

PRELIMINARY DRAFT

Proposed Amendments to the Federal Rules of Appellate, Bankruptcy, Civil, and Criminal Procedure, and the Federal Rules of Evidence

Request for Comments on Amendments to:

Appellate Rule	25
Bankruptcy Rules	2003, 5005, 8011, 9006, 9036, and 9037
Civil Rules	5, 5.2, 6, and 55
Criminal Rules	11, 32, 45, 49, and 49.1
Evidence Rules	104 and 902

**Written Comments Due By
February 15, 2027**

Prepared by the
Committee on Rules of Practice and Procedure
Judicial Conference of the United States
August 2026

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OF THE
JUDICIAL CONFERENCE OF THE UNITED STATES
WASHINGTON, D.C. 20544

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MEMORANDUM

TO: The Bench, Bar, and Public

FROM: Honorable James C. Dever III, Chair
Committee on Rules of Practice and Procedure

DATE: August 14, 2026

RE: Request for Comments on Proposed Amendments to Federal Rules and Forms

The Advisory Committees of the Judicial Conference Committee on Rules of Practice and Procedure have published proposed amendments to the federal rules of practice and procedure and are seeking public feedback. The proposed amendments to Appellate Rule 25, Bankruptcy Rules 5005, 8011, 9006, 9036, Civil Rules 5 and 6, and Criminal Rules 45 and 49 relate to the ability of self-represented litigants to use a federal court's electronic filing system to file and serve documents. The proposed amendments to Bankruptcy Rule 9037, Civil Rule 5.2, and Criminal Rule 49.1 relate to enhanced protection of taxpayer identification numbers and minors' names in public court filings. Other proposed amendments include: Bankruptcy Rule 2003 (relating to meetings of creditors); Civil Rule 55 (relating to the clerk's entry of default); Criminal Rules 11 and 32 (relating to pleas and sentencing); Evidence Rule 104 (relating to deciding preliminary issues of fact); and Evidence Rule 902(1) (relating to self-authentication of public records of federally recognized Indian tribes). The text of the proposed rule amendments and supporting materials are posted on the Judiciary's website at: <https://www.uscourts.gov/forms-rules/proposed-amendments-published-public-comment>.

Opportunity to Submit Written Comments

Individuals who wish to submit written comments regarding one or more of the proposed amendments must file their comments no later than **February 15, 2027** through the *Federal eRulemaking Portal*, <https://www.regulations.gov/>. Written comments must clearly identify the proposed amendment or amendments that are the subject of the comments. Please note that all written comments on proposed rule amendments are part of the official record and will be made publicly available.

Opportunity to Testify at Public Hearings

Individuals who wish to present oral testimony regarding one or more of the proposed rule amendments must submit a request to testify to the Administrative Office of the United States Courts, Rules Committee Staff, by email to RulesCommittee_Secretary@ao.uscourts.gov. Requests to testify must be received **no later than Tuesday, December 8, 2026, regardless of the hearing date**.

If requests to testify are received, the Advisory Committees will conduct virtual public hearings on the proposed rule amendments on the following dates:

- Appellate Rules: January 25, 2027; additional day on February 1, 2027, if needed.
- Bankruptcy Rules: January 8, 2027; additional day on February 9, 2027, if needed.
- Civil Rules: January 13, 2027; additional day on January 26, 2027, if needed.
- Criminal Rules: January 20, 2027; additional day on January 27, 2027, if needed.
- Evidence Rules: January 11, 2027; additional day on January 28, 2027, if needed.

Witnesses who request to testify by the deadline will receive a confirmation email with instructions on participating in the public hearing. Witnesses are strongly encouraged to submit a written summary of their proposed testimony by the deadline provided in the confirmation email (generally two weeks prior to the earliest of the two scheduled hearing dates for the relevant Advisory Committee). Providing such a summary alerts the Advisory Committee to the points that will be made and permits committee members to consider whether they have questions before the hearing. It also ensures that all the points the witness wants to make are in the record.

If no requests to testify as to a proposed amendment are received by the deadline, the scheduled hearing is subject to cancellation. In such case, the Advisory Committees will conduct their deliberations based upon the written comments.

Procedure After the Close of the Comment Period

After any public hearings are conducted and the public comment period closes on February 15, 2027, the written comments and oral testimony will be carefully considered by the relevant Advisory Committee. During this review, the Advisory Committee may make revisions to the published version of the proposed amendment to address the written comments, oral testimony, or other concerns raised by committee members during this review. At the conclusion of this review,

the Advisory Committee will either withdraw the proposed rule amendment or approve it, either as published or with revisions to the rule text or committee note.

Under the Rules Enabling Act, 28 U.S.C. §§ 2072-2077, upon approval of the proposed rule amendments by the relevant Advisory Committees, the next step is consideration by the Judicial Conference Committee on Rules of Practice and Procedure (the Standing Committee). The Standing Committee may approve the proposed amendment, reject it, or approve it with revisions to the rule text or committee note. If approved by the Standing Committee, the rule amendments are then approved by the Judicial Conference, transmitted to the United States Supreme Court for consideration and adoption, and if adopted by the Court, transmitted to Congress by May 1, 2028. Absent congressional action, the final rule amendments will take effect on December 1, 2028.

If you have questions about the rulemaking process or pending rule amendments, please contact the Rules Committee Staff at 202-502-1820 or visit <https://www.uscourts.gov/forms-rules>.

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OVERVIEW:

Proposals Relating to Electronic Filing and Service by Self-Represented Litigants

MEMORANDUM

DATE: May 11, 2026

TO: Standing Committee on Rules of Practice and Procedure

FROM: Catherine T. Struve

RE: Project on self-represented litigants' filing and service

I write to provide an overview of the package of proposed amendments relating to service and electronic filing by self-represented litigants. This package includes proposed amendments to Appellate Rule 25, Bankruptcy Rules 5005, 8011, 9006, and 9036, Civil Rules 5 and 6, and Criminal Rules 45 and 49. I enclose a chart showing how components of the package compare across the rule sets. I also enclose the proposed amendments.

As the Committee knows, this project focuses on two broad topics: (1) increases to electronic access to court by self-represented litigants (whether via the court's electronic-filing system or alternative means) and (2) service (of papers subsequent to the complaint) by self-represented litigants on those who will receive an electronic notice of filing ("notice of case activity") through the court's electronic-filing system or through a court-based electronic-noticing program.

As to service, the proposed amendments would eliminate the requirement of separate (paper) service (of documents after the complaint) on a litigant who receives a notice of case activity through the court's electronic-filing system or a court-based electronic-noticing program. As to filing, the proposed amendments would: (1) presumptively permit self-represented litigants to file electronically (unless a court order or local rule bars them from doing so) and (2) provide that a local rule or general court order that bars self-represented litigants 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.

A court could comply with the amended filing rule by doing either of the following: (1) allowing reasonable access for self-represented litigants to the court's electronic-filing system; or (2) not allowing self-represented litigants to access the court's electronic-filing system, but providing them with an alternative electronic means for filing (such as by email or upload) and an alternative electronic means for receiving notice of court filings and orders (such as an electronic noticing program). Under the amended filing rule, a court would need to adopt a local

rule or court order disallowing access to the court's electronic-filing system for self-represented litigants if it wanted to foreclose such access; the default would be access. The rule would permit a court to enter an order barring a particular litigant from using the court's electronic-filing system.

Part I of this memo recounts a brief history of the project, including efforts to coordinate the work across the four sets of rules in order to produce a consistent set of provisions. Part II highlights key features of the proposed amendments. Part III discusses the remaining variances across the four sets of proposed amendments, including (in Part III.C) one aspect of the proposed Note language that the Standing Committee may wish to consider standardizing across the rule sets.

I. Brief history of the project

The proposals discussed here grow out of a multi-year, cross-committee study of electronic court access for self-represented litigants and of the service consequences that flow from increasingly electronic court processes. That study began after Judge Bates, then Chair of the Standing Committee, convened a working group composed of reporters, Rules Office attorneys, and Federal Judicial Center researchers to consider pending suggestions relating to electronic filing by self-represented litigants. (The working group would later expand to include the relevant advisory committees' clerk representatives, who worked closely with us to provide real-world expertise and drafting help.) The group first met in December 2021. It was asked not only to consider possible rule amendments, but also to gather information about actual court practices, especially in light of developments after the 2018 electronic-filing amendments and the experience of courts during the COVID-19 pandemic. The 2018 amendments had adopted a general rule requiring represented parties to file electronically, while treating unrepresented litigants differently. Under the current national rules, self-represented litigants generally must file non-electronically unless authorized to file electronically by court order or local rule. The central policy question for the working group was whether developments since 2018 justified moving away from that default approach.

The suggestions that prompted renewed consideration shared a common concern: that the existing rules often left self-represented litigants with less timely, less convenient, and less equal access to the courts than represented litigants. A number of 2020 submissions urged that self-represented litigants be allowed to file electronically for reasons of fairness, safety, disability accommodation, and equal access. Several of those suggestions were spurred by pandemic conditions and stressed the burdens and health risks of requiring paper filing through the mail or in person, as well as the disadvantages self-represented litigants face when they must wait for paper orders while represented litigants receive immediate electronic notice.¹ John Hawkinson pointed to districts that categorically barred non-attorney pro se litigants from even seeking

1 See, e.g., Suggestion 20-CV-J (Dr. Usha Jain), available at <https://www.uscourts.gov/forms-rules/records-rules-committees/suggestions/usha-jain-20-cv-j>.

electronic-filing privileges and suggested that the rules should discourage such blanket bans, perhaps by indicating that leave should be freely given.² Sai advocated reversing the presumption against access and replacing it with nationwide presumptive permission for pro se use of CM/ECF, including for case-initiating filings; treating pro se status as presumptive good cause for nonelectronic filing; forbidding restrictions based solely on pro se or non-attorney status; permitting individualized prohibitions for good cause, such as vexatious conduct; and providing parity with attorney filers as to training and registration, without fees.³

From the beginning, committee discussions suggested that the problem was not unitary. The appellate courts appeared to be more receptive to self-represented electronic filing than district courts, and bankruptcy courts presented distinct concerns because of case-initiation effects, signature issues, and the availability of electronic self-representation systems. Meanwhile, another issue surfaced: when a self-represented litigant filed on paper or by another non-CM/ECF method and the clerk's office then uploaded the filing to CM/ECF, should the rules still require that litigant to make separate traditional service on parties who would receive a notice of electronic filing anyway?

The FJC's 2022 study of federal courts' electronic filing practices for pro se litigants provided the project's first broad empirical baseline.⁴ That study showed substantial variation across court types and districts. The courts of appeals were the most receptive to CM/ECF access for non-incarcerated self-represented litigants; district courts were much more mixed; and bankruptcy courts rarely gave self-represented debtors CM/ECF access, though a number used electronic self-representation systems. The study also confirmed that "electronic filing" could mean different things: full CM/ECF access, filing by email, and electronic upload portals.⁵

2 See Suggestion 20-CV-EE (John A. Hawkinson), available at <https://www.uscourts.gov/forms-rules/records-rules-committees/suggestions/john-hawkinson-20-cv-ee>.

3 See Suggestion 21-CV-J (Sai), available at <https://www.uscourts.gov/forms-rules/records-rules-committees/suggestions/sai-21-cv-j>.

4 See Tim Reagan, Carly Giffin, and Roy Germano, Federal Courts' Electronic Filing by Pro Se Litigants (FJC 2022), available at <https://www.fjc.gov/content/368499/federal-courts-electronic-filing-pro-se-litigants>.

An additional FJC study on filing times underscored one practical consequence of electronic access: because clerk's offices are open only during limited daytime hours, while electronic filing ordinarily remains available until midnight, represented litigants are often able to file after counter hours; indeed, the study found that nearly one third of district-court responses were filed after 5:00 p.m. See Tim Reagan et al., Electronic Filing Times in Federal Courts 4 (FJC 2022), available at <https://www.fjc.gov/content/365889/electronic-filing-times-federal-courts>.

5 An FJC study of local rules, published in 2025, confirmed that local practice in the district courts remains varied: "more than two thirds of the federal district courts permit self-represented litigants to use the court's electronic filing system at least on a case-by-case basis," while 29

The advisory committees' discussions in fall 2022 and early 2023 brought the project into sharper focus. Across the committees, members raised a number of concerns: the difficulty of case initiation in CM/ECF, the possibility of inappropriate filings, burdens on clerks' offices, training needs, cybersecurity, privacy and sealing issues, and the special problems posed by prisoner and bankruptcy litigation. At the same time, many participants emphasized the benefits of broader electronic access: fewer paper filings, reduced mailing burdens, more timely receipt of court orders and notices, and fewer disputes about what had been filed and when. The Bankruptcy Rules Committee showed substantial sympathy for the project's access-to-courts rationale but also voiced concerns about screening, signatures, and bankruptcy matters that featured multiple unrepresented litigants. In the Civil Rules Committee discussions, some skepticism was voiced about whether some aspects of the matter were better handled through technology and administration rather than rules. The Appellate Rules Committee appeared relatively open to broader access, reflecting existing appellate practice. And the Criminal Rules Committee, while seeing less urgency in expanding filing access because of the small number of nonincarcerated self-represented criminal litigants, showed real interest in the service issue because it could affect incarcerated litigants and § 2255 movants who otherwise would spend time and limited funds sending paper copies to recipients already receiving electronic notice.

To test the service issue and the practical consequences of broader access, Dr. Tim Reagan and I conducted follow-up interviews in spring 2023 with court personnel from districts that had eliminated redundant service requirements (some of which had also broadened electronic access).⁶ Interviewees from districts that exempted self-represented paper filers from separately serving CM/ECF participants reported that the practice worked well and imposed no additional burden on clerks' offices. The interviews also suggested that courts providing CM/ECF access or other electronic pathways to self-represented litigants generally viewed those programs positively, citing reduced paper handling, easier service of court orders, and creation of a reliable electronic record. Although questions remained about sealed filings, staffing, training, and the rare case involving multiple self-represented litigants, the interviews materially strengthened the case for a service amendment and narrowed the factual uncertainties surrounding increased access.

By 2023 and 2024, work focused on the two subjects now reflected in the current

districts "generally prohibit" such use; the study also found continued use in a number of courts of alternatives such as email filing, online portals, and electronic-noticing programs. See Tim Reagan, *United States District Courts' Local Rules and Procedures on Electronic Filing by Self-Represented Litigants 1* (FJC 2025), available at <https://www.fjc.gov/content/391989/united-states-district-courts-local-rules-and-procedures-electronic-filing-self>.

⁶ See September 18, 2023 memorandum concerning spring 2023 district-court interviews, included starting at page 264 of the Civil Rules Committee's fall 2023 agenda book, available at https://www.uscourts.gov/sites/default/files/2023-10_civil_rules_committee_meeting_agenda_book_11-6_final_0.pdf.

proposals. The first concerns filing: whether the rules should presumptively permit self-represented litigants to file electronically, subject to court order or local rule, and whether courts that generally bar use of the court's electronic-filing system should be required either to make reasonable exceptions or to provide another electronic means for filing and receiving notice. The second concerns service: whether the rules should eliminate the requirement that a self-represented litigant separately serve papers filed after the complaint on persons who will receive a notice of filing through the court's electronic-filing system or a court-based electronic-noticing program. In fall 2024, the committees reviewed a tentative sketch of a possible amendment to Civil Rule 5 that embodied those two policy choices.

The Bankruptcy Rules Committee's position changed significantly over the course of the project. Although bankruptcy participants were initially sympathetic to the project's access-to-courts rationale, by late 2024 and early 2025 the Committee appeared likely to decline participation because of concerns about case initiation, signatures and verification, burdens on clerk's offices, inappropriate filings, and the possibility of multiple self-represented participants who might not know whom they still had to serve by paper. In April 2025, however, rather than definitively opting out, the Committee referred the matter to its Technology, Privacy, and Public Access Subcommittee for further study. In summer 2025, that Subcommittee concluded that the Committee should join the project at least through publication, both to preserve consistency with the other rules sets and to obtain the benefit of public comment. The Committee voted in September 2025 to participate on that basis. At the same time, some Bankruptcy Rules Committee members continued to express reservations and indicated that they viewed publication as a way to gather further information; depending on the comments received, they might oppose final adoption after publication.

By early spring 2026 the working-group participants had fashioned the coordinated set of proposed amendments. Prior to the Advisory Committee meetings, the Style Consultants to the Standing Committee provided a thorough and helpful review of the package of proposed amendments.

II. Key features of the proposals

The proposed amendments address two related topics: electronic filing by self-represented litigants and service of papers after the complaint on persons who receive electronic notice through the court's filing system or a court-based electronic-noticing program. Across the affected rules, the proposals would move the national rules away from a presumption against electronic access for self-represented litigants and toward a presumption in favor of such access, while preserving courts' authority to impose reasonable limits. At the same time, the proposals would eliminate redundant paper service when the court's system will generate a notice of case activity to the recipient.

As to filing, the central change is that self-represented litigants would be presumptively allowed 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. Under the current rules, the default runs in the opposite direction: a self-represented litigant may file electronically only if a court order or local rule allows it. The proposed amendments would reverse that presumption in Appellate Rule 25, Bankruptcy Rules 5005 and 8011, Civil Rule 5, and Criminal Rule 49. In the Appellate, Bankruptcy, and Civil Rules, the proposals would retain the existing authority to require electronic filing by an unrepresented litigant by case-specific order or by local rule with reasonable exceptions. The Criminal Rules proposal differs slightly in wording because Criminal Rule 49 currently does not authorize requiring all self-represented parties to file electronically, but the proposal likewise would allow self-represented parties to use the system unless restricted by order or local rule.

The proposals do not create an unlimited right of electronic access. Each set of amendments would expressly authorize courts to impose reasonable conditions and restrictions on access. The Committee Notes give examples such as limiting access to nonincarcerated litigants, requiring training or certifications, restricting certain categories of filings, or denying or revoking access for a particular litigant. But the proposals would also place a new national limit on blanket local bans: a court could not bar all self-represented litigants from using the court's electronic-filing system unless the prohibition either includes reasonable exceptions or is paired with another electronic method for filing papers (such as email filing or an upload portal) and receiving notice (such as a court-based noticing program). In that respect, the proposals seek not only to expand access to CM/ECF itself, but also to ensure that courts maintaining more restrictive CM/ECF regimes still provide some meaningful electronic path for filing and notice.

As to service, the proposals 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. This change applies in Appellate Rule 25, Bankruptcy Rules 8011 and 9036, Civil Rule 5, and Criminal Rule 49. The basic idea is straightforward: when a self-represented litigant files a paper document or uses another non-CM/ECF method, court staff ordinarily upload that filing into the electronic docket. Once that occurs, the court's system generates an electronic notice to registered recipients. The proposals would treat that notice of case activity as service, so the filer need not also serve those same recipients separately on paper. This extends to self-represented non-electronic filers the same practical benefit already enjoyed when a registered user serves another registered user through the electronic-filing system.

The service provisions are also reorganized to reflect the modern primacy of service through the court's electronic system. In each rules set, service by a notice of case activity is addressed first, and the proposals add a common definition of "notice of case activity" broad enough to include "notice of electronic filing," "notice of docket activity," and similar future terminology. The proposals preserve other service methods as alternatives, including (variously) other consented-to electronic means, personal delivery, mail, and commercial carrier. This is important because a filer may still wish to serve by another permissible means before the clerk's office uploads a non-electronic filing and the system generates the notice.

The proposals also address when service by notice of case activity is complete. For purposes of deadlines to make service, service by the notice of case activity would be treated as complete on the date of filing. But for deadlines that run from the date of service, service by the notice of case activity would be treated as complete on the date of the notice of case activity. That distinction is meant to protect the recipient in the event there is a lag between the time the filing is received by the court and the time it is uploaded into the electronic system. The proposals likewise carry forward the current principle that electronic service is not effective if the filer learns that it did not reach the intended recipient. They also allow courts, by order or local rule, to require other means of service for sealed filings; the appellate proposal additionally allows a local requirement of other-means service for certain case-initiating proceedings in the court of appeals.

Finally, the package includes a few conforming amendments. Civil Rule 5 and Criminal Rule 49 are revised so that no certificate of service is required when service occurs through the court's electronic-filing system under the amended provisions. Civil Rule 6, Criminal Rule 45, and Bankruptcy Rule 9006 are amended to conform cross-references governing the extra three days added after certain kinds of service.

III. Remaining variances

The enclosed comparison chart shows the text of the proposed Rules across the different Rule sets. As is customary for joint committee projects, the participants strove to maintain parallel treatment across the four rule sets. As is also not unusual, there do remain some aspects of the proposals as to which the committees' approaches diverge. The remainder of this memo focuses on explaining those divergences.

A. Self-represented litigant ("SRL") provisions generally: "unrepresented" versus "self-represented"

The Bankruptcy, Civil, and Appellate Rules proposals use the term "unrepresented" to describe self-represented litigants, whereas the Criminal Rule uses "self-represented." Though the latter term is preferred by many project participants, implementing that preference is not practicable in the Bankruptcy, Civil, and Appellate Rules because too many existing rules in those sets would have to be amended correspondingly.

This difference seems warranted by differences between the rules sets (that is, that the current Criminal Rules use the term "unrepresented" only in Rule 49). Notably, the proposed amendments to Criminal Rule 17 presented for final approval in this agenda book use the term "self-represented."

This variance seems justified.

B. SRL e-filing: Self-represented “parties” or self-represented “individuals”

Three of the four rule sets would extend the new e-filing default approach only to self-represented “parties,” but the Bankruptcy Rules proposal would extend it to self-represented “individuals.” The reason for the difference has to do with concerns that may balance out differently in the bankruptcy context.

The current rules vary in the term that they use to denote an unrepresented filer. Criminal Rule 49 says “party,” Appellate Rule 25 and Civil Rule 5 say “person,” and the Bankruptcy Rules say “individual.” (Terminology in the Bankruptcy Rules is affected by the definitions in the Bankruptcy Code.)

The self-represented litigant e-filing provisions proposed for the Civil, Criminal, and Appellate Rules refer to access for unrepresented “*parties*.” This is a shift from the current Civil and Appellate Rules (which refer to an unrepresented “person”), though it carries forward current Criminal Rule 49’s reference to a self-represented “party.” The reason for the shift is that the amended provision flips the default presumption from one of non-access to one of access to the court’s electronic-filing system. Once the presumption is inverted to say that self-represented litigants may e-file *unless* barred by order or local rule, it seems advisable to change “person” to “party” so that lay people who are not parties to the case do not cite the rule as granting *them* access.⁷ In the Criminal Rules context, there is an additional reason to use “party” – that is, because that is the term used in current Criminal Rule 49. Criminal Rule 49(b)(3)(B) deals only with electronic filing by a “party not represented by an attorney.” Meanwhile, Criminal Rule 49(c) provides: “A nonparty may serve and file a paper only if doing so is required or permitted by law. A nonparty must serve every party as required by Rule 49(a), but may use the court’s electronic-filing system only if allowed by court order or local rule.”

The self-represented litigant e-filing provisions proposed for Bankruptcy Rules 5005 and 8011 refer to access for unrepresented “*individuals*.” Current Rules 5005 and 8011 also use the term “individual.” The Bankruptcy Rules Committee considered and rejected the term “unrepresented party,” because it is concerned that that term would erroneously suggest to readers that a nonhuman litigant could represent itself. To avoid that possibility, the Bankruptcy Rules Committee determined that the Bankruptcy Rules should continue to use “individual,” which is the term those rules use to refer to a human being.

As Professor Gibson succinctly put it, the choice between “party” and “individual” depends on a judgment call about “which is more likely (or more harmful): [1] having someone read ‘unrepresented party’ to mean any party (whether a real person or not) can appear without an attorney, or [2] having someone read ‘unrepresented individual’ to mean you don’t need to be connected to a case to file a paper in it.” The Bankruptcy Rules Committee’s decision to use

⁷ We have heard from participants that, from the clerk’s perspective, it’s important that the rule draw that boundary.

“individual” may be justified by features specific to bankruptcy practice – that is, the number of artificial entities (e.g., small creditors) that may participate in a bankruptcy proceeding and might wish to appear without a lawyer. Meanwhile, the other three sets of rules already use words (to denote unrepresented litigants) that encompass artificial entities – they say either “person” (Civil and Appellate) or “party” (Criminal) – and we haven’t heard of those terms giving rise to any erroneous assumptions that artificial entities can appear without a lawyer; so the Bankruptcy Rules Committee’s concern may not be as salient for the other three sets of rules.

Accordingly, this variance seems justifiable.

C. SRL e-filing: Note language on requiring court permission to use e-filing system

As presented in the Advisory Committee agenda books, the Committee Notes to the proposed electronic-filing provisions included a bracketed sentence concerning the permissibility of a local provision requiring unrepresented parties to obtain court permission to use the court’s e-filing system. This language was included in the draft based on a suggestion from a member of the Criminal Rules Committee.

The bracketed statement – as shown in the Civil, Bankruptcy, and Criminal agenda books⁸ – read: “[For example, local provisions that require unrepresented parties who seek to use the court’s electronic-filing system to obtain permission from the judge to whom the case is assigned would count as including reasonable exceptions, so long as such permission is not unreasonably withheld in practice.]”

Although the Civil and Bankruptcy Rules Committees voted to approve the draft for publication with this sentence included in the relevant Committee Notes, the sentence drew attention and a good deal of skeptical comment, particularly in the Civil Rules Committee discussion. On one hand, including this language would recognize existing practices in more than half of the federal courts of appeals and district courts⁹ and would give clerks’ offices something to point to when applying a requirement that a self-represented litigant seek court permission in order to use the court’s electronic-filing system. On the other hand, because it would be challenging for an unrepresented party to demonstrate that a court unreasonably withholds permission in practice, participants expressed concern that this Note language might seem to bless local provisions that effectively deny e-filing to unrepresented parties in general.

⁸ The relevant sentence in the Note to Appellate Rule 25 as set out in the Appellate Rules Committee’s agenda book was similar but not identical.

⁹ See Tim Reagan, United States District Courts’ Local Rules and Procedures on Electronic Filing by Self-Represented Litigants (FJC 2025) at 1 (reporting that 54 federal districts “permit self-represented litigants to request permission to use the electronic filing system”); Tim Reagan, Carly Giffin, and Roy Germano, Federal Courts’ Electronic Filing by Pro Se Litigants (FJC 2025) at 6-7 (reporting that seven courts of appeals “allow [pro se litigants to register as CM/ECF users] with individual permission”).

Excerpt from the May 11, 2026 Report on Self-Represented Litigants' Filing and Service

During the Appellate Rules Committee meeting, a member proposed revised language – which the Appellate Rules Committee adopted – that accounts for the concerns of both participants who favored the original bracketed language and participants who were concerned by that original language. The revised language adopted by the Appellate Rules Committee reads: “A local provision requiring unrepresented parties to obtain the court’s permission in order to use the court’s electronic-filing system would count as including reasonable exceptions, so long as such permission is granted or withheld in accordance with the reasonable conditions and restrictions on access set by the court.” (The concluding phrase refers back to the ‘reasonable conditions and restrictions’ that are discussed earlier in the Committee Note.) The hope is that with this change, the Note language validates the practices of courts that wish to build in a requirement of court permission, while avoiding the risk that the Note would seem to bless the practice of a court where standardless discretion to withhold permission results in effective denial of access in practice.

Because the Appellate Rules Committee met after the Civil and Bankruptcy Rules Committees, those two committees did not have the opportunity to consider the Appellate Rules Committee’s revised language. The Criminal Rules Committee met last. Though some support was voiced for the Note language as set forth in the Criminal Rules Committee’s agenda book, the Committee ultimately voted to adopt language paralleling the Appellate Committee Note. As adopted by the Criminal Rules Committee, the relevant sentence in the Criminal Rule 49 Committee Note reads: “For example, local provisions that require self-represented parties who seek to use the court’s electronic-filing system to obtain the court’s permission would count as including reasonable exceptions, so long as such permission is granted or withheld in accordance with the reasonable conditions and restrictions on access set by the court.”

I recommend that the Standing Committee consider adopting similar language for the Committee Notes to Civil Rule 5(d)(2)(B), Bankruptcy Rule 5005(a)(3)(B), and Bankruptcy Rule 8011(a)(2)(C). That proposed language is shown as a bracketed alternative in those Committee Notes, following the bracketed sentence that originally appeared in the Civil and Bankruptcy Rules Committees’ agenda books.*

D. SRL e-filing: “in the case” versus “in the party’s case”

Proposed Bankruptcy Rules 5005(a)(3)(B)(i) and 8011(a)(2)(C)(i) refer to “receiv[ing] notice of activity in the case,” while proposed Appellate Rule 25(a)(2)(C)(i), Civil Rule 5(d)(2)(B)(i), and Criminal Rule 49(b)(2)(B)(i) refer to “receiv[ing] notice of activity in the party’s case.” The latter three rules specify “in the party’s case” because we have heard from clerk participants how important it is to make clear that the default principle of access to e-filing should extend only to the case in which the SRL is a party, and not to other cases. But the Bankruptcy Rules will say, simply, “in the case” – because in the bankruptcy context, there is a

* *Revised August 14, 2026:* The Standing Committee approved the proposed bracketed alternative language in the committee notes at its June 2026 meeting.

concern that saying “in the individual’s case” would suggest that the denoted individual must always be the debtor, and that’s not true, because the rule is designed to extend to self-represented human creditors as well.

This variance seems justified.

E. SRL e-filing: requirements to file electronically

This variance is carried forward from the existing rules. Unlike the other SRL e-filing default rules, proposed Criminal Rule 49(b)(2)(B)(i) (like existing Criminal Rule 49(b)(3)(B)) contains no provision about the circumstances under which a SRL can be required to e-file, because the Criminal Rules Committee has made a judgment call that the Criminal Rule shouldn’t authorize a court to require a SRL to e-file. As the 2018 Committee Note to Criminal Rule 49 explains,

[Rule 49](b)(3)(B) requires unrepresented parties to file nonelectronically, unless allowed to file electronically by court order or local rule. This language differs from that of the amended Civil Rule, which provides that an unrepresented party may be “required” to file electronically by a court order or local rule that allows reasonable exceptions. A different approach to electronic filing by unrepresented parties is needed in criminal cases, where electronic filing by pro se prisoners presents significant challenges. Pro se parties filing papers under the criminal rules generally lack the means to e-file or receive electronic confirmations, yet must be provided access to the courts under the Constitution.

This variance has already been determined to be justified.

F. E-filing and signatures

Currently, all five relevant rules contain (with immaterial variations) the following provision, added in 2018: “A filing made through a person’s electronic-filing account and authorized by that person, together with that person’s name on a signature block, constitutes the person's signature.” See, e.g., Civil Rule 5(d)(3)(C).

The Bankruptcy Rules Committee has decided to amend their signature provisions to use “individual” instead of “person.” Their reason is that “person” (as defined in Section 101 of the Bankruptcy Code) includes some artificial entities, and that it does not make sense to refer to an artificial entity as having its own electronic-filing account and engaging in the act of signing. As noted above, to denote human entities, the Bankruptcy Rules use the term “individual.”

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

for the other three sets of rules.

Approving the Bankruptcy Rules Committee's proposal to amend their signature provisions to use "individual" does not seem to me to provide a reason to require the other three Advisory Committees to similarly amend their signature provisions.

G. "Documents" versus "papers"

The choice between referring to "documents" or to "papers" is not substantive. But it is a considered choice.

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

* * * * *

SRL provision comparison chart, April 30, 2026

This comparison chart shows – as clean rule text – the various SRL e-filing and service provisions, along with other related provisions in the affected rules.

Bankruptcy (not appellate)	Bankruptcy (appellate)	Appellate	Civil	Criminal
<i>E-filing general rule:</i>	<i>E-filing general rule:</i>	<i>E-filing general rule:</i>	<i>E-filing general rule:</i>	<i>E-filing general rule:</i>
Bankruptcy Rule 5005(a)(3)(A): (3) Electronic Filing and Signing. (A) By a Represented Entity--Generally Required; Exceptions. An entity represented by an attorney must file electronically, unless nonelectronic filing is allowed by the court for cause or is allowed or required by local rule.	Bankruptcy Rule 8011(a)(2)(B): (B) Electronic Filing By a Represented Entity—Generally Required; Exceptions. An entity represented by an attorney must file electronically, unless nonelectronic filing is allowed by the court for cause or is allowed or required by local rule.	FRAP 25(a)(2)(B): (B) Electronic Filing by a Person Represented by Counsel--Generally Required; Exceptions. A person represented by an attorney must file electronically, unless nonelectronic filing is allowed by the court for good cause or is allowed or required by local rule.	Civil Rule 5(d)(2)(A): (2) Electronic Filing and Signing. (A) By a Person Represented by Counsel—Generally Required; Exceptions. A person represented by an attorney must file electronically, unless nonelectronic filing is allowed by the court for good cause or is allowed or required by local rule.	Criminal Rule 49(b)(2)(A): (2) Electronic Filing and Signing. (A) By a Party Represented by Counsel – Generally Required; Exceptions. A party represented by an attorney must file electronically, unless nonelectronic filing is allowed by the court for good cause or is allowed or required by local rule.

<i>E-filing SRL default rule:</i>	<i>E-filing SRL default rule:</i>	<i>E-filing SRL default rule:</i>	<i>E-filing SRL default rule:</i>	<i>E-filing SRL default rule:</i>
Bankruptcy Rule 5005(a)(3)(B)(i): (B) By an Unrepresented Individual—When Allowed or Required. (i) In General. An unrepresented individual may use the court’s electronic-filing system to file papers and receive notice of activity in the case, unless a court order or local rule prohibits the individual from doing so. An unrepresented individual may be required to file electronically only by order in a case or by a local rule that includes reasonable exceptions.	Bankruptcy Rule 8011(a)(2)(C)(i): (C) Electronic Filing By an Unrepresented Individual—When Allowed or Required. (i) In General. An unrepresented individual may use the court’s electronic-filing system to file documents and receive notice of activity in the case, unless a court order or local rule prohibits the individual from doing so. An unrepresented individual may be required to file electronically only by order in a case or by a local rule that includes reasonable exceptions.	FRAP 25(a)(2)(C)(i): (C) Electronic Filing by an Unrepresented Party--When Allowed or Required. (i) In General. An unrepresented party may use the court’s electronic-filing system to file papers and receive notice of activity in the party’s case, unless a court order or local rule prohibits the party from doing so. An unrepresented person may be required to file electronically only by order in a case or by a local rule that includes reasonable exceptions.	Civil Rule 5(d)(2)(B)(i): (B) By an Unrepresented Party—When Allowed or Required. (i) In General. An unrepresented party may use the court’s electronic-filing system to file papers and receive notice of activity in the party’s case, unless a court order or local rule prohibits the party from doing so. An unrepresented person may be required to file electronically only by order in a case or by a local rule that includes reasonable exceptions.	Criminal Rule 49(b)(2)(B)(i): (B) By a Self-Represented Party – When Allowed. (i) In General. A self-represented party may use the court’s electronic-filing system to file papers and receive notice of activity in the party’s case, unless a court order or local rule prohibits the party from doing so.

<i>E-filing SRL conditions:</i>	<i>E-filing SRL conditions:</i>	<i>E-filing SRL conditions:</i>	<i>E-filing SRL conditions:</i>	<i>E-filing SRL conditions:</i>
Bankruptcy Rule 5005(a)(3)(B)(ii): (ii) Conditions and Restrictions on Access. A court may set and enforce reasonable conditions and restrictions on unrepresented individuals' access to the court's electronic-filing system (including by denying or revoking access for a particular unrepresented individual). But the court may not prohibit all unrepresented individuals from using the system unless that prohibition includes reasonable exceptions or the court permits the use of another electronic method for filing papers and receiving electronic notice of activity in the case.	Bankruptcy Rule 8011(a)(2)(C)(ii): (ii) Conditions and Restrictions on Access. A court may set and enforce reasonable conditions and restrictions on unrepresented individuals' access to the court's electronic-filing system (including by denying or revoking access for a particular unrepresented individual). But the court may not prohibit all unrepresented individuals from using the system unless that prohibition includes reasonable exceptions or the court permits the use of another electronic method for filing documents and receiving electronic notice of activity in the case.	FRAP 25(a)(2)(C)(ii): (ii) Conditions and Restrictions on Access. A court may set and enforce reasonable conditions and restrictions on unrepresented parties' access to the court's electronic-filing system (including by denying or revoking access for a particular unrepresented party). But the court may not prohibit all unrepresented parties from using the system unless that prohibition includes reasonable exceptions or the court permits the use of another electronic method for filing papers and receiving electronic notice of activity in the party's case.	Civil Rule 5(d)(2)(B)(ii): (ii) Conditions and Restrictions on Access. A court may set and enforce reasonable conditions and restrictions on unrepresented parties' access to the court's electronic-filing system (including by denying or revoking access for a particular unrepresented party). But the court may not prohibit all unrepresented parties from using the system unless that prohibition includes reasonable exceptions or the court permits the use of another electronic method for filing papers and receiving electronic notice of activity in the party's case.	Criminal Rule 49(b)(2)(B)(ii): (ii) Conditions and Restrictions on Access. A court may set and enforce reasonable conditions and restrictions on self-represented parties' access to the court's electronic-filing system (including by denying or revoking access for a particular self-represented party). But the court may not prohibit all self-represented parties from using the system unless that prohibition includes reasonable exceptions or the court permits the use of another electronic method for filing papers and receiving electronic notice of activity in the party's case.

<i>E-filing & signature:</i>	<i>E-filing & signature:</i>	<i>E-filing & signature:</i>	<i>E-filing & signature:</i>	<i>E-filing & signature:</i>
Bankruptcy Rule 5005(a)(3)(C): (C) Signing. A filing made through an individual's electronic-filing account and authorized by that individual, together with the individual's name on a signature block, constitutes the individual's signature.	Bankruptcy Rule 8011(e): (e) Signature Always Required. (1) Electronic Filing. Every document filed electronically must include the electronic signature of the individual filing it or, if an entity is represented, the counsel's electronic signature. A filing made through an individual's electronic-filing account and authorized by that individual—together with that individual's name on a signature block—constitutes the individual's signature. (2) Paper Filing. Every document filed in paper form must be signed by the individual filing it or, if an entity is represented, by the entity's counsel.	FRAP 25(a)(2)(D): (D) Signing. A filing made through a person's electronic-filing account and authorized by that person, together with that person's name on a signature block, constitutes the person's signature.	Civil Rule 5(d)(2)(C): (C) Signing. A filing made through a person's electronic-filing account and authorized by that person, together with that person's name on a signature block, constitutes the person's signature.	Criminal Rule 49(b)(2)(D): (D) Signature. A filing made through a person's electronic-filing account and authorized by that person, together with the person's name on a signature block, constitutes the person's signature.

Service required:	Service required:	Service required:	Service required:	Service required:
<i>[NB: No need to revise Rule 5005(b) (“Sending Copies to the United States Trustee”), because it does not specify that sending must be “at or before the time of filing.” Rule 9036 does not include a provision requiring service.]</i>	Rule 8011(b): (b) Service of All Documents Required. Unless a rule requires service by the clerk or the document will be served through the court’s electronic-filing system under (c)(1), a party must, at or before the time of the filing of a document, serve it on the other parties to the appeal. Service on a party represented by counsel must be made on the party’s counsel.	FRAP 25(b): (b) Service of All Papers Required. Unless a rule requires service by the clerk or the paper will be served through the court’s electronic-filing system under Rule 25(c)(1), a party must, at or before the time of filing a paper, serve a copy on the other parties to the appeal or review. Service on a party represented by counsel must be made on the party’s counsel.	<i>[NB: No need to revise Civil Rule 5(a) (“Service: When Required”), because it does not specify that service must be “at or before the time of filing.”]</i>	<i>[NB: No need to revise Criminal Rule 49(a)(1) (“Service on a Party. What is Required”), because it does not specify that service must be “at or before the time of filing.”]</i>

Service by NCA:	Service by NCA:	Service by NCA:	Service by NCA:	Service by NCA:
Rule 9036(c)(1): (c) Notices from and Service by an Entity. (1) Notice of Case Activity Sent Through the Court’s Electronic-Filing System. A notice of case activity sent to an entity registered to receive it through the court’s electronic-filing system constitutes notice or service on that entity, with these qualifications: (A) such notice or service is not effective if the filer learns that it did not reach the entity to be notified or served; and (B) a court may provide by order or local rule that if a document is filed under seal, neither service nor notice occurs under this paragraph (c)(1).	Rule 8011(c)(1): (c) Manner of Service. (1) Service by a Notice of Case Activity Sent Through the Court’s Electronic-Filing System. A notice of case activity sent to an entity registered to receive it through the court’s electronic-filing system constitutes service on that entity, with these qualifications: (A) such service is not effective if the filer learns that it did not reach the entity to be served; and (B) a court may provide by order or local rule that if a document is filed under seal, it must be served by other means.	FRAP 25(c)(1): (c) Manner of Service. (1) Service by a Notice of Case Activity Sent Through the Court’s Electronic-Filing System. A notice of case activity sent to a person registered to receive it through the court’s electronic-filing system constitutes service on that person, with these qualifications: (A) such service is not effective if the filer learns that it did not reach the person to be served; and (B) a court may provide by order or local rule that if a paper is filed under seal or initiates a proceeding in the court of appeals under Rule 5, 6(c), 15, or 21, it must be served by other means.	Civil Rule 5(b)(2): (b) Service: How Made.... (2) Service by a Notice of Case Activity Sent Through the Court’s Electronic-Filing System. A notice of case activity sent to a person registered to receive it through the court’s electronic-filing system constitutes service on that person. For any service deadlines, service by a notice of case activity is complete as of the date of filing. For any deadlines that run from the date of service, service by a notice of case activity is complete as of the notice’s date. But these qualifications apply: (A) such service is not effective if the filer learns that it did not reach the person to be served; and (B) a court may provide by order or local rule that if a paper is filed under seal, it must be served by other means.	Criminal Rule 49(a)(3): (3) Service by a Notice of Case Activity Sent Through the Court’s Electronic-Filing System. A notice of case activity sent to a person registered to receive it through the court’s electronic-filing system constitutes service on that person. For any service deadlines, service by a notice of case activity is complete as of the date of filing. For any deadlines that run from the date of service, service by a notice of case activity is complete as of the notice’s date. But these qualifications apply: (A) such service is not effective if the filer learns that it did not reach the person to be served; and (B) a court may provide by order or local rule that if a paper is filed under seal, it must be served by other means.

<i>Service / other electronic means:</i>	<i>Service / other means:</i>	<i>Service / other means:</i>	<i>Service / other means:</i>	<i>Service / other means:</i>
[NB: Rule 9036 focuses on electronic notice & service, so its “other means” provision focuses only on other electronic means.] Rule 9036(c)(2): (2) Electronic Means Consented To. An entity may also send notice or serve a document by electronic means that the recipient consented to in writing, including by designating an electronic address for receiving notices. But such notice or service is not effective if the sender learns that it did not reach the entity to be notified or served.	Rule 8011(c)(2): (2) Service by Other Means. A document may also be served under this rule by: (A) personal delivery; (B) mail; (C) third-party commercial carrier for delivery within 3 days; or (D) electronic means that the entity served has consented to in writing, but such electronic service is not effective if the sender learns that it did not reach the entity to be served.	FRAP 25(c)(2): (2) Service by Other Means. A paper may also be served under this rule by: (A) personal delivery, including delivery to a responsible person at the office of counsel; (B) mail; (C) third-party commercial carrier for delivery within 3 days; or (D) sending it by electronic means that the person to be served has consented to in writing, but such electronic service is not effective if the sender learns that it did not reach the person to be served.	Civil Rule 5(b)(3): (3) Service by Other Means. A paper may also be served under this rule by: (A) handing it to the person; (B) leaving it: (i) at the person’s office with a clerk or other person in charge or, if no one is in charge, in a conspicuous place in the office; or (ii) if the person has no office or the office is closed, at the person’s dwelling or usual place of abode with someone of suitable age and discretion who resides there; (C) mailing it to the person’s last known address—in which event service is complete upon mailing; (D) leaving it with the court clerk if the person has no known address;	Criminal Rule 49(a)(4): (4) Service by Other Means. A paper may also be served by: (A) handing it to the person; (B) leaving it: (i) at the person's office with a clerk or other person in charge or, if no one is in charge, in a conspicuous place in the office; or (ii) if the person has no office or the office is closed, at the person's dwelling or usual place of abode with someone of suitable age and discretion who resides there; (C) mailing it to the person's last known address – in which event service is complete upon mailing; (D) leaving it with the court clerk if the person has no known address;

			(E) sending it by electronic means that the person has consented to in writing—in which event service is complete upon sending, but is not effective if the sender learns that it did not reach the person to be served; or (F) delivering it by any other means that the person has consented to in writing—in which event service is complete when the person making service delivers it to the agency designated to make delivery.	(E) sending it by electronic means that the person has consented to in writing – in which event service is complete upon sending, but is not effective if the sender learns that it did not reach the person to be served; or (F) delivering it by any other means that the person has consented to in writing—in which event service is complete when the person making service delivers it to the agency designated to make delivery.
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Service / completeness:	Service / completeness:	Service / completeness:	Service / completeness:	Service / completeness:
Rule 9036(d): (d) When Notice or Service Is Complete; Keeping an Address Current. (1) Notice of Case Activity Sent Through the Court’s Electronic-Filing System. For any notice or service deadlines, notice or service by a notice of case activity is complete as of the date of filing. For any deadlines that run from the date of notice or service, notice or service by a notice of case activity is complete as of the date of the notice of case activity. (2) Other Electronic Means. Electronic notice or service by other electronic means is complete upon sending.	Rule 8011(c)(3): (3) When Service Is Complete. (A) For Service by a Notice of Case Activity. For any service deadlines, service by a notice of case activity is complete as of the date of filing. For any deadlines that run from the date of service, service by a notice of case activity is complete as of the notice’s date. (B) For Service by Other Electronic Means. Service by other electronic means is complete on sending. (C) For Service by Mail or Commercial Carrier. Service by mail or by third-party commercial carrier is complete on mailing or delivery to the carrier.	FRAP 25(c)(4): (4) When Service Is Complete. (A) For Service by Mail or Commercial Carrier. Service by mail or by commercial carrier is complete on mailing or delivery to the carrier. (B) For Service by a Notice of Case Activity. For any service deadlines, service by a notice of case activity is complete as of the date of filing. For any deadlines that run from the date of service, service by a notice of case activity is complete as of the notice’s date. (C) For Service by Other Electronic Means. Service by other electronic means is complete on sending.	<i>[Civil Rule 5 does not have a discrete subpart focused on completeness. Rather, the current rule addresses completeness in Rule 5(b)(2)(C), (E), and (F). The amended rule retains those mentions of completeness and addresses completeness for service by means of the NCA in Rule 5(b)(2).]</i> Civil Rule 5(b)(2): For any service deadlines, service by a notice of case activity is complete as of the date of filing. For any deadlines that run from the date of service, service by a notice of case activity is complete as of the notice’s date.	<i>[Criminal Rule 49 does not have a discrete subpart focused on completeness. Rather, the current rule addresses completeness in Rules 49(a)(3)(A) & (B) and 49(a)(4)(C) & (E). The amended rule retains (though relocates) three of these mentions of completeness and addresses completeness for service by means of the NCA in Rule 49(a)(3).]</i> Criminal Rule 49(a)(3): For any service deadlines, service by a notice of case activity is complete as of the date of filing. For any deadlines that run from the date of service, service by a notice of case activity is complete as of the notice’s date.

NCA defined:	NCA defined:	NCA defined:	NCA defined:	NCA defined:
Rule 9036(c)(3): (3) Definition of “Notice of Case Activity.” The term “notice of case activity” includes a notice of docket activity, a notice of electronic filing, and any other similar electronic notice provided to case participants through the court’s electronic-filing system to inform them of activity on the docket.	Rule 8011(c)(4): (4) Definition of “Notice of Case Activity.” The term “notice of case activity” includes a notice of docket activity, a notice of electronic filing, and any other similar electronic notice provided to case participants through the court’s electronic-filing system to inform them of activity on the docket.	FRAP 25(c)(5): (5) Definition of “Notice of Case Activity.” The term “notice of case activity” includes a notice of docket activity, a notice of electronic filing, and any other similar electronic notice provided to case participants through the court’s electronic-filing system to inform them of activity on the docket.	Civil Rule 5(b)(4): (4) Definition of “Notice of Case Activity.” The term “notice of case activity” includes a notice of docket activity, a notice of electronic filing, and any other similar electronic notice provided to case participants through the court’s electronic-filing system to inform them of activity on the docket.	Crim Rule 49(a)(5): (5) Definition of “Notice of Case Activity.” The term “notice of case activity” includes a notice of docket activity, a notice of electronic filing, and any other similar electronic notice provided to case participants through the court’s electronic-filing system to inform them of activity on the docket.

Certificate of service:	Certificate of service:	Certificate of service:	Certificate of service:	Certificate of service:
<i>[NB: Rule 5005 doesn't discuss service, and while Rule 9036 addresses service, it does not address proof of service.]</i>	<i>[NB: The overarching SRL project does not give rise to a need to revise Rule 8011(d)(1) ("Proof of Service. Requirements"), because it already uses the language "if it was served other than through the court's electronic-filing system," thus accommodating service (by means of the notice of case activity) of a filing made in paper form by a SRL. However, based on its review of bankruptcy-specific terminology, the Bankruptcy Rules Committee will update Rule 8011(d)(1) to use the terms "entity" and "individual" instead of "person."]</i>	<i>[NB: No need to revise FRAP 25(d)(1) ("Proof of Service"), because it already uses the language "if it was served other than through the court's electronic-filing system," thus accommodating service (by means of the notice of case activity) of a filing made in paper form by a SRL.]</i>	Civil Rule 5(d)(1)(B): (B) Certificate of Service. No certificate of service is required when a paper is served through the court's electronic-filing system under Rule 5(b)(2). When a paper that is required to be served is served by other means: (i) if it is filed, a certificate of service must be filed with it or within a reasonable time after service; and (ii) if it is not filed, a certificate of service need not be filed, unless filing is required by court order or by local rule.	Criminal Rule 49(b)(1): (b) Filing. (1) When Required; Certificate of Service. Any paper that is required to be served must be filed no later than a reasonable time after service. No certificate of service is required when a paper is served through the court's electronic-filing system under Rule 49(a)(3). When a paper is served by other means, a certificate of service must be filed with it or within a reasonable time after service or filing.

OVERVIEW:

Proposals Relating to Privacy Rules in Public Court Filings

MEMORANDUM

To: Judge James C. Dever III
Standing Committee on Rules of Practice and Procedure

From: Carolyn Dubay, Chief Counsel, Rules Committee Staff
Edward Hartnett, Standing Committee Reporter

Date: May 11, 2026

Re: Report on Status of Privacy Rule Amendments

The Standing Committee is asked to approve for publication and public comment proposed amendments to the privacy rules found in Civil Rule 5.2, Criminal Rule 49.1, and Bankruptcy Rule 9037. Redlined versions of the proposed amended rules are included following this memorandum. These amendments reflect years of study and coordination, with the Criminal Rules Advisory Committee taking the lead on these issues and the Bankruptcy Rules Advisory Committee considering the special need for at least partially redacted taxpayer identification numbers in bankruptcy proceedings. The proposed changes, which stem from suggestions received from Senator Ron Wyden in 2022 and the Department of Justice in 2024, would do the following:

- (1) Require complete redaction of social security numbers (SSNs), individual taxpayer identification numbers (ITINs) and employer identification numbers (EINs) in civil and criminal cases (Civil Rule 5.2 and Criminal Rule 49.1), subject to the existing exceptions in those Rules. These changes would expand the privacy protections in these rules in two ways. First, the current redaction requirement permits the inclusion of the last four digits of these numbers; the proposed amendments would require complete redaction. Second, EINs are not expressly covered by the existing rules, although redaction of EINs is required in U.S. Tax Court and in the Court of Federal Claims. However, for reasons explained in the Bankruptcy Rules Advisory Committee Report to the Standing Committee in January 2026, Bankruptcy Rule 9037 would not change with respect to social security numbers or taxpayer identification numbers and would not expand to protect employer identification numbers.
- (2) Require the use of pseudonyms rather than initials to reference minors in court filings in civil, criminal, and bankruptcy cases (Civil Rule 5.2, Criminal Rule 49.1, Bankruptcy Rule 9037). Note that the proposed amendments do not address the use of a pseudonym for a minor in a court filing once the minor ages out, but public comment may provide insight into whether this is an issue that should be addressed in a rule rather than through protective orders in individual cases.
- (3) In all three rule sets, clarify that the redaction/pseudonym requirement applies to all documents in the court filing, including exhibits and attachments.

May 11, 2026 Report on the Privacy Rule Amendments

As an additional matter, the Bankruptcy Rules Advisory Committee at its spring 2026 meeting voted to approve for publication and public amendments to Rule 8011 governing bankruptcy appeals. Those proposed amendments would add an additional layer of privacy protection in appeals from bankruptcy courts to district courts and bankruptcy appellate panels. These proposed amendments were intended to mirror amendments that the Appellate Rules Advisory Committee is considering with respect to Appellate Rule 25(a)(5). At its spring Advisory Committee meeting, however, the Appellate Rules Committee determined that further study was needed regarding those proposed amendments and it is not seeking publication at this time of proposed amendments to Rule 25(a)(5). For this reason, we recommend that the Standing Committee postpone publication and public comment on the proposed amendments to Bankruptcy Rule 8011 to allow for coordination with the Appellate Rules Advisory Committee as it continues to study the issue.

Importantly, the delay in moving forward with the appellate privacy rules (Bankruptcy Rule 8011 and Appellate Rule 25(a)(5)) should not delay publication for public comment of the proposed amendments to Civil Rule 5.2, Criminal Rule 49.1, and Bankruptcy Rule 9037. Existing Appellate Rule 25(a)(5) incorporates those Rules by reference, so any changes to those Rules will apply on appeal without the need to amend Appellate Rule 25(a)(5). For reference, that Rule provides:

Privacy Protection. 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. The provisions on remote electronic access in Federal Rule of Civil Procedure 5.2(c)(1) and (2) apply in a petition for review of a benefits decision of the Railroad Retirement Board under the Railroad Retirement Act.

The amendments to Appellate Rule 25(a)(5) that the Advisory Committee on Appellate Rules has been considering would add another layer of privacy protection on appeal, requiring redactions in appellate filings even of material that need not be redacted under the Civil, Criminal, and Bankruptcy Rules. It was poised to ask the Standing Committee to publish a proposal along these lines but, at its April 2026 meeting, new concerns were raised about the breadth and impact of that proposal. In particular, the U.S. Department of Justice (echoed by others) raised concerns about the costs and difficulties involved in redacting the contents of an appendix. The possibility that a party might forfeit this additional layer of protection was also raised. Recognizing that any changes made to the Civil, Criminal, and Bankruptcy Rules will automatically flow through to the courts of appeals, the Advisory Committee on Appellate Rules decided to study these concerns further before seeking to impose another layer of protection, and it formed a subcommittee to do so. Any changes it considers can also be shared with the Bankruptcy Rules Advisory Committee regarding parallel amendments to Bankruptcy Rule 8011.

FEDERAL RULES OF APPELLATE PROCEDURE

Excerpt from the May 11, 2026 Report of the Advisory Committee on Appellate Rules

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

JAMES C. DEVER III
CHAIR

CAROLYN A. DUBAY
SECRETARY

CHAIRS OF ADVISORY COMMITTEES

ALLISON H. EID
APPELLATE RULES

REBECCA B. CONNELLY
BANKRUPTCY RULES

SARAH S. VANCE
CIVIL RULES

MICHAEL W. MOSMAN
CRIMINAL RULES

JESSE M. FURMAN
EVIDENCE RULES

MEMORANDUM

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

FROM: Hon. Allison H. Eid, Chair
Advisory Committee on Appellate Rules

RE: Report of the Advisory Committee on Appellate Rules

DATE: May 11, 2026

I. Introduction

The Advisory Committee on Appellate Rules met on Thursday, April 16, 2026, in Charlotte, North Carolina. * * *

The Advisory Committee has several action items for the June 2026 meeting.

* * * * *

In addition, the Advisory Committee asks the Standing Committee to publish for public comment (per Part III of this report) proposed amendments to Rule 25, as part of the cross-committee project to address electronic filing by self-represented litigants.

* * * * *

III. Item for Publication

A. Electronic Filing and Service by Self-Represented Parties (21-AP-E)

The Advisory Committee defers to the Consultant to the Standing Committee for the update regarding the joint project on electronic filing and service by self-represented litigants.

* * * * *

1 Rule 25. Filing and Service

3 (1) **Filing with the Clerk.** A paper required or
4 permitted to be filed in a court of appeals
5 must be filed with the clerk.

7 (A) **Nonelectronic Filing.**

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

- 15 filing.
- 16 (ii) **A Brief or Appendix.** A brief
- 17 or appendix not filed
- 18 electronically is timely filed,
- 19 however, if on or before the
- 20 last day for filing, it is:
- 21 • mailed to the clerk by
- 22 first-class mail, or other
- 23 class of mail that is at least
- 24 as expeditious, postage
- 25 prepaid; or
- 26 • dispatched to a third-party
- 27 commercial carrier for
- 28 delivery to the clerk
- 29 within 3 days.
- 30 (iii) **Inmate Filing.** If an
- 31 institution has a system
- 32 designed for legal mail, an

33 inmate confined there must
34 use that system to receive the
35 benefit of this Rule
36 25(a)(2)(A)(iii). A paper not
37 filed electronically by an
38 inmate is timely if it is
39 deposited in the institution's
40 internal mail system on or
41 before the last day for filing
42 and:

- 43 • it is accompanied by: a
44 declaration in compliance
45 with 28 U.S.C. § 1746—
46 or a notarized statement—
47 setting out the date of
48 deposit and stating that
49 first-class postage is being
50 prepaid; or evidence (such

51 as a postmark or date
 52 stamp) showing that the
 53 paper was so deposited
 54 and that postage was
 55 prepaid; or
 56 • the court of appeals
 57 exercises its discretion to
 58 permit the later filing of a
 59 declaration or notarized
 60 statement that satisfies
 61 Rule 25(a)(2)(A)(iii).

62 (B) **Electronic Filing ~~and Signing.~~**
 63 ~~(i) By by a Represented Person~~
 64 ~~Represented by Counsel~~
 65 **Generally Required; Exceptions.** A
 66 person represented by an attorney
 67 must file electronically, unless
 68 nonelectronic filing is allowed by the

69 court for good cause or is allowed or
70 required by local rule.

71 ~~(ii)~~ **(C) Electronic Filing by** ~~By~~ **an**
72 **Unrepresented Person Party**—
73 **When Allowed or Required.**

74 **(i) In General.** ~~An~~
75 unrepresented party ~~person~~
76 ~~not represented by an~~
77 ~~attorney:—~~ **may file**
78 ~~electronically only if allowed~~
79 ~~by~~ use the court's electronic-
80 filing system to file papers
81 and receive notice of activity
82 in the party's case, unless a
83 ~~court order or by~~ local rule
84 prohibits the party from doing
85 so.; ~~and—~~ An unrepresented
86 person may be required to file

87 electronically only by ~~court~~
88 order in a case, or by a local
89 rule that includes reasonable
90 exceptions.

91 (ii) Conditions and Restrictions

92 on Access. A court may set
93 and enforce reasonable
94 conditions and restrictions on
95 unrepresented parties' access
96 to the court's electronic-filing
97 system (including by denying
98 or revoking access for a
99 particular unrepresented
100 party). But the court may not
101 prohibit all unrepresented
102 parties from using the system
103 unless that prohibition
104 includes reasonable

105 exceptions or the court
106 permits the use of another
107 electronic method for filing
108 papers and receiving
109 electronic notice of activity in
110 the party's case.

111 ~~(iii)~~**(D) Signing.** A filing made through a
112 person's electronic-filing account and
113 authorized by that person, together
114 with that person's name on a
115 signature block, constitutes the
116 person's signature.

117 ~~(iv)~~**(E) Same as a Written Paper.** A paper
118 filed electronically is a written paper
119 for purposes of these rules.

120 * * * * *

121 **(b) Service of All Papers Required.** Unless a rule
122 requires service by the clerk or the paper will be

123 served through the court's electronic-filing system
124 under Rule 25(c)(1), a party must, at or before the
125 time of filing a paper, serve a copy on the other
126 parties to the appeal or review. Service on a party
127 represented by counsel must be made on the party's
128 counsel.

129 **(c) Manner of Service.**

130 (1) Service by a Notice of Case Activity Sent
131 Through the Court's Electronic-Filing
132 System. A notice of case activity sent to a
133 person registered to receive it through the
134 court's electronic-filing system constitutes
135 service on that person, with these
136 qualifications:

137 (A) such service is not effective if the filer
138 learns that it did not reach the person
139 to be served; and

140 (B) a court may provide by order or local

141 rule that if a paper is filed under seal
142 or initiates a proceeding in the court
143 of appeals under Rule 5, 6(c), 15, or
144 21, it must be served by other means.

145 (2) **Service by Other Means.** A paper may also
146 be served under this rule by:

147 ~~Nonelectronic service may be any of the following:~~

148 (A) personal delivery, including delivery
149 to a responsible person at the office of
150 counsel;

151 (B) ~~by~~ mail; ~~or~~

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

154 (D). ~~(2) Electronic service of a paper may be~~
155 ~~made (A) by sending it to a registered~~
156 ~~user by filing it with the court's~~
157 ~~electronic filing system or (B) by~~
158 ~~sending it by other electronic means~~

159 that the person to be served has
 160 consented to in writing-, but such
 161 electronic service is not effective if
 162 the sender learns that it did not reach
 163 the person to be served.

164 (3) **Considerations in Choosing Other Means.**

165 When reasonable considering such factors as
 166 the immediacy of the relief sought, distance,
 167 and cost, service on a party must be by a
 168 manner at least as expeditious as the manner
 169 used to file the paper with the court.

170 (4) **When Service Is Complete.**

171 **(A) For Service by Mail or Commercial**

172 **Carrier.** Service by mail or by
 173 commercial carrier is complete on
 174 mailing or delivery to the carrier.

175 **(B) For Service by a Notice of Case**

176 **Activity.** For any service deadlines,

177 service by a notice of case activity is
178 complete as of the date of filing. For
179 any deadlines that run from the date
180 of service, service by a notice of case
181 activity is complete as of the notice’s
182 date.

183 **(C) For Service by Other Electronic**

184 **Means.** Service by other electronic
185 means is complete on ~~filing or~~
186 ~~sending, unless the party making~~
187 ~~service is notified that the paper was~~
188 ~~not received by the party served.~~

189 **(5) Definition of “Notice of Case Activity.”**

190 The term “notice of case activity” includes a
191 notice of docket activity, a notice of
192 electronic filing, and any other similar
193 electronic notice provided to case
194 participants through the court’s electronic-

195 filing system to inform them of activity on the
196 docket.

197 **(d) Proof of Service.**

198 (1) A paper presented for filing must contain
199 either of the following if it was served other
200 than through the court's electronic-filing
201 system:

202 (A) an acknowledgment of service by the
203 person served; or

204 (B) proof of service consisting of a
205 statement by the person who made
206 service certifying:

207 (i) the date and manner of
208 service;

209 (ii) the names of the persons
210 served; and

211 (iii) their mail or electronic
212 addresses, facsimile numbers,

213 or the addresses of the places
214 of delivery, as appropriate for
215 the manner of service.

216 (2) When a brief or appendix is filed by mailing
217 or dispatch in accordance with Rule
218 25(a)(2)(A)(ii), the proof of service must also
219 state the date and manner by which the
220 document was mailed or dispatched to the
221 clerk.

222 (3) Proof of service may appear on or be affixed
223 to the papers filed.

224 * * * * *

225 **Committee Note**

226 Rule 25 is amended to address two topics concerning
227 unrepresented parties. (Concurrent amendments are made to
228 Bankruptcy Rules 5005, 8011, and 9036, Civil Rule 5, and
229 Criminal Rule 49.) Rule 25(a)(2) is amended to expand the
230 availability of electronic modes by which unrepresented
231 parties can file documents with the court and receive notice
232 of filings that others make in the case. Rule 25(c) is amended
233 to address service of documents filed by an unrepresented
234 litigant in paper form. Because all such paper filings are
235 uploaded by court staff into the court's electronic-filing

236 system, there is no need to require separate paper service by
237 the filer on case participants who receive an electronic notice
238 of the filing from the court's electronic-filing system. Rule
239 25(c)'s treatment of service is also reorganized to reflect the
240 primacy of service by means of the electronic notice.

241 **Subdivision (a)(2)(C).** Under new Rule
242 25(a)(2)(C)(i), an unrepresented party is presumptively
243 authorized to use the court's electronic-filing system to file
244 documents in the case. If a court of appeals wishes to restrict
245 unrepresented parties' access to the electronic-filing system,
246 it must do so by order or local rule. This presumption in favor
247 of access by unrepresented parties is the opposite of the
248 presumption set by the prior Rule 25(a)(2)(B)(ii). The
249 reference to an unrepresented 'party,' rather than an
250 unrepresented 'person,' excludes an unrepresented nonparty
251 from its scope; the rule does not grant nonparty nonlawyers
252 any right to use the court's e-filing system. However, the
253 court may not require electronic filing by any unrepresented
254 person, including any unrepresented nonparty, except by
255 order in a particular case or by a local rule that includes
256 reasonable exceptions.

257 New Rule 25(a)(2)(C)(ii) states that the court may set
258 reasonable conditions and restrictions on access by
259 unrepresented parties to the court's electronic-filing system.
260 Where appropriate, access to the electronic-filing system
261 might be allowed only to a particular type of unrepresented
262 party: for example, one who is not incarcerated (if the
263 distinctive logistical considerations that apply in carceral
264 settings justify such a limitation), one who has satisfactorily
265 completed required training and certifications, one who
266 complies with other reasonable conditions on access, and so
267 on. Reasonable conditions or restrictions might also
268 distinguish between particular types of filings: for example,
269 filings that initiate a case in the court of appeals and those

270 that do not. The subdivision explicitly contemplates that, in
271 appropriate circumstances, a reasonable restriction might
272 also include an order barring a specific unrepresented party
273 from accessing the court's electronic-filing system or
274 revoking that party's access to the system.

275 However, new Rule 25(a)(2)(C)(ii) also expressly
276 prohibits a court from barring all unrepresented parties from
277 using the electronic-filing system, unless the court also
278 either (1) includes reasonable exceptions to the prohibition,
279 or (2) permits unrepresented parties to use another electronic
280 method for filing documents (such as by email or by upload
281 through an electronic document submission system) and for
282 receiving notice of court filings and orders (such as an
283 electronic noticing program). A local provision requiring
284 unrepresented parties to obtain the court's permission in
285 order to use the court's electronic-filing system would count
286 as including reasonable exceptions, so long as such
287 permission is granted or withheld in accordance with the
288 reasonable conditions and restrictions on access set by the
289 court.

290 Former Rules 25(a)(2)(B)(iii) and (iv) are carried
291 forward but renumbered as Rules 25(a)(2)(D) and (E).

292 **Subdivision (b).** Former Rule 25(b) generally
293 required that a party, "at or before the time of filing a paper,
294 [must] serve a copy on the other parties to the appeal or
295 review." The former rule exempted from this requirement
296 instances when "a rule requires service by the clerk." The
297 rule is amended to add a second exemption, for instances
298 when "the paper will be served through the court's
299 electronic-filing system under Rule 25(c)(1)." This
300 amendment reflects that new Rule 25(c)(1) encompasses
301 service by the notice of case activity that results from the
302 clerk's uploading into the system a paper filing by an

303 unrepresented litigant. (As to when such service is complete,
304 see subdivision (c)(4)(B).)

305 **Subdivision (c).** Rule 25(c) is restructured so that the
306 primary means of service – that is, service by means of the
307 court’s electronic-filing system – is addressed first, in Rule
308 25(c)(1). Former Rule 25(c)(1) becomes new Rule 25(c)(2),
309 which continues to address alternative means of service.
310 New Rule 25(c)(5) defines the term “notice of case activity”
311 as any electronic notice provided to case participants through
312 the court’s electronic-filing system to inform them of a filing
313 or other activity on the docket.

314 **Subdivision (c)(1).** Amended Rule 25(c)(1)
315 eliminates the requirement of separate (paper) service on a
316 litigant who is registered to receive a notice of case activity
317 from the court’s electronic-filing system. Litigants who are
318 registered to receive a notice of case activity include those
319 litigants who are participating in the court’s electronic-filing
320 system with respect to the case in question and also include
321 those litigants who receive the notice because they have
322 registered for a court-based electronic-noticing program.
323 (Former Rule 25(c)(2)’s provision for service by “sending [a
324 paper] to a registered user by filing it with the court’s
325 electronic-filing system” had already eliminated the
326 requirement of paper service on registered users of the
327 court’s electronic-filing system by other registered users of
328 the system; the amendment extends this exemption from
329 paper service to those who file by a means other than through
330 the court’s electronic-filing system.)

331 New Rule 25(c)(1)(A) provides that service by
332 means of the court’s electronic-filing system is not effective
333 if the filer learns that it did not reach the person to be served.
334 This provision carries forward the principle previously
335 contained in former Rule 25(c)(4).

336 New Rule 25(c)(1)(B) states that a court may provide
337 by order or local rule that if a paper is filed under seal or
338 initiates a proceeding in the court of appeals under Rule 5,
339 6(c), 15, or 21, it must be served by other means. This
340 sentence is designed to account for circuits (if any) in which
341 parties in the case cannot access other participants' sealed
342 filings via the court's electronic-filing system. It also
343 accounts for circuits that permit the use of the court's
344 electronic-filing system to file case-initiating petitions but
345 that do not wish to permit the filer to rely on the court's
346 electronic-filing system for service of such a petition. The
347 rule does not set a national requirement that all case-
348 initiating documents be served other than through the court's
349 electronic-filing system; a court of appeals may decide that,
350 in some instances, service of such documents through the
351 court's electronic-filing system is an appropriate option.

352 **Subdivision (c)(2).** Subdivision (c)(2) carries
353 forward the contents of former Rule 25(c)(1), with three
354 changes.

355 The subdivision's introductory phrase
356 ("Nonelectronic service may be any of the following") is
357 amended to read "A paper may also be served under this rule
358 by." This locution reflects the inclusion of other electronic
359 means (apart from service through the court's electronic-
360 filing system) in new Rule 25(c)(2)(D) and also ensures that
361 new Rule 25(c)(2) remains an option for serving any litigant,
362 even one who receives notices of filing. This option might
363 be useful to litigants who will be filing non-electronically
364 but who wish to effect service on their opponents before the
365 time when the court will have uploaded the filing into the
366 court's system (thus generating the notice of case activity).

367 The prior reference to "sending [a paper] to a
368 registered user by filing it with the court's electronic-filing

369 system” is deleted, because this is now covered by new Rule
370 25(c)(1).

371 The concept that service by other electronic means is
372 not effective if the sender learns that the document was not
373 received by the person served – previously contained in prior
374 Rule 25(c)(4) – is relocated to what now is Rule 25(c)(2)(D).

375 **Subdivision (c)(4).** Amended subdivision (c)(4)
376 carries forward the prior rule’s provisions that service by
377 electronic means other than through the court’s electronic-
378 filing system is complete on sending and that service by mail
379 or by commercial carrier is complete on mailing or delivery
380 to the carrier.

381 As to service through the court’s electronic-filing
382 system, the amended rule provides that service by a notice
383 of case activity is complete as of the date of filing for
384 purposes of any deadlines for making service. But the
385 amended rule provides that, for purposes of any deadlines
386 that run from the date of service, service is complete as of
387 the date of the notice of case activity. Thus, the amended rule
388 ensures that if there is a delay between the date the court
389 receives a filing not made through the electronic-filing
390 system and the date the court uploads that filing into the
391 electronic-filing system, that delay will not diminish the time
392 allowed to the party whose deadline runs from the date of
393 service.

394 In addition to providing when service was complete,
395 former Rule 25(c)(4) addressed what happened if the person
396 making electronic service learned that the document was not
397 received by the person to be served. The latter is now
398 addressed by new Rules 25(c)(1)(A) and (c)(2)(D), which
399 provide that electronic service is not effective if the filer or
400 sender learns that it did not reach the person to be served.

401 **Subdivision (c)(5).** New Rule 25(c)(5) defines the
402 term “notice of case activity” as any electronic notice
403 provided to case participants through the court’s electronic-
404 filing system to inform them of a filing or other activity on
405 the docket. There are two equivalent terms currently in use:
406 Notice of Electronic Filing and Notice of Docket Activity.
407 “Notice of case activity” is intended to encompass both of
408 those terms, as well as any equivalent terms that may come
409 into use in future. The word “electronic” is deleted as
410 superfluous now that electronic filing is the default method.

FEDERAL RULES OF BANKRUPTCY PROCEDURE

Excerpt from the May 7, 2026 Report of the Advisory Committee on Bankruptcy Rules

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

JAMES C. DEVER III
CHAIR

CAROLYN A. DUBAY
SECRETARY

CHAIRS OF ADVISORY COMMITTEES

ALLISON H. EID
APPELLATE RULES

REBECCA B. CONNELLY
BANKRUPTCY RULES

SARAH S. VANCE
CIVIL RULES

MICHAEL W. MOSMAN
CRIMINAL RULES

JESSE M. FURMAN
EVIDENCE RULES

MEMORANDUM

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

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

RE: Report of the Advisory Committee on Bankruptcy Rules

DATE: May 7, 2026

I. Introduction

The Advisory Committee on Bankruptcy Rules met in Charlotte, N.C., on April 15, 2026.

* * *

* * * * *

In addition to the rules discussed in Professor Struve's report on electronic filing and service by self-represented litigants, the Advisory Committee also agreed to seek publication for comment of proposed amendments to Bankruptcy Rules 2003 (Meeting of Creditors or Equity Security Holders) and 9037 (Privacy Protection for Filings Made With the Court).

Part II of this report presents those action items. They are organized as follows:

* * * * *

B. Items for Publication

- Rule 2003; and
- Rule 9037.

* * * * *

II. Action Items

* * * * *

B. Items for Publication

The Advisory Committee recommends that the following rule amendments be published for public comment in August 2026. Bankruptcy Tab 17 includes Rule 2003, and Rule 9037 is included in Ms. Dubai's report on the privacy rules amendments.

Action Item 4. Rule 2003 (Meeting of Creditors or Equity Security Holders). A chapter 12/chapter 13 trustee submitted a suggestion (Suggestion 24-BK-G), which she later revised (Suggestion 25-BK-B), to amend Rule 2003 as pertains to the timing and location of meetings of creditors. She made this suggestion, which was endorsed by the Association of Chapter 12 Trustees ("ACT12") and the National Association of Chapter 13 Trustees, in response to the current practice of conducting the meetings remotely by means of Zoom. The National Association of Bankruptcy Trustees ("NABT") also submitted a suggestion (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 took place, and ACT 12 and NABT submitted new suggestions (26-BK-1 and 26-BK-2) that proposed amendments to Rule 2003(a) that the EOUST and the trustee groups agreed on, plus an additional amendment that the EOUST did not support.

The Advisory Committee approved the proposed amendments for publication, with minor changes suggested by the style consultants, and by a 10-4 vote rejected the language to which the EOUST objected. These 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. They 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. The Advisory Committee declined to add the sentence, "A remote meeting is deemed to take place in the district in which the case was filed."

Action Item 5. Rule 9037 (Protecting Privacy for Filings). All the advisory committees have been considering suggestions that address particular issues relating to the privacy rules,

Excerpt from the May 7, 2026 Report of the Advisory Committee on Bankruptcy 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 approved for publication amendments to Rule 9037 that would extend the protection of the rule to exhibits and attachments and would require the use of a pseudonym in place of initials for an individual known to be and identified as a minor. It does not propose amending the rule to require the complete redaction of SSNs. A Federal Judicial Center survey of bankruptcy debtor attorneys; chapter 7, 12, and 13 trustees; creditor attorneys; various tax authorities; and representatives of the National Association of Attorneys General revealed a need for the last 4 SSN digits in order to associate filings with the correct individual. The Advisory Committee also decided not to require the redaction of EINs, which the bankruptcy petition forms currently require an employer-debtor to provide. These numbers are used to monitor repeat filings, and the Advisory Committee was unaware of any demonstrated need for redacting them.

The Advisory Committee has also approved for publication a new Rule 8011(a)(4) that would require full redaction of SSNs or other taxpayer-identification numbers—including EINs—from any filing made in appeals from the bankruptcy court to the district court or bankruptcy appellate panel. These amendments were drafted to parallel amendments to Appellate Rule 25, which the Appellate Rules Advisory Committee has been considering. However, in light of that committee’s continuing consideration of those amendments, the Advisory Committee recommends that the Standing Committee postpone publication of the new Rule 8011(a)(4) to allow for coordination with the Appellate Rules Advisory Committee as it continues to study the issue.

* * * * *

**PROPOSED AMENDMENTS TO THE FEDERAL
RULES OF BANKRUPTCY PROCEDURE¹**

1 **Rule 2003. Meeting of Creditors or Equity**
2 **Security Holders**

3 **(a) Date and Place of the Meeting.**

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

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

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

13 ~~(C) in a Chapter 13 case, no fewer than~~
14 ~~21 days and no more than 50 days~~
15 ~~after the order for relief.~~

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

- 16 (2) *Effect of a Motion or an Appeal.* The
 17 United States trustee may set a later date for
 18 the meeting if there is a motion to vacate the
 19 order for relief, an appeal from such an
 20 order, or a motion to dismiss the case.
- 21 (3) *Place; Manner of Conducting—Possible*
 22 *Change in the Meeting Date.* The meeting
 23 may be held at a ~~regular place for holding~~
 24 ~~court~~ place and in the manner designated by
 25 the United States trustee. ~~Or the United~~
 26 ~~States trustee may designate any other place~~
 27 ~~in the district.~~ The meeting may be conducted
 28 in person or remotely. An in-person meeting
 29 may be held at a regular place for holding
 30 court, or at any place in the district
 31 designated by the United States trustee that
 32 is convenient for the parties in interest. ~~If the~~
 33 ~~designated meeting place is not regularly~~

34 ~~staffed by the United States trustee or an~~
35 ~~assistant who may preside, the meeting may~~
36 ~~be held no more than 60 days after the order~~
37 ~~for relief.~~

38 * * * * *

39 **Committee Note**

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

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

55 Paragraph (3) is amended to clarify that, consistent
56 with § 341(a) of the Bankruptcy Code, meetings of creditors
57 may be held remotely, as well as in person, as designated
58 by the U.S. trustee.

**PROPOSED AMENDMENTS TO THE
FEDERAL RULES OF BANKRUPTCY PROCEDURE¹**

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

(a) Filing Papers.

* * * * *

(3) *Electronic Filing and Signing.*

(A) *By a Represented Entity—Generally*

Required; Exceptions. An entity

represented by an attorney must file

electronically, unless nonelectronic

filing is allowed by the court for cause

or is allowed or required by local rule.

(B) *By an Unrepresented Individual—*

When Allowed or Required.

(i) In General. An unrepresented

~~individual not represented by~~

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

16 ~~an attorney: (i)~~ may file
17 ~~electronically only if allowed~~
18 ~~by~~ use the court's electronic-
19 filing system to file papers
20 and receive notice of activity
21 in the case, unless a court
22 order or local rule; ~~and~~
23 prohibits the individual from
24 doing so. An unrepresented
25 individual ~~(ii)~~ may be
26 required to file electronically
27 only by court order in a case;
28 or by a local rule that includes
29 reasonable exceptions.

30 (ii) Conditions and Restrictions
31 on Access. A court may set
32 and enforce reasonable
33 conditions and restrictions on

34 unrepresented individuals'
35 access to the court's
36 electronic-filing system
37 (including by denying or
38 revoking access for a
39 particular unrepresented
40 individual). But the court may
41 not prohibit all unrepresented
42 individuals from using the
43 system unless that prohibition
44 includes reasonable
45 exceptions or the court
46 permits the use of another
47 electronic method for filing
48 papers and receiving
49 electronic notice of activity in
50 the case.

51 (C) *Signing.* A filing made through a

52 ~~person's~~ an individual's electronic-
 53 filing account and authorized by that
 54 ~~person~~ individual, together with the
 55 ~~person's~~ individual's name on a
 56 signature block, constitutes the
 57 ~~person's~~ individual's signature.

58 (D) *Same as a Written Paper.* A paper
 59 filed electronically is a written paper
 60 for purposes of these rules, the
 61 Federal Rules of Civil Procedure
 62 made applicable by these rules, and
 63 § 107.

64 **(b) Sending Copies to the United States Trustee.**

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

70 otherwise.

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

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

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

- 87
- the United States trustee;

- 88 • the trustee;
- 89 • the trustee's attorney;
- 90 • a bankruptcy judge;
- 91 • a district judge;
- 92 • the clerk of the bankruptcy appellate
- 93 panel; or
- 94 • the clerk of the district court.

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

102 (3) ***Applicable Filing Date.*** In the interests of
 103 justice, the court may order that the original
 104 receipt date shown on a paper erroneously
 105 delivered under (1) or (2) be deemed the date

106 it was filed with the clerk or sent to the United
107 States trustee.

108 **Committee Note**

109 Rule 5005(a)(3)(B) is amended to address electronic
110 filing by unrepresented individuals. (Concurrent
111 amendments are made to Rules 8011 and 9036 and to Civil
112 Rule 5, Criminal Rule 49, and Appellate Rule 25.) The
113 amendments expand the availability of electronic modes by
114 which unrepresented individuals can file documents with the
115 court and receive notice of filings that others make in the
116 case. The amendments also conform to the terminology used
117 elsewhere in the Bankruptcy Rules by replacing “person”
118 with “entity” (when the intent is to encompass the broadest
119 possible range of actors) or with “individual” (when the
120 intent is to refer to a human being).

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

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

137 with other reasonable conditions on access.

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

147 However, amended Rule 5005(a)(3)(B)(ii) also
148 expressly prohibits a court from barring all unrepresented
149 individuals from using the court's electronic-filing system,
150 unless the court also either (1) includes reasonable
151 exceptions to the prohibition, or (2) permits unrepresented
152 individuals to use another electronic method for filing
153 documents (such as by email or by upload through an
154 electronic document submission system) and an alternative
155 electronic means for receiving notice of court filings and
156 orders (such as an electronic noticing program). For
157 example, local provisions that require unrepresented
158 individuals who seek to use the court's electronic-filing
159 system to obtain the court's permission would count as
160 including reasonable exceptions, so long as such permission
161 is granted or withheld in accordance with the reasonable
162 conditions and restrictions on access set by the court.

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

170 types of recipients.

**PROPOSED AMENDMENTS TO THE
FEDERAL RULES OF BANKRUPTCY PROCEDURE¹**

1 **Rule 8011. Filing and Service; Signature**

2 **(a) Filing.**

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

6 (2) ***Method and Timeliness.***

7 (A) *Nonelectronic Filing.*

8 * * * * *

9 (B) *Electronic Filing~~(i)~~ By a*
10 *Represented ~~Person~~ Entity*
11 *Generally Required; Exceptions.* An
12 entity represented by an attorney must
13 file electronically, unless
14 nonelectronic filing is allowed by the

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

15 court for cause or is allowed or
16 required by local rule.

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

20 (i) In General. An
21 unrepresented
22 individual ~~not~~
23 ~~represented by an~~
24 ~~attorney—~~
25 ~~•—may file~~
26 ~~electronically only if~~
27 ~~allowed by~~ use the
28 court's electronic-
29 filing system to file
30 documents and
31 receive notice of
32 activity in the case,

33 unless a court order or
 34 ~~by~~ local rule prohibits
 35 the individual from
 36 doing so. ~~and~~ An
 37 unrepresented
 38 individual
 39 ~~may~~ be required to
 40 file electronically only
 41 by ~~court~~ order in a
 42 case; or by a local rule
 43 that includes
 44 reasonable exceptions.
 45 (ii) Conditions and
 46 Restrictions on
 47 Access. A court may
 48 set and enforce
 49 reasonable conditions
 50 and restrictions on

51 unrepresented
52 individuals' access to
53 the court's electronic-
54 filing system
55 (including by denying
56 or revoking access for
57 a particular
58 unrepresented
59 individual). But the
60 court may not prohibit
61 all unrepresented
62 individuals from using
63 the system unless that
64 prohibition includes
65 reasonable exceptions
66 or the court permits
67 the use of another
68 electronic method for

69 filing documents and
70 receiving electronic
71 notice of activity in
72 the case.

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

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

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

92 (b) **Service of All Documents Required.** Unless a rule
93 requires service by the clerk or the document will be
94 served through the court’s electronic-filing system
95 under (c)(1), a party must, at or before the time of the
96 filing of a document, serve it on the other parties to
97 the appeal. Service on a party represented by counsel
98 must be made on the party’s counsel.

99 (c) **Manner of Service.**

100 (1) ***Service by a Notice of Case Activity Sent***
101 ***Through the Court’s Electronic-Filing***
102 ***System.*** A notice of case activity sent to an
103 entity registered to receive it through the
104 court’s electronic-filing system constitutes

105 service on that entity, with these
106 qualifications:

107 (A) such service is not effective if the filer
108 learns that it did not reach the entity
109 to be served; and

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

114 ~~(1)~~(2) ~~Nonelectronic Service~~ by Other Means.
115 ~~Nonelectronic service~~ A document may also
116 be served under this rule by ~~any of the~~
117 ~~following:~~

118 (A) personal delivery;

119 (B) mail; ~~or~~

120 (C) third-party commercial carrier for
121 delivery within 3 days; or

122 ~~(2) Service By Electronic Means. Electronic~~

123 ~~service may be made by:~~
124 ~~(A) sending a document to a registered~~
125 ~~user by filing it with the court's~~
126 ~~electronic filing system; or~~
127 ~~(B) using other~~ (D) electronic means that
128 the ~~person~~ entity served has
129 consented to in writing, but such
130 electronic service is not effective if
131 the sender learns that it did not reach
132 the entity to be served.

133 (3) ***When Service Is Complete.***

134 (A) For Service by a Notice of Case
135 Activity. For any service deadlines,
136 service by a notice of case activity is
137 complete as of the date of filing. For
138 any deadlines that run from the date
139 of service, service by a notice of case
140 activity is complete as of the notice's

141 date.

142 (B) For Service by Other Electronic

143 Means. Service by other electronic

144 means is complete on sending.

145 (C) For Service by Mail or Commercial

146 Carrier. Service by mail or by third-

147 party commercial carrier is complete

148 on mailing or delivery to the carrier.

149 ~~Service by electronic means is~~

150 ~~complete on filing or sending, unless~~

151 ~~the person making service receives~~

152 ~~notice that the document was not~~

153 ~~received by the person served.~~

154 (4) Definition of “Notice of Case Activity.” The

155 term “notice of case activity” includes a

156 notice of docket activity, a notice of

157 electronic filing, and any other similar

158 electronic notice provided to case

159 participants through the court’s electronic-
 160 filing system to inform them of activity on the
 161 docket.

162 **(d) Proof of Service.**

163 (1) **Requirements.** A document presented for
 164 filing must contain either of the following if
 165 it was served other than through the court’s
 166 electronic-filing system:

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

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

172 (i) the date and manner of
 173 service;

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

176 (iii) the mail or electronic address,

177 the fax number, or the address
178 of the place of delivery—as
179 appropriate for the manner of
180 service—for each—~~person~~
181 entity served.

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

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

193 (e) **Signature Always Required.**

194 (1) ***Electronic Filing.*** Every document filed

195 electronically must include the electronic
 196 signature of the ~~person~~ individual filing it or,
 197 if ~~the person~~ an entity is represented, the
 198 counsel's electronic signature. A filing made
 199 through a ~~person's~~ an individual's electronic-
 200 filing account and authorized by that
 201 ~~person—~~individual—together with that
 202 ~~person's~~ individual's name on a signature
 203 block—constitutes the ~~person's~~ individual's
 204 signature.

205 (2) ***Paper Filing.*** Every document filed in paper
 206 form must be signed by the ~~person~~ individual
 207 filing it or, if ~~the person~~ an entity is
 208 represented, by the ~~person's~~ entity's counsel.

209 **Committee Note**

210 Rule 8011 is amended to address two topics
 211 concerning self-represented litigants. (Concurrent
 212 amendments are made to Rules 5005 and 9036 and to Civil
 213 Rule 5, Criminal Rule 49, and Appellate Rule 25.) Rule
 214 8011(a) is amended to expand the availability of electronic
 215 modes by which unrepresented individuals can file

216 documents with the court and receive notice of filings that
 217 others make in the case. Rule 8011(c) is amended to address
 218 service of documents filed by an unrepresented individual in
 219 paper form. Because all such paper filings are uploaded by
 220 court staff into the court’s electronic-filing system, there is
 221 no need to require separate paper service by the filer on case
 222 participants who receive an electronic notice of the filing
 223 from the court’s electronic-filing system. Rule 8011(c)’s
 224 treatment of service is also reorganized to reflect the primacy
 225 of service by means of the electronic notice. The
 226 amendments also conform to the terminology used
 227 elsewhere in the Bankruptcy Rules by replacing “person”
 228 with “entity” (when the intent is to encompass the broadest
 229 possible range of actors) or with “individual” (when the
 230 intent is to refer to a human being).

231 **Subdivision (a)(2)(C).** Under new Rule
 232 8011(a)(2)(C)(i), the presumption is the opposite of the
 233 presumption set by the prior Rule 8011(a)(2)(B)(ii). That is,
 234 under new Rule 8011(a)(2)(C)(i), unrepresented individuals
 235 are presumptively authorized to use the court’s electronic-
 236 filing system to file documents in their case. If a district court
 237 or BAP wishes to restrict unrepresented individuals’ access
 238 to the court’s electronic-filing system, it must adopt an order
 239 or local rule to impose that restriction.

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

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

257 However, new Rule 8011(a)(2)(C)(ii) also expressly
258 prohibits a court from barring all unrepresented individuals
259 from using the court's electronic-filing system, unless the
260 court also either (1) includes reasonable exceptions to the
261 prohibition, or (2) permits unrepresented individuals to use
262 another electronic method for filing documents (such as by
263 email or by upload through an electronic document
264 submission system) and an alternative electronic means for
265 receiving notice of court filings and orders (such as an
266 electronic noticing program). For example, local provisions
267 that require unrepresented individuals who seek to use the
268 court's electronic-filing system to obtain the court's
269 permission would count as including reasonable exceptions,
270 so long as such permission is granted or withheld in
271 accordance with the reasonable conditions and restrictions
272 on access set by the court.

273 **Subdivision (b).** Prior Rule 8011(b) generally
274 required that a party, "at or before the time of filing a
275 document, [must] serve it on the other parties to the appeal."
276 The rule exempted from this requirement instances when "a
277 rule requires service by the clerk." The rule is amended to
278 add a second exemption, for instances when "the document
279 will be served through the court's electronic-filing system
280 under (c)(1)." This amendment reflects that new Rule
281 8011(c)(1) encompasses service by the notice of case
282 activity that results from the clerk's uploading into the

283 system a paper filing by an unrepresented individual. (As to
284 when such service is complete, see subdivision (c)(3)(A).)

285 **Subdivision (c).** Rule 8011(c) is restructured so that
286 the primary means of service—that is, service by means of
287 the court’s electronic-filing system—is addressed first, in
288 subdivision (c)(1). Prior Rule 8011(c)(1) is now Rule
289 8011(c)(2), which continues to address alternative means of
290 service. New Rule 8011(c)(4) defines the term “notice of
291 case activity” as any electronic notice provided to case
292 participants through the court’s electronic-filing system to
293 inform them of a filing or other activity on the docket.

294 **Subdivision (c)(1).** Amended Rule 8011(c)(1)
295 eliminates the requirement of separate (paper) service on a
296 litigant who is registered to receive a notice of case activity
297 from the court’s electronic-filing system. Litigants who are
298 registered to receive a notice of case activity include those
299 litigants who are participating in the court’s electronic-filing
300 system with respect to the case in question and also include
301 those litigants who receive the notice because they have
302 registered for a court-based electronic-noticing program.
303 (Prior Rule 8011(c)(2)(A)’s provision for service by
304 “sending a document to a registered user by filing it with the
305 court’s electronic-filing system” had already eliminated the
306 requirement of paper service on registered users of the
307 court’s electronic-filing system by other registered users of
308 the system; the amendment extends this exemption from
309 paper service to those who file by a means other than through
310 the court’s electronic-filing system.)

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

316 stated that “Service by electronic means is complete on filing
317 or sending, unless the person making service receives notice
318 that the document was not received by the person served.”
319 By contrast, the parallel provisions in current Civil Rule 5
320 and Criminal Rule 49 use “learns” instead of “receives
321 notice.” In drafting the 2018 amendments to Rules 8011 and
322 9036, the Bankruptcy Rules Committee had chosen
323 “receives notice” in order to prevent litigants from purposely
324 ignoring notice to avoid learning that the document was not
325 received. However, the term “learns” is the broader term and
326 it encompasses “receiving notice.” Thus, the amended Rules
327 8011 and 9036 use “learns” in conformity with the other sets
328 of rules.

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

335 **Subdivision (c)(2).** Subdivision (c)(2) carries
336 forward the contents of prior Rules 8011(c)(1) and (2), with
337 three changes.

338 The subdivision’s introductory phrase
339 (“Nonelectronic service may be by any of the following”) is
340 amended to read “A document may also be served under this
341 rule by.” This locution ensures that what will become Rule
342 8011(c)(2) remains an option for serving any litigant, even
343 one who receives notices of filing. This option might be
344 useful to a litigant who will be filing non-electronically but
345 who wishes to effect service on their opponent before the
346 time when the court will have uploaded the filing into the
347 court’s system (thus generating the notice of case activity).

348 Prior Rule 8011(c)(2)(A)’s reference to “sending a
 349 document to a registered user by filing it with the court’s
 350 electronic-filing system” is deleted, because this is now
 351 covered by new Rule 8011(c)(1).

352 The concept that service by other electronic means is
 353 not effective if the sender learns that the document was not
 354 received by the person served—previously contained in
 355 prior Rule 8011(c)(3)—is relocated to what now is Rule
 356 8011(c)(2)(D). As noted above with respect to subdivision
 357 (c)(1), the amended rule in subdivision (c)(2)(D) uses
 358 “learns” instead of the prior rule’s “receives notice.”

359 **Subdivision (c)(3).** Rule 8011(c)(3) (“When Service
 360 is Complete”) is amended to distinguish between service
 361 under new Rule 8011(c)(1)—that is, service by means of the
 362 notice of case activity—and service by “other electronic
 363 means.”

364 When a litigant files a paper other than through the
 365 court’s electronic-filing system, service on a litigant who is
 366 registered to receive a notice of case activity through the
 367 court’s electronic-filing system occurs by means of the
 368 notice of case activity. But when the filing is made other than
 369 through the court’s electronic-filing system, there can be a
 370 short time lag between the date the litigant files the
 371 document with the court and the date that the clerk’s office
 372 uploads it into the court’s electronic-filing system. Thus,
 373 new subdivision (c)(3)(A) provides that, for purposes of any
 374 deadlines for making service, service by a notice of case
 375 activity is complete as of the date of filing. But the amended
 376 rule provides that, for purposes of any deadlines that run
 377 from the date of service, service is complete as of the date of
 378 the notice of case activity. Thus, the amended rule ensures
 379 that if there is a delay between the date the court receives a
 380 filing not made through the electronic-filing system and the

381 date the court uploads that filing into the electronic-filing
382 system, that delay will not diminish the time allowed to the
383 party whose deadline runs from the date of service.

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

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

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

**PROPOSED AMENDMENTS TO THE
FEDERAL RULES OF BANKRUPTCY PROCEDURE¹**

1 Rule 9006. Computing and Extending Time;
2 Motions

3 * * * * *

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

10 * * * * *

11 **Committee Note**

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

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

**PROPOSED AMENDMENTS TO THE
FEDERAL RULES OF BANKRUPTCY PROCEDURE¹**

1 **Rule 9036. Electronic Notice and Service**

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

5 **(b) Notices from and Service by the Court.**

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

10 (2) ***To All Recipients.*** For any recipient, the clerk
11 may send notice or serve a document by
12 electronic means that the recipient consented
13 to in writing, including by designating an
14 electronic address for receiving notices. But

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

15 these exceptions apply:

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

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

31 **(c) Notices from and Service by an Entity.** ~~An entity~~
 32 ~~may send notice or serve a document in the same~~

manner that the clerk does under (b), excluding
(b)(2)(A) and (B).

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

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

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

(2) *Electronic Means Consented To.* An entity
may also send notice or serve a document by
electronic means that the recipient consented

51 to in writing, including by designating an
52 electronic address for receiving notices. But
53 such notice or service is not effective if the
54 sender learns that it did not reach the entity to
55 be notified or served.

56 (3) *Definition of “Notice of Case Activity.”* The
57 term “notice of case activity” includes a
58 notice of docket activity, a notice of
59 electronic filing, and any other similar
60 electronic notice provided to case
61 participants through the court’s electronic-
62 filing system to inform them of activity on the
63 docket.

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

66 (1) *Notice of Case Activity Sent Through the*
67 *Court’s Electronic-Filing System.* For any
68 notice or service deadlines, notice or service

69 by a notice of case activity is complete as of
70 the date of filing. For any deadlines that run
71 from the date of notice or service, notice or
72 service by a notice of case activity is
73 complete as of the date of the notice of case
74 activity.

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

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

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

87 **Committee Note**

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

99 **Subdivision (c).** Rule 9036(c) previously stated
 100 simply that "[a]n entity may send notice or serve a document
 101 in the same manner that the clerk does under (b), excluding
 102 (b)(2)(A) and (B)." That provision could be read to exclude
 103 instances when an unrepresented individual files a document
 104 in paper form and the clerk's office scans the document and
 105 uploads it into the court's electronic-filing system. Thus
 106 read, the previous rules required separate (paper) service in
 107 such instances, even on litigants who were registered to
 108 receive a notice of case activity from the court's electronic-
 109 filing system. New Rule 9036(c) restates the substance of the
 110 service options previously incorporated by reference to Rule
 111 9036(b), but does so in a way that changes the rule
 112 concerning service by a litigant who makes a filing other
 113 than through the court's electronic-filing system.

114 New Rule 9036(c)(1) eliminates the requirement of
 115 separate (paper) service on a litigant who is registered to
 116 receive a notice of case activity from the court's electronic-
 117 filing system. Litigants who are registered to receive a notice
 118 of case activity include those litigants who are participating
 119 in the court's electronic-filing system with respect to the

120 case in question and also include those litigants who receive
121 the notice because they have registered for a court-based
122 electronic-noticing program. (Prior Rule 9036(c)'s provision
123 for notice or service "in the same manner that the clerk does
124 under" Rule 9036(b)(1) had already eliminated the
125 requirement of paper service on registered users of the
126 court's electronic-filing system by other registered users of
127 the system; the amendment extends this exemption from
128 paper service to those who file a document with the court by
129 a means other than through the court's electronic-filing
130 system.)

131 New Rule 9036(c)(1)(A) provides that notice or
132 service by means of the court's electronic-filing system is
133 not effective if the filer learns that it did not reach the person
134 to be notified or served. This provision carries forward the
135 principle previously contained in prior Rule 9036(d). Prior
136 Rule 9036(d) stated that "Electronic notice or service is
137 complete upon filing or sending but is not effective if the
138 filer or sender receives notice that it did not reach the person
139 to be notified or served." By contrast, the parallel provisions
140 in current Civil Rule 5 and Criminal Rule 49 use "learns"
141 instead of "receives notice." In drafting the 2018
142 amendments to Rules 8011 and 9036, the Bankruptcy Rules
143 Committee had chosen "receives notice" in order to prevent
144 litigants from purposely ignoring notice to avoid learning
145 that the document was not received. However, the term
146 "learns" is the broader term and it encompasses "receiving
147 notice." Thus, the amended Rules 8011 and 9036 use
148 "learns" in conformity with the other sets of rules.

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

154 the court's electronic-filing system.

155 What is now Rule 9036(c)(2) carries forward the
 156 prior option to effect notice or service by consented-to
 157 electronic means. It also provides that such notice or service
 158 is not effective if the sender learns that it did not reach the
 159 entity to be notified or served. This provision carries forward
 160 the principle previously contained in prior Rule 9036(d). As
 161 noted above with respect to subdivision (c)(1), the amended
 162 rule in subdivision (c)(2) uses "learns" instead of the prior
 163 rule's "receives notice."

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

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

180 Previously, Rule 9036(d) provided simply that
 181 "Electronic notice or service is complete upon filing or
 182 sending but is not effective if the filer or sender receives
 183 notice that it did not reach the person to be notified or
 184 served." The adoption of new Rule 9036(c)(1) requires a
 185 change to Rule 9036(d): Under new subdivision (c)(1), when

186 a litigant files a paper other than through the court's
187 electronic-filing system, service on a litigant who is
188 registered to receive a notice of case activity through the
189 court's electronic-filing system occurs by means of the
190 notice of case activity. But when the filing is made other than
191 through the court's electronic-filing system, there can be a
192 short time lag between the date the litigant files the
193 document with the court and the date that the clerk's office
194 uploads it into the court's electronic-filing system. Thus,
195 new subdivision (d)(1) provides that, for purposes of any
196 deadlines for notifying or making service, notice or service
197 by a notice of case activity is complete as of the date of
198 filing. But the amended rule provides that, for purposes of
199 any deadlines that run from the date of notice or service,
200 notice or service is complete as of the date of the notice of
201 case activity. Thus, the amended rule ensures that if there is
202 a delay between the date the court receives a filing not made
203 through the electronic-filing system and the date the court
204 uploads that filing into the electronic-filing system, that
205 delay will not diminish the time allowed to the party whose
206 deadline runs from the date of notice or service.

207 New subdivision (d)(2) carries forward—for notice
208 or service by other electronic means—the prior rule's
209 treatment; that is, such notice or service is complete upon
210 sending.

211 Prior Rule 9036(d)'s provision that electronic notice
212 or service is not effective if the filer or sender receives notice
213 that it did not reach the person to be notified or served is
214 revised and relocated to new Rules 9036(c)(1)(A) and
215 9036(c)(2).

**PROPOSED AMENDMENTS TO THE FEDERAL
RULES OF BANKRUPTCY PROCEDURE¹**

1 **Rule 9037. Protecting Privacy for Filings**

- 2 **(a) Redacted Filings.** Unless the court orders otherwise,
3 in an electronic or paper filing with the court,
4 including any exhibit or attachment, that contains an
5 individual's social-security number, taxpayer-
6 identification number, or birth date, the name of an
7 individual, other than the debtor, known to be and
8 identified as a minor, or a financial-account number,
9 a party or nonparty making the filing may include
10 only:
11 (1) the last four digits of the social-security
12 number and taxpayer-identification number;
13 (2) the year of the individual's birth;

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

14 (3) ~~the minor's initials~~ a pseudonym in place of
15 the name of the individual known to be and
16 identified as a minor; and

17 (4) the last four digits of the financial-
18 account number.

19 **(b) Exemptions from the Redaction Requirement.**

20 The redaction requirement does not apply to the
21 following:

22 (1) a financial-account number that identifies the
23 property allegedly subject to forfeiture in a
24 forfeiture proceeding;

25 (2) the record of an administrative or agency
26 proceeding, unless filed with a proof of
27 claim;

28 (3) the official record of a state-court proceeding;

29 (4) the record of a court or tribunal, if that record
30 was not subject to the redaction requirement
31 when originally filed;

32 (5) a filing covered by (c); and

33 (6) a filing subject to § 110.

34 **(c) Filings Made Under Seal.** The court may order that
35 a filing be made under seal without redaction. The
36 court may later unseal the filing or order the entity
37 that made it to file a redacted version for the public
38 record.

39 **(d) Protective Orders.** For cause, the court may by
40 order in a case:

41 (1) require redaction of additional information;
42 or

43 (2) limit or prohibit a nonparty's remote
44 electronic access to a document filed with the
45 court.

46 **(e) Option for Additional Unredacted Document**
47 **Under Seal.** An entity filing a redacted document
48 may also file an unredacted copy under seal. The

49 court must retain the unredacted copy as part of the
50 record.

51 **(f) Option for Filing a Reference List.** A filing that
52 contains redacted information may be filed together
53 with a reference list that identifies each item of
54 redacted information and specifies an appropriate
55 identifier that uniquely corresponds to each item
56 listed. The list must be filed under seal and may be
57 amended as of right. A reference in the case to a listed
58 identifier will be construed to refer to the
59 corresponding item of information.

60 **(g) Waiver of Protection of Identifiers.** An entity
61 waives the protection of (a) for the entity's own
62 information by filing it without redaction and not
63 under seal.

64 **(h) Motion to Redact a Previously Filed Document.**

65 (1) ***Content; Service.*** Unless the court orders
66 otherwise, an entity seeking to redact from a

67 previously filed document information that is
68 protected under (a) must:

69 (A) file a motion that identifies the
70 proposed redactions;

71 (B) attach to it the proposed redacted
72 document;

73 (C) include the docket number—or proof-
74 of-claim number—of the previously
75 filed document; and

76 (D) serve the motion and attachment on:

- 77 • the debtor;
- 78 • the debtor’s attorney;
- 79 • any trustee;
- 80 • the United States trustee;
- 81 • the entity that filed the unredacted
- 82 document; and
- 83 • any individual whose personal
- 84 identifying information is to be

85 redacted.

86 (2) ***Restricting Public Access to the Unredacted***
 87 ***Document; Docketing the Redacted***
 88 ***Document.*** Pending its ruling, the court must
 89 promptly restrict access to the motion and the
 90 unredacted document. If the court grants the
 91 motion, the clerk must docket the redacted
 92 document. The restrictions on public access
 93 to the motion and unredacted document
 94 remain in effect until a further court order. If
 95 the court denies the motion, the restrictions
 96 must be lifted, unless the court orders
 97 otherwise.

98 **Committee Note**

99 The changes to Rule 9037(a)(3) are made
 100 to conform the treatment of references to minors in filings in
 101 bankruptcy court to the changes to Fed. R. Crim. P. 49.1 and
 102 Fed. R. Civ. P. 52. Use of pseudonyms is more protective of
 103 the privacy and safety of the minors. The other conforming
 104 change in Rule 9037(a) makes clear that the redactions
 105 covered by the rule include exhibits and attachments. But
 106 the exemptions in subsection (b) still apply to exhibits and

- 107 attachments (though a protective order under subsection (d)
108 may require additional omission or redaction).

FEDERAL RULES OF CIVIL PROCEDURE

Excerpt from the May 6, 2026 Report of the Advisory Committee on Civil Rules

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

JAMES C. DEVER III
CHAIR

CAROLYN A. DUBAY
SECRETARY

CHAIRS OF ADVISORY COMMITTEES

ALLISON H. EID
APPELLATE RULES

REBECCA B. CONNELLY
BANKRUPTCY RULES

SARAH S. VANCE
CIVIL RULES

MICHAEL W. MOSMAN
CRIMINAL RULES

JESSE M. FURMAN
EVIDENCE RULES

MEMORANDUM

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

FROM: Hon. Sarah S. Vance, Chair
Advisory Committee on Civil Rules

RE: Report of the Advisory Committee on Civil Rules

DATE: May 6, 2026

Introduction

The Civil Rules Advisory Committee met in Charlotte, N.C., on April 14, 2026. Members of the public attended in person, and public online attendance was also provided. * * *

* * * * *

Part II of this report provides a brief update on the rule amendments for which the Advisory Committee unanimously voted to recommend publication for public comment. These amendments are part of coordinated efforts with the Appellate, Bankruptcy, and Criminal Rules Committees to revise their respective rules regarding privacy protections and electronic filing and are addressed in separate reports to the Standing Committee.

* * * * *

II. RULES RECOMMENDED FOR PUBLICATION FOR PUBLIC COMMENT

(a) Rule 5.2—Privacy Protection for Filings Made with the Court

At its April 14, 2026, meeting, the Advisory Committee unanimously recommended publication of amendments to Rule 5.2 concerning privacy protections in court filings. The proposed amendments would require complete redaction of social-security numbers, individual taxpayer-identification numbers, adoption taxpayer-identification numbers, and employer identification numbers; require the use of pseudonyms, rather than initials, to refer to minors; and would apply these requirements to all documents in a court filing, including exhibits and attachments. Note that the proposed amendments do not address how to address the use of a pseudonym for a minor in a court filing once the minor ages out, but public comment may provide insight into whether this is an issue that should be addressed in a rule rather than through protective orders in individual cases.

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

The Advisory Committee also unanimously voted to recommend that amendments to Rule 5 (and a conforming amendment to Rule 6) be published for public comment. The proposed amendments would increase electronic access to court by self-represented litigants. These proposed amendments are presented separately in a report by Professor Catherine T. Struve, Consultant to the Standing Committee, that addresses amendments to the Appellate, Bankruptcy, and Criminal Rules in addition to the Civil Rules.

* * * * *

Excerpt from the December 5, 2025 Report of the Advisory Committee on Civil Rules

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

JAMES C. DEVER III
CHAIR

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CHAIRS OF ADVISORY COMMITTEES

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CRIMINAL RULES

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EVIDENCE RULES

MEMORANDUM

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

FROM: Hon. Sarah S. Vance, Chair
Advisory Committee on Civil Rules

RE: Report of the Advisory Committee on Civil Rules

DATE: December 5, 2025

Introduction

The Civil Rules Advisory Committee met in Washington D.C., on October 24, 2025. Members of the public attended in person, and public online attendance was also provided. * * *

* * * * *

Part I of this report will present the one action item on which the Advisory Committee voted to recommend publication in August 2026—Rule 55. The proposed amendment replaces the command “must” in Rules 55(a) and (b)(1) regarding entry of default and default judgment by the clerk with “may,” offering the clerk the alternative of referring the matter to the court. The

Excerpt from the December 5, 2025 Report of the Advisory Committee on Civil Rules

amendment proposal is based on an extensive Federal Judicial Center study of default procedures in the district courts, and corresponds to the actual practices in many districts.

* * * * *

I. ACTION ITEMS

Rule 55

Since 1938, Rules 55(a) and (b)(1) have included the command that the clerk “must” enter a default or default judgment in certain circumstances. Actual practice is different. For one thing, there may be questions about whether a defending party has been properly served that may make a command to the clerk to enter a default inappropriate. For another, with regard to a default judgment under Rule 55(b)(1), there may be difficult questions about whether an action is for “a sum certain or a sum that can be made certain by computation.” In particular, the possibility that an attorney fee award is justified can present tricky questions that the clerk may be unable to resolve with confidence. Issues can also arise with computing interest.

An extensive study by the Federal Judicial Center revealed that default practices vary considerably among districts. Additional information on those differences can be found at pp. 112-16 of the agenda book for the Advisory Committee’s fall 2025 meeting via the link at the beginning of this report. In some courts, a party seeking entry of default or default judgment is required to give advance notice to the defending party. In one district, local rules provide that the clerk must give notice of entry of default. Local rules prescribe different methods for seeking entry of default or default judgment—by motion or otherwise—and prescribe the specific showings that must be included in applications for entry of default or default judgment. At least one local rule directs the clerk independently to verify that the time for response has expired without an answer or appearance from the defendant. Regarding entry of default judgment, one local rule has a meet-and-confer requirement.

Though a nationwide set of rules on such questions might have some utility, the Advisory Committee was not persuaded that altering local practices on all these various matters was warranted. But the command in the rule that the clerk take actions that could impose undue burdens on the clerk is out of step with almost all local practices. So the Advisory Committee’s conclusion was to grant the clerk discretion to refer applications for entry of default or default judgment to the court. That discretion is, indeed, included in some local rules and also occurs as a matter of local practice.

In approaching this topic, it is also useful to take account of the decreasing importance of default practice in federal court, particularly in comparison to state courts. As the FJC study demonstrated, the frequency of default judgments in federal civil cases has declined markedly in the last 20 years, and is now below 2% of civil case terminations. In contrast, the rate of defaults in state courts is very high. *See* Pamela Bookman, *Default Procedures*, 173 U. PA. L. REV. 1419, 1419-20 (2025) (reporting that in state courts default judgments are “often over 70% in debt-collection cases * * * down from rates as high as 95% a decade ago”); *see also* Daniel Wilf-Townsend, *Assembly-Line Plaintiffs*, 135 HARVARD L. REV. 1704 (2022). A 2020 study by the Pew Charitable Trusts, *How Debt Collectors Are Transforming the Business of State Courts*, tells

Excerpt from the December 5, 2025 Report of the Advisory Committee on Civil Rules

a similar story about the state courts, and the American Law Institute has launched a Project on High Volume Litigation addressed to such issues.

Though defaults are a prominent issue in state courts, then, there is no comparable set of issues in federal courts.

In addition, the exercise of discretion ordinarily should be with the court. Thus, 10A FED. PRAC. & PROC. CIV. § 2685 emphasizes the role of the court:

When an application is made to the court under Rule 55(b)(2) for the entry of a judgment by default, the district judge is required to exercise sound judicial discretion in determining whether the judgment should be entered. The ability of the court to exercise its discretion and refuse to enter a default judgment is made effective by the two requirements of Rule 55(b)(2) that an application must be presented to the court for entry of judgment and that notice of the application must be sent to any defaulting party who has appeared.

Additional information about this topic can be found at pp. 105-16 of the agenda book for the Advisory Committee's fall 2025 meeting via the link at the beginning of this report.

Given these considerations, the Advisory Committee approved the following amendment to Rule 55 for publication for public comment:

* * * * *

**PROPOSED AMENDMENTS TO THE
FEDERAL RULES OF CIVIL PROCEDURE¹**

1 **Rule 5. Serving and Filing Pleadings and Other Papers**

2 **(a) Service: When Required.**

3 **(1) *In General.*** Unless these rules provide
4 otherwise, each of the following papers must
5 be served on every party:

6 **(A)** an order stating that service is
7 required;

8 **(B)** a pleading filed after the original
9 complaint, unless the court orders
10 otherwise under Rule 5(c) because
11 there are numerous defendants;

12 **(C)** a discovery paper required to be
13 served on a party, unless the court
14 orders otherwise;

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

15 (D) a written motion, except one that may
16 be heard ex parte; and

17 (E) a written notice, appearance, demand,
18 or offer of judgment, or any similar
19 paper.

20 * * * * *

21 (b) **Service: How Made.**

22 (1) *Serving an Attorney.* If a party is represented
23 by an attorney, service under this rule must
24 be made on the attorney unless the court
25 orders service on the party.

26 (2) *Service by a Notice of Case Activity Sent*
27 *Through the Court's Electronic-Filing*
28 *System.* A notice of case activity sent to a
29 person registered to receive it through the
30 court's electronic-filing system constitutes
31 service on that person. For any service
32 deadlines, service by a notice of case activity

33 is complete as of the date of filing. For any
34 deadlines that run from the date of service,
35 service by a notice of case activity is
36 complete as of the notice's date. But these
37 qualifications apply:

38 (A) such service is not effective if the filer
39 learns that it did not reach the person
40 to be served; and

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

44 **(3) Service by Other Means ~~in General~~.** A paper
45 ~~is~~ may also be served under this rule by:

46 (A) handing it to the person;

47 (B) leaving it:

48 (i) at the person's office with a
49 clerk or other person in charge
50 or, if no one is in charge, in a

- 51 conspicuous place in the
 52 office; or
- 53 (ii) if the person has no office or
 54 the office is closed, at the
 55 person's dwelling or usual
 56 place of abode with someone
 57 of suitable age and discretion
 58 who resides there;
- 59 (C) mailing it to the person's last known
 60 address—in which event service is
 61 complete upon mailing;
- 62 (D) leaving it with the court clerk if the
 63 person has no known address;
- 64 (E) ~~sending it to a registered user by filing~~
 65 ~~it with the court's electronic filing~~
 66 ~~system—or~~ sending it by other
 67 electronic means that the person has
 68 consented to in writing—in ~~either of~~

69 which events service is complete
70 upon ~~filing or~~ sending, but is not
71 effective if the ~~filer or~~ sender learns
72 that it did not reach the person to be
73 served; or

74 (F) delivering it by any other means that
75 the person has consented to in
76 writing—in which event service is
77 complete when the person making
78 service delivers it to the agency
79 designated to make delivery.

80 ~~(3) — *Using Court Facilities.* [Abrogated (Apr. 26,~~
81 ~~2018, eff. Dec. 1, 2018.)]~~

82 (4) *Definition of “Notice of Case Activity.”* The
83 term “notice of case activity” includes a
84 notice of docket activity, a notice of
85 electronic filing, and any other similar
86 electronic notice provided to case

87 participants through the court's electronic-
88 filing system to inform them of activity on the
89 docket.

90 * * * * *

91 **(d) Filing.**

92 **(1) *Required Filings; Certificate of Service.***

93 **(A) *Papers ~~after~~ After the Complaint.***

94 Any paper after the complaint that is
95 required to be served must be filed no
96 later than a reasonable time after
97 service. But disclosures under Rule
98 26(a)(1) or (2) and the following
99 discovery requests and responses
100 must not be filed until they are used
101 in the proceeding or the court orders
102 filing: depositions, interrogatories,
103 requests for documents or tangible
104 things or to permit entry onto land,

- 105 and requests for admission.
- 106 **(B)** *Certificate of Service.* No certificate
- 107 of service is required when a paper is
- 108 served through the court's electronic-
- 109 filing system under Rule 5(b)(2)~~by~~
- 110 ~~filing it with the court's electronic-~~
- 111 ~~filing system.~~ When a paper that is
- 112 required to be served is served by
- 113 other means:
- 114 (i) if ~~the paper~~ it is filed, a
- 115 certificate of service must be
- 116 filed with it or within a
- 117 reasonable time after service;
- 118 and
- 119 (ii) if ~~the paper~~ it is not filed, a
- 120 certificate of service need not
- 121 be filed₂, unless filing is
- 122 required by court order or by

123 local rule.

124 (2) ~~*Nonelectronic Filing.*~~ A paper not filed
125 electronically is filed by delivering it:

126 (A) ~~to the clerk; or~~

127 (B) ~~to a judge who agrees to accept it for~~
128 ~~filing, and who must then note the~~
129 ~~filing date on the paper and promptly~~
130 ~~send it to the clerk.~~

131 (3) *Electronic Filing and Signing.*

132 (A) *By a Represented Person*
133 *Represented by Counsel—Generally*
134 *Required; Exceptions.* A person
135 represented by an attorney must file
136 electronically, unless nonelectronic
137 filing is allowed by the court for good
138 cause or is allowed or required by
139 local rule.

140 (B) *By an Unrepresented Person Party—*

- 141 *When Allowed or Required.*
- 142 (i) In General. An unrepresented
- 143 party ~~person not represented~~
- 144 ~~by an attorney; (i) may file~~
- 145 ~~electronically only if allowed~~
- 146 ~~by~~ use the court's electronic-
- 147 filing system to file papers
- 148 and receive notice of activity
- 149 in the party's case, unless a
- 150 court order or ~~by~~ local rule
- 151 prohibits the party from doing
- 152 so; ~~and (ii)~~ An unrepresented
- 153 person may be required to file
- 154 electronically only by ~~court~~
- 155 order in a case; or by a local
- 156 rule that includes reasonable
- 157 exceptions.
- 158 (ii) Conditions and Restrictions

159 on Access. A court may set
160 and enforce reasonable
161 conditions and restrictions on
162 unrepresented parties' access
163 to the court's electronic-filing
164 system (including by denying
165 or revoking access for a
166 particular unrepresented
167 party). But the court may not
168 prohibit all unrepresented
169 parties from using the system
170 unless that prohibition
171 includes reasonable
172 exceptions or the court
173 permits the use of another
174 electronic method for filing
175 papers and receiving
176 electronic notice of activity in

177 the party's case.

178 (C) *Signing.* A filing made through a
 179 person's electronic-filing account and
 180 authorized by that person, together
 181 with that person's name on a
 182 signature block, constitutes the
 183 person's signature.

184 (D) *Same as a Written Paper.* A paper
 185 filed electronically is a written paper
 186 for purposes of these rules.

187 (3) *Nonelectronic Filing.* A paper not filed
 188 electronically is filed by delivering it:

189 (A) to the clerk; or

190 (B) to a judge who agrees to accept it for
 191 filing, and who must then note the
 192 filing date on the paper and promptly
 193 send it to the clerk.

194 (4) *Acceptance by the Clerk.* The clerk must not

195 refuse to file a paper solely because it is not
 196 in the form prescribed by these rules or by a
 197 local rule or practice.

198 **Committee Note**

199 Rule 5 is amended to address two topics concerning
 200 unrepresented parties. (Concurrent amendments are made to
 201 Bankruptcy Rules 5005, 8011, and 9036, Criminal Rule 49,
 202 and Appellate Rule 25.) Rule 5(b) is amended to address
 203 service of documents (subsequent to the complaint) filed by
 204 an unrepresented litigant in paper form. Because all such
 205 paper filings are uploaded by court staff into the court’s
 206 electronic-filing system, there is no need to require separate
 207 paper service by the filer on case participants who receive an
 208 electronic notice of the filing from the court’s electronic-
 209 filing system. Rule 5(b)’s treatment of service is also
 210 reorganized to reflect the primacy of service by means of the
 211 electronic notice. Rule 5(d) is amended to expand the
 212 availability of electronic modes by which unrepresented
 213 parties can file documents with the court and receive notice
 214 of filings that others make in the case. Also, the order of what
 215 had been Rules 5(d)(2) (“Nonelectronic Filing”) and 5(d)(3)
 216 (“Electronic Filing and Signing”) is reversed – with (d)(2)
 217 becoming (d)(3) and vice versa – to reflect the modern
 218 primacy of electronic filing. A few stylistic changes are also
 219 made.

220 **Subdivision (b).** Rule 5(b) is restructured so that the
 221 primary means of service – that is, service by means of the
 222 court’s electronic-filing system – is addressed first, in
 223 subdivision 5(b)(2). Former Rule 5(b)(2) becomes new Rule
 224 5(b)(3), which continues to address alternative means of
 225 service. New Rule 5(b)(4) defines the term “notice of case

226 activity” as any electronic notice provided to case
 227 participants through the court’s electronic-filing system to
 228 inform them of a filing or other activity on the docket.

229 **Subdivision (b)(2).** Amended Rule 5(b)(2)
 230 eliminates the requirement of separate (paper) service (of
 231 documents after the complaint) on a litigant who is
 232 registered to receive a notice of case activity from the court’s
 233 electronic-filing system. Litigants who are registered to
 234 receive a notice of case activity include those litigants who
 235 are participating in the court’s electronic-filing system with
 236 respect to the case in question and also include those litigants
 237 who receive the notice because they have registered for a
 238 court-based electronic-noticing program. (Former Rule
 239 5(b)(2)(E)’s provision for service by “sending [a paper] to a
 240 registered user by filing it with the court’s electronic-filing
 241 system” had already eliminated the requirement of paper
 242 service on registered users of the court’s electronic-filing
 243 system by other registered users of the system; the
 244 amendment extends this exemption from paper service to
 245 those who file by a means other than through the court’s
 246 electronic-filing system.)

247 Amended Rule 5(b)(2) provides that, for purposes of
 248 any deadlines for making service, service by a notice of case
 249 activity is complete as of the date of filing. But the amended
 250 rule provides that, for purposes of any deadlines that run
 251 from the date of service, service is complete as of the date of
 252 the notice of case activity. Thus, the amended rule ensures
 253 that if there is a delay between the date the court receives a
 254 filing not made through the electronic-filing system and the
 255 date the court uploads that filing into the electronic-filing
 256 system, that delay will not diminish the time allowed to the
 257 party whose deadline runs from the date of service.

258 Amended Rule 5(b)(2)(A) carries forward the

259 provision – previously found in former Rule 5(b)(2)(E) –
260 that service by means of the court’s electronic-filing system
261 is not effective if the filer learns that it did not reach the
262 person to be served.

263 Amended Rule 5(b)(2)(B) states that a court may
264 provide by order or local rule that if a paper is filed under
265 seal, it must be served by other means. This sentence is
266 designed to account for districts in which parties in the case
267 cannot access other participants’ sealed filings via the
268 court’s electronic-filing system.

269 **Subdivision (b)(3).** Subdivision (b)(3) carries
270 forward the contents of former Rule 5(b)(2), with two
271 changes – one to the subdivision’s introductory phrase and
272 the other to what becomes Rule 5(b)(3)(E).

273 The subdivision’s introductory phrase (“A paper is
274 served under this rule by”) is amended to read “A paper may
275 also be served under this rule by.” This locution ensures that
276 what will become Rule 5(b)(3) remains an option for serving
277 any litigant, even one who receives notices of case activity.
278 This option might be useful to litigants who will be filing
279 non-electronically but who wish to effect service on their
280 opponents before the time when the court will have uploaded
281 the filing into the court’s system (thus generating the notice
282 of case activity).

283 **Subdivision (b)(3)(E).** The prior reference to
284 “sending [a paper] to a registered user by filing it with the
285 court’s electronic-filing system” is deleted, because this is
286 now covered by new Rule 5(b)(2).

287 Subdivision (b)(3)(E) carries forward – for service
288 by other electronic means – the prior rule’s provision that
289 such service is not effective if the sender “learns that it did

290 not reach the person to be served”; a similar provision is also
 291 included in Rule 5(b)(2)(A) with respect to service via the
 292 court’s electronic-filing system.

293 **Subdivision (b)(4).** New Rule 5(b)(4) defines the
 294 term “notice of case activity” as any electronic notice
 295 provided to case participants through the court’s electronic-
 296 filing system to inform them of a filing or other activity on
 297 the docket. There are two equivalent terms currently in use:
 298 Notice of Electronic Filing and Notice of Docket Activity.
 299 “Notice of case activity” is intended to encompass both of
 300 those terms, as well as any equivalent terms that may come
 301 into use in future. The word “electronic” is deleted as
 302 superfluous now that electronic filing is the default method.

303 **Subdivision (d)(1)(B).** Subdivision (d)(1)(B)
 304 previously provided that no certificate of service was
 305 required when a paper was served “by filing it with the
 306 court’s electronic-filing system.” This phrase is replaced by
 307 “through the court’s electronic-filing system under Rule
 308 5(b)(2)” in order to conform to the change to subdivision
 309 (b)(2).

310 **Subdivision (d)(2)(B).** Under new Rule
 311 5(d)(2)(B)(i), the presumption is the opposite of the
 312 presumption set by the prior Rule 5(d)(3)(B). That is, under
 313 new Rule 5(d)(2)(B)(i), unrepresented parties are
 314 presumptively authorized to use the court’s electronic-filing
 315 system to file documents in their case subsequent to the
 316 case’s commencement. (The rule grants this presumptive
 317 authorization to an unrepresented ‘party,’ not an
 318 unrepresented ‘person’; the rule does not grant nonparty
 319 nonlawyers any right to use the court’s e-filing system.) If a
 320 district wishes to restrict unrepresented parties’ access to the
 321 court’s electronic-filing system, it must adopt an order or
 322 local rule to impose that restriction.

323 New Rule 5(d)(2)(B)(ii) states that the court may set
324 reasonable conditions and restrictions on unrepresented
325 parties' access to the court's electronic-filing system. For
326 example, access to electronic filing could be allowed only to
327 unrepresented parties who are not incarcerated (in light of
328 the distinctive logistical considerations that apply in carceral
329 settings), who satisfactorily complete required training
330 and/or certifications, and who comply with any other
331 reasonable conditions on access.

332 New Rule 5(d)(2)(B)(ii) expressly states that a
333 reasonable restriction would include, where appropriate,
334 orders barring a specific unrepresented party from accessing
335 the court's electronic-filing system, or revoking a specific
336 unrepresented party's access to the court's electronic-filing
337 system. Another example would be a local provision stating
338 that certain types of filings – for example, notices of appeal
339 – cannot be filed by means of the court's electronic-filing
340 system.

341 However, new Rule 5(d)(2)(B)(ii) also expressly
342 prohibits a court from barring all unrepresented parties from
343 using the court's electronic-filing system, unless the court
344 also either (1) includes reasonable exceptions to the
345 prohibition, or (2) permits unrepresented parties to use
346 another electronic method for filing documents (such as by
347 email or by upload through an electronic document
348 submission system) and an alternative electronic means for
349 receiving notice of court filings and orders (such as an
350 electronic noticing program). For example, local provisions
351 that require unrepresented parties who seek to use the court's
352 electronic-filing system to obtain the court's permission
353 would count as including reasonable exceptions, so long as
354 such permission is granted or withheld in accordance with
355 the reasonable conditions and restrictions on access set by
356 the court.

**PROPOSED AMENDMENTS TO THE FEDERAL
RULES OF CIVIL PROCEDURE¹**

1 **Rule 5.2. Privacy Protection for Filings Made with the**
2 **Court**

- 3 **(a) Redacted Filings.** Unless the court orders otherwise,
4 ~~in an electronic or paper filing with the court that~~
5 ~~contains an individual's social-security number,~~
6 ~~taxpayer-identification number, or birth date, the~~
7 ~~name of an individual known to be a minor, or a~~
8 ~~financial-account number, a party or nonparty~~
9 ~~making the filing may include only:~~ an electronic or
10 paper filing with the court, including any exhibit or
11 attachment, must:
12 (1) ~~the last four digits of the~~ omit or completely
13 redact all social-security ~~number and~~ or other
14 taxpayer-identification ~~number~~s, including
15 employer-identification numbers; and

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

- 16 (2) if any of the following types of information
17 appear in the filing, include only:
18 (A) the year of ~~an~~ the individual's birth;
19 ~~(3)(B) the minor's initials~~ a pseudonym in
20 place of the name of an individual
21 known to be a minor; and
22 ~~(4)(C) the last four digits of the~~ a financial-
23 account number.

24 **(b) Exemptions from the Redaction Requirement.**

25 The redaction requirement does not apply to the
26 following:

- 27 (1) a financial-account number that identifies the
28 property allegedly subject to forfeiture in a
29 forfeiture proceeding;
30 (2) the record of an administrative or agency
31 proceeding;
32 (3) the official record of a state-court
33 proceeding;

- 34 (4) the record of a court or tribunal, if that record
35 was not subject to the redaction requirement
36 when originally filed;
- 37 (5) a filing covered by Rule 5.2(c) or (d); and
- 38 (6) a pro se filing in an action brought under 28
39 U.S.C. §§ 2241, 2254, or 2255.

40 **(c) Limitations on Remote Access to Electronic Files;**
41 **Social-Security Appeals and Immigration Cases.**

42 Unless the court orders otherwise, in an action for
43 benefits under the Social Security Act, and in an
44 action or proceeding relating to an order of removal,
45 to relief from removal, or to immigration benefits or
46 detention, access to an electronic file is authorized as
47 follows:

- 48 (1) the parties and their attorneys may have
49 remote electronic access to any part of the
50 case file, including the administrative record;

- 51 (2) any other person may have electronic access
52 to the full record at the courthouse, but may
53 have remote electronic access only to:
- 54 (A) the docket maintained by the court;
55 and
56 (B) an opinion, order, judgment, or other
57 disposition of the court, but not any
58 other part of the case file or the
59 administrative record.
- 60 **(d) Filings Made Under Seal.** The court may order that
61 a filing be made under seal without redaction. The
62 court may later unseal the filing or order the person
63 who made the filing to file a redacted version for the
64 public record.
- 65 **(e) Protective Orders.** For good cause, the court may
66 by order in a case:
- 67 (1) require redaction of additional information;
68 or

69 (2) limit or prohibit a nonparty's remote
70 electronic access to a document filed with the
71 court.

72 **(f) Option for Additional Unredacted Filing Under**
73 **Seal.** A person making a redacted filing may also file
74 an unredacted copy under seal. The court must retain
75 the unredacted copy as part of the record.

76 **(g) Option for Filing a Reference List.** A filing that
77 contains redacted information may be filed together
78 with a reference list that identifies each item of
79 redacted information and specifies an appropriate
80 identifier that uniquely corresponds to each item
81 listed. The list must be filed under seal and may be
82 amended as of right. Any reference in the case to a
83 listed identifier will be construed to refer to the
84 corresponding item of information.

85 **(h) Waiver of Protection of Identifiers.** A person
86 waives the protection of Rule 5.2(a) as to the

87 person’s own information by filing it without
88 redaction and not under seal.

89 **Committee Note**

90 In contrast to the current rule, which allows public
91 filings to contain the last four digits of social-security and
92 taxpayer-identification numbers, the amendment requires
93 the omission or redaction of all digits of social-security and
94 taxpayer-identification numbers in public filings. Recent
95 federal policy guidance recommends avoiding the
96 unnecessary display of any part of these numbers on forms,
97 reports, and computers. The Committee concluded that even
98 partial numbers are useful to identity thieves, and that the
99 omission of these numbers from public filings will impose
100 no hardship on either litigants or the courts. In cases in which
101 this information is pertinent, Rule 5.2(f) allows a party to file
102 an unredacted copy of a filing under seal.

103 Taxpayer-identification numbers (TINs) are
104 identification numbers used in the administration of tax
105 laws. In addition to Social Security numbers, TINs include
106 individual taxpayer-identification numbers (ITINs),
107 taxpayer-identification numbers for pending U.S. Adoptions
108 (ATINs), and employer-identification numbers (EINs).

109 The amendment’s protection for “taxpayer-
110 identification numbers” includes employer-identification
111 numbers as well as individual taxpayer-identification
112 numbers and adoption-identification numbers. Although
113 employer-identification numbers for some corporations may
114 be publicly available, smaller businesses and individuals
115 who employ others have a privacy interest in these numbers,
116 and there is also a potential for their misuse.

117 To enhance the protection of minors' privacy and
118 safety, the amendment also requires the substitution of a
119 pseudonym, rather than initials, in place of a minor's name
120 in public filings. When it is feasible to do so, the use of
121 gender-neutral pseudonyms is preferable. The use of
122 gendered pseudonyms or pronouns, combined with other
123 information contained in public pleadings, may make it
124 easier to uncover the identity of a minor.

125 The requirement for omission or redaction applies to
126 exhibits or attachments. Parties and nonparties who include
127 exhibits or attachments in public filings are required to
128 review them to ensure that they do not contain information
129 protected by the rule. But the exemptions in subsection (b)
130 still apply to exhibits and attachments (though a protective
131 order under subsection (e) may require additional omission
132 or redaction).

**PROPOSED AMENDMENTS TO THE
FEDERAL RULES OF CIVIL PROCEDURE¹**

1 **Rule 6. Computing and Extending Time; Time for**
2 **Motion Papers**

3 * * * * *

4 **(d) Additional Time After Certain Kinds of Service.**

5 When a party may or must act within a specified time
6 after being served and service is made under Rule
7 5(b)(~~2~~3)(C) (mail), (D) (leaving with the clerk), or
8 (F) (other means consented to), 3 days are added after
9 the period would otherwise expire under Rule 6(a).

10 **Committee Note**

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

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

**PROPOSED AMENDMENT TO THE
FEDERAL RULES OF CIVIL PROCEDURE¹**

1 **Rule 55. Default; Default Judgment**

2 **(a) Entering a Default.** When a party against whom a
3 judgment for affirmative relief is sought has failed to
4 plead or otherwise defend, and that failure is shown
5 by affidavit or otherwise, the clerk may either~~must~~
6 enter the party's default or refer the matter to the
7 court for directions.

8 **(b) Entering a Default Judgment.**

9 **(1) By the Clerk.** If the plaintiff's claim is for a
10 sum certain or a sum that can be made certain
11 by computation, the clerk—on the plaintiff's
12 request, with an affidavit showing the amount
13 due—may either~~must~~:

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

14 **(A)** enter judgment for that amount and
15 costs against a defendant who has
16 been defaulted for not appearing and
17 who is neither a minor nor an
18 incompetent person; or

19 **(B)** refer the matter to the court for
20 directions.

21 **(2)** ***By the Court.*** In all other cases, a ~~the~~ party
22 must apply to the court for a default judgment.
23 A default judgment may be entered against a
24 minor or incompetent person only if
25 represented by a general guardian, conservator,
26 or other like fiduciary who has appeared. If the
27 party against whom a default judgment is
28 sought has appeared personally or by a
29 representative, that party or its representative
30 must be served with written notice of the
31 application at least 7 days before the hearing.

32 The court may conduct hearings or make
33 referrals—preserving any federal statutory
34 right to a jury trial—when, to enter or
35 effectuate judgment, it needs to:

- 36 **(A)** conduct an accounting;
- 37 **(B)** determine the amount of damages;
- 38 **(C)** establish the truth of any allegation by
39 evidence; or
- 40 **(D)** investigate any other matter.

41 * * * * *

42 **Committee Note**

43 Rules 55(a) and 55(b) are amended to remove the
44 command that the clerk enter a default or default judgment
45 whenever they empower the clerk to do so. A thorough study
46 of district-court default practices by the Federal Judicial
47 Center showed considerable variety in actual practices, and
48 also that clerks often exercise discretion to refer the matter
49 to the court under local rules and practices. *See* Emery G.
50 Lee III & Jason A. Cantone, Fed. Jud. Ctr., *Default and*
51 *Default Practices in the District Courts* (Mar. 2024).

52 **Rule 55(a).** Because the clerk may sometimes be
53 uncertain whether the criteria for entry of a default have been
54 satisfied, this amendment recognizes that the clerk may refer
55 these applications for entry of default to the court.

56 **Rule 55(b)(1).** Authority for the clerk to enter default
57 judgment has been in the rules since they were originally
58 promulgated. But litigation has become more complex in
59 ways that can make it challenging to determine whether the
60 claim is “for a sum certain or a sum that can be made certain
61 by computation.” One recurrent issue is computation of
62 interest when that may be included. Another is determining
63 the amount of an attorney fee award when that is authorized
64 either by statute or by contract. As reflected in the FJC study
65 cited above, entry of default judgment by the clerk is now
66 rare, and there is considerable reason to give the clerk the
67 discretion to refer the decision to enter judgment to the court.

68 **Rule 55(b)(2).** The reference to “the party” has
69 been changed to “a party” for greater clarity. No change in
70 meaning is intended.

FEDERAL RULES OF CRIMINAL PROCEDURE

Excerpt from the May 8, 2026 Report of the Advisory Committee on Criminal Rules

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

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CIVIL RULES

MICHAEL W. MOSMAN
CRIMINAL RULES

JESSE M. FURMAN
EVIDENCE RULES

MEMORANDUM

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

FROM: Hon. Michael W. Mosman, Chair
Advisory Committee on Criminal Rules

RE: Report of the Advisory Committee on Criminal Rules

DATE: May 8, 2026

I. INTRODUCTION

The Advisory Committee on Criminal Rules met in Washington, D.C. on April 29, 2026.
* * *

This report presents several action items. * * * It also recommends publication for public comment of amendments to Rules 11 (pleas), 32 (sentencing), and 49.1 (privacy). In addition, the Advisory Committee unanimously recommends approval for publication amendments to Rules 49 and 45 concerning access to electronic filing by self-represented litigants. These proposed amendments will be presented in a report by Professor Catherine Struve that incorporates amendments to the Appellate, Bankruptcy, and Civil Rules as well as the Criminal Rules.

* * * * *

III. ITEMS FOR PUBLICATION

A. Rule 49.1, Reference to Minors by Pseudonyms (24-CR-A and 24-CR-C); Full Redaction of Social-Security Numbers (22-CR-B)

The Advisory Committee unanimously recommends publication of amendments to Rule 49.1 and an accompanying committee note. The proposed amendment requires:

- the substitution of pseudonyms (rather than initials) for the names of minors, and
- the omission or redaction of all digits of social-security and other taxpayer-identification numbers, including employer-identification numbers.

The proposed text provides:

* * * * *

Because the privacy rules are parallel and consistent to the degree possible, a working group convened by Ms. Dubay and including the reporters for the Appellate, Bankruptcy, and Civil Committees has been coordinating the consideration of parallel amendments to be presented at this meeting. The Advisory Committee has been informed that the Civil Rules Committee is recommending amendments to Civil Rule 5.2(a) that parallel the proposed changes in Rule 49.1. Because of the specialized needs in bankruptcy cases, the Bankruptcy Rules Committee is recommending an amendment to Bankruptcy Rule 9037(a) that requires the substitution of pseudonyms rather than initials for minors, but no redaction of social-security and taxpayer-information numbers. Although the Appellate Rules Committee is considering an amendment to add additional protections, there is no need to delay publication of the proposed amendments. Under Federal Rule of Appellate Procedure 25(a)(5), an appeal in a case in which privacy was governed by the bankruptcy, civil, or criminal privacy rules is governed by those rules as well on appeal. Thus, the proposed amendments to Criminal Rule 49.1(a), Bankruptcy Rule 9037(a), and Civil Rule 5.2(a) would govern criminal, bankruptcy, and civil appeals.

1. Reference to Minors by Pseudonyms

As explained in the Department of Justice's suggestion (24-CR-A), Rule 49.1(a)(3)'s current requirement that a filing may include only the initials of a minor does not sufficiently ensure the privacy and safety of child victims and child witnesses, especially in crimes involving the sexual exploitation of a child. The Department explained that child victims and witnesses may face increased shame, embarrassment, and fear if their identity as a victim or witness becomes publicly known, and child-exploitation offenders sometimes track federal criminal filings and take other measures to uncover the identity of child victims and contact and harass the minors. The American Association for Justice and the National Crime Victim Bar Association (24-CR-C) supported the Department's proposal, but they added the suggestion that the advisory committees "consider the use of gender-neutral pseudonyms and pronouns as an important safety protection for minors escaping unfathomable abuse and violence." They state, "the use of gender, especially when combined with the identification of adults by name or initials around the minor, makes the true identity of minors easier to uncover."

Excerpt from the May 8, 2026 Report of the Advisory Committee on Criminal Rules

The Advisory Committee’s proposed revision requires the use of pseudonyms—rather than initials—to refer to minors in public filings. This practice is already well established among federal prosecutors, and neither defense attorneys nor the courts reported any problems with that practice. Because minor victims are so fearful of being identified, it is important to address this issue in the rules. The proposed amendment does not require the use of gender-neutral pseudonyms, because the evidence required to prove certain offenses would make that impractical. Instead, the committee note suggests that gender neutral or other non-identifying terms should be considered where possible.

One question that arose during the consideration of the proposed amendment was how the existing rule (and similar privacy provisions in the Rules of Bankruptcy and Civil Procedure) applies to minors who reach the age of eighteen while litigation is still ongoing. Excellent research by Lara Venegas, who was detailed to the Rules Office, found that although the Criminal, Civil, and Bankruptcy Rules do not expressly extend protection to individuals after they have turned eighteen, the courts have used protective orders effectively to provide continued protection. The Advisory Committee concluded that the current practice of using protective orders to extend the protection of minors seems to be working well, and it does not propose a change in the text of the rule.

Federal Rule of Criminal Procedure 49.1(e) itself allows a court, for good cause, to require the redaction of additional information through protective orders, and the commentary states that Rule 49.1 “does not affect the protection available under other rules . . . or under other sources of protective authority.” Fed. R. Crim. P. 49.1(e), Advisory Committee Notes. Other sources of protective authority, too, including 18 U.S.C. § 3509(d), support courts’ routine extension of protection of the identity of child victims even after they were no longer minors.¹

Similarly, under the parallel privacy protections of Federal Rule of Civil Procedure 5.2(a)(3), courts have allowed the use of redactions or pseudonyms depending on the nature and circumstances of the case.² Courts employ a balancing test to determine if particular circumstances that warrant anonymity outweigh the public’s interest in open judicial proceedings. Those circumstances include the nature of the individual, and whether they are a victim, witness, or party to the litigation.³

¹ See, e.g., *Doe v. Menefee*, 391 F.3d 147, 151 n.4 (2d Cir. 2004) (“The surnames of all victims who were minors at the time of the events in question have been redacted throughout this litigation in order to protect the victims’ privacy.”); *United States v. Begay*, 673 F.3d 1038, 1040 n.4 (9th Cir. 2011) (referencing 18 U.S.C. § 3509(d) when noting continued reference by initials because the victims were previously minors).

² The Tenth Circuit adopted the standard established by the Eleventh Circuit: “A [party] should be permitted to proceed anonymously only in those exceptional cases involving matters of a highly sensitive and personal nature, real danger of physical harm, or where the injury litigated against would be incurred as a result of the disclosure of the [party’s] identity. The risk that a [party] may suffer some embarrassment is not enough.” *Femedeer v. Haun*, 227 F.3d 1244, 1246 (10th Cir. 2000) (quoting *Doe v. Frank*, 951 F.2d 320, 324 (11th Cir. 1992)). The Third Circuit recently noted that “minors who reach adulthood during the course of litigation may be able to justify [continued redactions] as a result of their continuing [privacy] interests.” *Ricketts v. Titusville Area Sch. Dist.*, 150 F.4th 634, 636 (3d Cir. 2025).

³ For matters that may fall under analogous civil matters, Federal Rule of Civil Procedure 5.2 may be employed to allow continued anonymous filings because courts “treat plaintiffs who were minors when their claim accrued differently because society has a transcendent interest in safeguarding the physical and psychological well-being of a

Members did express an interest in using publication as an opportunity to solicit public comment on the question whether the rule should be revised explicitly to address the treatment of minors who age out. Ms. Dubay and the reporters agreed to explore this possibility.

2. Complete Redaction of Social-Security and Taxpayer-Identification Numbers

Senator Ron Wyden has expressed concern that the privacy rules, including Rule 49.1, do not fully protect privacy and security of Americans whose information is contained in public court records because Rule 49.1(a)(1)—and parallel provisions in the Civil, Bankruptcy, and Appellate Rules⁴—permit filings to include “the last four digits of the social-security number and taxpayer-identification number.”

a. Social-security numbers

The Advisory Committee unanimously recommends that Rule 49.1 be amended to require the redaction of all digits of any social-security numbers that are included in public pleadings. Neither the prosecution nor the defense needs the last four digits of social-security numbers in public filings, and this information can be misused by identity thieves and fraudsters.⁵ Moreover, full redaction is now considered a best practice by a variety of government agencies. The Advisory Committee found this analysis very convincing, and it concluded the case had been made for complete redaction of social-security numbers in Rule 49.1.

Note, however, that the proposed amendment highlights the filer’s option to “omit or completely redact all social-security . . . numbers.”

b. Other taxpayer-identification numbers

The Advisory Committee also recommends that *all* taxpayer-identification numbers be treated like social-security numbers in public filings, i.e., the filer must either omit or completely redact them. Although this recommendation goes beyond Senator Wyden’s original suggestion, the Advisory Committee concluded that the underlying concern for protecting privacy applies to these other forms of taxpayer information as well, and that the amendment should address these privacy concerns comprehensively.

minor.” *Katie M. and A.M. v. Aetna Life Ins. Co.*, No. 4:24-cv-00053-AMA-PK, 2025 WL 934458, at *1-2 (D. Utah Mar. 27, 2025) (internal citations omitted); *see also Doe v. USD No. 237 Smith Ctr. Sch. Dist.*, No. 16-cv-2801-JWL-TJJ, 2017 WL 3839416, at *11 (D. Kan. Sep. 1, 2017) (civil suit alleging sexual assault).

⁴ Federal Rule of Appellate Procedure 25(a)(5) provides that in an appeal in a case in which privacy was governed by the bankruptcy, civil, or criminal privacy rules, those rules govern as well on appeal. Thus, Criminal Rule 49.1(a) governs in criminal appeals.

⁵ Then-Rules Law Clerk Kyle Brinker prepared an excellent research memorandum on this issue. To avoid providing a roadmap for misuse, we have not included it in the Advisory Committee’s published reports and agenda books.

Excerpt from the May 8, 2026 Report of the Advisory Committee on Criminal Rules

(i) *What are taxpayer-identification numbers?*

The Internal Revenue Service (IRS) recognizes four principal types of taxpayer identification numbers: Social-Security Numbers (SSN), Individual Taxpayer Identification Numbers (ITIN), Adoption Taxpayer Identification Numbers (ATIN), and Employer Identification Numbers (EIN).⁶

The most common form of taxpayer-identification number other than an SSN is the ITIN. The IRS requires any individual who is not eligible to get a social-security number to apply for an ITIN under many circumstances, including filing a U.S. federal tax return.⁷ As of December 2023, the IRS had issued 26 million ITINs, and there were more than 5.8 million active ITINs.⁸ ITINs are now commonly used for a variety of non-tax purposes, including obtaining drivers' licenses and credit cards, and opening bank accounts, and establishing a credit history.⁹

(ii) *The history of the privacy rules and taxpayer-identification-numbers*

The history of the treatment of taxpayer-identification numbers in Rule 49.1 and the parallel Bankruptcy and Civil Rules indicates that the drafters of the rules intended to require redaction of ITINs, but not EINs, and did not consider ATINs.

Although the Department of Justice initially opposed applying the same privacy redaction rules to social-security and taxpayer identification numbers, the E-Government Subcommittee “determined that tax identification numbers raise the same privacy concerns as social security

⁶ The IRS website also recognizes a Preparer Tax Identification Number (PTIN) as a type of taxpayer identification number. A memo prepared for the Advisory Committee by Former Rules Law Clerk Kyle Brinker also discussed PTINs, noting that these numbers were created to allow tax preparers to shield their own SSNs, and concluding that they do not raise the same privacy issues as ITINs, ATINs, and EINs.

⁷ The IRS website states:

You may need an ITIN if you're a:

- Nonresident alien claiming a tax treaty benefit
- Nonresident alien filing a U.S. federal tax return
- Resident alien filing a U.S. federal tax return
- Dependent or spouse of a U.S. citizen/resident alien
- Nonresident alien student, professor or researcher filing a U.S. federal tax return or claiming an exception
- Dependent or spouse of a nonresident alien U.S. visa holder.

IRS, *Individual taxpayer identification number*, <https://www.irs.gov/tin/itin/individual-taxpayer-identification-number-itin#what> (last visited Apr. 12, 2026).

⁸ Treasury Inspector Gen. for Tax Admin., *Administration of the Individual Taxpayer Identification Number Program* (Rep. No. 2024-400-012), 1 (2023), <https://www.oversight.gov/sites/default/files/documents/reports/2023-12/2024400012fr.pdf> (last visited Apr. 11, 2026).

⁹ *Id.* at 1-2.

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numbers; for many individuals, those numbers are the same.”¹⁰ The E-Government Subcommittee also considered whether EINs should be included as identifiers to be redacted,¹¹ and it “discussed whether an EIN raised the same privacy risks as social security or tax identification numbers.”¹² A Subcommittee member stated that an EIN “did not present the same privacy concerns” because it “was solely used to file taxes.”¹³ The Subcommittee then agreed and decided not to include EINs in the list of redacted identifiers.¹⁴ A “person’s . . . tax identification number” was changed to an “individual’s . . . tax identification number” to clarify that corporate tax identification numbers are not subject to the redaction requirement.¹⁵

(iii) *Reasons to require omission or redaction of all taxpayer identification numbers*

At its April meeting, the Advisory Committee concluded that Rule 49.1(a) should afford the same protection to ITINs, ATINs, and EINs that it provides to social-security numbers—requiring full redaction in public filings if any of these taxpayer-identification numbers are included. The Advisory Committee was persuaded that inclusion of these numbers in public filings in criminal cases raised some threat to privacy and risk of misuse, and that tolerating these potential harms was not justified by any countervailing need for inclusion.

ITINs and ATINs. What sparse caselaw there is interpreting the phrase “an individual’s . . . taxpayer-identification number,”¹⁶ suggests that the existing rule likely already includes ITINs and possibly ATINs. As noted above, the E-Government Subcommittee clearly intended the privacy rules to encompass individual taxpayer identification numbers. Moreover, bankruptcy forms support the view that the parallel privacy rules always intended “individual’s . . . taxpayer-identification number” to include ITINs. For example, the Bankruptcy Official Form 21 was amended in 2007 to instruct debtors to state whether the debtor had an “Individual Taxpayer Identification (ITIN) Number(s),” and if so, to provide it.¹⁷ The committee note stated that the amendment instructing debtors to provide their ITINs was made “[i]n light of the new Rule 9037 which limits public disclosure to all but the last four digits of any individual taxpayer-identification

¹⁰ Revised Privacy Template, in Agenda Book for Advisory Committee on Criminal Rules, Oct. 30, 2004 at 105 n.3, available at https://www.uscourts.gov/sites/default/files/fr_import/CR2004-10.pdf.

¹¹ Minutes of the June 16, 2004 E-Government Subcomm. Meeting, in Agenda Book for Advisory Committee on Criminal Rules, Oct. 30, 2004, at 119, available at https://www.uscourts.gov/sites/default/files/fr_import/CR2004-10.pdf.

¹² *Id.*

¹³ *Id.*

¹⁴ *Id.*

¹⁵ Revised Privacy Template, in Agenda Book for Advisory Committee on Criminal Rules, Apr. 4-5, 2005, at 129, available at https://www.uscourts.gov/sites/default/files/fr_import/CR2005-04.pdf.

¹⁶ Only one case was identified as applying the privacy rules to an ITIN; it assumed that Criminal Rule 49.1(a) covers ITINs. *United States v. Valdez-Morales*, No. 3:15-CR-56, 2016 WL 919029, at *4 (E.D. Tenn. Mar. 4, 2016).

¹⁷ Official Form 21: Statement of Social Security Number or Individual Taxpayer Identification Number (ITIN), in Agenda Book for Committee on Rules of Practice and Procedure, June 22-23, 2006, at 794, available at https://www.uscourts.gov/sites/default/files/fr_import/ST2006-06.pdf.

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number.”¹⁸ Several Directors Forms were also changed to require ITIN information “in order to comply with” Bankruptcy Rule 9037.”¹⁹ Current bankruptcy case policy likewise instructs debtors to redact ITINs in order to comply with Bankruptcy Rule 9037. The bankruptcy case policy provides that, “according to the criteria provided in Fed. R. Bankr. P. 9037,” only the last four digits of an ITIN should appear if an individual has an ITIN instead of a social security number.²⁰

Like SSNs, ITINs are now frequently employed for a variety of non-tax purposes.²¹ Disclosure may thus provide a similar opportunity for misuse by persons with fraudulent or malicious purposes. And although there is little information about how helpful the last four digits of an ITIN would be to those with nefarious purposes, the Advisory Committee’s investigation uncovered no reason such numbers were needed in criminal filings.

As a temporary number assigned to a child during adoption to permit the parents to claim tax benefits (such as dependency exemptions and childcare credits), an ATIN appears to pose less risk of harm to privacy than the disclosure of SSNs and ITINs, and is less likely to appear in filings in criminal cases. The Advisory Committee concluded, however, that all taxpayer identification numbers deserved protection and found no reason to exempt ATINs.

EINs. The Advisory Committee considered but was not persuaded by the Department of Justice’s preference not to require redaction for EINs, whether personal or corporate, and ATINs. In the Advisory Committee’s view, EINs may raise an interest in individual privacy, especially when used by families who employ domestic workers and by sole proprietorships and small businesses. Although a tax-exempt organization or public company must disclose its EIN in public filings,²² and a company may provide its EIN to employees or to vendors,²³ otherwise EINs are not public, which supports the view that their disclosure raises privacy risks. The IRS will not disclose an EIN unless the EIN holder gives its consent, the party requesting the EIN has a material interest in its disclosure, or the IRS is otherwise required to do so.²⁴ The IRS also provides for

¹⁸ Admin. Off. of the U.S. Cts., *Official Form 21 - Cumulative Committee Note*, https://www.uscourts.gov/sites/default/files/b_021_cn_cum.pdf (last visited Apr. 9, 2025).

¹⁹ Memorandum from Jeff Morris, Reporter, to Advisory Comm. on Bankr. Rules, in *Agenda Book for Advisory Committee on Bankruptcy Rules*, Mar. 29-30, 2007, at 258, available at https://www.uscourts.gov/sites/default/files/fr_import/BK2007-03.pdf.

²⁰ Vol. 4: Court and Case Management] Guide to Judiciary Policy, ch. 8 § 830.50(b).

²¹ “Contrary to its intended use for Federal tax purposes, an ITIN has become widely accepted by third parties outside of the IRS for use as a valid identification number for many nontax purposes.” *Administration of the Individual Taxpayer Identification Number Program*, *supra* note 18, at 1.

²² See IRS, *Public Disclosure and Availability of Exempt Organization Returns and Applications: Public Disclosure Overview*, <https://www.irs.gov/charities-non-profits/public-disclosure-and-availability-of-exempt-organization-returns-and-applications-public-disclosure-overview> (last visited Apr. 9, 2026); Secs. and Exch. Comm’n, Off. of Investor Educ. and Advoc., *Investor Bulletin: How To Read a 10-K* (Sept. 2011), <https://www.sec.gov/files/reada10k.pdf> (last visited Apr. 12, 2026).

²³ See IRS, *About Form W-2, Wage and Tax Statement*, <https://www.irs.gov/forms-pubs/about-form-w-2> (last visited Apr. 9, 2026); Wolters Kluwer, *Do You Need an EIN or FEIN for Your Business?* (June 29, 2023), <https://www.wolterskluwer.com/en/expert-insights/business-ein-your-federal-tax-id-number>.

²⁴ See 26 U.S.C. § 6103; *Highland Cap. Mgmt., LP v. IRS*, 408 F. Supp. 3d 789, 806 (N.D. Tex. 2019).

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truncated EINs on statements and other documents.²⁵ Similarly, the U.S. Tax Court’s privacy protection rule requires omission or redaction of all “[t]axpayer identification numbers (e.g., Social Security numbers *or employer identification numbers*)” in court filings.²⁶ The Advisory Committee felt these institutions had a good appreciation of the risks, and that the Tax Court’s Rules—which require complete redaction—were a good model.

Moreover, whatever the situation in 2007, when the rule was first promulgated, EINs are now widely used for non-tax purposes, such as opening bank accounts and applying for credit.²⁷ Given these functions, disclosing a sole proprietorship’s EIN raises a risk of fraudulent use. Although the Department reported that it had found no evidence of any problems with fraud or identity theft with any tax numbers other than SSNs and ITINs, the Advisory Committee noted reports from the Government Accountability Office and the Treasury Inspector General for Tax Administration that described the use of stolen EINs to fraudulently obtain tax refunds owed to existing businesses or file false W-2s,²⁸ and members expressed continuing concern that EINs could be misused. Members also expressed the view that the rules should not facilitate fraud, and they should be proactive, given the rapidly changing forms of fraud being developed using new technologies. And members reiterated the point that even if fraud is not a significant concern, there is an interest in individual privacy, especially in the case of EINs for families and small businesses.

The Advisory Committee favored a simple, uniform rule that treated all Social-Security numbers and all taxpayer-identification numbers the same, requiring their full redaction in all public filings, thus better protecting privacy and reducing the risk of fraud.

²⁵ 26 C.F.R. § 301.6109-4(a)-(b).

²⁶ Fed. Tax Ct. R. 27(a)(1) (emphasis added). The explanation accompanying the rule states: “The Judicial Conference privacy policy applies to protect only individual privacy. The Court believes, however, that the same privacy and security interests of corporations, trusts, estates, and other entities as those of individuals should be protected in this Court. Consequently, the Court amends its Rules and petition forms to eliminate the requirement of providing any part of the taxpayer identification number, and to extend the protection to any party or nonparty.” Explanation to Fed. Tax Ct. R. 27(a)(1).

²⁷ See IRS, *Employer Identification Number*, <https://www.irs.gov/businesses/employer-identification-number#needs> (last visited Apr. 12, 2026).

²⁸ Stolen EINs can be used in at least two distinct forms of tax fraud. Most straightforwardly, a stolen EIN can be used to fraudulently obtain a tax refund owed to an existing business. A 2020 GAO study found that the IRS’s computerized filters identified almost 8,000 such cases of confirmed business identity theft, claiming \$384 million in fraudulent refunds, from January 2017 to August 2019. GAO, *Identity Theft: IRS Needs to Better Assess the Risks of Refund Fraud on Business-Related Returns* (GAO Rep. 20-174) (Jan. 30, 2020), <https://www.gao.gov/products/gao-20-174>. The study did not estimate how many fraudulent returns made it past the IRS filtering software. See *id.*

In a more involved form of fraud, a stolen EIN can be used to file false W-2s which report tax withholding that never occurred. The false W-2s are then used to file multiple fraudulent personal returns claiming refunds based on the fictitious withholding. Obviously, this poses a financial harm to the government: in 2013, Treasury Inspector General for Tax Administration (TIGTA) identified 277,624 stolen EINs used on individual tax returns claiming \$2.2 billion in fraudulent refunds in TY 2011. Treasury Inspector Gen. for Tax Admin., Off. of Audit, *Stolen and Falsely Obtained Employer Identification Numbers Are Used to Report False Income and Withholding* (Sep. 23, 2013), <https://content.govdelivery.com/accounts/USTREASTIGTA/bulletins/984411>.

3. Attachments and exhibits

The proposed amendment requires redaction or omission of “an electronic or paper filing, including any exhibit or attachment.” The Advisory Committee supports including this phrase because the Federal Judicial Center’s research showed that the majority of improperly included social-security numbers appear in attachments or exhibits, not in the main filing. The inclusion in the text would serve as a reminder that counsel must review all exhibits and attachments to ensure compliance with the privacy rule.

The Advisory Committee recognized the concern that the explicit inclusion of this phrase might create a negative implication for other rules. That appears not to be a major consideration for the Criminal Rules. Although the word “filing” appears 50 times in the Criminal Rules, all Criminal Rules other than Rule 49.1 use this word as a verb, not as a noun.²⁹ When referring to the action of filing, there seems to be little or no chance of confusion arising from this clarification in Rule 49.1.

B. Rule 11, Advice to Defendants (25-CR-N)

Judge Patricia Barksdale wrote suggesting that Rule 11 be amended to address recent amendments to the Federal Sentencing Guidelines.³⁰ Rule 11(b)(1)(M) now provides:

(b) Considering and Accepting a Guilty or Nolo Contendere Plea.

(1) *Advising and Questioning the Defendant.* Before the court accepts a plea of guilty or nolo contendere, the defendant may be placed under oath, and the court must address the defendant personally in open court. During this address, the court must inform the defendant of, and determine that the defendant understands, the following:

* * * * *

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

The Advisory Committee unanimously recommends publication of amendments to Rules 11 and 32 that reflect the 2025 amendments to the Sentencing Guidelines.

²⁹ We read the word “filing” in Rule 56 as a verb, although it could be interpreted as a noun. It reads, “A district court is considered always open for any filing and for issuing returning process, making a motion, or entering an order.”

³⁰ Judge Barksdale submitted her suggestion while the amendment was pending. It went into effect on November 1, 2025.

1. The 2025 Guideline Amendments

The 2025 amendments to the U.S. Sentencing Commission eliminated the term “departure.” The amendments deleted language in U.S.S.G. § 1B1.1(b) that formerly required the sentencing court to consider “Parts H and K of Chapter Five, Specific Offender Characteristics and Departures.” It also deleted most departures previously provided throughout the *Guidelines Manual* and made other related changes to Chapter 5.

In its summary of the 2025 amendments, the Commission explained the rationale for the changes regarding departures:

In the years since *Booker*, the frequency of departures has steadily declined with courts relying to a greater extent on variances in a manner consistent with the statutory requirements in section 3553(a). The shift away from departures deepened as a direct result of the holding in *Irizarry v. United States*, 553 U.S. 708 (2008), in which the Court held that the “reasonable notice” requirement in Rule 32(h) of the Federal Rules of Criminal Procedure does not apply to variances.

U.S. Sentencing Comm’n, Amends. to the Sentencing Guidelines, April 30, 2025, at 79. The amendments sought to “better align the guidelines to practices under current sentencing law and to acknowledge the growing shift away from the use of departures.” *Id.* at 80. With the exception of the provisions pertaining to substantial assistance under §5K1.1 and to early disposition programs in § 5K3.1, the other departure provisions formerly included in Chapter 5 were eliminated.

Although the 2025 Guidelines retained § 5K1.1, § 5K1.1 no longer uses the term “departure.” Rather, it provides:

Upon motion of the government stating that the defendant has provided substantial assistance in the investigation or prosecution of another person who has committed an offense, a sentence that is below the otherwise applicable guideline range may be appropriate.

Given the change in the Guidelines, the subcommittee concluded that Rules 11(b)(M) and 32(h) require revision.

2. Rule 11(b)(M)–Revision and Proposed Committee Note

The Advisory Committee recommends that Rule 11(b)(M) be amended to remove the requirement that the court advise the defendant at the plea proceeding of “the court’s obligation to . . . consider . . . possible departures under the Sentencing Guidelines.” Its recommendation reflects the revised instructions in U.S.S.G. § 1B1.1(b), which now provides:

STEP TWO: CONSIDERATION OF FACTORS SET FORTH IN 18 U.S.C. § 3553(a).— After determining the kinds of sentence and guidelines range pursuant to subsection (a) of § 1B1.1 (Application Instructions) and 18 U.S.C. § 3553(a)(4) and (5), the court shall consider the other applicable factors in 18 U.S.C. § 3553(a) to determine a sentence that is

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sufficient, but not greater than necessary, to comply with the purposes of sentencing. Specifically, as set forth in 18 U.S.C. § 3553(a), in determining the particular sentence to be imposed, the court shall also consider—

- (1) the nature and circumstances of the offense and the history and characteristics of the defendant;
- (2) the need for the sentence imposed to meet the purposes of sentencing listed in 18 U.S.C. § 3553(a)(2);
- (3) the kinds of sentences available;
- (4) the need to avoid unwarranted sentence disparities among defendants with similar records who have been found guilty of similar conduct; and
- (5) the need to provide restitution to any victims of the offense.

After considering various options, the Advisory Committee concluded that the following language best reflects the current two-step sentencing process:

* * * * *

3. Rule 32(h)–Deletion and Proposed Committee Note

Because the Guidelines no longer employ the concept of departures, the Advisory Committee also recommends amending Rule 32 to eliminate paragraph (h), which currently provides:

(h) Notice of Possible Departure from Sentencing Guidelines. Before the court may depart from the applicable sentencing range on a ground not identified for departure either in the presentence report or in a party’s prehearing submission, the court must give the parties reasonable notice that it is contemplating such a departure. The notice must specify any ground on which the court is contemplating a departure.

To avoid renumbering (relettering) of the remainder of Rule 32, the Advisory Committee recommends that subdivision (h) be reserved. The proposed amendment to Rule 32(h) would provide:

* * * * *

C. Rules 49 and 45, electronic filing by a self-represented party

The Advisory Committee’s recommendation that amendments to Rules 49 and 45 be published will be presented by Professor Struve in a comprehensive report.

* * * * *

Rule 11.

Pleas

* * * * *

(b) **Considering and Accepting a Guilty or Nolo Contendere Plea.**

(1) *Advising and Questioning the Defendant.*

Before the court accepts a plea of guilty or nolo contendere, the defendant may be placed under oath, and the court must address the defendant personally in open court. During this address, the court must inform the defendant of, and determine that the defendant understands, the following:

* * * * *

(M) in determining a sentence, the court's obligation to calculate the applicable

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16 sentencing-guideline range and to
 17 consider that range, ~~possible~~
 18 ~~departures under the Sentencing~~
 19 ~~Guidelines,~~ and other sentencing
 20 factors under 18 U.S.C. § 3553(a);

21 * * * * *

22 **Committee Note**

23 The amendment reflects the 2025 changes to the U.S.
 24 Sentencing Guidelines, which (1) deleted most of the
 25 provisions in Chapter Five, Part K (Departures), and
 26 (2) revised U.S.S.G. § 1B1.1(a) to eliminate the requirement
 27 that the court consider departures at step two of a three-step
 28 sentencing process. As revised, § 1B1.1 now provides for a
 29 two-step process, considering at step one “the kinds of
 30 sentence and the guideline range as set forth in the
 31 guidelines,” and at step two “other applicable factors in 18
 32 U.S.C. § 3553(a).”

1 Rule 32. Sentencing and Judgment

3 (h) **[Reserved]** ~~Notice of Possible Departure from~~
4 **Sentencing Guidelines.** ~~Before the court may depart~~
5 ~~from the applicable sentencing range on a ground not~~
6 ~~identified for departure either in the presentence~~
7 ~~report or in a party's prehearing submission, the~~
8 ~~court must give the parties reasonable notice that it is~~
9 ~~contemplating such a departure. The notice must~~
10 ~~specify any ground on which the court is~~
11 ~~contemplating a departure.~~

Committee Note

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

**PROPOSED AMENDMENTS TO THE
FEDERAL RULES OF CRIMINAL PROCEDURE¹**

1 **Rule 45. Computing and Extending Time**

2 * * * * *

3 **(c) Additional Time After Certain Kinds of Service.**

4 Whenever a party must or may act within a specified
5 time after being served and service is made under
6 Rule 49(a)(4)(C), (D), and ~~(E)~~ (F), 3 days are added
7 after the period would otherwise expire under
8 subdivision (a).

9 **Committee Note**

10 Subdivision (c) is amended to conform to the
11 renumbering of Criminal Rule 49(a)(4)(E) as
12 Rule 49(a)(4)(F).

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

1 Rule 49. Serving and Filing Papers

3 **(1) *What is Required.*** Each of the following
4 must be served on every party: any written
5 motion (other than one to be heard ex parte),
6 written notice, designation of the record on
7 appeal, or similar paper.

(2) ***Serving a Party’s Attorney.*** Unless the court orders otherwise, when these rules or a court order requires or permits service on a party represented by an attorney, service must be made on the attorney instead of the party.

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

15 **Electronic-Filing System.** A notice of case
16 activity sent to a person registered to receive
17 it through the court’s electronic-filing system
18 constitutes service on that person. For any
19 service deadlines, service by a notice of case
20 activity is complete as of the date of filing.
21 For any deadlines that run from the date of
22 service, service by a notice of case activity is
23 complete as of the notice’s date. But these
24 qualifications apply:
25 (A) such service is not effective if the filer
26 learns that it did not reach the person
27 to be served; and
28 (B) a court may provide by order or local
29 rule that if a paper is filed under seal,
30 it must be served by other means.
31 ~~(A) Using the Court’s Electronic Filing~~
32 ~~System. A party represented by an~~

33 ~~attorney may serve a paper on a~~
34 ~~registered user by filing it with the~~
35 ~~court's electronic filing system. A~~
36 ~~party not represented by an attorney~~
37 ~~may do so only if allowed by court~~
38 ~~order or local rule. Service is~~
39 ~~complete upon filing, but is not~~
40 ~~effective if the serving party learns~~
41 ~~that it did not reach the person to be~~
42 ~~served.~~

43 ~~(B) — Using Other Electronic Means. A~~
44 ~~paper may be served by any other~~
45 ~~electronic means that the person~~
46 ~~consented to in writing. Service is~~
47 ~~complete upon transmission, but is~~
48 ~~not effective if the serving party~~
49 ~~learns that it did not reach the person~~
50 ~~to be served.~~

- 51 (4) *Service by ~~Nonelectronic~~ Other Means.* A
52 paper may also be served by:
53 (A) handing it to the person;
54 (B) leaving it:
55 (i) at the person’s office with a
56 clerk or other person in charge
57 or, if no one is in charge, in a
58 conspicuous place in the
59 office; or
60 (ii) if the person has no office or
61 the office is closed, at the
62 person’s dwelling or usual
63 place of abode with someone
64 of suitable age and discretion
65 who resides there;
66 (C) mailing it to the person’s last known
67 address—in which event service is
68 complete upon mailing;

69 (D) leaving it with the court clerk if the
70 person has no known address; ~~or~~

71 (E) sending it by electronic means that
72 the person has consented to in writing
73 – in which event service is complete
74 upon sending, but is not effective if
75 the sender learns that it did not reach
76 the person to be served; or

77 ~~(E)~~(F) delivering it by any other means that
78 the person has consented to in
79 writing—in which event service is
80 complete when the person making
81 service delivers it to the agency
82 designated to make delivery.

83 **(5) Definition of “Notice of Case Activity.”** The
84 term “notice of case activity” includes a
85 notice of docket activity, a notice of
86 electronic filing, and any other similar

87 electronic notice provided to case
88 participants through the court's electronic-
89 filing system to inform them of activity on the
90 docket.

91 **(b) Filing.**

92 **(1) *When Required; Certificate of Service.*** Any
93 paper that is required to be served must be
94 filed no later than a reasonable time after
95 service. No certificate of service is required
96 when a paper is served ~~by filing it with the~~
97 ~~court's electronic-filing system~~ through the
98 court's electronic-filing system under Rule
99 49(a)(3). When a paper is served by other
100 means, a certificate of service must be filed
101 with it or within a reasonable time after
102 service or filing.

103 **(2) ~~Means of~~ Electronic Filing and Signing.**

104 **(A) By a Party Represented by Counsel –**

105 Generally Required; Exceptions. A
106 party represented by an attorney must
107 file electronically, unless
108 nonelectronic filing is allowed by the
109 court for good cause or is allowed or
110 required by local rule.

111 (B) By a Self-Represented Party – When
112 Allowed.

113 (i) In General. A self-represented
114 party may use the court’s
115 electronic-filing system to file
116 papers and receive notice of
117 activity in the party’s case,
118 unless a court order or local
119 rule prohibits the party from
120 doing so.

121 (ii) Conditions and Restrictions
122 on Access. A court may set

123 and enforce reasonable
124 conditions and restrictions on
125 self-represented parties’
126 access to the court’s
127 electronic-filing system
128 (including by denying or
129 revoking access for a
130 particular self-represented
131 party). But the court may not
132 prohibit all self-represented
133 parties from using the system
134 unless that prohibition
135 includes reasonable
136 exceptions or the court
137 permits the use of another
138 electronic method for filing
139 papers and receiving
140 electronic notice of activity in

141 the party's case.

142 (C) Means of Filing. ~~Electronically.~~ A
143 paper is filed electronically by filing
144 it with the court's electronic-filing
145 system.

146 (D) Signature. A filing made through a
147 person's electronic-filing account and
148 authorized by that person, together
149 with the person's name on a signature
150 block, constitutes the person's
151 signature.

152 (E) Qualifies as Written Paper. A paper
153 filed electronically is written or in
154 writing under these rules.

155 ~~(B)~~(3) ~~Nonelectronically~~ Filing. A paper not filed
156 electronically is filed by delivering it:

157 (i) to the clerk; or

158 (ii) to a judge who agrees to

159 accept it for filing, and who
160 must then note the filing date
161 on the paper and promptly
162 send it to the clerk.

163 ~~(3) *Means Used by Represented and*~~
164 ~~*Unrepresented Parties.*~~

165 ~~(A) *Represented Party.* A party~~
166 ~~represented by an attorney must file~~
167 ~~electronically, unless nonelectronic~~
168 ~~filing is allowed by the court for good~~
169 ~~cause or is allowed or required by~~
170 ~~local rule.~~

171 ~~(B) *Unrepresented Party.* A party not~~
172 ~~represented by an attorney must file~~
173 ~~nonelectronically, unless allowed to~~
174 ~~file electronically by court order or~~
175 ~~local rule.~~

176 (4) *Signature.* Every written motion and other

177 paper must be signed by at least one attorney
178 of record in the attorney's name—or by a
179 person filing a paper if the person is not
180 represented by an attorney. The paper must
181 state the signer's address, e-mail address, and
182 telephone number. Unless a rule or statute
183 specifically states otherwise, a pleading need
184 not be verified or accompanied by an
185 affidavit. The court must strike an unsigned
186 paper unless the omission is promptly
187 corrected after being called to the attorney's
188 or person's attention.

189 **(5) *Acceptance by the Clerk.*** The clerk must not
190 refuse to file a paper solely because it is not
191 in the form prescribed by these rules or by a
192 local rule or practice.

193 **(c) *Service and Filing by Nonparties.*** A nonparty may
194 serve and file a paper only if doing so is required or

195 permitted by law. A nonparty must serve every party
196 as required by Rule 49(a), but may use the court's
197 electronic-filing system only if allowed by court
198 order or local rule.

199 **(d) Notice of a Court Order.** When the court issues an
200 order on any post-arraignment motion, the clerk must
201 serve notice of the entry on each party as required by
202 Rule 49(a). A party also may serve notice of the entry
203 by the same means. Except as Federal Rule of
204 Appellate Procedure 4(b) provides otherwise, the
205 clerk's failure to give notice does not affect the time
206 to appeal, or relieve—or authorize the court to
207 relieve—a party's failure to appeal within the
208 allowed time.

209 **Committee Note**

210 Rule 49 is amended to address two topics concerning
211 self-represented parties. (Concurrent amendments are made
212 to Bankruptcy Rules 5005, 8011, and 9036, Civil Rule 5, and
213 Appellate Rule 25.) Rule 49(a) is amended to address service
214 of documents filed by a self-represented litigant in paper
215 form. Because all such paper filings are uploaded by court

216 staff into the court’s electronic-filing system, there is no
217 need to require separate paper service by the filer on case
218 participants who receive an electronic notice of the filing
219 from the court’s electronic-filing system. Rule 49(b) is
220 amended to expand the availability of electronic modes by
221 which self-represented parties can file documents with the
222 court and receive notice of filings that others make in the
223 case.

224 **Subdivision (a)(3).** Rule 49(a)(3) is revised so that it
225 focuses solely on the service of notice by means of the
226 court’s electronic-filing system. What had been Rule
227 49(a)(3)(B) (concerning “other electronic means” of service)
228 is relocated, as revised, to a new Rule 49(a)(4)(E).

229 Amended Rule 49(a)(3) eliminates the requirement
230 of separate (paper) service on a litigant who is registered to
231 receive a notice of case activity from the court’s electronic-
232 filing system. Litigants who are registered to receive a notice
233 of case activity include those litigants who are participating
234 in the court’s electronic-filing system with respect to the
235 case in question and also include those litigants who receive
236 the notice because they have registered for a court-based
237 electronic-noticing program. (Former Rule 49(a)(3)(A)’s
238 provision for service by “on a registered user by filing [the
239 paper] with the court’s electronic-filing system” had already
240 eliminated the requirement of paper service on registered
241 users of the court’s electronic-filing system by other
242 registered users of the system; the amendment extends this
243 exemption from paper service to those who file by a means
244 other than through the court’s electronic-filing system.)

245 Amended Rule 49(a)(3) provides that, for purposes
246 of any deadlines for making service, service by a notice of
247 case activity is complete as of the date of filing. But the
248 amended rule provides that, for purposes of any deadlines

249 that run from the date of service, service is complete as of
250 the date of the notice of case activity. Thus, the amended rule
251 ensures that if there is a delay between the date the court
252 receives a filing not made through the electronic-filing
253 system and the date the court uploads that filing into the
254 electronic-filing system, that delay will not diminish the time
255 allowed to the party whose deadline runs from the date of
256 service.

257 Amended Rule 49(a)(3)(A) continues to provide that
258 service by means of the court's electronic-filing system is
259 not effective if the filer learns that it did not reach the person
260 to be served.

261 New Rule 49(a)(3)(B) states that a court may provide
262 by order or local rule that if a paper is filed under seal, it
263 must be served by other means. This sentence is designed to
264 account for districts in which parties in the case cannot
265 access other participants' sealed filings via the court's
266 electronic-filing system.

267 **Subdivision (a)(4).** Rule 49(a)(4) is retitled "Service
268 by Other Means" to reflect the relocation into that
269 subdivision – as new Rule 49(a)(4)(E) – of what was
270 previously Rule 49(a)(3)(B). The subdivision's introductory
271 phrase ("A paper may be served by") is amended to read "A
272 paper may also be served by." This locution ensures that
273 Rule 49(a)(4) remains an option for serving any litigant,
274 even one who receives notices of case activity. This option
275 might be useful to litigants who will be filing non-
276 electronically but who wish to effect service on their
277 opponents before the time when the court will have uploaded
278 the filing into the court's system (thus generating the notice
279 of case activity).

280 Subdivision (a)(4)(E) carries forward – for service by

281 other electronic means –prior Rule 49(a)(3)(B)’s provision
282 that such service is not effective if the sender “learns that it
283 did not reach the person to be served”; a similar provision is
284 carried forward in subdivision (a)(3)(A) with respect to
285 service via the court’s electronic-filing system.

286 **Subdivision (a)(5).** New Rule 49(a)(5) defines the
287 term “notice of case activity” as any electronic notice
288 provided to case participants through the court’s electronic-
289 filing system to inform them of a filing or other activity on
290 the docket. There are two equivalent terms currently in use:
291 Notice of Electronic Filing and Notice of Docket Activity.
292 “Notice of case activity” is intended to encompass both of
293 those terms, as well as any equivalent terms that may come
294 into use in future. The word “electronic” is deleted as
295 superfluous now that electronic filing is the default method.

296 **Subdivision (b)(1).** Subdivision (b)(1) previously
297 provided that no certificate of service was required when a
298 paper was served “by filing it with the court’s electronic-
299 filing system.” This phrase is replaced by “through the
300 court’s electronic-filing system under Rule 49(a)(3)” in
301 order to conform to the change to subdivision (a)(3).

302 **Subdivision (b)(2).** Amended Rule 49(b)(2) governs
303 electronic filing and signing. New Rules 49(b)(2)(A) and (B)
304 replace what had been Rule 49(b)(3). Under new Rule
305 49(b)(2)(B)(i), the presumption is the opposite of the
306 presumption set by the prior Rule 49(b)(3)(B). That is, under
307 new Rule 49(b)(2)(B)(i), self-represented parties are
308 presumptively authorized to use the court’s electronic-filing
309 system to file documents in their case subsequent to the
310 case’s commencement. If a district wishes to restrict self-
311 represented parties’ access to the court’s electronic-filing
312 system, it must adopt an order or local rule to impose that
313 restriction. New Rule 49(b)(2)(B)(i) grants this presumptive

314 authorization to a self-represented ‘*party*,’ not to a self-
315 represented ‘*person*.’ There is no change to Rule 49(c),
316 which provides that nonparties may not use the court’s e-
317 filing system unless allowed by court order or local rule.

318 New Rule 49(b)(2)(B)(ii) states that the court may set
319 reasonable conditions and restrictions on access by self-
320 represented parties to the court’s electronic-filing system.
321 For example, access to electronic filing could be allowed
322 only to self-represented parties who are not incarcerated (in
323 light of the distinctive logistical considerations that apply in
324 carceral settings), who satisfactorily complete required
325 training and/or certifications, and who comply with any
326 other reasonable conditions on access.

327 New Rule 49(b)(2)(B)(ii) expressly states that a
328 reasonable restriction would include, where appropriate,
329 orders barring a specific self-represented party from
330 accessing the court’s electronic-filing system, or revoking a
331 specific self-represented party’s access to the court’s
332 electronic-filing system. Another example would be a local
333 provision stating that certain types of filings – for example,
334 notices of appeal – cannot be filed by means of the court’s
335 electronic-filing system.

336 However, new Rule 49(b)(2)(B)(ii) also expressly
337 prohibits a court from barring *all* self-represented parties
338 from using the court’s electronic-filing system, unless the
339 court also either (1) includes reasonable exceptions to the
340 prohibition, or (2) permits self-represented parties to use
341 another electronic method for filing documents (such as by
342 email or by upload through an electronic document
343 submission system) and an alternative electronic means for
344 receiving notice of court filings and orders (such as an
345 electronic noticing program). For example, local provisions
346 that require self-represented parties who seek to use the

347 court's electronic-filing system to obtain the court's
348 permission would count as including reasonable exceptions,
349 so long as such permission is granted or withheld in
350 accordance with the reasonable conditions and restrictions
351 on access set by the court.

352 **Subdivision (b)(3).** What had been Rule 49(b)(2)(B)
353 (concerning nonelectronic means of filing) is carried
354 forward as new Rule 49(b)(3).

**PROPOSED AMENDMENTS TO THE FEDERAL
RULES OF CRIMINAL PROCEDURE¹**

1 **Rule 49.1. Privacy Protection For Filings Made with**
2 **the Court**

3 **(a) Redacted Filings.** Unless the court orders otherwise,
4 ~~in a party or nonparty making~~ an electronic or paper
5 filing with the court ~~that contains an individual's~~
6 ~~social security number, taxpayer identification~~
7 ~~number, or birth date, the name of an individual~~
8 ~~known to be a minor, a financial account number, or~~
9 ~~the home address of an individual, a party or~~
10 ~~nonparty making the filing may include only;~~

11 including any exhibit or attachment, must:

12 **(1)** the last four digits of the omit or completely
13 redact all social-security ~~number and~~ or other
14 taxpayer-identification ~~number~~s, including
15 employer-identification numbers; and

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

2 FEDERAL RULES OF CRIMINAL PROCEDURE

- 16 (2) if any of the following types of information
17 appear in the filing, include only:
18 (A) the year of the ~~the~~ an individual's birth;
19 ~~(3) (B) the minor's initials~~ a pseudonym in
20 place of the name of an individual
21 known to be a minor;
22 ~~(4) (C) the last four digits of the~~ a financial-
23 account number; and
24 ~~(5) (D) the city and state of the~~ an
25 individual's home address.

26 (b) **Exemptions from the Redaction Requirement.**

27 The redaction requirement does not apply to the
28 following:

- 29 (1) a financial-account number or real property
30 address that identifies the property allegedly
31 subject to forfeiture in a forfeiture
32 proceeding;
33 (2) the record of an administrative or agency

- 34 proceeding;
- 35 (3) the official record of a state-court
36 proceeding;
- 37 (4) the record of a court or tribunal, if that record
38 was not subject to the redaction requirement
39 when originally filed;
- 40 (5) a filing covered by Rule 49.1(d);
- 41 (6) a pro se filing in an action brought under 28
42 U.S.C. §§ 2241, 2254, or 2255;
- 43 (7) a court filing that is related to a criminal
44 matter or investigation and that is prepared
45 before the filing of a criminal charge or is not
46 filed as part of any docketed criminal case;
- 47 (8) an arrest or search warrant; and
- 48 (9) a charging document and an affidavit filed in
49 support of any charging document.
- 50 (c) **Immigration Cases.** A filing in an action brought

51 under 28 U.S.C. § 2241 that relates to the petitioner's
52 immigration rights is governed by Federal Rule of
53 Civil Procedure 5.2.

54 **(d) Filings Made Under Seal.** The court may order that
55 a filing be made under seal without redaction. The
56 court may later unseal the filing or order the person
57 who made the filing to file a redacted version for the
58 public record.

59 **(e) Protective Orders.** For good cause, the court may by
60 order in a case:

61 **(1)** require redaction of additional information;
62 or

63 **(2)** limit or prohibit a nonparty's remote
64 electronic access to a document filed with the
65 court.

66 **(f) Option for Additional Unredacted Filing Under**
67 **Seal.** A person making a redacted filing may also file

68 an unredacted copy under seal. The court must retain
69 the unredacted copy as part of the record.

70 **(g) Option for Filing a Reference List.** A filing that
71 contains redacted information may be filed together
72 with a reference list that identifies each item of
73 redacted information and specifies an appropriate
74 identifier that uniquely corresponds to each item
75 listed. The list must be filed under seal and may be
76 amended as of right. Any reference in the case to a
77 listed identifier will be construed to refer to the
78 corresponding item of information.

79 **(h) Waiver of Protection of Identifiers.** A person
80 waives the protection of Rule 49.1(a) as to the
81 person's own information by filing it without
82 redaction and not under seal.

83 **Committee Note**

84 In contrast to the current rule, which allows public
85 filings to contain the last four digits of social-security and
86 taxpayer-identification numbers, the amendment requires

87 the omission or redaction of all digits of social-security and
88 taxpayer-identification numbers in public filings. Recent
89 federal policy guidance recommends avoiding the
90 unnecessary display of any part of these numbers on forms,
91 reports, and computers. The Committee concluded that even
92 partial numbers are useful to identity thieves, and that the
93 omission of these numbers from public filings will impose
94 no hardship on either litigants or the courts. In cases in which
95 this information is pertinent, Rule 49.1(f) allows a party to
96 file an unredacted copy of a filing under seal.

97 Taxpayer-identification numbers (TINs) are
98 identification numbers used in the administration of tax
99 laws. In addition to Social Security numbers, TINs include
100 individual taxpayer-identification numbers (ITINs),
101 taxpayer-identification numbers for pending U.S. Adoptions
102 (ATINs), and employer-identification numbers (EINs).

103 The amendment's protection for "taxpayer-
104 identification numbers" includes employer-identification
105 numbers as well as individual taxpayer-identification
106 numbers and adoption-identification numbers. Although
107 employer-identification numbers for some corporations may
108 be publicly available, smaller businesses and individuals
109 who employ others have a privacy interest in these numbers,
110 and there is also a potential for their misuse.

111 To enhance the protection of minors' privacy and
112 safety, the amendment also requires the substitution of a
113 pseudonym, rather than initials, in place of a minor's name
114 in public filings. When it is feasible to do so, the use of
115 gender-neutral pseudonyms is preferable. The use of
116 gendered pseudonyms or pronouns, combined with other
117 information contained in public pleadings, may make it
118 easier to uncover the identity of a minor.

119 The requirement for omission or redaction applies to

120 exhibits or attachments. Parties and nonparties who include
121 exhibits or attachments in public filings are required to
122 review them to ensure that they do not contain information
123 protected by the rule. But the exemptions in subsection (b)
124 still apply to exhibits and attachments (though a protective
125 order under subsection (e) may require additional omission
126 or redaction).

FEDERAL RULES OF EVIDENCE

Excerpt from the May 17, 2026 Report of the Advisory Committee on Evidence Rules

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

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MICHAEL W. MOSMAN
CRIMINAL RULES

JESSE M. FURMAN
EVIDENCE RULES

MEMORANDUM

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

FROM: Hon. Jesse M. Furman, Chair
Advisory Committee on Evidence Rules

RE: Report of the Advisory Committee on Evidence Rules

DATE: May 17, 2026

I. Introduction

The Advisory Committee on Evidence Rules (the “Committee”) met on May 7, 2026, in Washington, D.C. * * *

The Committee now recommends * * * proposed amendments to Rule 902(1) and Rule 104(a) and (b) for public comment. * * *

* * * * *

II. Action Items

* * * * *

B. Proposed Amendment to Rule 902(1) – for Publication

Before its Fall 2024 meeting, Judge Gregory K. Frizzell of the Northern District of Oklahoma suggested that the Committee consider adding federally recognized Indian tribes to Rule 902(1)(A), which provides that domestic public records that are sealed and signed are self-authenticating. Because Rule 902(1)(A) does not list Indian tribes, the government must use another route to authenticate proof of a defendant's (or a victim's) Indian status in federal prosecutions brought for crimes occurring in Indian country. There have been some recent cases in which the prosecution failed to prove Indian status by attempting, unsuccessfully, to meet the requirements of the business records exception to the hearsay rule, with authentication by certificate under Rule 902(11). The issue has arguably taken on more importance in light of the increase in relevant federal cases following the Supreme Court's decision in *McGirt v. Oklahoma*, 591 U.S. 894 (2020).

The Committee sought and received input from Indian Tribes and Nations, as well as from the Federal Defenders. The Tribes and Nations that did weigh in strongly supported the change, on the ground that it would recognize the dignity and sovereignty of Indian tribes and Nations and would avoid the burden and expense of tribal officials traveling long distances to qualify tribal records. The Federal Defender's position is that it is relatively simple to qualify a tribal record through a certification under Rule 902(11) (meaning that the failures of proof in the recent cases were attributable to the Department of Justice, not to the rules), that recordkeeping among Indian tribes may not be uniform, and that generally Indian Tribes do not allow open access to their records to non-members of the Tribe.

After discussion, the Committee determined that it would be appropriate to add Indian Tribes and Nations to the list of entities in Rule 902(1)(A) whose public records are self-authenticating. The Committee ultimately saw no reason to differentiate the Tribes and Nations from the many other government entities whose records are currently self-authenticating.

At its meeting, the Committee voted, by a margin of 8-1, to recommend approval of the proposal to amend Rule 902(1) for publication. The sole dissent was the Federal Defender representative on the Committee. The Committee therefore recommends that the proposed amendment to Rule 902(1)(A) and the accompanying Committee Note * * * be released for public comment.

C. Proposed Amendments to Rule 104 — for Publication

Rule 104(a) makes the important point that, in deciding preliminary issues of fact, the trial judge is ordinarily not bound by the rules of admissibility. But one failing of Rule 104(a) is that it does not specify the *standard of proof* required for the court to find that evidence is admissible.

In *Bourjaily v. United States*, 483 U.S. 171, 175 (1987), the Supreme Court held that the standard of proof for determinations of preliminary fact under Rule 104(a) is a preponderance of the evidence. But not having that standard in text has raised problems, some of which led to the amendment of Rule 702 in 2023 to set forth the preponderance standard in text (because many courts and litigants had been treating the admissibility requirements of the Rule as questions of

weight rather than admissibility under Rule 104(a)). After the Rule 2023 amendment to Rule 702, some have argued that every subsequent amendment to the Evidence Rules will have to set forth the preponderance standard in text to avoid ambiguity.

By contrast, Rule 104(b) does set forth a standard of proof, one less stringent than Rule 104(a): evidence sufficient to support a finding. Per the Rule, that standard purportedly applies only to questions of “conditional relevance” — i.e., when the probative value of one piece of proffered evidence depends on the existence of another. (For example, when a statement is offered to prove someone’s state of mind, it is conditioned on that person having heard it.) In *Huddleston v. United States*, 485 U.S. 681, 687 (1988), the Supreme Court held that Rule 104(b) requires a court to find only whether the finder of fact could reasonably find a fact by a preponderance of the evidence. But the problem with Rule 104(b) is that the standard covers only so-called “conditional” relevance, as distinct from all other questions of relevance (which some have called “logical” relevance). This leaves the standard of proof for other relevance questions undetermined. What’s more, “conditional” relevance is a confusing concept, because it fails to recognize that *all* questions of relevance involve some condition. See, e.g., Ron Allen. *The Myth of Conditional Relevance*, 25 Loyola L. Rev. 871, 879 (1992).

The Committee reviewed the case law on Rule 104(b) and found that there is some confusion about its application. Some courts have mistaken admissibility requirements (supposed to be covered by Rule 104(a)) as “conditions” and thus covered by the less demanding requirements of Rule 104(b). Some litigants have argued that the court must make a finding of “conditional” relevance when the proffered evidence is clearly relevant. Some courts have applied Rule 104(a) to issues that are really questions of trial sequencing rather than conditional relevance. Moreover, even where cases get it right, there is often a substantial waste of resources litigating “conditions” that are virtually pointless to litigate. Relevancy questions should be quite straightforward determinations of reasonableness that do not require briefing and hearings.

After discussion, the Committee unanimously approved amendments to both Rule 104(a) and (b) for release for public comment. The amendment to Rule 104(a) is straightforward. It simply adds a sentence to the Rule:

* * * * *

The proposed amendment to Rule 104(b) would eliminate the unhelpful 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:

* * * * *

Beyond eliminating the confusing concept of “conditional” relevance, the proposed amendment to Rule 104(b) makes two further improvements:

- It sets forth a standard of proof for all relevant evidence, which was a question not specifically covered in the original Rule, meaning technically the question of “logical”

Excerpt from the May 17, 2026 Report of the Advisory Committee on Evidence Rules

relevance was covered by Rule 104(a) — thus creating the anomaly that questions of “conditional” relevance were subject to a lesser standard of proof than questions of “logical” relevance.

- It eliminates the confusing and problematic phrase “proof sufficient to support a finding.” The fact is that questions of relevance may be determined without “proof” as they might be simple questions of logic and experience.

*At its meeting, the Committee unanimously voted to recommend the proposal to amend Rule 104(a) and (b) for publication. Accordingly, the Committee recommends that the proposed amendments to Rule 104, and the accompanying Committee Note * * * be released for public comment.*

* * * * *

(1) *Domestic Public Documents That Are Sealed and Signed.* A document that bears:

(A) a seal purporting to be that of the United States; any state, district, commonwealth, territory, or insular possession of the United States; a federally recognized Indian Tribe or Nation; the former Panama Canal Zone; the Trust Territory of the Pacific Islands; a political subdivision of any of these entities; or a department, agency, or officer of any entity named above; and

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16 (B) a signature purporting to be an
17 execution or attestation.

18 * * * * *

19 **Committee Note**

20 The rule has been amended to provide that a sealed and
21 signed document from a federally recognized Indian Tribe
22 or Nation is entitled to the same presumption of
23 authenticity as a comparable document from the
24 government entities currently listed in Rule 902(1)(A).
25 The amendment thus recognizes the sovereignty of Indian
26 Tribes and Nations. Furthermore, self-authentication of the
27 public documents of Indian Tribes and Nations will allow
28 for more efficient proof of tribal records in federal court
29 and will conserve the valuable resources of tribal officials
30 who often had to appear in court to authenticate documents
31 prior to the amendment.

32 Under the Federally Recognized Indian Tribe List Act
33 of 1994 (P.L. 103-454), the Secretary of the Interior
34 publishes a list of all federally recognized Indian tribes in
35 the Federal Register, through which courts may identify
36 covered Tribes and Nations. The amendment permits self-
37 authentication of the qualifying sealed and signed
38 documents of any Indian Tribe or Nation that is federally
39 recognized as of the date that the document is offered into
40 evidence.

41 The amendment concerns authenticity only; other
42 evidentiary requirements continue to apply. As with other
43 902(1) documents, parties may still challenge the
44 authenticity of the covered public documents at trial.

**PROPOSED AMENDMENTS TO THE
FEDERAL RULES OF EVIDENCE¹**

1 **Rule 104. Preliminary Questions**

2 **(a) In General.** The court must decide any preliminary
3 question about whether a witness is qualified, a
4 privilege exists, or evidence is admissible. In so
5 deciding, the court is not bound by evidence rules,
6 except those on privilege. Unless these rules provide
7 otherwise, the proponent must establish the existence
8 of a preliminary fact by a preponderance of the
9 evidence.

10 **(b) ~~Relevance That Depends on a Fact.~~** When the
11 ~~relevance of evidence depends on whether a fact~~
12 ~~exists, proof must be introduced sufficient to support~~
13 ~~a finding that the fact does exist.~~ To establish that
14 evidence is relevant, the proponent must demonstrate

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

15 to the court that the trier of fact could reasonably find
 16 that the requirements of Rule 401 have been met. In
 17 making its relevance determination, the court may
 18 consider the evidence itself, other evidence, and
 19 common knowledge and experience. The court may
 20 admit the proposed evidence on the condition that ~~the~~
 21 further proof be introduced later.

22 * * * * *

23 Committee Note

24 Two changes are made to Rule 104. First, the
 25 amendment codifies the holding in *Bourjaily v. United*
 26 *States*, 483 U.S. 171, 175 (1987), that preliminary questions
 27 of fact under Rule 104(a) are to be determined by a
 28 preponderance of the evidence. The Committee has
 29 determined that codification would be useful because there
 30 has been some confusion about the applicable standard of
 31 proof for preliminary questions. See the 2023 amendment to
 32 Rule 702.

33 Some situations call for a lower standard of proof for
 34 a preliminary question, ordinarily because on those
 35 questions, the jury is in as good a position as the court to
 36 determine the contested fact, and there is little to no risk that
 37 the jury will be misled or subject to unfair prejudice in
 38 making the determination. See Rules 104(b), 602, 901 and
 39 1008.

40 Second, the amendment to Rule 104(b) eliminates
41 the concept of “conditional relevance.” There is no reason
42 for special treatment of facts that are conditionally relevant,
43 because in almost all cases, the relevance of a particular fact
44 is dependent on a showing of other facts and so the relevance
45 is “conditional.” Moreover, if the existence of one fact is
46 conditionally relevant upon another, the result is that both
47 facts are “conditionally relevant.” See Ronald Allen, *The*
48 *Myth of Conditional Relevance*, 25 Loyola L. Rev. 871-884,
49 879 (1992) (“Evidence is relevant only because there is an
50 intermediate premise or set of premises that connects the
51 evidence to some proposition involved in the litigation. But
52 if determining the relevance of evidence always requires
53 relying on some intermediate premise, no distinction can be
54 drawn between relevancy and conditional relevancy.”).
55 Providing a uniform approach to all questions of relevance
56 avoids confusion, especially because most courts currently
57 use the same permissive approach to all relevant evidence,
58 conditional or not. All questions of relevance should be
59 governed by the same “a reasonable person could find”
60 standard because the jury is in as good a position to
61 determine relevance as is the court.

62 The rule 104(b) test that “proof must be introduced
63 sufficient to support a finding” has been revised, because a
64 court’s preliminary determination of relevance is not limited
65 to proof submitted to it. A court could find evidence relevant
66 under Rule 104(b) by considering the evidence itself, as well
67 as common knowledge and experience. For example, if the
68 proffered evidence is that the defendant was carrying a gun,
69 its relevance to a charge of armed robbery can be determined
70 without any further proof. The standard has been changed to
71 whether the factfinder “could reasonably find” the evidence
72 to be relevant. That standard is the same as “sufficient to
73 support a finding.” See *Huddleston v. United States*, 485
74 U.S. 681, 687 (1988) (in determining whether the proponent

75 has introduced sufficient evidence to meet Rule 104(b), the
76 trial court decides whether “the jury could reasonably find”
77 the contested fact).

78 In deciding whether evidence is relevant, the judge
79 must not only take into account the evidence formally in the
80 record, but also the likely background knowledge and
81 experience of a reasonable juror from the area where trial is
82 being held. For example, suppose a trial concerns the cause
83 of a large explosion and fire. The plaintiff claims that the
84 defendant mishandled nitrogen fertilizer containing
85 ammonium nitrate. A witness is asked whether such a
86 fertilizer was stored on the premises and an objection on
87 relevance is made. If the trial is in a rural state with a large
88 farming population, the trial judge would likely overrule the
89 objection because a reasonable person from that population
90 would likely know the dangerous properties of the material.
91 If, by contrast, the trial were held in an urban area, the judge
92 would likely conclude that evidence of the dangerous
93 properties must be entered into the record to satisfy the
94 requirement of relevance.

95 The amendment retains the provision allowing proof
96 to be introduced later. It should be noted that allowing proof
97 to be introduced later is within the discretion of the court
98 under Rule 104(a) as well.

APPENDIX

§ 440 Procedures for Committees on Rules of Practice and Procedure

This section contains the "Procedures for the Judicial Conference's Committee on Rules of Practice and Procedure and Its Advisory Rules Committees," last amended in September 2011. [JCUS-SEP 2011](#), p. 35.

§ 440.10 Overview

The Rules Enabling Act, [28 U.S.C. §§ 2071–2077](#), authorizes the Supreme Court to prescribe general rules of practice and procedure and rules of evidence for the federal courts. Under the Act, the Judicial Conference must appoint a standing committee, and may appoint advisory committees to recommend new and amended rules. Section 2073 requires the Judicial Conference to publish the procedures that govern the work of the Committee on Rules of Practice and Procedure (the "Standing Committee") and its advisory committees on the Rules of Appellate, Bankruptcy, Civil, and Criminal Procedure and on the Evidence Rules. See [28 U.S.C. § 2073\(a\)\(1\)](#). These procedures do not limit the rules committees' authority. Failure to comply with them does not invalidate any rules committee action. Cf. [28 U.S.C. § 2073\(e\)](#).

§ 440.20 Advisory Committees

§ 440.20.10 Functions

Each advisory committee must engage in "a continuous study of the operation and effect of the general rules of practice and procedure now or hereafter in use" in its field, taking into consideration suggestions and recommendations received from any source, new statutes and court decisions affecting the rules, and legal commentary. See [28 U.S.C. § 331](#).

§ 440.20.20 Suggestions and Recommendations

Suggestions and recommendations on the rules are submitted to the Secretary of the Standing Committee at the Administrative Office of the United States Courts, Washington, D.C. The Secretary will acknowledge the suggestions or recommendations and refer them to the appropriate advisory committee. If the Standing Committee takes formal action on them, that action will be reflected in the Standing Committee's minutes, which are posted on the [judiciary's rulemaking website](#).

§ 440.20.30 Drafting Rule Changes

(a) Meetings

Each advisory committee meets at the times and places that the chair designates. Advisory committee meetings must be open to the public, except when the committee — in open session and with a majority present — determines that it is in the public interest to have all or part of the meeting closed and states the reason. Each meeting must be preceded by notice of the time and place, published in the *Federal Register* and on the [judiciary's rulemaking website](#), sufficiently in advance to permit interested persons to attend.

(b) Preparing Draft Changes

The reporter assigned to each advisory committee should prepare for the committee, under the direction of the committee or its chair, draft rule changes, committee notes explaining their

purpose, and copies or summaries of written recommendations and suggestions received by the committee.

(c) Considering Draft Changes

The advisory committee studies the rules' operation and effect. It meets to consider proposed new and amended rules (together with committee notes), whether changes should be made, and whether they should be submitted to the Standing Committee with a recommendation to approve for publication. The submission must be accompanied by a written report explaining the advisory committee's action and its evaluation of competing considerations.

§ 440.20.40 Publication and Public Hearings

(a) Publication

Before any proposed rule change is published, the Standing Committee must approve publication. The Secretary then arranges for printing and circulating the proposed change to the bench, bar, and public. Publication should be as wide as possible. The proposed change must be published in the *Federal Register* and on the [judiciary's rulemaking website](#). The Secretary must:

- (1) notify members of Congress, federal judges, and the chief justice of each state's highest court of the proposed change, with a link to the [judiciary's rulemaking website](#); and
- (2) provide copies of the proposed change to legal-publishing firms with a request to timely include it in publications.

(b) Public Comment Period

A public comment period on the proposed change must extend for at least six months after notice is published in the *Federal Register*, unless a shorter period is approved under paragraph (d) of this section.

(c) Hearings

The advisory committee must conduct public hearings on the proposed change unless eliminating them is approved under paragraph (d) of this section or not enough witnesses ask to testify at a particular hearing. The hearings are held at the times and places that the advisory committee's chair determines. Notice of the times and places must be published in the *Federal Register* and on the [judiciary's rulemaking website](#). The hearings must be transcribed. Whenever possible, a transcript should be produced by a qualified court reporter.

(d) Expedited Procedures

The Standing Committee may shorten the public comment period or eliminate public hearings if it determines that the administration of justice requires a proposed rule change to be expedited and that appropriate notice to the public can still be provided and public comment obtained. The Standing Committee may also eliminate public notice and comment for a technical or conforming amendment if the Committee determines that they are unnecessary. When an exception is made, the chair must advise the Judicial Conference and provide the reasons.

§ 440.20.50 Procedures After the Comment Period

(a) Summary of Comments

When the public comment period ends, the reporter must prepare a summary of the written comments received and of the testimony presented at public hearings. If the number of comments is very large, the reporter may summarize and aggregate similar individual comments, identifying the source of each one.

(b) Advisory Committee Review; Republication

The advisory committee reviews the proposed change in light of any comments and testimony. If the advisory committee makes substantial changes, the proposed rule should be republished for an additional period of public comment unless the advisory committee determines that republication would not be necessary to achieve adequate public comment and would not assist the work of the rules committees.

(c) Submission to the Standing Committee

The advisory committee submits to the Standing Committee the proposed change and committee note that it recommends for approval. Each submission must:

- (1) be accompanied by a separate report of the comments received;
- (2) explain the changes made after the original publication; and
- (3) include an explanation of competing considerations examined by the advisory committee.

§ 440.20.60 Preparing Minutes and Maintaining Records

(a) Minutes of Meetings

The advisory committee's chair arranges for preparing the minutes of the committee meetings.

(b) Records

The advisory committee's records consist of:

- written suggestions received from the public;
- written comments received from the public on drafts of proposed rules;
- the committee's responses to public suggestions and comments;
- other correspondence with the public about proposed rule changes;
- electronic recordings and transcripts of public hearings (when prepared);
- the reporter's summaries of public comments and of testimony from public hearings;
- agenda books and materials prepared for committee meetings;
- minutes of committee meetings;
- approved drafts of rule changes; and
- reports to the Standing Committee.

(c) Public Access to Records

The records must be posted on the [judiciary's rulemaking website](#), except for general public correspondence about proposed rule changes and electronic recordings of hearings when transcripts are prepared. This correspondence and archived records are maintained by the AO and are available for public inspection. Minutes of a closed meeting may be made available to the public but with any deletions necessary to avoid frustrating the purpose of closing the meeting under [§ 440.20.30\(a\)](#).

§ 440.30 Standing Committee

§ 440.30.10 Functions

The Standing Committee's functions include:

- (a) coordinating the work of the advisory committees;
- (b) suggesting proposals for them to study;
- (c) considering proposals they recommend for publication for public comment; and
- (d) for proposed rule changes that have completed that process, deciding whether to accept or modify the proposals and transmit them with its own recommendation to the Judicial Conference, recommit them to the advisory committee for further study and consideration, or reject them.

§ 440.30.20 Procedures

(a) Meetings

The Standing Committee meets at the times and places that the chair designates. Committee meetings must be open to the public, except when the Committee — in open session and with a majority present — determines that it is in the public interest to have all or part of the meeting closed and states the reason. Each meeting must be preceded by notice of the time and place, published in the *Federal Register* and on the [judiciary's rulemaking website](#), sufficiently in advance to permit interested persons to attend.

(b) Attendance by the Advisory Committee Chairs and Reporters

The advisory committees' chairs and reporters should attend the Standing Committee meetings to present their committees' proposed rule changes and committee notes, to inform the Standing Committee about ongoing work, and to participate in the discussions.

(c) Action on Proposed Rule Changes or Committee Notes

The Standing Committee may accept, reject, or modify a proposed change or committee note, or may return the proposal to the advisory committee with instructions or recommendations.

(d) Transmission to the Judicial Conference

The Standing Committee must transmit to the Judicial Conference the proposed rule changes and committee notes that it approves, together with the advisory committee report. The Standing Committee's report includes its own recommendations and explains any changes that it made.

§ 440.30.30 Preparing Minutes and Maintaining Records

(a) Minutes of Meetings

The Secretary prepares minutes of Standing Committee meetings.

(b) Records

The Standing Committee's records consist of:

- the minutes of Standing Committee and advisory committee meetings;
- agenda books and materials prepared for Standing Committee meetings;
- reports to the Judicial Conference; and
- official correspondence about rule changes, including correspondence with advisory committee chairs.

(c) Public Access to Records

The records must be posted on the judiciary's rulemaking website, except for official correspondence about rule changes. This correspondence and archived records are maintained by the AO and are available for public inspection. Minutes of a closed meeting may be made available to the public but with any deletions necessary to avoid frustrating the purpose of closing the meeting under [§ 440.30.20\(a\)](#).

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