federal Rules of Criminal Procedure..... pp. 20-22
- Federal Rules of Evidence ..... pp. 23-26

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 June 3-4, 2026. All members participated. Representing the advisory committees were Judge Allison H. Eid (10th Cir.), chair, and Professor Stephen Sachs, 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 (E.D. La.), chair, Professor Richard L. Marcus, Reporter, and Professor Andrew Bradt, Associate Reporter, 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 Edward Hartnett, Standing Committee Reporter; Professor Catherine T. Struve, 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; Sarah Sraders, Rules Committee Staff Counsel; Dr. Tim Reagan, Senior Research Associate, Federal Judicial Center (FJC); and Elizabeth J.

NOTICE
NO RECOMMENDATIONS PRESENTED HEREIN REPRESENT THE POLICY OF THE JUDICIAL CONFERENCE UNLESS APPROVED BY THE CONFERENCE ITSELF.

Shapiro, Deputy Director, Federal Programs Branch, Civil Division, Department of Justice, on behalf of the Deputy Attorney General.

In addition to its general business and consideration of the Advisory Committee reports and recommended action items as discussed below, the Committee also received an update on the work of its subcommittee concerning uniform attorney admissions in the trial courts and concluded that no further action on the project is warranted. The Committee further authorized the Chair, working with the Secretary of the Committee, to respond to the request of the Judiciary Planning Coordinator, Chief Judge Michael A. Chagares (3d. Cir.), to identify any agenda items of the Rules Committees that align with the Executive Committee's priority strategies and goals in the *Strategic Plan for the Federal Judiciary*. The Committee's views were communicated to Chief Judge Michael A. Chagares, the judiciary planning coordinator, by letter dated June 11, 2026.

E-FILING AND SERVICE BY SELF-REPRESENTED LITIGANTS

The Standing Committee unanimously approved, with minor revisions to the committee notes to make them more uniform, the recommendations of the Advisory Committees on Appellate, Bankruptcy, Civil, and Criminal Rules to publish for public comment proposed amendments relating to electronic service and filing by self-represented litigants (SRLs). The proposed amendments (collectively, "proposed SRL rules") seek to: (1) increase SRL access to a court's electronic-filing system (or allow a form of electronic filing by alternative means) to file pleadings and other court documents; and (2) after a complaint is filed and served, allow SRLs to achieve service of subsequently filed documents in the electronic-filing system through the electronic notice of filing or through a court-based electronic noticing program. The proposed SRL rules relate to Appellate Rule 25; Bankruptcy Rules 5005, 8011, 9006, and 9036; Civil

Rules 5 and 6; and Criminal Rules 45 and 49. With minor differences,[1] these proposed amendments are uniform across the four sets of rules. Each of these proposed amendments is discussed in more detail in the summaries of actions by the Advisory Committees in this report.

PRIVACY RULES FOR TAXPAYER INFORMATION AND MINORS' NAMES

The Standing Committee unanimously approved, with the addition of clarifying revisions in each of the committee notes, the recommendations of the Advisory Committees on Bankruptcy, Civil, and Criminal Rules to publish for public comment proposed amendments relating to the redaction of social security and individual taxpayer identification numbers and the use of pseudonyms to reference minors. The proposed amendments (collectively, the "proposed privacy amendments") seek to: (1) expand the redaction requirement of taxpayer identifying information in civil and criminal cases; (2) require the use of pseudonyms rather than initials when referencing minors in bankruptcy, civil, and criminal cases; and (3) clarify that these rules apply to exhibits and attachments to electronically filed court documents. The proposed privacy amendments relate to Bankruptcy Rule 9037, Civil Rule 5.2, and Criminal Rule 49.1.[2] Each of these proposed amendments is discussed in more detail in the summaries of actions by the Advisory Committees in this report.

[1]For example, the Bankruptcy, Civil, and Appellate Rules proposals use the term "unrepresented," while the Criminal Rule uses "self-represented." (Many existing Bankruptcy, Civil, and Appellate Rules already use "unrepresented.") The Civil, Criminal, and Appellate Rules use the term "parties," while the Bankruptcy Rules use the term "individual." (In the Bankruptcy context, there is a concern that some small business entities might think that the use of "parties" would enable them to proceed without counsel, while in the other contexts the greater worry is that nonparties might think that they could file in any case they want.) Finally, the Civil, Criminal, and Appellate Rules refer to "the party's case," while the Bankruptcy Rules refer simply to "the case." (In the Bankruptcy context, "the party's case" might suggest that only the debtor is covered by the amendment.)

[2]Any amendments to these rules will apply on appeal through existing Appellate Rule 25, which incorporates them by reference. As set forth in the information items for the Appellate Rules Advisory Committee, there is ongoing consideration of potential privacy amendments relating to certain aspects of appeals.

PRIVACY REPORT TO CONGRESS 2026

Following the Standing Committee's approval of the proposed privacy amendments for publication and comment, the Committee also considered a draft 2026 Report of the Judicial Conference of the United States on the Adequacy of Privacy Rules Prescribed Under the E-Government Act of 2002 (the "2026 Privacy Report to Congress"). Section 205(c)(3)(C) of the E-Government Act directs that, every two years, "the Judicial Conference shall submit to Congress a report on the adequacy of [the privacy rules] to protect privacy and security." The most recent prior report was submitted to Congress in 2024.

The 2026 Privacy Report to Congress covers the period from June 2024 to June 2026. Part I of the report describes the proposed privacy amendments, as well as the status of other privacy-related proposals to amend the Rules of Practice and Procedure. Part II of the report describes ongoing judiciary implementation efforts by the Committee on Court Administration and Case Management (CACM Committee), the Administrative Office of the U.S. Courts, and the FJC to protect privacy in court filings and opinions. Part III of the 2026 report discusses the FJC's recent studies relating to privacy concerns in court filings.

The CACM Committee at its May 2026 meeting reviewed the draft 2026 Privacy Report to Congress and endorsed a recommendation from the Standing Committee to the Judicial Conference to approve the report (see Report of the Committee on Court Administration and Case Management, at Agenda E-6). The Standing Committee then approved the report at its meeting, to include any necessary changes to address the revisions to the privacy amendments approved by the Standing Committee or other minor stylistic or technical changes.

> **Recommendation:** That the Judicial Conference approve the proposed 2026 Report of the Judicial Conference of the United States on the Adequacy of Privacy Rules Prescribed Under the E-Government Act of 2002, as set forth in Appendix A, and ask the Administrative Office Director to transmit it to Congress in accordance with the law.

FEDERAL RULES OF APPELLATE PROCEDURE

Amendments Recommended for Approval and Transmission

The Advisory Committee on Appellate Rules recommended for final approval proposed amendments to Appellate Rules 15, 29, and 32 and to the Appendix of Length Limits. The Standing Committee unanimously approved the Advisory Committee's recommendations, with minor revisions correcting the placement of a sentence in the committee note to Rule 15 and correcting cross-references in Rules 29 and 32(g) and the Appendix of Length Limits.

Rule 15 (Review or Enforcement of an Agency Order—How Obtained; Intervention)

The proposed amendments to Rule 15 address issues that may arise when a petition for review or enforcement of an agency decision is filed prematurely. In circuits that apply the "incurably premature" doctrine, if a pending motion to reconsider an agency decision makes the decision unreviewable in the court of appeals, then a new petition to review that agency decision must be filed in the court of appeals once the agency decision becomes final. The proposed amendments to Rule 15 would eliminate the need to refile the petition by adding a subdivision providing that the original petition for review becomes effective upon the agency's disposition of the last reconsideration request. These changes would align Rule 15 with Rule 4(a)(4)(B)(i), which relates to the effectiveness of a notice of appeal filed after a judgment is entered or announced in the district court, but before the district court disposes of certain post-judgment motions authorized under the Federal Rules of Civil Procedure. The proposed amendment also makes clear that it applies only when the agency order is "otherwise reviewable."

Rule 29 (Brief of an Amicus Curiae)

At its September 2025 session, the Judicial Conference approved final amendments to Rule 29, together with conforming amendments to Rule 32 and the Appendix of Length Limits, and authorized their transmittal to the Supreme Court with a recommendation that they be

adopted by the Court and transmitted to Congress in accordance with the law (JCUS-SEP 2025, p. 20). The amendments addressed several issues with respect to the contents of amicus briefs, particularly as to required disclosures of relationships between the amicus and parties or nonparties. In particular, the amendments would have required disclosure of whether a party or its counsel has a majority ownership interest in or majority control of an amicus. In addition, whereas the current rule requires disclosure of whether any nonparty (other than the amicus, its members, or its counsel) contributed money intended to fund preparation or submission of the brief, the proposed amendments would have limited this disclosure requirement to instances in which the amount contributed or pledged to be contributed is greater than $100. The proposed amendments also would have added a broader disclosure concerning the background of the amicus—including its identity, history, experience, and interest. Finally, the proposed amendments would have imposed an express word limit of 6,500 words on amicus briefs at the initial merits stage rather than reference to "one half the maximum length authorized . . . for a party's principal brief."

After the amendments were transmitted to the Supreme Court, the Executive Committee of the Judicial Conference raised concerns about a provision in what was then proposed Rule 29(e) relating to disclosures as to new members of amicus organizations. That provision would have obligated amicus organizations to disclose brief-related contributions or pledges over $100 not only from nonmembers, as the current rules require, but also from relatively new members who joined the organization within the previous 12 months. The Executive Committee noted that this provision could interfere with the privacy of those organizations and of their members, who may be chilled from contributing to their organization's amicus briefs if they were required to announce their membership to the public. Additionally, after transmission to the Supreme Court, two other ambiguities or errors were separately identified in the proposed amendments:

first, a potential ambiguity in what was then proposed Rule 29(d) regarding what required disclosures a party or counsel must make when an amicus is required to disclose certain information but fails to do so; and second, an unrevised cross-reference in the Appendix of Length Limits. To address the Executive Committee's concerns and to make appropriate corrections, the Advisory Committee and the Standing Committee voted in March 2026 to withdraw the amendment package, and the proposed amendments were not forwarded to Congress.

After further consideration by the Advisory Committee and the Standing Committee, the revised proposed amendments to Rules 29 and 32 and the Appendix of Length Limits are presented for approval. Specifically, the Advisory Committee and Standing Committee removed the requirement of new-member contribution disclosure from the proposed amendments to Rule 29 and corrected the identified ambiguity by clarifying that the requirement that parties and counsel disclose information that an amicus must but has failed to disclose does not extend to information about nonmember contributions. The Advisory Committee further determined that republication of the amendments to Rule 29, with the conforming changes to Rule 32 and the Appendix of Length Limits, was not required given the extensive public comment on the issue of member disclosures and the technical nature of the additional revisions.

The remainder of the proposed amendments to Rule 29, as revised, are the same.

Rule 32 (Form of Briefs, Appendices, and Other Papers) and Appendix of Length Limits

The proposed amendment to Rule 32 conforms Rule 32(g)'s cross-references to the updated sections of amended Rule 29. Similarly, the proposed amendment to the Appendix of Length Limits conform the length limits for amicus briefs identified in the Appendix to the proposed amendment to Rule 29.

Recommendation: That the Judicial Conference approve the proposed amendments to Appellate Rules 15, 29, and 32 and to the Appendix of Length Limits, as set forth in Appendix B, and transmit them to the Supreme Court for consideration with a recommendation that they be adopted by the Court and transmitted to Congress in accordance with the law.

Rules Approved for Publication and Comment

Rule 25 (Filing and Service)

As part of the proposed SRL rules package, the Advisory Committee on Appellate Rules recommended that a proposed amendment to Rule 25 be published for public comment in August 2026. The Standing Committee unanimously approved the Advisory Committee's recommendation.

The proposed amendments to Appellate Rule 25 provide that an unrepresented party is presumptively authorized to use the court's electronic-filing system to file documents in the case and receive notice of case filings. The proposed amendments further provide that a court may set reasonable conditions on an unrepresented party's access to the court's electronic-filing system, but a court may not bar all unrepresented parties from using a court's electronic-filing system unless the court either includes reasonable exceptions to the prohibition or permits unrepresented parties to use another electronic method for filing documents and for receiving notice of court filings and orders. Finally, the proposed amendment would eliminate the requirement for an unrepresented party (who files other than through the court's electronic-filing system) to make a separate (paper) service on a litigant who is registered to receive notice of case activity from the court's electronic-filing system. Service by the notice of case activity is not effective if the filer learns that the filing did not reach the person to be served. In addition, the proposed amendment provides that a court may require by local rule or court order a different method of service for filings under seal and/or filings that initiate a proceeding in the court of appeals under Rule 5, 6(c), 15, or 21.

Information Items

The Advisory Committee met on April 16, 2026. In addition to the recommendations discussed above, the Advisory Committee discussed several other issues, including continuing its consideration of possible amendments to Rule 25 (Filing and Service) to require complete redaction of taxpayer identifying information and the use of pseudonyms for minors, so that some of the exemptions from privacy requirements at the trial level (Bankruptcy Rule 9037, Civil Rule 5.2, and Criminal Rule 49.1) would not carry forward on appeal. The Advisory Committee also continues its consideration of potential amendments to Rule 4 (Appeal as of Right—When Taken) regarding reopening the time to appeal, Rule 8 (Stay or Injunction Pending Appeal) regarding limits on administrative stays, and a possible new Rule 12.2 regarding intervention on appeal, as well as the treatment of tribes in the Appellate Rules. Finally, the Advisory Committee considered several new issues including a possible amendment to Rule 28 (Briefs) regarding introductions in briefs.

FEDERAL RULES OF BANKRUPTCY PROCEDURE

Amendments Recommended for Approval and Transmission

The Advisory Committee on Bankruptcy Rules recommended for final approval amendments to Bankruptcy Rule 2002 and amendments to Official Forms 101 and 106C. The Standing Committee unanimously approved the Advisory Committee's recommendations.

Rule 2002 (Notices)

The proposed amendment to Rule 2002(o) would simplify the caption of most notices given under Rule 2002 by requiring that they include only the information required by Form 416B (the court's name, the debtor's name, the case number, the chapter under which the case was filed, and a brief description of the document's character) rather than the more extensive information required under Rule 1005. As noted in the 2026 Privacy Report to

Congress, this change would mean that most Rule 2002 notices would no longer be required to include the last 4 digits of the debtor's social-security or individual taxpayer-identification number.

Official Form 101 (Voluntary Petition for Individuals Filing for Bankruptcy)

The proposed amendment to Official Form 101 relates to the prompt in Question 4 in Part 1 and clarifies that the question is attempting to elicit only the Employer Identification Number (EIN), if any, of the individual filing for bankruptcy and not the EIN of any other person (such as the debtor's employer). The modification will help debtors avoid the error of providing their employer's EIN. Because multiple debtors have the same employer, deterring such debtors from erroneously providing their employer's EIN will avoid triggering an erroneous automated report that the debtor has engaged in repeat filings.

Official Form 106C (Schedule C: The Property You Claim as Exempt)

The proposed amendment to Form 106C requires the debtor to add the total dollar value of the exemptions with a specific amount claimed under Column C in the form.

Recommendation: That the Judicial Conference:

a. Approve the proposed amendments to Bankruptcy Rule 2002, as set forth in Appendix C, and transmit them to the Supreme Court for consideration with a recommendation that they be adopted by the Court and transmitted to Congress in accordance with the law.

b. Approve, effective December 1, 2026, the proposed amendments to Bankruptcy Official Forms 101 and 106C, as set forth in Appendix C, for use in all bankruptcy proceedings commenced after the effective date and, insofar as just and practicable, all proceedings pending on the effective date.

Rules Approved for Publication and Comment

The Advisory Committee on Bankruptcy Rules submitted proposed amendments to Bankruptcy Rules 2003, 5005, 8011, 9006(f), 9036, and 9037 with a recommendation that they

be published for public comment in August 2026. The Standing Committee unanimously approved the Advisory Committee's recommendations.

Rule 2003 (Meeting of Creditors or Equity Security Holders)

The proposed amendments to Rule 2003 would allow more time to convene the meeting of creditors in chapter 12 and 13 cases, extending the deadline in chapter 12 cases from 35 to 60 days, and in chapter 13 cases, from 50 to 60 days, after the order for relief. The proposed amendments would also expressly 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.

Rules 5005 (Filing Papers and Sending Copies to the United States Trustee), 8011 (Filing and Service; Signature), 9006(f) (Computing and Extending Time; Motions), and 9036 (Electronic Notice and Service)

As part of the SRL rules package, the proposed amendments to Rules 5005 and 8011 would provide that unrepresented individuals are presumptively authorized to use the court's electronic-filing system to file documents. The proposed amendments would permit courts to set reasonable conditions and restrictions on access by unrepresented individuals to the court's electronic-filing system. However, the proposed amendments would not permit a bar on all unrepresented individuals from using a court's electronic-filing system, unless the court also either includes reasonable exceptions to the prohibition, or permits unrepresented individuals to use another electronic method for filing documents and an alternative electronic means for receiving notice of court filings and orders.

In addition, the proposed amendments to Rule 8011 would make service via a court's electronic-filing system the primary means of service. The proposed amendments would eliminate the requirement of separate (paper) service (of papers filed other than through the court's electronic-filing system) on a litigant who is registered to receive a notice of case activity

from the court's electronic-filing system. However, service by a court's electronic-filing system is not effective if a filer learns that it did not reach the person to be served. Further, the proposed amendments provide that if a document is filed under seal, a court may provide an order or local rule that the document be served by other means.

The proposed amendments to Rule 9006 would change a cross-reference to conform the rule to match proposed amendments to Civil Rule 5.

The proposed amendments to Rule 9036 would address filings by unrepresented individuals, providing that because documents filed in paper form are uploaded by the court 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. In addition, Rule 9036(d), like Rule 8011(c)(3), deals with the impact of delays between filing and uploading to the court's electronic-filing system.

Rule 9037 (Protecting Privacy for Filings)

As part of the package of proposed privacy amendments, the proposed amendments to Bankruptcy Rule 9037 share two features with the proposed amendments to Criminal Rule 49.1 and Civil Rule 5.2. First, the proposed amendments would make clear that the redaction requirement applies to attachments, exhibits, and all other documents in a court filing. Second, the proposed amendments would require the use of pseudonyms for minors. Because of the unique context of bankruptcy proceedings and practice, the proposed amendments do not adopt the complete redaction requirement for taxpayer identifying information or the extension of the redaction requirement to EINs that is proposed in the privacy amendments to the civil and criminal rules.

Information Items

The Advisory Committee on Bankruptcy Rules met on April 15, 2026. In addition to the recommendations discussed above, the Advisory Committee discussed several matters, including continued consideration of a suggestion to amend Rule 9031 (Using Masters Not Authorized) to permit the use of special masters in bankruptcy cases and new suggestions regarding possible amendments to Rule 4004 (Granting or Denying a Discharge) and possible amendments to Form 106C (Schedule C: The Property You Claim as Exempt (individuals)).

FEDERAL RULES OF CIVIL PROCEDURE

Rules Recommended for Approval and Transmission

The Advisory Committee on Civil Rules recommended for final approval proposed amendments to Civil Rules 7.1, 26, 41(a), 45(b), 45(c), and 81. After minor clarifying revisions to the proposed amendments to Rules 26 and 45(b), the Standing Committee unanimously approved the Advisory Committee's recommendations.

Rule 7.1 (Disclosure Statement)

The proposed amendment to the disclosures required under Rule 7.1(a)(1) requires any party or would-be intervenor that is a private business organization to disclose any publicly held business organization that "directly or indirectly" owns 10 percent or more of the party or intervenor. The proposal responds to concerns raised that the current rule, which requires disclosure only of "any parent corporation and any publicly held corporation owning 10 percent or more of its stock," may result in nondisclosure of a "grandparent" corporation. This change is intended to assist judges in evaluating if recusal is appropriate consistent with updated guidance in Committee on Codes of Conduct Advisory Opinion No. 57, which explains that corporate ownership of at least 10 percent of a party creates a rebuttable presumption of parental control and that a judge must recuse if they "conclude that a party is controlled by a corporation in which

the judge owns stock." Another change substitutes the term "business organization" for the word "corporation" to clarify that the disclosure requirement applies to different forms of business entities.

Rule 26 (Duty to Disclose; General Provisions Governing Discovery)

The proposed amendment to Rule 26(a) relating to pretrial disclosures requires disclosure of the party's expectation as to whether each of its witnesses' testimony will be in person or remote. The Committee made a minor revision to the language in the proposed amendment to clarify that it relates only to the party's expectations as to whether testimony will be in person or remote at the time the disclosure is made.

Rule 41(a) (Dismissal of Actions)

The proposed amendments to Rule 41(a) clarify that a plaintiff may obtain a voluntary dismissal of one or more claims raised in a complaint without dismissing the entire action. This change responds to decisions in some courts interpreting the current language to mean that only an entire case, that is, all claims against all defendants, or only all claims against one or more defendants, could be dismissed under the rule. The proposed amendments also provide that a stipulation of dismissal need be signed only by parties who remain in the action at the time of the dismissal.

Rule 45(b) (Subpoena—Service)

The proposed amendment to Rule 45(b) clarifies how a subpoena for testimony may be served and whether the witness fee must be tendered simultaneously with service. The proposed amendment borrows two methods of service from Rule 4(e)(2)'s methods for serving a complaint on an individual—personal service or leaving a copy at the individual's dwelling or usual place of abode with someone of suitable age and discretion who resides there. The proposed amendment also adds an additional method of service through the mail or commercial carrier if confirmation

of actual receipt can be provided, and further authorizes the court to approve another means of service for good cause. The proposed amendment also includes two other changes: (1) relaxing the current requirement that witness fees be tendered at the time of service, and (2) providing a 14-day notice period (subject to shortening by the court for good cause) when the subpoena requires attendance at a trial, hearing, or deposition. The Committee made a minor revision to the language in the proposed amendment to move clarifying language in the committee note into the rule text relating to confirmation of actual receipt when a subpoena is served by mail or commercial carrier.

Rule 45(c) (Subpoena—Remote Testimony)

The proposed amendment to Rule 45(c) adds a new subsection (c)(2) to address subpoenas for remote trial testimony. The proposed new subsection clarifies that the "place of attendance for remote testimony is the location where the person is commanded to appear in person." Under new Rule 45(c)(2), the court's subpoena power for in-court remote testimony extends nationwide so long as the subpoena does not command the witness to travel farther than the distance authorized under Rule 45(c)(1). The proposed amendment does not affect the standards governing whether to permit in-court remote testimony.

Rule 81 (Jury Demand After Removal)

The proposed amendment to Rule 81(c) would provide that a jury demand must always be made after removal if no such demand was made before removal and a party desires a jury trial. It would also set the time limit to make the required demand.

> **Recommendation:** That the Judicial Conference approve the proposed amendments to Civil Rules 7.1, 26, 41, 45, and 81, as set forth in Appendix D, and transmit them to the Supreme Court for consideration with a recommendation that they be adopted by the Court and transmitted to Congress in accordance with the law.

Rules Approved for Publication and Comment

The Advisory Committee on Civil Rules submitted proposed amendments to Civil Rule 5 with conforming amendments to Rule 6(d), and Civil Rule 5.2, with a recommendation that they be published for public comment in August 2026. The Standing Committee unanimously approved the Advisory Committee's recommendation.

Rules 5 (Serving and Filing Pleadings and Other Papers) and 6(d) (Computing and Extending Time; Time for Motion Papers)

As part of the SRL rules package, the proposed amendments to Rule 5 are generally consistent with the proposed amendments to the Bankruptcy Rules and the Criminal Rules and would presumptively allow unrepresented parties in civil cases to 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 provides otherwise. The courts would be expressly authorized to impose reasonable conditions and restrictions on electronic access. However, the proposed amendments would prevent a court from barring all self-represented litigants from using the court's electronic-filing system unless the prohibition either included reasonable exceptions or was paired with another electronic method for filing papers and receiving notice.

The proposed amendments to Rule 5 retain the existing authority to require electronic filing by a self-represented litigant by case-specific order or by local rule with reasonable exceptions. Additionally, Rule 5 would state that no certificate of service is required when service occurs through the court's electronic-filing system under the amended provisions, although service by a court's electronic-filing system is not effective if a filer learns that it did not reach the person to be served. Further, the proposed amendments provide that if a document is filed under seal, a court may provide by order or local rule that the document be served by other means. Finally, proposed amended Rule 5 would eliminate the need for separate paper service of post-complaint filings on persons who will receive a notice of case activity through the

court's electronic-filing system, and deals with the impact of delays between filing and uploading to the court's electronic-filing system.

The proposed amendments to Rule 6 would conform cross-references to Rule 5.

Rule 5.2 (Privacy Protections for Filings Made with the Court)

As part of the package of proposed privacy amendments, the proposed amendments to Civil Rule 5.2 are generally consistent with the changes to Criminal Rule 49.1 and require complete redaction of social security numbers (SSNs) and individual taxpayer identification numbers (ITINs), as well as EINs and adoption taxpayer identification numbers in civil cases. The proposed amendments to Rule 5.2 would further require the use of pseudonyms when a filed document references a person who is a minor at the time of filing. Finally, the proposed amendments would clarify that the redaction requirements apply to all documents in the court filing, including exhibits and attachments. The proposed committee notes make clear, however, that existing exemptions to the redaction requirement, or additional redactions required pursuant to a protective order, are not altered by the proposed amendment.

Information Items

The Advisory Committee on Civil Rules met on April 14, 2026. In addition to the matters discussed above, the Advisory Committee continued to discuss proposals to require disclosures regarding third-party litigation funding and to amend Rule 43 (Taking Testimony) to relax the standards governing permission for remote testimony. The Advisory Committee also continues to study suggestions relating to Rule 23 (Class Actions), Rule 35 (Physical and Mental Examinations), and Rule 58's "Separate Document" requirement.

The Advisory Committee decided to remove from its agenda proposals concerning Fair Labor Standards Act collective actions, artificial intelligence "hallucinations," algorithmic

spoliation of discoverable material, protective order templates, and mandatory assistance for self-represented litigants.

FEDERAL RULES OF CRIMINAL PROCEDURE

Rules Recommended for Approval and Transmission

The Advisory Committee on Criminal Rules recommended for final approval proposed amendments to Criminal Rule 17. The Standing Committee unanimously approved the Advisory Committee's recommendation after rephrasing proposed paragraph (c)(6), making a minor stylistic change to the rule, and clarifying the committee note (as described below).

Rule 17 (Subpoena)

The proposed amendments focus primarily on Rule 17(c), which governs subpoenas for production. The proposed amendments clarify that third-party subpoenas for production may be issued for proceedings in addition to trial. This includes proceedings where such subpoenas are most likely to be needed or are already used regularly in many districts, as well as proceedings for which there is statutory or rule authority for parties to present evidence (i.e., detention, revocation, suppression, and sentencing). With the court's permission, the rule also authorizes such subpoenas for other evidentiary hearings.

The proposed amendments also set forth a modified version of the test announced in *Nixon v. United States*, 418 U.S. 683 (1974), as the standard for the issuance of third-party subpoenas for production. The modified test as proposed is intended to provide both prosecution and defense with an adequate and more uniform opportunity across districts to obtain needed evidence from third parties.

Other proposed amendments to Rule 17 clarify when a party must file a motion requesting the court's permission to serve a subpoena for production of documents: when the subpoena requests personal or confidential information about a victim, when the subpoena is

requested by a self-represented party, or when a local rule or court order requires a motion. When no motion is required, a party may serve a subpoena for production on an ex parte basis. When a motion is required, the proposed amendments provide that the court "must" allow a party to file it ex parte if good cause is shown. The proposed amendments further address ex parte subpoena practice by setting a default rule that a party need not disclose its subpoena to another party if no motion is required.

The proposed amendments also state the circumstances under which the recipient of the subpoena must produce the designated items to the court rather than directly to the requesting party. In addition, the amendments address the disclosure of material produced in response to a subpoena, disapproving the practice in some courts in which all produced items must be provided to the opposing party, regardless of whether the items would otherwise be subject to discovery. By providing that the rule does not require the disclosure of produced items to a party that did not request the subpoena, the proposed amendments seek to ensure that Rule 17 is not interpreted to disturb the law regulating disclosure between the parties found in Rule 16 and elsewhere. Finally, the proposed amendments clarify, as to each subdivision of Rule 17, whether it applies to subpoenas for testimony, subpoenas for production, or both.

The Standing Committee rephrased proposed paragraph (c)(6) to make clear that Rule 17 does not require disclosure of produced items to a party that did not request them and does not alter existing disclosure and discovery requirements. It revised the corresponding section of the committee note to clarify that the amendments to Rule 17 do not modify existing law regarding the timing of any disclosures.

> **Recommendation:** That the Judicial Conference approve the proposed amendments to Criminal Rule 17, as set forth in Appendix E, and transmit them to the Supreme Court for consideration with a recommendation that they be adopted by the Court and transmitted to Congress in accordance with the law.

Rules Approved for Publication and Comment

The Advisory Committee on Criminal Rules submitted proposed amendments to Rule 11 (with conforming amendments to Rule 32), Rule 49 (with conforming amendments to Rule 45(c)), and Rule 49.1, with a recommendation that they be published for public comment in August 2026. The Standing Committee unanimously approved the Advisory Committee's recommendations, with revisions to clarify language in the text of the rule (as described below).

Rule 11 (Pleas)

Rule 11(b)(1)(M) requires the court to advise the defendant at the plea proceeding of "the court's obligation to . . . consider . . . possible departures under the Sentencing Guidelines." However, the 2025 amendments to the U.S. Sentencing Commission Guidelines Manual deleted most of the provisions in Chapter Five, Part K (Departures), and revised U.S.S.G. § 1B1.1(a) to eliminate the requirement that the court consider departures at step two of a three-step sentencing process. As revised, § 1B1.1 now provides for a two-step process, considering at step one "the kinds of sentence and the guideline range as set forth in the guidelines," and at step two, "other applicable factors in 18 U.S.C. § 3553(a)." The proposed amendment to Rule 11(b)(1)(M) would remove the reference to "possible departures under the Sentencing Guidelines," thus reflecting the current two-step sentencing process. The Standing Committee revised the proposed rule text to ensure that defendants would continue to be advised of the court's obligation to calculate and consider the sentencing-guideline range.

Rule 32 (Sentencing and Judgment)

Rule 32(h) requires the court to provide the parties with reasonable notice of a possible departure from the Sentencing Guidelines range on a ground not identified for departure in the presentence report or in a party's prehearing submission. Because the Sentencing Guidelines no longer employ the concept of departures, the proposed

amendment to Rule 32 would eliminate subdivision (h). To avoid re-lettering the remainder of the rule, subdivision (h) would be reserved.

Rules 49 (Serving and Filing Papers) and 45(c) (Computing and Extending Time)

As part of the SRL rules package, the proposed amendments to Rule 49 and conforming amendments to Rule 45(c) are generally consistent with the proposed amendments to the Bankruptcy and Civil Rules regarding electronic filing and service by self-represented litigants. The proposed amendments to Rule 49 would allow self-represented parties to 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 provides otherwise. They would expressly authorize courts to impose reasonable conditions and restrictions on electronic access. However, the proposed amendments would prevent a court from barring all self-represented litigants from using the court's electronic-filing system unless the prohibition either included reasonable exceptions or was paired with another electronic method for filing papers and receiving notice. Unlike the Bankruptcy and Civil Rules, and in accordance with the current Criminal Rule, proposed amended Rule 49 would not authorize a court to require self-represented litigants to file electronically.

The proposed Rule 49 amendments would eliminate the need for separate paper service of post-complaint filings on persons who will receive a notice of case activity through the court's electronic-filing system, although service by a court's electronic-filing system is not effective if a filer learns that it did not reach the person to be served. Further, the proposed amendments provide that if a document is filed under seal, a court may provide by order or local rule that the document be served by other means. The amendments also provide that no certificate of service is required when service occurs through the court's electronic-filing system under the amended provisions.

Criminal Rule 45(c) would be amended to conform cross-references to Rule 49.

Criminal Rule 49.1 (Privacy Protections for Filings Made with the Court)

As part of the package of proposed privacy amendments, the proposed amendments to Rule 49.1 addresses two privacy-related issues—redaction of taxpayer-identification information and the use of pseudonyms for minors—in criminal filings that are available to the public through the judiciary's electronic-filing system. These proposed amendments are consistent with the proposed amendments to the parallel privacy provisions in Civil Rule 5.2.

First, the proposed amendment requires complete redaction of taxpayer identifying information rather than redaction of all but the last four numbers. Second, the proposed amendments expand the covered taxpayer identifying information that must be redacted to include not only SSNs and ITINs, but also EINs. Third, the proposed amendment clarifies that the redaction requirement applies not only to pleadings and briefs, but also any attachments and exhibits. Fourth, the proposed amendment changes the requirement to provide initials for minors when they are referenced in filings and would now require the use of a pseudonym.

Information Items

The Advisory Committee on Criminal Rules met on April 29, 2026. In addition to the matters discussed above, the Advisory Committee continued its discussions regarding proposed amendments to 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 proposed revisions to Rule 15, which governs depositions.

FEDERAL RULES OF EVIDENCE

Rules Recommended for Approval and Transmission

The Advisory Committee on Evidence Rules recommended for final approval proposed amendments to Evidence Rule 609. The Standing Committee unanimously approved the Advisory Committee's recommendations.

Rule 609 (Impeachment by Evidence of a Criminal Conviction)

The proposed amendment to Rule 609(a)(1)(B) addresses the standard under which evidence of prior convictions not based on falsity may be introduced to attack a testifying criminal defendant's character for truthfulness. Under the proposed amendment, evidence of a non-falsity based prior conviction would not be admissible to impeach a criminal defendant unless its probative value "substantially" outweighs the risk of unfair prejudice to the defendant. The proposed amendment would result in the provision becoming more exclusionary, because many courts have erred in allowing broad impeachment with prior non-falsity based convictions, contrary to the original intent of the rule—a problem compounded by the fact that a ruling admitting convictions is not appealable unless the defendant takes the stand and gets impeached. With this amendment, the Advisory Committee aims to reduce the risk that Rule 609 will unduly deter criminal defendants from exercising their right to testify. In addition, the proposed amendment to Rule 609(b) would clarify that the 10-year time period for the rule's applicability is measured from the date of conviction or end of confinement, whichever is later, until the date of trial.

In August 2026, the Executive Committee, during its preparation of the proposed discussion and consent calendars for the September 2026 Judicial Conference session, called the Standing Committee's attention to several concerns with the proposed amendments and

requested further examination. The Executive Committee's concerns relate primarily to the explanations in the committee note for inserting the word "substantially" into the rule. If changes are made to the committee note to address those concerns, then the question becomes what justifies the proposed change to the rule. These concerns include the following:

- First, the Executive Committee raised concerns that Congress in enacting Rule 609(a) did not impose "a reverse balancing test" as stated in the committee note. Instead, Congress imposed a neutral balancing test allowing admissibility "if the probative value of the evidence *outweighs* its prejudicial effect" (emphasis added). In the Executive Committee's view, the proposed amendment would create a presumption of inadmissibility contrary to the intent of Congress reflected in the text of the rule adopted in 1975.
- Second, the Executive Committee raised concerns about language in the proposed committee note that the new proposed test "is more protective so as not to infringe on the accused's constitutional right to testify." The Executive Committee does not believe that the Supreme Court has held that impeachment by prior felony conviction infringes on a constitutional right to testify.
- Third, the Executive Committee raised concerns about the fourth paragraph of the proposed committee note, which may be perceived as setting forth rule-like guidance rather than explaining the proposed rule. Specifically, the paragraph purports to guide district courts on how to admit "evidence of a criminal conviction" without a rule to support the guidance.

In response to these concerns, the Standing Committee in August 2026 unanimously voted to withdraw the recommendation and to return the proposal to the

Advisory Committee on Evidence Rules to allow it to further consider the proposed amendments in light of these concerns.

Rules Approved for Publication and Comment

The Advisory Committee on Evidence Rules submitted proposed amendments to Rules 902 and 104 with a recommendation that they be published for public comment in August 2026. The Standing Committee unanimously approved the Advisory Committee's recommendations with a minor revision to Rule 104.

Rule 902 (Evidence That Is Self-Authenticating)

The proposed amendment to Rule 902 would add Indian Tribes and Nations to the list of entities in Rule 902(1)(A) whose public records are self-authenticating, as the Advisory Committee saw no reason to differentiate the Tribes and Nations from the many other government entities whose records are currently self-authenticating under the rule.

Rule 104 (Preliminary Questions)

The proposed amendment to Rule 104(a) would codify the holding in *Bourjaily v. United States*, 483 U.S. 171, 175 (1987), that preliminary questions of fact under Rule 104(a) are to be determined by a preponderance of the evidence. The proposed amendments to Rule 104(b) would eliminate the concept of "conditional" relevance and provide that the standard of proof for all questions of relevance is whether a jury could reasonably find that the evidence has a tendency to make a fact of consequence more or less probable than without the evidence. In addition, the proposed amendments would eliminate the phrase "proof sufficient to support a finding" from Rule 104(b); but the rule does not change the standard of proof established by the Supreme Court in *Huddleston v. United States*, 485 U.S. 681, 687 (1988), that the court must decide whether the "jury could reasonably find" that the evidence is relevant.

Information Items

The Advisory Committee met on May 7, 2026. In addition to the recommendations discussed above, the Advisory Committee discussed several other issues, including continued consideration of a possible New Rule 707 to address evidence that is the product of artificial intelligence and a possible new subsection (c) in Rule 901 (Authenticating or Identifying Evidence) to address deepfake evidence. Finally, the Advisory Committee considered the implications of *Smith v. Arizona* on Rule 703 (Bases of an Expert's Opinion Testimony).

Respectfully submitted,

James C. Dever III, Chair

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

* * * * *

TAB 4

TAB 4A

MEMORANDUM

TO: ADVISORY COMMITTEE ON BANKRUPTCY RULES

FROM: CONSUMER SUBCOMMITTEE

SUBJECT: 26-BK-4 – RULE 5009(d)

DATE: AUG. 23, 2026

Chris Micale, a chapter 13 trustee in the W.D. Va., submitted a suggestion with respect to Bankruptcy Rule 5009(d). The rule applies in a chapter 12 or 13 case when a claim that is secured by property of the estate is subject to a non-bankruptcy lien, and allows the debtor to "move for an order declaring that the secured claim has been satisfied and the lien has been released under the terms of the confirmed plan." Mr. Micale suggests that the rule be amended to permit the trustee to move for such an order, in addition to the debtor.

Mr. Micale notes that chapter 12 and 13 debtors routinely pay the debt secured by the lien through case administration, meaning the trustee makes all disbursements on the claim. Therefore, the trustee may be in the best position to determine that the secured claim has been paid in full and the lien should therefore be released. Pro se debtors may have particular need for assistance from the trustee at the end of the case to resolve title issues relating to property encumbered by a lien.

The suggested language follows:

(d) ORDER DECLARING A LIEN SATISFIED.[1] This subdivision (d) applies in a Chapter 12 or 13 case when a claim secured by property of the estate is subject to a lien under applicable nonbankruptcy law. The debtor or trustee may move for an order declaring that the secured claim has been satisfied and the lien has been released under the terms of the confirmed plan. The motion must be served—in the manner provided by Rule 7004 for serving a summons and complaint—on the claim holder and any other entity the court designates.

The Committee Note on the 2017 Amendment to Rule 5009 says as follows:

"Subdivision (d) is added to provide a procedure by which a debtor in a chapter 12 or chapter 13 case may request an order declaring a secured claim satisfied and a lien released under the terms of a confirmed plan. A debtor may need documentation for title purposes of the elimination of a second mortgage or other lien that was secured by property of the estate. Although requests for such orders are likely to be made at the time the case is being closed, the rule does not prohibit a

[1] The Subcommittee recommends that, in connection with this amendment, the font on subdivision (d) be corrected to conform to the font used for subdivisions (a)-(c).

request at another time if the lien has been released and any other requirements for entry of the order have been met."

The Subcommittee believes it is consistent with the purpose behind Rule 5009(d) to allow the trustee to file the motion. Such an amendment does not take any rights away from the debtor, but simply acknowledges that the trustee has the same rights. The trustee is given the right to act on behalf of the chapter 13 debtor with respect to secured claims being paid under the plan in other provisions of the Bankruptcy Rules, in particular Rule 3002.1(f)(1) (allowing the trustee or the debtor to file a motion to determine the status of a claim secured by a security interest in the debtor's principal residence) and Rule 3002.1(g)(4)(A) (allowing the trustee or the debtor to file a motion to determine whether the debtor has cured all defaults and paid all required postpetition amounts on a claim secured by a security interest in the debtor's principal residence). This proposed amendment is consistent with those provisions.

A proposed committee note follows:

Committee Note

Subdivision (d) is amended to clarify that the trustee has the right to bring a motion for an order declaring that the secured claim has been satisfied and the lien on estate property securing such claim has been released. The amendment does not affect the debtor's ability to bring such a motion on the debtor's behalf at any time.

The Subcommittee recommends the proposed amendment to the Advisory Committee for publication.

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

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

* * * * *

(d) Order Declaring a Lien Satisfied. This subdivision (d) applies in a Chapter 12 or 13 case when a claim secured by property of the estate is subject to a lien under applicable nonbankruptcy law. The debtor or trustee may move for an order declaring that the secured claim has been satisfied and the lien has been released under the terms of the confirmed plan. The motion must be served—in the manner provided by Rule 7004 for serving a summons and complaint—on the claim holder and any other entity the court designates.

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

Committee Note

Subdivision (d) is amended to clarify that the trustee has the right to bring a motion for an order declaring that the secured claim has been satisfied and the lien on estate property securing such claim has been released. The amendment does not affect the debtor's ability to bring such a motion on the debtor's behalf at any time.

TAB 4B

MEMORANDUM

TO: ADVISORY COMMITTEE ON BANKRUPTCY RULES

FROM: CONSUMER SUBCOMMITTEE

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

DATE: AUGUST 28, 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).

At the spring 2026 Advisory Committee meeting, the Committee accepted the Subcommittee's recommendation that information be gathered about 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.

The Federal Judicial Center has agreed to undertake this study, and Dr. Carly Giffin presented the following research proposal to the Subcommittee at its July meeting:

> To gather information about courts' current practices, I propose to first start with secondary sources. I will do a review of the cases that have dealt with the issue so far, coding them to determine how they dealt with any perceived inconsistencies between 4004(a) and (c) and §727(a)(8) or (9) and whether the end result was a grant, denial, or withholding of discharge. I will also do a review of local rules to see if districts have addressed the issue in their local rules. Next, I would propose to interview a group of clerks to better understand their procedures surrounding the 4004(c) factors (i.e., what kind of checks they run, when those checks are run, how they would alert the court to their findings). I would reach out to the Bankruptcy Clerk Advisory Group to help identify clerks to interview. Suggestions from the Subcommittee are also welcome. After I gain a better understanding from the clerk interviews, I will work with the Committee to decide whether a broader survey of clerks would be helpful and how to best to get feedback from judges.

During discussions with the Subcommittee, Dr. Giffin also indicated that she will likely want to talk with trustees about their experiences with the application of Rule 4004(c).

The Subcommittee expressed its agreement with Dr. Giffin's research plan.

Dr. Giffin will be present at the Advisory Committee's fall meeting and will give an oral report on the progress of her research.

TAB 5

MEMORANDUM

TO: ADVISORY COMMITTEE ON BANKRUPTCY RULES

FROM: FORMS SUBCOMMITTEE

SUBJECT: 25-BK-O – FORM 106C

DATE: AUG. 23, 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, which 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 or any interest in 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 any 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 decided 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. Ramona Elliott shared the memo from the April Advisory Committee meeting regarding the proposed change with leadership of the National Association of Bankruptcy Trustees. They confirmed that they support the recommendation to eliminate the question about the value of the homestead property and solely ask whether property claimed as exempt under the homestead exemption was acquired within 1,215 days before filing. They believed that this change would provide trustees and creditors more information and would be helpful.

Ms. Elliott also spoke with the leadership of the National Association of Chapter Thirteen Trustees and subcommittee member Nancy Whaley also spoke with individual chapter 12 and 13 trustees. Although some individual trustees suggested that simply reversing the order of the question might be better, the NACTT leadership and most trustees thought this was more of a chapter 7 trustee issue.

In light of this feedback, the Subcommittee recommends the proposed changes to question 3 of Part 1 of Form 106C to the Advisory Committee for approval for publication.

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

12/27

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. **If you are claiming a homestead exemption, did you acquire the property or any interest in 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	_____
Brief description: _____ Line from *Schedule A/B:* _____	$_____	❑ $ _____ ❑ 100% of fair market value, up to any applicable statutory limit	_____

Committee Note

Question 3 of Part 1 of the Form is amended to ask all debtors claiming a homestead exemption whether they acquired any 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.

TAB 6

TAB 6A

MEMORANDUM

TO: ADVISORY COMMITTEE ON BANKRUPTCY RULES

FROM: TECHNOLOGY, PRIVACY AND PUBLIC ACCESS SUBCOMMITTEE

SUBJECT: SSN IN BANKRUPTCY APPEALS

DATE: AUG. 19, 2026

The Advisory Committee recommended to the Standing Committee amendments to Bankruptcy Rule 9037 to extend the redaction requirement for social-security numbers (SSNs) and other tax-identification numbers to exhibits and attachments, and to require use of a pseudonym in place of the name of an individual known to be and identified as a minor. The Advisory Committee declined to recommend amendments to Rule 9037 to require complete redaction of SSNs and taxpayer-identification numbers (rather than requiring use of only the last four digits) although the Criminal Rules Committee and Civil Rules Committee were recommending that change to their privacy rules.

The Appellate Rules Committee was expected to propose a similar change to Appellate Rule 25(a)(5). Currently Appellate 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 were considering reads as follows:

Rule 25. Filing and Service

(a) Filing.

***

(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.

The Advisory Committee, assuming that the Appellate Rule amendment would be recommended to the Standing Committee to be published at the same time as the other privacy amendments, approved for publication a new Rule 8011(a)(4) to make the same rule requiring complete redaction applicable to appeals from the bankruptcy court to the district court or bankruptcy appellate panel. The new Rule 8011(a)(4) would read as follows:

Rule 8011. Filing and Service; Signature

(a) FILING.

***

(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).

***

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.

At its spring Advisory Committee meeting, however, the Appellate Rules Committee determined that further study was needed regarding those proposed amendments and did not seek publication of proposed amendments to Rule 25(a)(5). Therefore, the Standing Committee decided to postpone publication and public comment on the proposed amendments to Bankruptcy Rule 8011 to allow for coordination with the Appellate Rules Committee as it continues to study the issue. The reporter to the Appellate Rules Committee has suggested that the Appellate Rules Committee is unlikely to consider any specific changes until after the full committee meeting in October and after comments on the other privacy amendments come back in February. When the Appellate Rules Committee takes action, the Subcommittee will consider whether any change is needed to its previously-approved draft of proposed Bankruptcy Rule 8011(a)(4).

TAB 6B

MEMORANDUM

TO: ADVISORY COMMITTEE ON BANKRUPTCY RULES

FROM: TECHNOLOGY, PRIVACY AND PUBLIC ACCESS SUBCOMMITTEE

SUBJECT: 26-BK-5 SSN EXPOSURE ON OFFICIAL FORMS 121 AND 309E1

DATE: AUG. 23, 2026

Suggestion

We have received a suggestion (26-BK-5), from Dan Brown of the Open Bankruptcy Project, which provides documentation for four bankruptcy cases in which the debtor's complete, unredacted social security number (SSN) was filed on the public docket in Official Form 121 or Official Form 309E1. It attributed the problem with the Form 121 postings to "routing failures (filer or clerk routes the form under a public event code)." The Form 309E1 problem was a "generation failure (the court's own CM/ECF system populates the full SSN into a field whose template expects redacted output").

The suggestion proposes five amendments to Rule 9037 and conforming amendments to Rule 1007 and to the Official Forms as follows:

(1) a distinct CM/ECF event code for Form 121 with automatic sealing at acceptance;

(2) a CM/ECF template-integrity audit covering all forms whose template uses redacted-identifier placeholders;

(3) pre-acceptance automated pattern screening for full Social Security numbers;

(4) an express non-cure provision clarifying that post-disclosure redaction does not eliminate the original exposure; and

(5) a mandatory clerk notification regime when an unredacted Social Security number enters the public docket.

Analysis

It should first be noted that in considering the privacy rules in connection with the pending amendments to those rules by the Civil, Criminal, Appellate, and Bankruptcy rules committees, the Federal Judicial Center completed empirical research into the prevalence of complete social security numbers in public court filings. As the Subcommittee recalls, the results of that research indicated that out of more than 2.5 million documents examined on 37 randomly selected days in calendar year 2022, only 1,840 contained unredacted SSNs (.07%) and 72% of the unredacted SSNs identified were included in violation of the existing privacy rules. (The

remaining disclosures were situations where the redaction requirement was not applicable or the filer waived privacy protections.) Only .7% of noncompliant SSN disclosures were on bankruptcy schedules. While not to minimize the importance of securing personal data from inadvertent disclosure, these statistics suggest that the bankruptcy schedules are not a significant source of public disclosure of SSNs, and therefore this is a solution in search of a problem.

As to the first suggestion, Mr. Brown proposes an amendment to Rule 9037 "to require the Administrative Office to designate a distinct CM/ECF event code exclusively for Form 121 filings, with automatic public-access restriction upon acceptance." He also proposes that a filing containing the textual markers of Form 121 be treated as presumptively non-public regardless of the selected code with automatic restriction "pending clerk confirmation." There are two problems with this suggestion. First, the purpose of the Federal Rules of Bankruptcy Procedure is not to provide direction to the Administrative Office of the U.S. Courts, nor to specify the technical attributes of CM/ECF. Second, the form itself already makes clear that the form "must be submitted separately and must not be included in the court's public electronic records" and the filer must therefore select the correct CM/ECF code for the form that prevents automatic public disclosure. If the filer is not selecting the correct CM/ECF code now for the form, there is no assurance that they would select the correct CM/ECF code if there were a different CM/ECF code for Form 121. The only way of ensuring that no SSN is posted publicly is for no forms to become public when a bankruptcy case is filed unless cleared by the clerk, and that is an unreasonable burden to impose on the clerks' offices.

As to the second suggestion, Mr. Brown again suggests that the Administrative Office should be "direct[ed]" to require a "comprehensive audit of the CM/ECF form-generation pipelines for all Official Forms whose template contains redacted-identifier placements … to verify that the CM/ECF system populates the redated fields with the redacted values (last 4 digits only) rather than the full underlying data." This is beyond the scope of the Federal Rules of Bankruptcy Procedure.

The third suggestion would amend Rule 9037 "to require pre-acceptance automatic screening of all filings for full Social Security number patterns … with the filing suspended and the filer noticed before public docketing occurs." Again, this is not a matter for the Federal Rules of Bankruptcy Procedure but is rather a suggestion for the architects of CM/ECF.

The fourth suggestion again suggests an amendment to Rule 9037 "to state expressly that restriction of public access to a document after it has been publicly docketed does not cure the original disclosure to purposes of liability, professional responsibility, or any state or federal privacy statute" and to require any Rule 9037(h) order to "contain a direction to the filer to take reasonable steps to request removal of the document from known third-party archives, at the filer's sole cost." The Federal Rules of Bankruptcy Procedure cannot affect substantive rights under the Rules Enabling Act, 28 U.S.C. § 2075, so it is beyond the scope of Rule 9037 to specify the impact of disclosure on other statutory rights. Although the second aspect of the

suggestion is not improper under the Rules Enabling Act, Rule 9037(h) was added in 2019 and was subject to public comment at that time. It already requires the court to "promptly restrict public access to the motion and the unredacted document pending its ruling on the motion" and if it grants the motion, it must "docket the redacted document." It seems unwise to amend Rule 9037(h) now to specify additional remedies that a court must order in connection with noncomplying disclosure, particularly when there is no showing that the existence of the SSN in third-party archives has caused any privacy concerns.

The final suggestion would impose a burden on the clerks to notify "the affected debtor or party, the case trustee, and the United States Trustee within 24 hours, and [ ] restrict public access pending investigation." It is not the duty of the clerks' office to monitor compliance with Rule 9037, and this would impose an impossible burden on the clerks.

Recommendation

The Subcommittee recommends no action in response to this suggestion. However, to the extent that the suggestions recommend changes to the CM/ECF system (or issues that should be taken into account in the development of the next generation of case management systems), the representative of the Administrative Office in charge of the Advisory Committee on Bankruptcy Rules has undertaken to pass on the suggestions to the appropriate parties within the Administrative Office that are working on those systems for consideration.

TAB 7

TAB 7A

MEMORANDUM

TO: ADVISORY COMMITTEE ON BANKRUPTCY RULES

FROM: BUSINESS SUBCOMMITTEE

SUBJECT: PROPOSED AMENDMENTS TO RULE 9031—TAKING STOCK OF WHERE WE ARE

DATE: AUGUST 18, 2026

At the spring Advisory Committee meeting, the Subcommittee recommended for publication proposed amendments to Rule 9031 that would authorize the use of masters in bankruptcy cases and proceedings. That recommendation, however, was never voted on because the matter was sent back to the Subcommittee to consider a recently issued opinion of the Department of Justice's Office of Legal Counsel ("OLC") regarding the constitutionality of the appointment of masters by bankruptcy judges. Since that time, there have been other developments that the Advisory Committee should consider in deciding how it wants to proceed with the proposed amendments.

The purpose of this memo is to bring the Advisory Committee up to date on those developments and to provide information to help it decide what steps it wants to take next. After a discussion of the actions taken up to now, the memo discusses constitutional objections to the proposed amendments that have been raised and feedback that has been offered by members of the Standing Committee. It ends with a discussion of the Subcommittee's recommendation that the issue be tabled for now.

How Did We Get Here?

Two suggestions to amend Rule 9031 were submitted to the Advisory Committee, one by Bankruptcy Judge Michael B. Kaplan of the District of New Jersey and the other by the American Bar Association. These suggestions proposed amendments that would allow masters to be used in bankruptcy cases and proceedings. The Advisory Committee had in the past declined to propose such a rule on at least five occasions (including when it initially proposed Rule 9031).

The current suggestions were submitted in January and February 2024. The Advisory Committee has since discussed whether to propose amendments to Rule 9031 at five meetings. These discussions have been informed in part by the results of a survey of bankruptcy judges conducted by the Federal Judicial Center and a research memorandum on constitutional and statutory issues prepared by the rules law clerk.

In response to the FJC survey, nearly half of the 221 respondents (44%) said they were neither in favor nor against amending Rule 9031. Just over a third of respondents (35%) thought Rule 9031 should be amended, and just over a fifth (21%) said Rule 9031 should not be amended. More than half of the respondents (62%) said that they had never presided over a case

or proceeding in which they would have considered appointing a master if the option had been available, and just under a third (32%) said they had.

The rules law clerk, Kyle 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 pointed 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 did, 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 Code.

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. At the spring 2026 meeting, the Subcommittee presented a revised draft to the Advisory Committee that it recommended for publication. That draft follows this memo in the agenda book. After the Subcommittee had met and while the spring agenda book was being compiled, the OLC issued an opinion that questioned whether bankruptcy judges can appoint masters consistent with the requirements of Article III of the U.S. Constitution. The DOJ representative to the Advisory Committee presented the OLC's views at the spring meeting, and Dean McKenzie and the reporter offered some responses questioning the OLC's conclusion. At the suggestion of the chair of the Standing Committee, the matter was remanded to the Subcommittee to consider the OLC opinion and to allow the Advisory Committee to do the same if the Subcommittee again recommended amendments to Rule 9031.

Judge Connelly reported on these developments at the June Standing Committee meeting.

The OLC Opinion

On March 17, 2026, the OLC—in response to a query from Ramona Elliott—issued an opinion titled "Whether a Bankruptcy Judge's Appointment of a Special Master Would Violate Article III of the Constitution." It was circulated to Advisory Committee members by email on April 27, along with Kyle Brinker's memo.

The opinion summarizes its conclusion as follows:

> A bankruptcy court's unilateral subdelegation of functions requiring an Article III judge's "total control" violates Article III of the Constitution. Proposed amendments to the Federal Rules of Bankruptcy Procedure authorizing bankruptcy judges to appoint special masters to perform functions involving constitutionally non-core claims would deprive Article III courts of the requisite "total control."

The opinion rests primarily on two stated principles:

1. "An Article III court's delegation of judicial functions to a non-Article III adjunct is permissible only if 'the entire process takes place under the district court's total control and jurisdiction' and the Article III judge 'exercises the ultimate authority to issue an appropriate order.'" Opinion at p. 5 (quoting United States v. Raddatz, 447 U.S. 667. 681–82 (1980) (cleaned up)).

   and

2. "The Supreme Court's 'total control' test is reinforced by the legal maxim *delegata potestas non potest delegari* (a delegated power cannot be further delegated)." *Id.*

The opinion assesses the Subcommittee's draft of the Rule 9031 amendments, along with the Kaplan and ABA proposed amendments, under these principles and concludes as follows:

> These proposals do not adequately ensure an Article III court's control over non-core claims. The proposals fail to ensure that the special master's "proposed findings and recommendations" in connection with noncore claims would be "subject to de novo review" by an Article III court. See Northern Pipeline, 458 U.S. at 79 (plurality opinion). And the proposals appear to contemplate subdelegation of non-ministerial tasks involving "the exercise of judgment or discretion" without an Article III judge's authorization.

Arguments can be made to counter the conclusion the OLC reaches. The OLC's reasoning, even if correct, does not mean that promulgation of a proposed rule along the lines of the Subcommittee's draft is constitutionally prohibited. The opinion addresses only the nonconsensual appointment of masters by bankruptcy judges in noncore proceedings. It therefore does not cast doubt on the appointment of masters by district judges exercising bankruptcy jurisdiction or their appointment by bankruptcy judges in core proceedings or noncore proceedings with the parties' consent. Those are all situations in which such a rule would apply.

An amended Rule 9031 would therefore not be unlike other bankruptcy rules that cannot be applied by bankruptcy judges in noncore proceedings without the parties' consent. For example, Rules 7054-7058 authorize a bankruptcy judge to enter a judgment in an adversary proceeding and leave it up to the judge to determine when doing so would be constitutionally impermissible. But it hasn't been suggested that those rules are invalid because there are constitutional limits on when they can be applied.

Questions can also be raised about the soundness of the reasoning in the opinion. For example, a bankruptcy judge's appointment of a master does not necessarily constitute a subdelegation of authority if the master's findings and conclusions are subject to de novo review by the bankruptcy judge. In the *Raddatz* case, which the OLC opinion relies on, the Supreme Court explained the significance of de novo review:

> Congress has provided that the magistrate's proposed findings and recommendations shall be subjected to a *de novo* determination "by the judge who

> . . . then [exercises] the ultimate authority to issue an appropriate order." Moreover, "[the] authority -- and the responsibility -- to make an informed, final determination . . . remains with the judge."

447 U.S. at 681-682. While that opinion addressed the relationship between district judges and magistrate judges, the same reasoning can be applied to bankruptcy judges and masters: de novo review leaves bankruptcy judges still in charge of the authority delegated to them. The OLC opinion, however, failed to consider the significance of this scope of review.

Moreover, if the opinion's reasoning is correct, it calls into question the use of any adjuncts to assist a bankruptcy judge in carrying out his or her judicial duties. That might include not only masters, but also fee examiners, court-appointed experts, and even law clerks—despite the judge's ultimate control over the matters addressed by the adjunct. The opinion asserts that "[e]ven quantitative bankruptcy tasks such as performing an accounting or calculating an award of attorneys' fees may require 'judicial functions.'" And it contends that "[w]hen a bankruptcy court unilaterally subdelegates such functions, the district court loses 'total control.'" The procedure, as approved by the Supreme Court's decision in *Wellness Int'l Network, Ltd. v. Sharif*, 575 U.S. 665 (2015), belies that conclusion. Either a bankruptcy judge acts with consent in a noncore matter, and the district court reviews the judgment through the appellate process, or, if no consent is given, the district court reviews the decision de novo. Either way, the district court is in "control" by having the last word (subject to further appellate review).

Feedback from the Standing Committee

At the last two Standing Committee meetings, when Judge Connelly provided information about the Advisory Committee's consideration of a rule authorizing the use of masters, some negative feedback was offered. These comments were based on policy grounds irrespective of any constitutional concerns. At the January meeting, one judicial member of the Standing Committee noted—apparently favorably—the decisions of past bankruptcy advisory committees not to propose a rule authorizing the use of masters. That member also expressed concern that the use of masters—even if favored by judges and lawyers—would be at the expense of creditors.

At the June meeting, two members of the Standing Committee expressed opposition to the use of masters generally and expressed disfavor towards an amendment that would open the door to greater use of masters. (They do not think district courts should use masters, or at least not as much as some currently do.) One of those members said that he had talked to bankruptcy judges in his district who oppose authorizing the use of masters in bankruptcy cases.

While Dean McKenzie offered favorable comments—at least insofar as he questioned the OLC's analysis and conclusion—the overall feeling at the meeting toward a possible amendment of Rule 9031 was negative. While many Standing Committee members did not offer their opinions, it appeared that now may not be the time we could expect to get the Standing Committee to approve amendments to Rule 9031 along the lines currently being considered.

The Subcommittee's Discussion and Recommendation

During the Subcommittee's meeting on August 3, members discussed how to proceed with the Rule 9031 amendments in light of the developments discussed above. Among the options considered were (i) recommending for publication the current draft with minor edits, (ii) proposing a more limited authorization of the use of masters, and (iii) recommending that the Advisory Committee take no further action on the Kaplan and ABA suggestions. After discussing the pros and cons of each option, **the Subcommittee decided to recommend that consideration of the suggestions be tabled for now**.

Subcommittee members identified several reasons for this recommendation. While some members stated that they wanted to make it clear that they disagreed with the OLC's opinion and conclusion, they nevertheless felt that it is unlikely that the Judicial Conference and the Supreme Court would approve rule amendments that a published OLC opinion concludes are unconstitutional. Furthermore, feedback from the Standing Committee provides additional support for concluding that the pursuit of amendments to Rule 9031 now would not be well received by the Standing Committee, even if a narrower authorization were proposed.

Although the Subcommittee concluded that now is not the time to go forward with amending Rule 9031, it decided that the best course is to table consideration of the Kaplan and ABA suggestions, rather than remove them from the Advisory Committee's agenda altogether. It was noted that the Subcommittee's chair and two other members are rotating off the Advisory Committee this fall. Tabling the suggestions would leave open the possibility that a newly constituted subcommittee sometime in the future might want to renew consideration of amending Rule 9031, perhaps by seeking more detailed information about how bankruptcy judges who favor the use of masters would use them and why there is a need for them that cannot be met by the existing rules and procedural devices.

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

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

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

(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).

TAB 7B

MEMORANDUM

TO: ADVISORY COMMITTEE ON BANKRUPTCY RULES

FROM: BUSINESS SUBCOMMITTEE

SUBJECT: POSSIBLE AMENDMENTS TO RULES 7007.1 AND 8012 TO CONFORM TO PENDING AMENDMENTS TO CIVIL RULE 7.1

DATE: AUGUST 18, 2026

At its June meeting the Standing Committee gave its final approval to amendments to Civil Rule 7.1 (Disclosure Statement). If the amendments are approved by the Judicial Conference and the Supreme Court, and Congress takes no action to the contrary, amended Rule 7.1 will go into effect on December 1, 2027. This Subcommittee was asked to consider whether similar amendments should be proposed to the parallel bankruptcy rules—Rule 7007.1 (Corporate Ownership Statement) and Rule 8012 (Disclosure Statement).[1]

The Proposed Amendments to Civil Rule 7.1

As approved by the Standing Committee, Rule 7.1 would be amended as follows:

Rule 7.1. Disclosure Statement

(a) Who Must File; Contents.

(1) Nongovernmental ~~Corporations~~ Business Organizations. A nongovernmental ~~corporate~~ business organization that is a party or ~~a nongovernmental corporation~~ that seeks to intervene must file a statement that:

(A) identifies any parent ~~corporation~~ business organization and any publicly held ~~corporation~~ business organization ~~owning~~ that directly or indirectly owns 10% or more of ~~its stock~~ it; or

(B) states that there is no such ~~corporation~~ business organization.

* * * * *

There are two aspects to these amendments—the change from "corporation" to "business organization" and the inclusion of indirect ownership. Each is discussed below.

[1] In a comment in response to last summer's publication of rules and forms amendments, Scott Grossman asked the Advisory Committee to consider amendments to Rule 7001.1 to conform to the proposed amendments to Civil Rule 7.1. His comment is being treated as a suggestion. Because Rule 8012(a) parallels Rule 7007.1(a), it is also being considered.

Business Organization

The Committee Note accompanying the proposed amendments to Rule 7.1 explains the change in terminology as follows:

> [T]he amended rule substitutes "business organization" in place of references to "corporation" to cover entities not organized as "corporations," defined narrowly. "Business organizations" is a more capacious term intended to flexibly adapt to the ever-changing variety of commercial entities, and the term is generally accepted and well understood. See, e.g., Uniform Business Organizations Code (2015).

While Rules 7007.1 and 8012 both use the term "corporation," a similar amendment to those rules is not needed because the Bankruptcy Code already defines "corporation" broadly. Section 101(9) of the Code—which Rule 9001(a) makes applicable to the Bankruptcy Rules—includes within the definition of "corporation," among other things, an "association having a power or privilege that a private corporation, but not an individual or partnership, possesses" and an "unincorporated company or association." The initial Committee Note to Rule 7007.1 explains that the rule's obligation "includes listing membership interests in limited liability companies and similar entities that fall under the definition of a corporation in Bankruptcy Code §101." Similarly, the 2014 Committee Note to Rule 8012 explains that "[u]nder §101(9) [of the Code] the word 'corporation' includes a limited liability company, limited liability partnership, business trust, and certain other entities that are not designated under applicable law as corporations."

The Subcommittee therefore recommends that Rules 7007.1 and 8012 not be amended to conform to this aspect of Civil Rule 7.1.

Indirect Ownership

The Committee Note to Rule 7.1 as proposed for amendment explains the expansion of the rule to include indirect ownership interests as follows:

> Under the amended rule, a party must disclose not only a parent business organization but also any publicly held business organization that is a grandparent, great-grandparent, or other corporate relative that owns 10% or more of a party, whether directly or through another business organization. The requirement to disclose "indirect" owners of 10% or more of a party is a pragmatic effort to better inform judges of circumstances when their financial interests may be affected by a litigation or when further inquiry into the ownership interests in a party is appropriate.

Whether Rules 7007.1 and 8012 need to be similarly amended to be consistent with Rule 7.1 requires a bit of discussion. Civil Rule 7.1 and Bankruptcy Rules 7007.1 and 8012 are all derived from Appellate Rule 26.1. Currently all four rules require disclosure of "any parent corporation and any publicly held corporation that owns [or owning] 10% or more of [a party's]

stock." Despite the almost identical wording of the civil and appellate rules, Appellate Rule 26.1 has been interpreted as requiring disclosure of indirect ownership interests, and Civil Rule 7.1 has not. *See* Advisory Committee on Civil Rules, April 1, 2025, Agenda Book, at 138-39 ("Despite using the same language, though, Rule 7.1 has by and large been interpreted to require disclosure of only 'parents,' and not grandparents or other corporate relatives."). The basis for this difference is apparently the statement in the 1998 Committee Note to Appellate Rule 26.1 that the "rule requires disclosure of all of a party's parent corporations meaning grandparent and great grandparent corporations as well." A similar statement does not appear in any Committee Note to the civil rule.

Like the Rule 7.1 Committee Notes, the Committee Notes to Rules 7007.1 and 8012 do not address indirect ownership, and the reporter was unable to find any bankruptcy case law addressing the issue. While it might be argued that Rules 7007.1 and 8012 should be interpreted like Appellate Rule 26.1 from which they are derived, an inconsistency with Civil Rule 7.1 might be interpreted as a rejection of the rules' applicability to indirect ownership interests. To make clear that disclosure of grandparent and great-grandparent ownership interests is required, the Subcommittee concluded that Rules 7007.1 and 8012 should be amended to track Rule 7.1's language in this regard.

Other Amendments

The proposed amendments to Rule 7.1 also include the deletion of the word "shares" and reference instead to 10% ownership of the business association in question ("any parent business organization and any publicly held business organization that directly or indirectly owns 10% or more of it"). The Civil Rules Advisory Committee has explained that "the proposed rule abandons the term 'stock' to define ownership, since ownership interests may have many different labels." Advisory Committee on Civil Rules, April 1, 2025, Agenda Book, at 141 n.5. The Subcommittee decided that a similar amendment to Rules 7007.1 and 8012 should be proposed.

Finally, the Subcommittee proposes a change of the title to Rule 8012 ("Disclosure Statement") to be consistent with Rule 7007.1's title ("Corporate Ownership Statement"). Although the civil and appellate rules are titled "Disclosure Statement," when Rule 7007.1 was amended in 2019, its title was changed to "Corporate Ownership Statement" to avoid confusion with the Bankruptcy Code's use of the term "disclosure statement." *See* 11 U.S.C. § 1125. The same reasoning applies to Rule 8012.

Recommendation

The Subcommittee recommends for publication the following amendments to Rules 7007.1 and 8012:

Rule 7007.1. Corporate Ownership Statement

(a) Required Disclosure. Any nongovernmental corporation—other than the debtor—that is a party to an adversary proceeding must file a statement identifying

any parent corporation and any publicly held corporation that directly or indirectly owns 10% or more of ~~its stock~~ it or stating that there is no such corporation. The same requirement applies to a nongovernmental corporation that seeks to intervene.

* * * * *

Committee Note

Subdivision (a) is amended to make clear that disclosure is required of any corporation that "directly or indirectly owns 10% or more of" a party, whether or not that ownership interest is formally denominated as stock. Such a direct or indirect owner is presumed to hold a sufficient interest in a party to raise a rebuttable presumption that a judge's financial interest in the owner extends to the party, warranting recusal. See U.S. Judicial Conference, Guide to Judiciary Policy § 220, Committee on Codes of Conduct, Advisory Opinion No. 57: Disqualification Based on a Parent-Subsidiary Relationship (Feb. 2024).

Under the amended rule, a party must disclose not only a parent corporation but also any publicly held corporation that is a grandparent, great-grandparent, or other corporate relative that owns 10% or more of a party, whether directly or through another corporation. The requirement to disclose "indirect" owners of 10% or more of a party is a pragmatic effort to better inform judges of circumstances when their financial interests may be affected by an adversary proceeding or when further inquiry into the ownership interests in a party is appropriate.

Rule 8012. ~~Disclosure~~ Corporate Ownership Statement

(a) Disclosure By a Nongovernmental Corporation. Any nongovernmental corporation that is a party to a district-court or BAP proceeding or that seeks to intervene must file a statement that:

(1) identifies any parent corporation and any publicly held corporation that directly or indirectly owns 10% or more of ~~its stock~~ it; or

(2) states that there is no such corporation.

* * * * *

Committee Note

The title of the rule is changed from "Disclosure Statement" to "Corporate Ownership Statement" to be consistent with the title of Rule 7007.1 and to avoid confusion with disclosure statements under § 1125 of the Bankruptcy Code.

Subdivision (a)(1) is amended to make clear that disclosure is required of any corporation that "directly or indirectly owns 10% or more of" a party, whether or not that ownership interest is formally denominated as stock. Such a direct or indirect owner is presumed to hold a sufficient interest in a party to raise a rebuttable presumption that a judge's financial interest in the owner extends to the

party, warranting recusal. See U.S. Judicial Conference, Guide to Judiciary Policy § 220, Committee on Codes of Conduct, Advisory Opinion No. 57: Disqualification Based on a Parent-Subsidiary Relationship (Feb. 2024).

Under the amended rule, a party must disclose not only a parent corporation but also any publicly held corporation that is a grandparent, great-grandparent, or other corporate relative that owns 10% or more of a party, whether directly or through another corporation. The requirement to disclose "indirect" owners of 10% or more of a party is a pragmatic effort to better inform judges of circumstances when their financial interests may be affected by an appeal or when further inquiry into the ownership interests in a party is appropriate.

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

Rule 7007.1 Corporate Ownership Statement

(a) Required Disclosure. Any nongovernmental corporation—other than the debtor—that is a party to an adversary proceeding must file a statement identifying any parent corporation and any publicly held corporation that directly or indirectly owns 10% or more of ~~its stock~~ it or stating that there is no such corporation. The same requirement applies to a nongovernmental corporation that seeks to intervene.

(b) Time for Filing; Supplemental Filing. The statement must:

(1) be filed with the corporation's first appearance, pleading, motion, response, or other request to the court; and

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

(2) be supplemented whenever the information required by this rule changes.

* * * * *

Committee Note

Subdivision (a) is amended to make clear that disclosure is required of any corporation that "directly or indirectly owns 10% or more of" a party, whether or not that ownership interest is formally denominated as stock. Such a direct or indirect owner is presumed to hold a sufficient interest in a party to raise a rebuttable presumption that a judge's financial interest in the owner extends to the party, warranting recusal. See U.S. Judicial Conference, Guide to Judiciary Policy § 220, Committee on Codes of Conduct, Advisory Opinion No. 57: Disqualification Based on a Parent-Subsidiary Relationship (Feb. 2024).

Under the amended rule, a party must disclose not only a parent corporation but also any publicly held corporation that is a grandparent, great-grandparent, or other corporate relative that owns 10% or more of a party, whether directly or through another corporation. The requirement to disclose "indirect" owners of 10% or more of a party is a pragmatic effort to better inform judges of circumstances when their financial interests may be affected by an adversary proceeding or when further inquiry into the ownership interests in a party is appropriate.

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

Rule 8012. ~~Disclosure~~ Corporate Ownership Statement

(a) Disclosure By a Nongovernmental Corporation. Any nongovernmental corporation that is a party to a district-court or BAP proceeding or that seeks to intervene must file a statement that:

(1) identifies any parent corporation and any publicly held corporation that directly or indirectly owns 10% or more of ~~its stock~~ it; or

(2) states that there is no such corporation.

* * * * *

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

Committee Note

The title of the rule is changed from "Disclosure Statement" to "Corporate Ownership Statement" to be consistent with the title of Rule 7007.1 and to avoid confusion with disclosure statements under § 1125 of the Bankruptcy Code.

Subdivision (a)(1) is amended to make clear that disclosure is required of any corporation that "directly or indirectly owns 10% or more of" a party, whether or not that ownership interest is formally denominated as stock. Such a direct or indirect owner is presumed to hold a sufficient interest in a party to raise a rebuttable presumption that a judge's financial interest in the owner extends to the party, warranting recusal. See U.S. Judicial Conference, Guide to Judiciary Policy § 220, Committee on Codes of Conduct, Advisory Opinion No. 57: Disqualification Based on a Parent-Subsidiary Relationship (Feb. 2024).

Under the amended rule, a party must disclose not only a parent corporation but also any publicly held corporation that is a grandparent, great-grandparent, or other corporate relative that owns 10% or more of a party, whether directly or through another corporation. The requirement to disclose "indirect" owners of 10% or more of a party is a pragmatic effort to better inform judges of circumstances when their financial interests may be affected by an appeal or when further inquiry into the ownership interests in a party is appropriate.

TAB 8

MEMORANDUM

TO: ADVISORY COMMITTEE ON BANKRUPTCY RULES

FROM: APPELLATE AND CROSS-BORDER INSOLVENCY SUBCOMMITTEE

SUBJECT: RULE 8017 AMICUS AND RULE 8015 CERTIFICATE OF COMPLIANCE AND APPENDIX

DATE: AUG. 23, 2026

At its June 2025 meeting the Standing Committee gave final approval to amendments to Appellate Rule 29 (Brief of an Amicus Curiae). The bankruptcy equivalent to that rule is Bankruptcy Rule 8017. 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 2025. Professor 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 2026 and was prepared to present those amendments to the Advisory Committee for approval for publication at its April 2026 meeting.

However, in September 2025, the Judicial Conference sent to the Supreme Court a package of proposed amendments to Rule 29, together with conforming amendments to Rule 32 and the Appendix of Length Limits. In response to concerns raised by the Executive Committee of the Judicial Conference, as well as two other ambiguities or errors identified in the proposed amendments, the Appellate Advisory Committee and the Standing Committee voted to withdraw the amendment package in March 2026, and the Court chose not to forward to Congress the relevant portions of the amendment package. Therefore, the Bankruptcy Advisory Committee decided to defer consideration of the amendments to Rules 8017, 8015 and the Appendix until the amendments to the appellate rules were finalized.

The Appellate Advisory Committee presented revised amendments to Appellate Rule 29, together with conforming amendments to Appellate Rule 32 and the Appendix to the Standing Committee at its June 2026 meeting and they were given final approval. The amended Appellate Rule 29 removes the requirement of new-member contribution disclosure from the proposal (formerly included in proposed amendments to Bankruptcy Rule 8017(e) which is now 8017(d)) and made clarifying changes with respect to certain backup disclosure requirements by combining what was Appellate Rule 29(b) and (c) (Bankruptcy Rule 8017(b) and (c) in our conforming changes), and also corrected some errors in the proposed Appendix of Length Limits.

Given the approval given to the appellate rules, the Subcommittee has now approved conforming changes to the bankruptcy rules. The proposed amendments read as follows:

Rule 8017. Brief of an Amicus Curiae

(a) DURING INITIAL CONSIDERATION OF A CASE ON THE MERITS.

(1) *Applicability*. This subdivision (a) governs amicus curiae filings during a court's initial consideration of a case on the merits.

(2) *Purpose; When Permitted*. An amicus brief that brings to the court's attention relevant matter not already brought to its attention by the parties may help the court. An amicus brief that does not serve this purpose burdens the court, and its filing is disfavored. The United States, its officer or agency, or a state may file an amicus brief without the consent of the parties or leave of court. Any other amicus curiae may file a brief only by leave of court or if the brief states that all parties have consented to its filing. The district court or BAP may prohibit or strike an amicus brief that would result in a judge's disqualification. On its own motion, and with notice to all parties to an appeal, the district court or BAP may request a brief by an amicus curiae.

(3) *Motion for Leave to File*. A motion for leave to file must be accompanied by the proposed brief and state:

(A) the movant's interest; and

(B) the reason the brief serves the purpose set forth in (a)(2).

(4) *Contents and Form*. An amicus brief must comply with Rule 8015. The cover must name the party or parties supported and indicate whether the brief supports affirmance or reversal. The brief need not comply with Rule 8014, but it must include the following:

(A) if the amicus is a corporation, a disclosure statement like that required of parties by Rule 8012;

(B) unless the amicus is the United States, its officer or agency, or a state, the disclosure statement required by (b) and (d);

(C) a table of contents, with page references;

(D) a table of authorities—cases (alphabetically arranged), statutes, and other authorities,—together with the pages where they are cited;

(E) a concise description of the identity, history, experience, and interests of the amicus, together with an explanation of how the brief and the perspective of the amicus will help the court;

(F) if an amicus has existed for less than 12 months, the date the amicus was created;

(G) an argument, which may be preceded by a summary but need not include a statement of the applicable standard of review; and

(H) a certificate of compliance under Rule 8015(h).

(5) *Length*. Except with the district court's or BAP's permission, an amicus brief must not exceed 6,500 words.

(6) *Time for Filing*. An amicus must file its brief no later than 7 days after the principal brief of the party being supported is filed. An amicus that does not support either party must file its brief no later than 7 days after the appellant's principal brief is filed. The district court or BAP may grant leave for later filing, specifying the time within which an opposing party may answer.

(7) *Reply Brief*. An amicus may not file a reply brief except with the district court's or BAP's permission.

(8) *Oral Argument*. An amicus may participate in oral argument only with the district court's or BAP's permission.

(b) DISCLOSING A RELATIONSHIP BETWEEN AN AMICUS AND A PARTY. An amicus brief must:

(1) disclose whether:

(A) a party or its counsel authored the brief in whole or in part;

(B) a party or its counsel contributed or pledged to contribute money intended to pay for preparing, drafting, or submitting the brief; and

(C) a party, its counsel, or any combination of parties, their counsel, or both has a majority ownership interest in or majority control of a legal entity submitting the brief; and

(2) if so, name the party or counsel.

(c) DISCLOSURE BY THE PARTY OR COUNSEL. If the party or counsel knows that an amicus has failed to make the disclosure required by (b), the party or counsel must do so.

(d) DISCLOSING A RELATIONSHIP BETWEEN AN AMICUS AND A NONPARTY. An amicus brief must disclose whether any person contributed or pledged to contribute more than $100 intended to pay for preparing, drafting, or submitting the brief and, if so, must name each such person. But disclosure is not required if the person is:

- the amicus;
- its counsel; or
- a member of the amicus.

(e) DURING CONSIDERATION OF WHETHER TO GRANT REHEARING.

(1) *Applicability*. Subdivisions (a)-(d) govern amicus briefs filed during a district court's or BAP's consideration of whether to grant rehearing, except as provided in this subdivision (e), and unless a local rule or order in a case provides otherwise.

(2) *When Permitted*. The United States, its officer or agency, or a state may file an amicus brief without the parties' consent or leave of court. Any other amicus curiae may file a brief only by leave of court. The motion for leave must comply with (a)(3).

(3) *Length*. An amicus brief must not exceed 2,600 words.

(4) *Time for Filing*. An amicus supporting a motion for rehearing or supporting neither party must file its brief, accompanied by a motion for filing when necessary, no later than 7 days after the motion is filed. An amicus opposing the motion for rehearing must file its brief, accompanied by a motion for filing when necessary, no later than the date set by the court for a response.

Committee Note

The amendments to Rule 8017 are conforming to the 2026 amendments to Fed. R. App. P. 29. The amendments make changes to the procedure for filing amicus briefs, including to the disclosure requirements. The amendments seek primarily to provide the courts and the public with more information about an amicus curiae.

Careful attention to the various interests and the need to avoid unjustified burdens is reflected throughout these amendments. For example, the amendment treats disclosures about the relationship between a party and an amicus differently than disclosures about the relationship between a nonparty and an amicus. While the public interest in knowing about an amicus—in order to evaluate its arguments and a court's consideration of those arguments—is relevant in both situations, there is an additional interest in disclosing the relationship between a party and an amicus: the court's interest in evaluating whether an amicus is serving as a mouthpiece for a party, thereby evading limits imposed on parties in our adversary system and misleading the court about the independence of an amicus. Moreover, the burden on an amicus

of disclosing a relationship with a party is much lower than having to disclose a relationship with nonparties. Disclosing a relationship with a party requires an amicus to check its records (and perhaps make a disclosure) regarding only the limited number of persons who are parties to the case. Disclosing a relationship with a nonparty would, by contrast, require an amicus to check its records (and perhaps make a disclosure) regarding the much larger universe of all persons who are not parties to the case.

To take another example, the amendment treats contributions by a nonparty that are earmarked for a particular brief differently than general contributions by a nonparty to an amicus. People may make contributions to organizations for a host of reasons, including reasons that have nothing to do with filing amicus briefs. Requiring the disclosure of non-earmarked contributions provides less useful information for those who seek to evaluate a brief and imposes far greater burdens on contributors.

Subdivision (a). The amendment to Rule 8017(a)(2) adds a statement of the purpose of an amicus brief: to bring to the court's attention relevant matter not already brought to its attention by the parties that may help the court. By contrast, if an amicus curiae brief adds nothing to the parties' briefs, it is a burden rather than a help. Where feasible, avoiding redundancy among amicus briefs can also be helpful.

The amendment to Rule 8017(a)(4) expands the required statement regarding the identity of an amicus and its interest in the case and requires "a concise description of the identity, history, experience, and interests of the amicus, together with an explanation of how the brief and the perspective of the amicus will help the court." The amendment calls for this broader disclosure to help the court and the public evaluate the likely reliability and helpfulness of an amicus, particularly those with anodyne or potentially misleading names. It also requires that the amicus explain how the brief and the perspective of the amicus will further the goal of helping the court. Rule 8017(a)(4)(F) is new. It requires an amicus that has existed for less than 12 months to state the date of its creation, helping identify amici that may have been created for the purpose of this litigation. Subsequent provisions are re-lettered.

Existing disclosure requirements about the relationship between the amicus and both parties and nonparties are removed from subdivision (a) and placed in separate subdivisions, one dealing with parties (subdivision (b)) and one dealing with nonparties (subdivision (d)).

Rule 8017(a)(5) is amended to directly impose a word limit on amicus briefs, replacing the provision that establishes length limits for amicus briefs as a fraction of the length limits for parties. This results in removing the option to rely on a page count rather than a word count. This change enables Rule 8017(a)(4)(H) (formerly 8017(a)(4)(F)) to be simplified and require a certification of compliance under Rule 8015(h) in all amicus briefs.

Subdivision (b). Subdivision (b) dealing with disclosure of the relationship between the amicus and a party is new, but it draws on existing Rule 8017(a)(4)(D). Because of the important interest in knowing whether a party has significant influence or control of an amicus, these disclosures are more far reaching than those involving nonparties, which are addressed in (d).

Rule 8017(b)(1)(A) carries forward the existing requirement that authorship of an amicus brief by a party or its counsel must be disclosed.

Rule 8017(b)(1)(B) carries forward the existing requirement that money contributed by a party or party's counsel that was intended to fund the preparation or submission of the brief must be disclosed. But in an effort to counteract the possibility of an amicus interpreting the existing rule narrowly, the amendment explicitly refers to "preparing, drafting, or submitting the brief," thereby making clear that it applies to every stage of the process.

Subdivision (b)(1)(C) is new. It requires disclosure of whether a party, its counsel, or any combination of parties or counsel either has a majority ownership interest in or majority control of an amicus. If a party has such control over an amicus, it is in a position to control the content of an amicus brief. If undisclosed, the court and the public may be misled about the independence of an amicus from a party, and a party may be able to effectively exceed the limitations otherwise imposed on parties.

Subdivision (b)(2) requires that any disclosure required by subdivision (b)(1) name the party or counsel. This builds upon the requirement in current Rule 8017(a)(4)(D)(iii) that certain persons who make earmarked contributions be identified.

Subdivision (c). Subdivision (c) is new. It operates as a backstop to the disclosure requirements of (b): If the amicus fails to make a required disclosure, and the party or counsel knows it, the party or counsel must make the disclosure.

Subdivision (d). Subdivision (d) focuses on the relationship between the amicus and a nonparty. It makes several changes to the existing Rule 8017(a)(4)(D)(iii), which currently requires the disclosure of any contribution earmarked for a brief, no matter how small, by anyone other than the amicus itself, its members, or its counsel. Earmarked contributions run the risk that the amicus is being used as a paid mouthpiece by the contributor. Knowing about earmarked contributions helps courts and the public evaluate the arguments and information in the amicus brief by providing information about possible reasons for the filing other than those explained by the amicus itself. The amendment protects members from disclosure. But subdivision (a)(4)(F) requires an amicus that has existed for less than 12 months to disclose the date of its creation. This requirement works in conjunction with the expanded disclosure requirement of subdivision (a)(4)(E) to reveal an amicus that may have been created for purposes of particular litigation or is less established and broadly-based than its name might suggest. Unless adequately explained, a court and the public might choose to discount the views of such an amicus.

The amendment also provides a $100 threshold for the disclosure requirement. Under the existing rule, a non-member of an amicus who contributes any amount, no matter how small, that is earmarked for a particular brief must be disclosed. This can hamper crowdfunding of amicus briefs while providing little useful information to the courts or the public. Contributions of $100 or less are unlikely to run the risk that an amicus is being used as a mouthpiece for others.

Subdivision (e). Subdivision (e) retains most of the content of existing subdivision (b) and governs amicus briefs at the rehearing stage. It is revised to largely incorporate by reference the provision applicable to amicus briefs at the initial consideration of the case. Rule 8017(e)(1) makes subdivisions (a) through (d) applicable, except as provided in the rest of subdivision (e) or if a local rule or order in a particular case provides otherwise. As a result, duplicative provisions are eliminated.

Rule 8015. Form and Lenth of Briefs; Form of Appendices and Other Papers.

***

(h) Certificate of Compliance.

(1) Briefs and Documents That Require a Certificate. A brief submitted under Rule 8015(a)(7)(B), 8016(d)(2), 8017(a)(5), or 8017(e)(3)—and a document submitted under Rule 8013(f)(3)(A), 8013(f)(3)(C), or 8022(b)(1)—must include a certificate by the attorney, or an unrepresented party, that the document complies with the type-volume limitation.

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Committee Note

The reference to Rule 8017(b)(4) in Rule 8015(h)(1) is replaced with references to Rule 8017(a)(5) and Rule 8017(e)(3) to reflect the amendments to Rule 8017 being made concurrently with these amendments.

Appendix:
Length Limits Stated in Part VIII of the
Federal Rules of Bankruptcy Procedure

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	Rule	Document Type	Word Limit	Page Limit	Line Limit

***

Amicus briefs	8017(a)(5)	• Amicus brief during initial consideration on the merits	6,500	Not applicable	Not applicable
	8017(e)(3)	• Amicus brief during consideration of whether to grant rehearing	2,600	Not applicable	Not applicable

***

The Subcommittee recommends that the Advisory Committee approve the proposed amendments and submit them to the Standing Committee for publication.

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

Rule 8015. Form and Lenth of Briefs; Form of Appendices and Other Papers

* * * * *

(h) Certificate of Compliance.

(1) ***Briefs and Documents That Require a Certificate.*** A brief submitted under Rule 8015(a)(7)(B), 8016(d)(2), ~~or~~ ~~8017(b)(4)~~ 8017(a)(5), or 8017(e)(3)—and a document submitted under Rule 8013(f)(3)(A), 8013(f)(3)(C), or 8022(b)(1)—must include a certificate by the attorney, or an unrepresented party, that the document complies with the type-volume limitation.

* * * * *

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

Committee Note

The reference to Rule 8017(b)(4) in Rule 8015(h)(1) is replaced with references to Rule 8017(a)(5) and Rule 8017(e)(3) to reflect the amendments to Rule 8017 being made concurrently with these amendments.

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

Rule 8017. Brief of an Amicus Curiae

(a) During Initial Consideration of a Case on the Merits.

(1) ***Applicability.*** This subdivision (a) governs amicus curiae filings during a court's initial consideration of a case on the merits.

(2) ***Purpose; When Permitted.*** An amicus brief that brings to the court's attention relevant matter not already brought to its attention by the parties may help the court. An amicus brief that does not serve this purpose burdens the court, and its filing is disfavored. The United States, its officer or agency, or a state may file an amicus brief without the consent

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

of the parties or leave of court. Any other amicus curiae may file a brief only by leave of court or if the brief states that all parties have consented to its filing.~~, but a~~ The district court or BAP may prohibit ~~the filing of~~ or ~~may~~ strike an amicus brief that would result in a judge's disqualification. On its own motion, and with notice to all parties to an appeal, the district court or BAP may request a brief by an amicus curiae.

(3) ***Motion for Leave to File.*** A motion for leave to file must be accompanied by the proposed brief and state:

(A) the movant's interest; and

(B) the reason ~~why an amicus~~ the brief ~~is desirable and why the matters asserted are relevant to the disposition~~

~~of the appeal~~ serves the purpose set forth in (a)(2).

(4) ***Contents and Form.*** An amicus brief must comply with Rule 8015. ~~In addition, t~~The cover must ~~identify~~ name the party or parties supported and indicate whether the brief supports affirmance or reversal. ~~If an amicus curiae is a corporation, the brief must include a disclosure statement like that required of parties by Rule 8012. An amicus~~ The brief need not comply with Rule 8014, but it must include the following:

(A) if the amicus is a corporation, a disclosure statement like that required of parties by Rule 8012;

(B) unless the amicus is the United States, its officer or agency, or a state, the

disclosure statement required by (b) and (d);

(C) a table of contents, with page references;

(~~B~~D) a table of authorities—cases (alphabetically arranged), statutes, and other authorities, ~~with references to~~ together with the pages ~~of the brief~~ where they are cited;

(~~C~~E) a concise ~~statement~~ description of the identity, history, experience, and interests of the amicus ~~curiae~~, ~~its interest in the case, and the source of its authority to file~~ together with an explanation of how the brief and the perspective of the amicus will help the court;

(~~D~~F) if an amicus has existed for less than 12 months, the date the amicus was created; ~~unless the amicus curiae is one listed in the first sentence of subdivision (a)(2), a statement that indicates whether:~~

~~(i) a party's counsel authored the brief in whole or in part;~~

~~(ii) a party or a party's counsel contributed money that was intended to fund preparing or submitting the brief; and~~

~~(iii) a person other than the amicus curiae, its members, or its counsel contributed money that was intended to fund preparing or submitting~~

~~the brief and, if so, identifies each such person;~~

(~~E~~G) an argument, which may be preceded by a summary ~~and~~ but need not include a statement of the applicable standard of review; and

(~~F~~H) a certificate of compliance~~, if required by~~ under Rule 8015(h).

(5) ***Length.*** Except ~~by~~ with the district court's or BAP's permission, an amicus brief must ~~be no more than one-half the maximum length authorized by these rules for a party's principal brief~~ not exceed 6,500 words. ~~If the court grants a party permission to file a longer brief, that extension does not affect the length of an amicus brief.~~

(6) ***Time for Filing.*** An amicus ~~curiae~~ must file its brief ~~, accompanied by a motion for leave~~

~~to file when required~~ -- within 7 days after the principal brief of the party being supported is filed. An amicus ~~curiae~~ that does not support either party must file its brief no later than 7 days after the appellant's principal brief is filed. The district court or BAP may grant leave for later filing, specifying the time within which an opposing party may answer.

(7) ***Reply Brief.*** ~~Except by the district court's or BAP's permission, an~~An amicus ~~curiae~~ may not file a reply brief except with the district court's or BAP's permission.

(8) ***Oral Argument.*** An amicus ~~curiae~~ may participate in oral argument only with the district court's or BAP's permission.

(b) Disclosing a Relationship Between an Amicus and a Party. An amicus brief must:

(1) disclose whether:

(A) a party or its counsel authored the brief in whole or in part;

(B) a party or its counsel contributed or pledged to contribute money intended to pay for preparing, drafting, or submitting the brief; and

(C) a party, its counsel, or any combination of parties, their counsel, or both has a majority ownership interest in or majority control of a legal entity submitting the brief; and

(2) if so, name the party or counsel.

(c) Disclosure by the Party or Counsel. If the party or counsel knows that an amicus has failed to make the disclosure required by (b), the party or counsel must do so.

(d) Disclosing a Relationship Between an Amicus and a Nonparty. An amicus brief must disclose whether

any person contributed or pledged to contribute more than $100 intended to pay for preparing, drafting, or submitting the brief and, if so, must name each such person. But disclosure is not required if the person is:

- the amicus;
- its counsel; or
- a member of the amicus.

(b~~e~~) During Consideration of Whether to Grant Rehearing.

(1) ***Applicability.*** ~~This subdivision~~ Subdivisions (b~~a~~)-(d) govern~~s~~ amicus ~~filings~~ briefs filed during a district court's or BAP's consideration of whether to grant rehearing, except as provided in this subdivision (e), and unless a local rule or order in a case provides otherwise.

(2) ***When Permitted.*** The United States, its officer or agency, or a state may file an

amicus brief without the parties' consent or leave of court. Any other amicus curiae may file a brief only by leave of court. The motion for leave must comply with (a)(3).

(3) ~~***Motion for Leave to File.*** Rule 8017(a)(3) applies to motion for leave.~~

(~~4~~) ~~***Contents, Forms, and Length.*** Rule 8017(a)(4) applies to the amicus brief. The~~ An amicus brief must ~~include a certificate under Rule 8015(h) and~~ not exceed 2,600 words.

(~~5~~4) ***Time for Filing.*** An amicus ~~curiae~~ supporting a motion for rehearing or supporting neither party must file its brief~~—~~, accompanied by a motion for filing when required~~—~~, ~~within~~ no later than 7 days after the motion is filed. An amicus ~~curiae~~ opposing the motion for rehearing must file

its brief—, accompanied by a motion for filing when necessary—, no later than the date set by the court for ~~the~~ a response.

Committee Note

The amendments to Rule 8017 are conforming to the 2026 amendments to Fed. R. App. P. 29. The amendments make changes to the procedure for filing amicus briefs, including to the disclosure requirements. The amendments seek primarily to provide the courts and the public with more information about an amicus curiae.

Careful attention to the various interests and the need to avoid unjustified burdens is reflected throughout these amendments. For example, the amendment treats disclosures about the relationship between a party and an amicus differently than disclosures about the relationship between a nonparty and an amicus. While the public interest in knowing about an amicus—in order to evaluate its arguments and a court's consideration of those arguments—is relevant in both situations, there is an additional interest in disclosing the relationship between a party and an amicus: the court's interest in evaluating whether an amicus is serving as a mouthpiece for a party, thereby evading limits imposed on parties in our adversary system and misleading the court about the independence of an amicus. Moreover, the burden on an amicus of disclosing a relationship with a party is much lower than having to disclose a relationship with nonparties. Disclosing a relationship with a party requires an amicus to check its records (and perhaps make a disclosure) regarding only the limited number of persons who are parties to the case. Disclosing a relationship with a nonparty would, by contrast, require an amicus to check its

records (and perhaps make a disclosure) regarding the much larger universe of all persons who are not parties to the case.

To take another example, the amendment treats contributions by a nonparty that are earmarked for a particular brief differently than general contributions by a nonparty to an amicus. People may make contributions to organizations for a host of reasons, including reasons that have nothing to do with filing amicus briefs. Requiring the disclosure of non-earmarked contributions provides less useful information for those who seek to evaluate a brief and imposes far greater burdens on contributors.

Subdivision (a). The amendment to Rule 8017(a)(2) adds a statement of the purpose of an amicus brief: to bring to the court's attention relevant matter not already brought to its attention by the parties that may help the court. By contrast, if an amicus curiae brief adds nothing to the parties' briefs, it is a burden rather than a help. Where feasible, avoiding redundancy among amicus briefs can also be helpful.

The amendment to Rule 8017(a)(4) expands the required statement regarding the identity of an amicus and its interest in the case and requires "a concise description of the identity, history, experience, and interests of the amicus, together with an explanation of how the brief and the perspective of the amicus will help the court." The amendment calls for this broader disclosure to help the court and the public evaluate the likely reliability and helpfulness of an amicus, particularly those with anodyne or potentially misleading names. It also requires that the amicus explain how the brief and the perspective of the amicus will further the goal of helping the court. Rule 8017(a)(4)(F) is new. It requires an amicus that has existed for less than 12 months to state the date of its creation, helping identify amici that

may have been created for the purpose of this litigation. Subsequent provisions are re-lettered.

Existing disclosure requirements about the relationship between the amicus and both parties and nonparties are removed from subdivision (a) and placed in separate subdivisions, one dealing with parties (subdivision (b)) and one dealing with nonparties (subdivision (d)).

Rule 8017(a)(5) is amended to directly impose a word limit on amicus briefs, replacing the provision that establishes length limits for amicus briefs as a fraction of the length limits for parties. This results in removing the option to rely on a page count rather than a word count. This change enables Rule 8017(a)(4)(H) (formerly 8017(a)(4)(F)) to be simplified and require a certification of compliance under Rule 8015(h) in all amicus briefs.

Subdivision (b). Subdivision (b) dealing with disclosure of the relationship between the amicus and a party is new, but it draws on existing Rule 8017(a)(4)(D). Because of the important interest in knowing whether a party has significant influence or control of an amicus, these disclosures are more far reaching than those involving nonparties, which are addressed in (d).

Rule 8017(b)(1)(A) carries forward the existing requirement that authorship of an amicus brief by a party or its counsel must be disclosed.

Rule 8017(b)(1)(B) carries forward the existing requirement that money contributed by a party or party's counsel that was intended to fund the preparation or submission of the brief must be disclosed. But in an effort to counteract the possibility of an amicus interpreting the existing rule narrowly, the amendment explicitly refers to

"preparing, drafting, or submitting the brief," thereby making clear that it applies to every stage of the process.

Subdivision (b)(1)(C) is new. It requires disclosure of whether a party, its counsel, or any combination of parties or counsel either has a majority ownership interest in or majority control of an amicus. If a party has such control over an amicus, it is in a position to control the content of an amicus brief. If undisclosed, the court and the public may be misled about the independence of an amicus from a party, and a party may be able to effectively exceed the limitations otherwise imposed on parties.

Subdivision (b)(2) requires that any disclosure required by subdivision (b)(1) name the party or counsel. This builds upon the requirement in current Rule 8017(a)(4)(D)(iii) that certain persons who make earmarked contributions be identified.

Subdivision (c). Subdivision (c) is new. It operates as a backstop to the disclosure requirements of (b): If the amicus fails to make a required disclosure, and the party or counsel knows it, the party or counsel must make the disclosure.

Subdivision (d). Subdivision (d) focuses on the relationship between the amicus and a nonparty. It makes several changes to the existing Rule 8017(a)(4)(D)(iii), which currently requires the disclosure of any contribution earmarked for a brief, no matter how small, by anyone other than the amicus itself, its members, or its counsel. Earmarked contributions run the risk that the amicus is being used as a paid mouthpiece by the contributor. Knowing about earmarked contributions helps courts and the public evaluate the arguments and information in the amicus brief by providing information about possible reasons for the filing other than those explained by the amicus itself. The

amendment protects members from disclosure. But subdivision (a)(4)(F) requires an amicus that has existed for less than 12 months to disclose the date of its creation. This requirement works in conjunction with the expanded disclosure requirement of subdivision (a)(4)(E) to reveal an amicus that may have been created for purposes of particular litigation or is less established and broadly-based than its name might suggest. Unless adequately explained, a court and the public might choose to discount the views of such an amicus.

The amendment also provides a $100 threshold for the disclosure requirement. Under the existing rule, a non-member of an amicus who contributes any amount, no matter how small, that is earmarked for a particular brief must be disclosed. This can hamper crowdfunding of amicus briefs while providing little useful information to the courts or the public. Contributions of $100 or less are unlikely to run the risk that an amicus is being used as a mouthpiece for others.

Subdivision (e). Subdivision (e) retains most of the content of existing subdivision (b) and governs amicus briefs at the rehearing stage. It is revised to largely incorporate by reference the provision applicable to amicus briefs at the initial consideration of the case. Rule 8017(e)(1) makes subdivisions (a) through (d) applicable, except as provided in the rest of subdivision (e) or if a local rule or order in a particular case provides otherwise. As a result, duplicative provisions are eliminated.

Appendix:
Length Limits Stated in Part VIII of the
Federal Rules of Bankruptcy Procedure[1]

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	Rule	Document Type	Word Limit	Page Limit	Line Limit

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Amicus briefs	8017(a)(5)	• Amicus brief during initial consideration ~~of case~~ on the merits	~~One-half the length set by the Part VIII Rules for a party's principal brief~~ 6,500	~~One-half the length set by the Part VIII Rules for a party's principal brief~~ Not applicable	~~One-half the length set by the Part VIII Rules for a party's principal brief~~ Not applicable
	~~8017(b)(4)~~8017(e)(3)	• Amicus brief during consideration of whether to grant rehearing	2,600	Not applicable	Not applicable

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