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

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.

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.

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.

(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.

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

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.

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.

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*.)

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.

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.

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.

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;

(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.