

SUMMARY OF THE
REPORT OF THE JUDICIAL CONFERENCE
COMMITTEE ON RULES OF PRACTICE AND PROCEDURE

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

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- Federal Rules of Bankruptcy Procedure pp. 3-4
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- Federal Rules of Criminal Procedure..... pp. 5-6
- Federal Rules of Evidence pp. 7-8
- Judiciary Strategic Planning pp. 7-8

NOTICE

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

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 (Committee or Standing Committee) met on January 7, 2025. New member Judge Joan N. Ericksen was unable to participate.

Representing the advisory committees were Judge Allison H. Eid (10th Cir.), Chair, and Professor Edward Hartnett, Reporter, Advisory Committee on Appellate Rules; Judge Rebecca Buehler Connelly, chair, Professor S. Elizabeth Gibson, Reporter, and Professor Laura B. Bartell, Associate Reporter, Advisory Committee on Bankruptcy Rules; Judge Robin L. Rosenberg, Chair, Professor Richard L. Marcus, Reporter, Professor Andrew Bradt, Associate Reporter, and Professor Edward Cooper, consultant, Advisory Committee on Civil Rules; Judge James C. Dever III, Chair, Professor Sara Sun Beale, Reporter, and Professor Nancy J. King, Associate Reporter, Advisory Committee on Criminal Rules; and Judge Jesse M. Furman, Chair and Professor Daniel Capra, Reporter, Advisory Committee on Evidence Rules.

Also participating in the meeting were Professor Catherine T. Struve, the Standing Committee's Reporter; Professor Daniel R. Coquillette, Professor Bryan A. Garner, and Professor Joseph Kimble, consultants to the Standing Committee; H. Thomas Byron III, the Standing Committee's Secretary; Bridget M. Healy and Scott Myers, Rules Committee Staff Counsel; Kyle Brinker, Law Clerk to the Standing Committee; John S. Cooke, Director, and Dr. Tim Reagan, Senior Research Associate, Federal Judicial Center; and Elizabeth J. Shapiro,

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Deputy Director, Federal Programs Branch, Civil Division, Department of Justice, on behalf of Deputy Attorney General Lisa O. Monaco.

In addition to its general business, including a review of the status of pending rule amendments in different stages of the Rules Enabling Act process, the Standing Committee received and responded to reports from the five advisory committees. The Committee also received updates on joint committee business that involve ongoing and coordinated efforts in response to suggestions on: (1) expanding access to electronic filing by self-represented litigants, (2) adopting nationwide rules governing admission to practice before the U.S. district courts, and (3) requiring complete redaction of Social Security numbers (SSNs).

FEDERAL RULES OF APPELLATE PROCEDURE

Information Items

The Advisory Committee on Appellate Rules met on October 9, 2024. The Advisory Committee is considering several issues, including possible amendments to Rule 15 (Review or Enforcement of an Agency Order—How Obtained; Intervention) to address the “incurably premature” doctrine regarding review of agency action, Rule 4 (Appeal as of Right—When Taken) concerning reopening of the time to take a civil appeal, and Rule 8 (Stay or Injunction Pending Appeal) to address the purpose and length of administrative stays, and suggestions for a new rule governing intervention on appeal. The Advisory Committee removed from its agenda suggestions regarding standards of review, use of capital letters and diacritical marks in case captions, incorporation of widely adopted local rules into the national rules, and standardizing page equivalents for word limits. The Advisory Committee will hold a February 2025 hearing on its two proposals that are out for public comment; one proposal concerns Rule 29’s amicus brief requirements and the other concerns the information required on Form 4 for seeking in forma pauperis status.

FEDERAL RULES OF BANKRUPTCY PROCEDURE

Rules and Form Approved for Publication and Comment

The Advisory Committee on Bankruptcy Rules submitted proposed amendments to Rule 2002 (Notices) and Official Form 101 (Voluntary Petition for Individuals Filing for Bankruptcy) with a recommendation that they be published for public comment in August 2025. The Standing Committee unanimously approved the Advisory Committee's recommendation.

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 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. Notably, most Rule 2002 notices would no longer be required to include the last four digits of the debtor's SSN or individual taxpayer identification number.

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

Question 4 in Part 1 of Official Form 101 would be amended to clarify 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. The modification will guide debtors to avoid the error of providing their employer's EIN. Because multiple debtors could 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.

Information Items

The Advisory Committee on Bankruptcy Rules met on September 12, 2024. In addition to the recommendation discussed above, the Advisory Committee considered suggestions for an amendment to allow appointment of masters in bankruptcy cases and proceedings and for a new rule concerning random assignment of mega bankruptcy cases within a district, which the

Advisory Committee will revisit after the Committee on the Administration of the Bankruptcy System has concluded its consideration of potential related policy (*see* Report of the Committee on the Administration of the Bankruptcy System, at Agenda E-3). The Advisory Committee removed from its agenda a suggestion to add language concerning the possibility of unclaimed funds to the forms for orders of discharge in cases under chapters 7 and 13. After careful study of a suggestion to require complete redaction of SSNs (rather than redaction of all but the last four digits, as currently required by the national rules), and after considering bankruptcy stakeholders' expressed need for the last four digits of the SSN, the Advisory Committee decided to take no action on the suggestion at this time; however, the Advisory Committee will continue to monitor discussions of this suggestion in the other advisory committees.

FEDERAL RULES OF CIVIL PROCEDURE

Rule Approved for Publication and Comment

The Advisory Committee on Civil Rules submitted proposed amendments to Rule 81 (Applicability of the Rules in General; Removed Actions) and Rule 41 (Dismissal of Actions) with a recommendation that they be published for public comment in August 2025. The Standing Committee unanimously approved the Advisory Committee's recommendation concerning Rule 81 (with a stylistic change) and offered feedback on the language of the proposed amendment to Rule 41. The Advisory Committee will bring the Rule 41 proposal back for approval at the Standing Committee's June 2025 meeting.

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, and the Rule 41 proposal would clarify that Rule 41(a) is not limited to authorizing dismissal only of an entire action but also permits the dismissal of one or more claims in a multi-

claim case and that a stipulation of dismissal must be signed by only all parties who have appeared and remain in the action.

Information Items

The Advisory Committee on Civil Rules met on October 10, 2024. In addition to the recommendations discussed above, the Advisory Committee continued to discuss proposals to amend Rule 45 (Subpoena) regarding the manner of service of subpoenas and the tendering of witness fees at time of service. The Advisory Committee is also studying possible amendments concerning remote testimony; one possible amendment to Rule 45 would clarify the court's subpoena authority with respect to remote trial testimony, while a different possible amendment to Rule 43 (Taking Testimony) would relax the standards governing permission for remote trial testimony. The Advisory Committee heard updates from its subcommittee on Rule 7.1 (Disclosure Statement). The Advisory Committee also continues to study suggestions on Rule 55 (Default; Default Judgment), cross-border discovery, and the use of the term "master" in the Civil Rules, and has commenced a renewed study of the topic of third-party litigation funding. On the random assignment of cases, the Advisory Committee noted the Judicial Conference's March 2024 adoption of policy on this topic (JCUS-MAR 2024, p. 8) and will continue to study the districts' response to this policy.

FEDERAL RULES OF CRIMINAL PROCEDURE

Information Items

The Advisory Committee on Criminal Rules met on November 6-7, 2024. The Advisory Committee continued to discuss a proposal to expand the availability of pretrial subpoenas under Rule 17 (Subpoena) and heard the views of 12 invited speakers who provided comments on a possible draft amendment. In addition, the Advisory Committee established two new subcommittees to consider proposals for amendments to clarify Rule 40 (Arrest for Failing to

Appear in Another District or for Violating Conditions of Release Set in Another District) and for amendments to Rule 43 (Defendant's Presence) to extend the district courts' authority to use videoconferencing with the defendant's consent.

The Advisory Committee is actively considering proposals to amend Rule 49.1 (Privacy Protection for Filings Made with the Court) to protect minors' privacy by requiring the use of pseudonyms and to require complete redaction of SSNs (rather than redaction of all but the last four digits).

The Advisory Committee decided to remove from its agenda a proposal to amend Rule 53 (Courtroom Photographing and Broadcasting Prohibited) to allow broadcasting of criminal proceedings under some circumstances and a proposal to revise the procedures for contempt proceedings under Rule 42 (Criminal Contempt).

FEDERAL RULES OF EVIDENCE

Information Items

The Advisory Committee on Evidence Rules met on November 8, 2024. The Advisory Committee discussed possible amendments relating to the admissibility of evidence generated by artificial intelligence. The discussion focused on two areas: the admissibility of machine-learning evidence offered without the accompanying testimony of an expert, and challenges to the admissibility of asserted "deepfakes" (that is, fake audio and/or visual recordings created through the use of artificial intelligence). To address the first topic, the Advisory Committee is developing a proposed new Rule 707 that would apply to machine-generated evidence standards akin to those in Rule 702 (Testimony by Expert Witnesses); the Advisory Committee will recommend to the Civil and Criminal Rules Committees that they consider any associated issues concerning disclosures relating to machine-learning evidence. The Committee is not currently intending to bring forward for

publication a proposal addressing the second topic (deepfakes) but will work on a possible amendment to Rule 901 (Authenticating or Identifying Evidence) that could be brought forward in the event that developments warrant rulemaking on the topic.

The Advisory Committee is considering a possible amendment to Rule 609 (Impeachment by Evidence of a Criminal Conviction) to tighten the standard for admission in criminal cases of evidence of a defendant's prior felony conviction. It has also begun to study a proposal to amend Rule 902 (Evidence That Is Self-Authenticating) to add federally recognized Indian tribes to Rule 902(1)'s list of governments the public documents of which are self-authenticating.


The Advisory Committee decided to remove from its agenda a proposal to amend Rule 702 (Testimony by Expert Witnesses) regarding peer review and a suggestion regarding a possible amendment or new rule to address allegations of prior false accusations of sexual misconduct. In addition, the Advisory Committee decided to table a suggestion for a proposed amendment to Rule 404 (Character Evidence, Other Crimes, Wrongs, or Acts) concerning evidence of other crimes, wrongs, or acts the relevance of which depends upon inferences about propensity. Finally, the Advisory Committee determined that the decisions in *Smith v. Arizona*, 602 U.S. 779 (2024), and *Diaz v. United States*, 602 U.S. 526 (2024), do not currently require any amendments to Rule 703 (Bases of an Expert's Opinion Testimony) or Rule 704 (Opinion on an Ultimate Issue), but it will monitor the lower court caselaw applying those decisions.

JUDICIARY STRATEGIC PLANNING

The Committee was asked by Chief Judge Michael A. Chagares (3d Cir.), the judiciary's planning coordinator, to identify any changes it believes should be considered in updating the *Strategic Plan for the Federal Judiciary* in 2025. Recommendations on behalf of the Committee

regarding the judicial workforce and preserving public trust in the judiciary were communicated to Chief Judge Chagares by letter dated January 15, 2025.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "John D. Bates", with a stylized flourish at the end.

John D. Bates, Chair

Paul J. Barbadoro	Patricia Ann Millett
Elizabeth J. Cabraser	Lisa O. Monaco
Louis A. Chaiten	Andrew J. Pincus
Joan N. Ericksen	D. Brooks Smith
Stephen A. Higginson	Kosta Stojilkovic
Edward M. Mansfield	Jennifer G. Zipps
Troy A. McKenzie	