

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

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**MEMORANDUM**

**TO:** Honorable Jeffrey S. Sutton, Chair  
Standing Committee on Rules of Practice and Procedure

**FROM:** Honorable Eugene R. Wedoff, Chair  
Advisory Committee on Bankruptcy Rules

**DATE:** December 12, 2013

**RE:** Report of the Advisory Committee on Bankruptcy Rules

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**I. Introduction**

The Advisory Committee on Bankruptcy Rules met on September 24 and 25, 2013, at the University of St. Thomas School of Law in Minneapolis, Minnesota. The draft minutes of that meeting are set out in Appendix C to this report.

At the meeting the Advisory Committee discussed a number of suggestions for rule and form amendments that were submitted by bankruptcy judges, members of the bar, and court personnel. It also discussed several ongoing projects.

The Committee is presenting one action item at this time—a technical, conforming amendment to Rule 1007(a). Part II of this report discusses that amendment. In addition, the report discusses some rule and form amendments for which final approval or publication will be sought at the June 2014 Standing Committee meeting. Part III provides the Standing Committee

with an overview of the comments that have been received to date on the proposed official form for chapter 13 plans and implementing rule amendments, which were published in August. Part IV reports on the limited reaction so far to the published amendment to Rule 5005 regarding electronic signatures. Finally, Part V provides a preview of the restyled bankruptcy forms for non-individual debtors—the final installment of the Forms Modernization Project.

## **II. Action Item—Rule 1007(a)(1) and (2) for Final Approval Without Publication**

Subdivisions (a)(1) and (a)(2) of Rule 1007 require the filing at the outset of a case of the names and addresses of all entities included on “Schedules D, E, F, G, and H.” The restyled schedules for individual cases that were published for comment in August 2013 use slightly different designations. Under the new numbering and lettering protocol of the proposed forms, the schedules referred to in Rule 1007(a)(1) and (a)(2) will become Official Forms 106 D, E/F, G, and H—reflecting a combination of what had been separate Schedules E and F into a single Schedule E/F. In order to make Rule 1007(a) consistent with the new form designations, the Advisory Committee voted unanimously at the fall meeting to propose a conforming amendment to subdivision (a)(1) and (a)(2) of that rule. The text of the proposed amendment is included in Appendix A.

The schedules and other individual forms published in 2013 (other than the means test forms) are proposed to take effect on December 1, 2015—a year later than normal—in order to coincide with the effective date of the restyled non-individual forms. That timeline means that if the Standing Committee approves without publication the conforming amendments to Rule 1007(a)(1) and (a)(2) at this or the June 2014 meeting, the rule amendments will be able to go into effect at the same time as the forms.

**The Advisory Committee recommends that conforming amendments to Rule 1007(a)(1) and (a)(2), which change references to Schedules E and F to Schedule E/F, be approved and forwarded to the Judicial Conference.**

## **III. Comments on the Proposed Chapter 13 Plan Form and Related Rule Amendments**

Over the past two years, the Advisory Committee undertook to create an official form for plans in chapter 13 cases. Acting on the advice of the Working Group tasked with leading the project, the Advisory Committee has proposed a draft form together with related amendments to nine of the Bankruptcy Rules (Rules 2002, 3002, 3007, 3012, 3015, 4003, 5009, 7001, and 9009). If adopted, the official form would supplant a patchwork of local forms in chapter 13 cases. The Standing Committee approved publication of the form and accompanying rule amendments at its June 2013 meeting.

As anticipated, the proposed form and rule amendments have drawn a significant number of comments. Approximately two dozen public comments have been submitted, including an omnibus submission from the National Association of Chapter Thirteen Trustees that combines

comments from individual chapter 13 trustees around the country. The great majority of comments relate to the proposed official form rather than the rule amendments. In the main, the comments submitted thus far are detailed and constructive. Only a small number oppose adoption of the form or amended rules.

One issue raised in the comments concerns the provision of multiple options in the plan form when one or more of those options may conflict with the prevailing law in a particular judicial district. This feature of the form reflects the divergence of interpretations about aspects of chapter 13 upon which the Advisory Committee does not take a position. Several comments have suggested that the Advisory Committee should add language clarifying that the provision of an option on the form does not necessarily mean the option is available under the law of the debtor's district. The Working Group will consider all of the suggestions set out in the comments and will make recommendations for any changes in the form and rules at the Advisory Committee's spring 2014 meeting. At that meeting, the Advisory Committee will determine the extent to which it will recommend final approval of the form and rules or propose changes that would require republication.

#### **IV. Comments on the Proposed Amendments to Rule 5005(a)**

At its June 2013 meeting, the Standing Committee approved for publication amendments to Rule 5005 (Filing and Transmittal of Papers). The amendments would permit the use of electronic signatures of debtors and other individuals who are not registered users of CM/ECF without requiring the retention of the original document bearing a handwritten signature. This national rule would supersede the current array of local rules, many of which require the registered user (usually an attorney) who is filing documents electronically to preserve the originals of all filed documents bearing the signature of a debtor or other non-registered user for a specified period of time. Under the proposed amendments to Rule 5005, new subdivision (a)(3) would allow scanned signatures of non-registered users to be treated the same as handwritten signatures—without requiring the retention of the hand-signed documents—if the scanned signature page bearing the individual's original signature is part of a single filing.

On the recommendation of the Standing Committee's Subcommittee on CM/ECF, the Standing Committee voted to include in the published amendments alternative means of providing assurance that a scanned signature was actually part of the original document filed electronically. Under one option, the act of filing by a registered person would be deemed the person's certification that the scanned signature was part of the original document. The other option would require a certification by a notary public. The August publication materials called attention to these options and specifically invited comment on them.

So far the publication of the Rule 5005 amendment has produced little response. Only two comments have been submitted on it to date. Both were submitted by bankruptcy attorneys. One expressed confusion about when original documents must be retained under the proposed rule, and the other erroneously read the proposed rule as requiring the entire document, not just

the signature page, to be scanned—a requirement that would require much more storage space on the court’s computer system.

Because the fall meeting of the Advisory Committee on Evidence Rules was canceled due to the government shutdown, the planned symposium on electronic evidence, which would have included a panel on electronic signatures, did not take place.

## **V. Preview of the Revised Official Forms for Non-Individual Debtors**

As the Advisory Committee has previously reported, it is engaged in a multi-year project to revise many of the official bankruptcy forms. The Bankruptcy Official Forms Modernization Project (“FMP”) began its work in 2008. The project is being carried out by an ad hoc group composed of members of the Advisory Committee’s Subcommittee on Forms, working in liaison with representatives of other relevant Judicial Conference committees. The dual goals of the FMP are to improve the official bankruptcy forms and to improve the interface between the forms and available technology.

The Advisory Committee decided to implement the modernized forms in stages in order to allow for fuller testing of the technological features and to facilitate a smoother transition. A small number of the modernized forms became effective on December 1, 2013; others will become effective December 1, 2014; and the majority of the forms are expected to become effective on December 1, 2015. At its fall 2013 meeting, the Advisory Committee reviewed drafts of the revised forms for non-individual debtors. The FMP is continuing to revise them in response to comments provided by members of the Advisory Committee and others whose input was sought. The FMP anticipates that the Advisory Committee will vote to recommend the non-individual forms for publication at its spring meeting and will bring them to the Standing Committee in June.

The FMP’s decision to create separate forms for individual and non-individual debtors rested on two considerations. First, the information that needs to be provided by the two groups of debtors differs somewhat. Using separate forms allows the elimination of unnecessary requests for information. Second, the level of sophistication of the persons completing the forms also differs between the two groups. Individual forms are often completed by pro se debtors with no legal training, and in all individual cases the forms need to be understood by the debtor, who is unlikely to be trained in either law or accounting, but who is required to declare that the information provided is true and correct. Non-individual debtors, on the other hand, must always be represented by counsel, and the person responsible for signing the petition on behalf of the debtor typically is knowledgeable about business and perhaps also legal matters.

These differences are reflected in the design of the two proposed petition forms, which are included in Appendix B to this report. Official Form 201, the petition for non-individual debtors, contains more open-ended questions than does Form 101, the petition for individuals, which contains lists of potential answers for the debtor to check. The non-individual petition

also includes fewer instructions, definitions, and illustrations than the individual petition. While the individual petition addresses the debtor as “you” and includes an extra column for information to be provided about a spouse when a joint petition is filed, the non-individual petition is addressed to a single debtor, which the form refers to in the third person. The non-individual petition is the shorter of the two because it does not need to include requests for information about fee waivers or payment in installments or about spouses, evictions, or credit counseling. Similar differences are reflected throughout the two sets of forms. In addition, non-individual forms that seek financial information are organized to parallel the manner in which businesses commonly keep their financial records.

Despite these differences, the individual and non-individual debtor forms have a similar look and format. They are also both designed to take advantage of the enhanced technology that will become available in the next generation of CM/ECF. The major change in Next Gen affecting bankruptcy forms will be the ability to store all forms information as data so that authorized users can produce customized reports containing the information they want from the forms, displayed in whatever format they choose. Once the judiciary implements Next Gen, the initial authorized users—judges and clerks’ staff—will be able to use forms data to generate customized reports. The provision of similar access to non-judiciary users, however, will depend on the future development of pertinent policies of the Judicial Conference.

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# APPENDIX A

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## COMMITTEE NOTE

In subdivisions (a)(1) and (a)(2), the references to Schedules are amended to reflect the new designations adopted as part of the Forms Modernization Project.

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Because this amendment is made to conform to a change in the designation of the Official Forms that the rule refers to and is technical in nature, final approval is sought without publication.

# APPENDIX B

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# APPENDIX B.1

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**Fill in this information to identify your case:**

United States Bankruptcy Court for the:

\_\_\_\_\_ District of \_\_\_\_\_  
(State)

Case number (if known): \_\_\_\_\_ Chapter you are filing under:  
 Chapter 7  
 Chapter 11  
 Chapter 12  
 Chapter 13

Check if this is an amended filing

**Official Form 101**

**Voluntary Petition for Individuals Filing for Bankruptcy**

12/15

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

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

**Part 1: Identify Yourself**

	About Debtor 1:	About Debtor 2 (Spouse Only in a Joint Case):
<p><b>1. Your full name</b></p> <p>Write the name that is on your government-issued picture identification (for example, your driver's license or passport).</p> <p>Bring your picture identification to your meeting with the trustee.</p>	<p>First name _____</p> <p>Middle name _____</p> <p>Last name _____</p> <p>Suffix (Sr., Jr., II, III) _____</p>	<p>First name _____</p> <p>Middle name _____</p> <p>Last name _____</p> <p>Suffix (Sr., Jr., II, III) _____</p>
<p><b>2. All other names you have used in the last 8 years</b></p> <p>Include your married or maiden names.</p>	<p>First name _____</p> <p>Middle name _____</p> <p>Last name _____</p> <p>First name _____</p> <p>Middle name _____</p> <p>Last name _____</p>	<p>First name _____</p> <p>Middle name _____</p> <p>Last name _____</p> <p>First name _____</p> <p>Middle name _____</p> <p>Last name _____</p>
<p><b>3. Only the last 4 digits of your Social Security number or federal Individual Taxpayer Identification number (ITIN)</b></p>	<p>XXX - XX - _____</p> <p>OR</p> <p>9 XX - XX - _____</p>	<p>XXX - XX - _____</p> <p>OR</p> <p>9 XX - XX - _____</p>

About Debtor 1:

About Debtor 2 (Spouse Only in a Joint Case):

4. Any business names and Employer Identification Numbers (EIN) you have used in the last 8 years

Include trade names and doing business as names

I have not used any business names or EINs.

Business name

Business name

EIN

EIN

I have not used any business names or EINs.

Business name

Business name

EIN

EIN

5. Where you live

Number Street

City State ZIP Code

County

If your mailing address is different from the one above, fill it in here. Note that the court will send any notices to you at this mailing address.

Number Street

P.O. Box

City State ZIP Code

If Debtor 2 lives at a different address:

Number Street

City State ZIP Code

County

If Debtor 2's mailing address is different from yours, fill it in here. Note that the court will send any notices to this mailing address.

Number Street

P.O. Box

City State ZIP Code

6. Why you are choosing this district to file for bankruptcy

Check one:

I Over the last 180 days before filing this bankruptcy filing package, I have lived in this district longer than in any other district.

I I have another reason. Explain. (See 28 U.S.C. § 1408.)

Four horizontal lines for explaining the reason.

Check one:

I Over the last 180 days before filing this bankruptcy filing package, I have lived in this district longer than in any other district.

I I have another reason. Explain. (See 28 U.S.C. § 1408.)

Four horizontal lines for explaining the reason.



**Part 2: Tell the Court About Your Bankruptcy Case**

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

Check one. (For a brief description of each, see *Notice Required by 11 U.S.C. § 342(b) for Individuals Filing for Bankruptcy* (Form B2010)). Also, go to the top of page 1 and check the appropriate box.

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

**8. How you will pay the fee**

If you file under Chapter ...	Your total fee is...
7	\$306
11	\$1,213
12	\$246
13	\$281

**I will pay the entire fee when I file my petition.** Please check with the clerk's office in your local court for more details about how you may pay. Typically, if you are paying the fee yourself, you may pay with cash, cashier's check, or money order. If your attorney is submitting your payment on your behalf, your attorney may pay with a credit card or check with a pre-printed address.

**I need to pay the fee in installments.** If you choose this option, sign and attach the *Application for Individuals to Pay Your Filing Fee in Installments* (Official Form 103A).

**I request that my fee be waived** (You may request this option only if you are filing for Chapter 7. By law, a judge may waive your fee only if your income is less than 150% of the official poverty line that applies to your family size and you are unable to pay the fee in installments). If you choose this option, you must fill out the *Application to Have the Chapter 7 Filing Fee Waived* (Official Form 103B) and file it with your bankruptcy filing package.

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

- No
- Yes. District \_\_\_\_\_ When \_\_\_\_\_ Case number \_\_\_\_\_  
MM / DD / YYYY
- District \_\_\_\_\_ When \_\_\_\_\_ Case number \_\_\_\_\_  
MM / DD / YYYY
- District \_\_\_\_\_ When \_\_\_\_\_ Case number \_\_\_\_\_  
MM / DD / YYYY

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

- No
- Yes. Debtor \_\_\_\_\_ Relationship to you \_\_\_\_\_  
District \_\_\_\_\_ When \_\_\_\_\_ Case number, if known \_\_\_\_\_  
MM / DD / YYYY
- Debtor \_\_\_\_\_ Relationship to you \_\_\_\_\_  
District \_\_\_\_\_ When \_\_\_\_\_ Case number, if known \_\_\_\_\_  
MM / DD / YYYY

**11. Do you rent your residence?**

- No. Go to line 12.
- Yes. Has your landlord obtained an eviction judgment against you and do you want to stay in your residence?
  - No. Go to line 12.
  - Yes. Fill out *Initial Statement About an Eviction Judgment Against You* (Form 101A) and file it with this bankruptcy petition.

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

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

A sole proprietorship is a business you own as an individual, rather than a separate legal entity such as a corporation, partnership, or LLC.

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

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

Name of business, if any
Number Street
City State ZIP Code

Check the appropriate box to describe your business:

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

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

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

If you are filing under Chapter 11, the court must know whether you are a small business debtor so that it can set appropriate deadlines.

- No. I am not filing under Chapter 11.
No. I am filing under Chapter 11, but I am NOT a small business debtor according to the definition in the Bankruptcy Code.
Yes. I am filing under Chapter 11 and I am a small business debtor according to the definition in the Bankruptcy Code.

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

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

For example, do you own perishable goods or livestock that must be fed?

- No
Yes. What is the hazard?

If immediate attention is needed, why is it needed?

Where is the property? Number Street

City State ZIP Code

**Part 5: Explain Your Efforts to Receive a Briefing About Credit Counseling**
**15. Tell the court whether you have received briefing about credit counseling.**

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

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

**About Debtor 1:**

*You must check one:*

**I received a briefing from an approved credit counseling agency within the 180 days before I filed this bankruptcy petition, and I received a certificate of completion.**

Attach a copy of the certificate and the payment plan, if any, that you developed with the agency.

**I received a briefing from an approved credit counseling agency within the 180 days before I filed this bankruptcy petition, but I do not have a certificate of completion.**

Within 14 days after you file this bankruptcy petition, you MUST file a copy of the certificate and payment plan, if any.

**I certify that I asked for credit counseling services from an approved agency, but was unable to obtain those services during the 7 days after I made my request, and exigent circumstances merit a 30-day temporary waiver of the requirement.**

To ask for a 30-day temporary waiver of the requirement, attach a separate sheet explaining what efforts you made to obtain the briefing, why you were unable to obtain it before you filed for bankruptcy, and what exigent circumstances required you to file this case.

Your case may be dismissed if the court is dissatisfied with your reasons for not receiving a briefing before you file this bankruptcy filing package.

If the court is satisfied with your reasons, you must still receive a briefing within 30 days after you file. You must file a certificate from the approved agency, along with a copy of the payment plan you developed, if any. If you do not do so, your case may be dismissed.

Any extension of the 30-day deadline is granted only for cause and is limited to a maximum of 15 days.

**I am not required to receive a briefing about credit counseling because of:**

**Incapacity.** I have a mental illness or a mental deficiency that makes me incapable of realizing or making rational decisions about finances.

**Disability.** My physical disability causes me to be unable to participate in a briefing in person, by phone, or through the internet, even after I reasonably tried to do so.

**Active duty.** I am currently on active military duty in a military combat zone.

If you believe you are not required to receive a briefing about credit counseling, you must file a motion for waiver of credit counseling with the court.

**About Debtor 2 (Spouse Only in a Joint Case):**

*You must check one:*

**I received a briefing from an approved credit counseling agency within the 180 days before I filed this bankruptcy petition, and I received a certificate of completion.**

Attach a copy of the certificate and the payment plan, if any, that you developed with the agency.

**I received a briefing from an approved credit counseling agency within the 180 days before I filed this bankruptcy petition, but I do not have a certificate of completion.**

Within 14 days after you file this bankruptcy petition, you MUST file a copy of the certificate and payment plan, if any.

**I certify that I asked for credit counseling services from an approved agency, but was unable to obtain those services during the 7 days after I made my request, and exigent circumstances merit a 30-day temporary waiver of the requirement.**

To ask for a 30-day temporary waiver of the requirement, attach a separate sheet explaining what efforts you made to obtain the briefing, why you were unable to obtain it before you filed for bankruptcy, and what exigent circumstances required you to file this case.

Your case may be dismissed if the court is dissatisfied with your reasons for not receiving a briefing before you file this bankruptcy filing package.

If the court is satisfied with your reasons, you must still receive a briefing within 30 days after you file. You must file a certificate from the approved agency, along with a copy of the payment plan you developed, if any. If you do not do so, your case may be dismissed.

Any extension of the 30-day deadline is granted only for cause and is limited to a maximum of 15 days.

**I am not required to receive a briefing about credit counseling because of:**

**Incapacity.** I have a mental illness or a mental deficiency that makes me incapable of realizing or making rational decisions about finances.

**Disability.** My physical disability causes me to be unable to participate in a briefing in person, by phone, or through the internet, even after I reasonably tried to do so.

**Active duty.** I am currently on active military duty in a military combat zone.

If you believe you are not required to receive a briefing about credit counseling, you must file a motion for waiver of credit counseling with the court.

**Part 6:** Answer These Questions for Reporting Purposes

- 16. What kind of debts do you have?**
- 16a. **Are your debts primarily consumer debts?** *Consumer debts* are defined in 11 U.S.C. § 101(8) as “incurred by an individual primarily for a personal, family, or household purpose.”
- No. Go to line 16b.  
 Yes. Go to line 17.
- 16b. **Are your debts primarily business debts?** *Business debts* are debts that you incurred to obtain money for a business or investment or through the operation of the business or investment.
- No. Go to line 16c.  
 Yes. Go to line 17.
- 16c. State the type of debts you owe that are not consumer debts or business debts.

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

- 18. How many creditors do you estimate that you owe?**
- |                                  |  |  |
|----------------------------------|--|--|
| <input type="checkbox"/> 1-49    | <input type="checkbox"/> 1,000-5,000   | <input type="checkbox"/> 25,001-50,000     |
| <input type="checkbox"/> 50-99   | <input type="checkbox"/> 5,001-10,000  | <input type="checkbox"/> 50,001-100,000    |
| <input type="checkbox"/> 100-199 | <input type="checkbox"/> 10,001-25,000 | <input type="checkbox"/> More than 100,000 |
| <input type="checkbox"/> 200-999 |  |  |

- 19. How much do you estimate your assets to be worth?**
- |  |  |  |
|--|--|--|
| <input type="checkbox"/> \$0-\$50,000          | <input type="checkbox"/> \$1,000,001-\$10 million    | <input type="checkbox"/> \$500,000,001-\$1 billion     |
| <input type="checkbox"/> \$50,001-\$100,000    | <input type="checkbox"/> \$10,000,001-\$50 million   | <input type="checkbox"/> \$1,000,000,001-\$10 billion  |
| <input type="checkbox"/> \$100,001-\$500,000   | <input type="checkbox"/> \$50,000,001-\$100 million  | <input type="checkbox"/> \$10,000,000,001-\$50 billion |
| <input type="checkbox"/> \$500,001-\$1 million | <input type="checkbox"/> \$100,000,001-\$500 million | <input type="checkbox"/> More than \$50 billion        |

- 20. How much do you estimate your liabilities to be?**
- |  |  |  |
|--|--|--|
| <input type="checkbox"/> \$0-\$50,000          | <input type="checkbox"/> \$1,000,001-\$10 million    | <input type="checkbox"/> \$500,000,001-\$1 billion     |
| <input type="checkbox"/> \$50,001-\$100,000    | <input type="checkbox"/> \$10,000,001-\$50 million   | <input type="checkbox"/> \$1,000,000,001-\$10 billion  |
| <input type="checkbox"/> \$100,001-\$500,000   | <input type="checkbox"/> \$50,000,001-\$100 million  | <input type="checkbox"/> \$10,000,000,001-\$50 billion |
| <input type="checkbox"/> \$500,001-\$1 million | <input type="checkbox"/> \$100,000,001-\$500 million | <input type="checkbox"/> More than \$50 billion        |

**Part 7:** Sign Below

**For you**

I declare under penalty of perjury that the information provided in this petition is true and correct. I understand that if I make a false statement, I could be fined up to \$250,000 or imprisoned for up to 5 years, or both. 18 U.S.C. §§ 152 and 3571.

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

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

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

Signature of Debtor 1

Signature of Debtor 2

Date MM / DD / YYYY

Date MM / DD / YYYY

Debtor 1

\_\_\_\_\_  
First Name Middle Name Last Name

Case number (if known) \_\_\_\_\_

**For your attorney, if you are represented by one**

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

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

U \_\_\_\_\_ Date \_\_\_\_\_  
Signature of Attorney for Debtor MM / DD / YYYY

\_\_\_\_\_  
Printed name

\_\_\_\_\_  
Firm name

\_\_\_\_\_  
Number Street

\_\_\_\_\_  
City State ZIP Code

Contact phone \_\_\_\_\_ Email address \_\_\_\_\_

\_\_\_\_\_  
Bar number State

**For you if you are filing this bankruptcy filing package without an attorney**

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

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

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

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

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

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

- No
- Yes

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

- No
- Yes

Did you pay or agree to pay someone who is not an attorney to help you fill out this bankruptcy filing package?

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

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

Signature of Debtor 1

Signature of Debtor 2

Date MM / DD / YYYY

Date MM / DD / YYYY

Contact phone

Contact phone

Cell phone

Cell phone

Email address

Email address

# APPENDIX B.2

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**Fill in this information to identify the case:**

United States Bankruptcy Court for the:

\_\_\_\_\_ District of \_\_\_\_\_  
(State)

Case number (if known): \_\_\_\_\_ Chapter \_\_\_\_\_

Check if this is an amended filing

**Official Form 201**

**Voluntary Petition for Non-Individuals Filing for Bankruptcy**

12/15

If more space is needed, attach a separate sheet to this form. On the top of any additional pages, write the debtor's name and the case number (if known). For more information, a separate document, *Instructions for Bankruptcy Forms for Non-Individuals*, is available.

**1. Debtor's name**

\_\_\_\_\_

**2. All other names debtor used in the last 8 years**

Include any assumed names, trade names and *doing business* as names

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**3. Debtor's federal Employer Identification Number (EIN)**

\_\_\_\_\_ - \_\_\_\_\_

**4. Debtor's address**

**Principal place of business**

**Mailing address, if different from principal place of business**

Number Street

Number Street

\_\_\_\_\_

P.O. Box

City State ZIP Code

City State ZIP Code

County

**Location of principal assets, if different from principal place of business**

Number Street

City State ZIP Code

**5. Debtor's website (URL)**

\_\_\_\_\_

**6. Type of debtor**

Corporation (including Limited Liability Company (LLC) and Limited Liability Partnership (LLP))

Partnership (excluding LLP)

Other. Specify: \_\_\_\_\_

7. Describe debtor's business

A. Check one:

- Health Care Business (as defined in 11 U.S.C. § 101(27A))
- Single Asset Real Estate (as defined in 11 U.S.C. § 101(51B))
- Railroad (as defined in 11 U.S.C. §101(44))
- Stockbroker (as defined in 11 U.S.C. § 101(53A))
- Commodity Broker (as defined in 11 U.S.C. § 101(6))
- Clearing Bank (as defined in 11 U.S.C. §781(3))
- None of the above

B. Check all that apply:

- Tax-exempt entity (as described in 26 U.S.C. §501)
- Investment company, including hedge fund or pooled investment vehicle (as defined in 15 U.S.C. § 80a-3)
- Investment advisor (as defined in 15 U.S.C. § 80b-2(a)(11))

C. NAICS (North American Industry Classification System) 6-digit code that best describes debtor.  
See [www.naics.com/search.htm](http://www.naics.com/search.htm).

\_\_\_\_ \_

8. Under which chapter of the Bankruptcy Code is the debtor filing?

Check one:

- Chapter 7
- Chapter 9
- Chapter 11. Check all that apply:
  - Debtor's aggregate noncontingent liquidated debts (excluding debts owed to insiders or affiliates) are less than \$2,490,925 (amount subject to adjustment on 4/01/16 and every 3 years after that).
  - The debtor is a small business debtor as defined in 11 U.S.C. § 101(51D).
  - A plan is being filed with this petition.
  - Acceptances of the plan were solicited prepetition from one or more classes of creditors, in accordance with 11 U.S.C. § 1126(b).
  - The debtor is required to file periodic reports (for example, 10K and 10Q) with the Securities and Exchange Commission according to § 13 or 15(d) of the Securities Exchange Act of 1934. File the *Attachment to Voluntary Petition for Non-Individuals Filing for Bankruptcy Under Chapter 11* (Official Form 201A) with this form.
  - The debtor is a shell company as defined in the Securities Exchange Act of 1934 Rule 12b-2.
- Chapter 12

9. Were prior bankruptcy cases filed by or against the debtor within the last 8 years?

- No
- Yes. District \_\_\_\_\_ When \_\_\_\_\_ Case number \_\_\_\_\_  
MM / DD / YYYY
- District \_\_\_\_\_ When \_\_\_\_\_ Case number \_\_\_\_\_  
MM / DD / YYYY

If more than 2 cases, attach a separate list.

10. Are any bankruptcy cases pending or being filed by a business partner or an affiliate of the debtor?

- No
- Yes. Debtor \_\_\_\_\_ Relationship \_\_\_\_\_  
District \_\_\_\_\_ When \_\_\_\_\_  
MM / DD / YYYY
- Case number, if known \_\_\_\_\_

List all cases. If more than 1, attach a separate list.

11. Why is venue proper in this district?

Check all that apply:

- Debtor has had its domicile, principal place of business, or principal assets in this district for 180 days immediately preceding the date of this petition or for a longer part of such 180 days than in any other district.
- A bankruptcy case concerning debtor's affiliate, general partner, or partnership is pending in this district.

12. Does the debtor own or have possession of any real property or personal property that needs immediate attention?

- No
- Yes. Answer below for each property that needs immediate attention. Attach additional sheets if needed.

Why does the property need immediate attention? (Check all that apply.)

- It poses or is alleged to pose a threat of imminent and identifiable hazard to public health or safety. What is the hazard? \_\_\_\_\_
- It needs to be physically secured or protected from the weather.
- It includes perishable goods or assets that could quickly deteriorate or lose value without attention (for example, livestock, seasonal goods, meat, dairy, produce, or securities-related assets or other options).
- Other \_\_\_\_\_

Where is the property?

Number \_\_\_\_\_ Street \_\_\_\_\_

City \_\_\_\_\_ State \_\_\_\_\_ ZIP Code \_\_\_\_\_

Is the property insured?

- No
- Yes. Insurance agency \_\_\_\_\_
- Contact name \_\_\_\_\_
- Phone \_\_\_\_\_

Statistical and administrative information

13. Debtor's estimation of available funds

Check one:

- Funds will be available for distribution to unsecured creditors.
- After any administrative expenses are paid, no funds will be available for distribution to unsecured creditors.

14. Estimated number of creditors

- |                                  |  |  |
|----------------------------------|--|--|
| <input type="checkbox"/> 1-49    | <input type="checkbox"/> 1,000-5,000   | <input type="checkbox"/> 25,001-50,000     |
| <input type="checkbox"/> 50-99   | <input type="checkbox"/> 5,001-10,000  | <input type="checkbox"/> 50,001-100,000    |
| <input type="checkbox"/> 100-199 | <input type="checkbox"/> 10,001-25,000 | <input type="checkbox"/> More than 100,000 |
| <input type="checkbox"/> 200-999 |  |  |

15. Estimated assets

- |  |  |  |
|--|--|--|
| <input type="checkbox"/> \$0-\$50,000          | <input type="checkbox"/> \$1,000,001-\$10 million    | <input type="checkbox"/> \$500,000,001-\$1 billion     |
| <input type="checkbox"/> \$50,001-\$100,000    | <input type="checkbox"/> \$10,000,001-\$50 million   | <input type="checkbox"/> \$1,000,000,001-\$10 billion  |
| <input type="checkbox"/> \$100,001-\$500,000   | <input type="checkbox"/> \$50,000,001-\$100 million  | <input type="checkbox"/> \$10,000,000,001-\$50 billion |
| <input type="checkbox"/> \$500,001-\$1 million | <input type="checkbox"/> \$100,000,001-\$500 million | <input type="checkbox"/> More than \$50 billion        |

16. Estimated liabilities

- |  |  |  |
|--|--|--|
| <input type="checkbox"/> \$0-\$50,000          | <input type="checkbox"/> \$1,000,001-\$10 million    | <input type="checkbox"/> \$500,000,001-\$1 billion     |
| <input type="checkbox"/> \$50,001-\$100,000    | <input type="checkbox"/> \$10,000,001-\$50 million   | <input type="checkbox"/> \$1,000,000,001-\$10 billion  |
| <input type="checkbox"/> \$100,001-\$500,000   | <input type="checkbox"/> \$50,000,001-\$100 million  | <input type="checkbox"/> \$10,000,000,001-\$50 billion |
| <input type="checkbox"/> \$500,001-\$1 million | <input type="checkbox"/> \$100,000,001-\$500 million | <input type="checkbox"/> More than \$50 billion        |

**Request for Relief, Declaration, and Signatures**

**WARNING --** Bankruptcy fraud is a serious crime. Making a false statement in connection with a bankruptcy case can result in fines up to \$500,000 or imprisonment for up to 20 years, or both. 18 U.S.C. §§ 152, 1341, 1519, and 3571.

**17. Signature of debtor**

The debtor requests relief in accordance with the chapter of title 11, United States Code, specified in this petition.

I have been authorized to file this petition on behalf of the debtor.

I have examined the information in this petition and have a reasonable belief that the information is true and correct.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on \_\_\_\_\_  
MM / DD / YYYY

Ū

\_\_\_\_\_  
Signature of authorized individual

\_\_\_\_\_  
Printed name

\_\_\_\_\_  
Title

**18. Signature of attorney**

Ū

\_\_\_\_\_  
Signature of attorney for debtor

Date

\_\_\_\_\_  
MM / DD / YYYY

\_\_\_\_\_  
Printed name

\_\_\_\_\_  
Firm name

\_\_\_\_\_  
Number Street

\_\_\_\_\_  
City

\_\_\_\_\_  
State

\_\_\_\_\_  
ZIP Code

\_\_\_\_\_  
Contact phone

\_\_\_\_\_  
Email address

\_\_\_\_\_  
Bar number

\_\_\_\_\_  
State

# TAB 3B

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ADVISORY COMMITTEE ON BANKRUPTCY RULES  
Meeting of September 24 - 25, 2013  
At the University of St. Thomas, School of Law  
Minneapolis, Minnesota

Draft Minutes

The following members attended the meeting:

Bankruptcy Judge Eugene R. Wedoff, Chair  
Circuit Judge Sandra Segal Ikuta  
Circuit Judge Adalberto Jordan  
District Judge Jean Hamilton  
District Judge Robert James Jonker  
District Judge Amul R. Thapar  
Bankruptcy Judge Arthur I. Harris  
Bankruptcy Judge Elizabeth L. Perris  
Bankruptcy Judge Judith H. Wizmur  
Professor Edward R. Morrison  
Michael St. Patrick Baxter, Esquire  
Richardo I. Kilpatrick, Esquire  
J. Christopher Kohn, Esquire  
David A. Lander, Esquire (by telephone)  
Jill Michaux, Esquire

The following persons also attended the meeting:

Professor S. Elizabeth Gibson, reporter  
Professor Troy A. McKenzie, assistant reporter  
Roy T. Englert, Jr., Esq., liaison from the Committee on Rules of Practice and  
Procedure (Standing Committee)  
Bankruptcy Judge Erithe A. Smith, liaison from the Committee on Bankruptcy  
Administration  
Jonathan Rose, Secretary, Standing Committee, and Rules Committee Officer  
Ramona D. Elliott, Deputy Director /General Counsel, Executive Office for U.S.  
Trustees (EOUST)  
James J. Waldron, Clerk, U.S. Bankruptcy Court for the District of New Jersey  
Peter G. McCabe, Assistant Director, Office of Judges Programs, Administrative  
Office of the U.S. Courts (Administrative Office)  
Benjamin Robinson, Deputy Rules Committee Officer and Counsel to the Rules  
Committees (by telephone)  
Andrea L. Kuperman, Chief Counsel to the Rules Committees (by telephone)  
James H. Wannamaker, Administrative Office  
Scott Myers, Administrative Office  
Bridget Healy, Administrative Office  
Molly Johnson, Federal Judicial Center

District Judge Patrick J. Schiltz, District of Minnesota  
Associate Dean Joel Nichols, St. Thomas School of Law  
Professor Nancy B. Rappaport, William S. Boyd School of Law, UNLV  
Michael T. Bates, Senior Company Counsel, Wells Fargo  
Margaret Burks, President, National Association of Chapter 13 Trustees  
Jon M. Waage, Chapter 13 Trustee, Middle District of Florida  
Raymond J. Obuchowski, on behalf of the National Association of Bankruptcy  
Trustees  
Debra L. Miller, Chapter 13 Trustee, Northern District of Indiana

The following summary of matters discussed at the meeting is written in the order of the meeting agenda unless otherwise specified, not necessarily in the order actually discussed. It should be read in conjunction with the agenda materials. An electronic copy of the agenda materials is available at <http://www.uscourts.gov/RulesAndPolicies/rules/archives/agenda-books/committee-rules-bankruptcy-procedure.aspx>. Votes and other action taken by the Advisory Committee and assignments by the Chair appear in **bold**.

#### Introductory Items

1. Greetings and welcome to new member Judge Amul R. Thapar.

The Chair welcomed the Advisory Committee's newest member, Judge Thapar, and thanked Judge Schiltz and Associate Dean Joel Nichols for hosting the Advisory Committee's meeting at the Saint Thomas School of Law. The participants introduced themselves and the Chair recognized Mr. McCabe for his service to all the rules committees and Mr. Wannamaker for his many years of service as primary staff support for the Advisory Committee. The Chair noted that both men would be retiring in the next few months and the Advisory Committee would deeply miss their institutional knowledge and camaraderie.

2. Approval of minutes of New York meeting of April 2 - 3, 2013.

The draft minutes were approved.

3. Oral reports on meetings of other committees:

- (A) June 2013 meeting of the Committee on Rules of Practice and Procedure, including the request for comments on the alternatives included in the proposed amendment of Rule 5005(a)

The Reporter, Chair, and Judge Wizmur gave the report. All of the Advisory Committee's recommendations were approved. The form of the proposed amendment to Rule 5005(a) was modified to provide alternative proposals with respect to electronic signatures of individuals who are not registered users of the judiciary's case management and electronic case filing system (CM/ECF).



Judge Wizmur explained that the Advisory Committee on Evidence did not think there was a need to change the evidence rules in order for electronic signatures to be admissible as evidence. There was, however, concern about how scanned signatures would be validated.

The Reporter and the Chair explained that a cross-committee “CM/ECF Subcommittee” has been created to consider the impact of electronic filing on the existing federal rules. As part of that subcommittee’s initial recommendations, alternative versions of the proposed amendments to Rule 5005(a) have been published for public comment. With respect to individuals who are not registered users of CM/ECF, one proposed version of the rule would deem the registered user’s electronic submission of the signature to validate it. In bankruptcy cases that would mean the debtor’s attorney would validate the debtor’s signature by submitting it as part of a CM/ECF filing. The alternative proposal would require that a notary public validate the signature of the non-registered user.

(B) Cross-committee CM/ECF Subcommittee

The Reporter explained that in addition to weighing in on the proposed amendments to Rule 5005, the CM/ECF Subcommittee has also proposed eliminating the 3-day extension in Rule 9006(f) and Civil Rule 6(d) in cases of electronic service. She said that the proposal would be taken to the Standing Committee in January. Several members supported the idea, and one member suggested that the 3-day extension should be removed for all modes of service. But other members noted occasional problems with electronic service including spam filters, security settings, and the failure of electronic mail servers. The Chair said that he would relate concerns about ineffective electronic service to the Standing Committee.

(C) June 2013 meeting of the Committee on the Administration of the Bankruptcy System.

Judge Smith said that the term of the Bankruptcy Administration Committee’s Chair, Judge Joy Conti, ends this month, and that the new chair, Judge Danny Reeves, begins his term on October 1, 2013.

Judge Smith said that the General Accounting Office has issued its report “Efforts to Consolidate and Share Services between District and Bankruptcy Clerks’ Offices” and that it did not find any evidence that consolidation would save money. She said that the AO has gathered data on shared services and it hopes to have a report at the Committee’s December meeting. She said there appear to be savings in shared services, but that the savings are difficult to quantify.

Judge Smith said that the Committee approved funding for recalled bankruptcy judges and temporary law clerks. The Committee has endorsed the use of video conferencing to save costs where possible, and has again been asked to look at eliminating the Bankruptcy Appellate Panels (BAPs) as a cost savings measure. As it has in the past, the Committee determined eliminating the BAPs would be cost-shifting rather than cost-saving.

With respect to judgeship requests, Judge Smith explained that the Committee has been asked to prioritize judgeship needs. Judge Smith also sent members a copy of the revised *In Forma Pauperis* guidelines that were recently approved by the Judicial Conference.

(D) April 2013 meeting of the Advisory Committee on Civil Rules.

Judge Harris said that the amendments on civil discovery that emerged out of the Duke conference have been approved for publication. Most proposed amendments, if adopted, will automatically apply in bankruptcy proceedings because most of the bankruptcy discovery rules incorporate civil discovery rules. The “Scope and Purpose” rule for bankruptcy (Rule 1001) does not, however, incorporate the civil rule version (Rule 1). Accordingly, if the Advisory Committee decides to track the proposed amendment to Rule 1, a conforming change to Rule 1001 will have to be recommended and approved. In this respect, the Chair approved Judge Harris’ request to put in the dugout consideration of an amendment to Rule 1001 to track proposed changes to Fed. R. Civ. Pro 1.

(E) May 2013 meeting of the Advisory Committee on Evidence.

Judge Wizmur said that in addition to the electronic signature issue with respect to Rule 5005, the Evidence Rules Advisory Committee will hold a mini-conference in Portland, Maine next month (October 2013) to discuss the impact of technology on the rules of evidence.

(F) April 2013 meeting of the Advisory Committee on Appellate Rules.

Judge Jordon said that the Appellate Rules Committee has approved published revisions to Appellate Rule 6 that would (1) update that Rule’s cross-references to the Bankruptcy Part VIII Rules, (2) amend Rule 6(b)(2)(A)(ii) to remove an ambiguity dating from the 1998 restyling, (3) add a new Rule 6(c) to address permissive direct appeals from the bankruptcy court under 28 U.S.C. §158(d)(2), and (4) take account of the range of methods available now or in the future for dealing with the record on appeal.

(G) Bankruptcy Next Generation of CM/ECF Working Group.

Judge Perris and Mr. Waldron said that the development of CM/ECF NextGen continues and that test courts should begin seeing the first release early next year and that full implementation by all bankruptcy courts is targeted for early 2015. Mr. Myers added that the Administrative Office has had a number of conference calls with private forms vendors in connection with the development of NextGen. Some vendors have expressed concern that not all of their competitors will invest the resources to comply with the new requirements and may thereby obtain a competitive pricing advantage for their software. Mr. Myers said the vendors have been told, however, that courts will likely issue deficiency notices to bankruptcy attorneys who submit forms without all the data required by NextGen and that as a result attorneys will seek out vendors that do comply with the new requirements.

Subcommittee Reports and Other Action Items

4. Report by the Subcommittee on Consumer Issues.

- (A) Recommendation concerning Suggestion 12-BK-B by Matthew T. Loughney (on behalf of the Bankruptcy Noticing Working Group) to amend Rule 2002(f)(7) to require notice of the confirmation of the debtor's chapter 13 plan.

Rule 2002(f)(7) currently requires notice to creditors of the entry of confirmation orders in cases under chapters 9, 11, and 12—but not chapter 13. The Assistant Reporter said that the Administrative Office's Bankruptcy Noticing Working Group has suggested that the rule be expanded to require notice when a chapter 13 confirmation order is entered. The Working Group explained that although courts can order notice of entry of a chapter 13 confirmation order under Rule 9022, adding the notice requirement to Rule 2007(f)(7) would provide clarity about who should receive the notice.

The Assistant Reporter said that the Subcommittee carefully considered the suggestion but concluded that a rule amendment was unnecessary. The Subcommittee first concluded that notice of the chapter 13 plan confirmation hearing, already required by the bankruptcy rules, was sufficient notice of the pending entry of a confirmation order, and that creditors represented by counsel who have entered an appearance in the case will receive electronic notice when the chapter 13 confirmation order is entered on the docket.

The Subcommittee also conducted an informal survey of 77 court clerks and found that approximately 80% reported that the judges in their courts already routinely require some type of notice under Rule 9022. Given that current noticing practices appear to be sufficient, and that the Subcommittee is already considering a separate suggestion to limit certain notice requirements in chapter 13 cases that may be costly and provide little benefit, the Subcommittee recommends that no further action be taken on the suggestion. **The Advisory Committee agreed with the Subcommittee and no further action will be taken on the suggestion.**

Professor Morrison said that, like chapter 13 cases, there seemed to be little benefit to providing notice of entry of the confirmation order in small business chapter 11 cases. At Professor Morrison's request, **the Chair asked the Business Subcommittee to consider removing small business chapter 11 cases from the list in Rule 2002(f)(7).**

- (B) Recommendation concerning Comment 11-BK-12 by Judge Eric L. Frank regarding the negative notice procedure for objections to claims in the proposed amendment to Rule 3007 that was published in 2011.

Judge Harris and the Reporter reminded members that the Advisory Committee previously proposed an amendment to Rule 3007(a) in response to two suggestions submitted on behalf of the Bankruptcy Judges Advisory Group ("BJAG"). The first suggestion (09-BK-H),

from Judge Margaret D. McGarity, proposed an amendment to permit the use of a negative notice procedure for objections to claims. The second suggestion (09-BK-N), from Judge Michael E. Romero, sought clarification of the proper method of serving objections to claims. Judge Romero noted that some courts require service under Rule 7004 because an objection to a claim creates a contested matter and Rule 9014(b) provides that the “motion [initiating a contested matter] shall be served in the manner provided for service of a summons and complaint by Rule 7004.” Other courts have concluded that Rule 3007(a) governs claims objections by specifying the notice recipient of a claims objection.

*2011 Proposed Amendments to Rule 3007(a)*

The Reporter said that Advisory Committee addressed the suggestions through proposed amendments to Rule 3007(a) published for comment in 2011-12. The amendments adopted an objection procedure to make clear that Rule 7004 applies to claims objections only if the recipient is the United States, an officer or agency of the United States, or an insured depository institution. Otherwise, the claimant must be served by first class mail at the address and name set out on the proof of claim. The proposed amendments also permitted a negative noticing procedure.

The Reporter said that there were two comments in response to the published amendments. Judge Eric Frank questioned whether a negative notice procedure is generally appropriate for an objection to a claim since, under Rule 3001(f), a properly executed and filed proof of claim is entitled to be treated as prima facie evidence of the validity and amount of the claim. Given this evidentiary effect of a proof of claim, Judge Frank suggested that in many situations a claim should not be disallowed by default and without a hearing. The other comment was submitted by Mr. Raymond P. Bell, Jr. (11-BK-015), who agreed with Judge Frank.

In his comment, Judge Frank contended that the problem with the proposed amendment arose more from the Committee Note than from the text of the rule itself. While the rule’s reference to “any deadline to request a hearing” might suggest that a claim can be disallowed just because of the failure to make such a request, it did not expressly say so. The Committee Note, however, stated that the amendment authorized local rules to *require* a claimant to request a hearing or file a response. He therefore suggested that, “at a minimum,” the Committee Note be revised to “state unequivocally that although local rules may impose the obligation on a claimant to respond to a proof of claim, there may [be] matters in which a proof of claim is valid and allowable notwithstanding the failure to file a response to claims objection or request a hearing ....” In his view, the Committee Note should indicate that, with regard to those matters, the court has a duty to determine whether Rule 3001(f) requires allowance of the claim, even if the claimant does not respond or request a hearing.

At the spring 2012 meeting, the Subcommittee recommended that the proposed amendments to Rule 3007(a) be withdrawn so that they could be considered along with the package of rule amendments accompanying the development of a national chapter 13 plan form. The proposed plan form would allow certain claims to be determined through the plan and the

Subcommittee concluded that the method of service on the claimant should be the same regardless of whether the claim amount was determined through the plan or through a claims objection.

*The Proposed 2013 Amendments to Rules 3007 and 3012*

In connection with the chapter 13 plan form published for comment in August 2013, the Standing Committee published amendments to Rules 3007 and 3012 that would require enhanced Rule 7004 service for requests to determine the amount of secured and priority claims in chapter 12 and 13 cases. The proposed amendments to Rule 3012 make clear that secured claims can be modified through the plan as well as by claim objection or motion, and that priority claim amounts can be challenged through a claim objection or motion. Regardless of the form of objection, however, the proposed amendment to Rule 3012 appears to require service under Rule 7004. Outside the chapter 12 and chapter 13 context, however, the proposed 2013 amendment to Rule 3007 leaves the current method of objecting to claims unchanged – arguably requiring only that the objection and hearing be mailed or otherwise delivered to the claimant.

The Reporter said that the Subcommittee was asked to try to create a unified approach to the service of claim objections as well as claim modifications accomplished through plans. She said that the Advisory Committee's 2011 proposed amendment to Rule 3007(a) was based on the belief that claim objections should generally be served on the person that the claimant designated on the proof of claim for receipt of notices, rather than according to Rule 7004. She said that the Subcommittee continues to recommend this method of service for claim objections, and that it therefore recommends final approval of Rule 3007(a) as published in 2011 and as shown in the agenda materials beginning at page 98. She added that the Subcommittee also acknowledged Judge Frank's concerns and that it therefore recommends adding language to the Committee Note (as shown at page 99 of the agenda materials) to make clear that an objection to a claim does not automatically overcome the prima facie validity of a proof of claim that is afforded by Rule 3001(f).

The Reporter said that the Subcommittee also continued to recommend the portion of the proposed 2013 amendment to Rule 3012 that would allow a secured claim to be modified through a chapter 12 or 13 plan, along with the more formal Rule 7004 service in that context to increase the likelihood that affected claimants are made aware that the plan proposes to modify their claim. The Reporter said that the Subcommittee now recommends revising published Rule 3012 to clarify that all claims objections, including objections to secured and priority claims, be served on the person designated on the proof of claim in accordance with proposed Rule 3007(a); that secured claims being modified through a plan be governed by the service provision in Rule 3012; and that motions to modify a claim be governed as they currently are, by Rule 9014.

**A motion to approve the Subcommittee's recommendations, subject to further amendments after considering comments on the published versions of Rule 3007 and 3012, passed without objection.**

- (C) Recommendation concerning conforming amendments of Rule 1007(a)(1) and (a)(2) to reflect the changed designations of the schedules proposed by the Forms Modernization Project.

Judge Harris explained that because schedules E and F are being combined for the Forms Modernization Project, the Subcommittee recommended a technical conforming amendments to Rule 1007(a)(1) and (a)(2) replacing references to schedules E and F with E/F. **A motion to conform the rule to the new form designations, effective when the new forms go into effect, passed without opposition.** The Chair explained that because the proposed amendment was conforming, publication would not be necessary.

- (D) Oral report concerning Suggestion 12-BK-I by Judge John E. Waites (on behalf of the Bankruptcy Judges Advisory Group) to amend Rule 1006(b) to provide that courts may require a minimum initial payment with requests to pay filing fees in installments.

Judge Harris said that the Subcommittee was aware that some courts already require an initial payment with a fee installment application, and that it has asked the FJC to research the prevalence of the practice and the amount of required initial installments. On behalf of the FJC, Ms. Johnson said that she hopes to have research done in time for a Subcommittee call before the spring meeting.

- (E) Oral report concerning Suggestion 12-BK-M by Judge Scott W. Dales to amend Rule 2002(h) to mitigate the cost of giving notice to creditors who have not filed proofs of claim in a chapter 13 case.

Judge Harris reviewed the suggestion. Bankruptcy Rule 2002(a) requires that certain notices go to all creditors. After the claims bar date in a chapter 7 case, however, Rule 2002(h) allows the court to enter an order limiting future notices to creditors who have either filed a claim or who have been given an extension to file a claim at a later date. Judge Dales suggests that Rule 2002(h) be revised and made applicable to chapter 13, or even to all chapters.

Judge Harris said that the Subcommittee recommends putting Judge Dale's suggestion in the dugout until after the published chapter 13 amendments have been considered. There were no objections to the Subcommittee's recommendation, and the suggestion was placed in the dugout.

## 5. Report by the Chapter 13 Plan Form Working Group.

Oral report concerning (1) responses to the publication of the chapter 13 plan form and the implementing rules amendments and (2) outreach to the chapter 13 community concerning the plan form and rules.

The Chair recognized the various people attending the meeting who commented on and/or attended meetings regarding the plan form. The Assistant Reporter discussed the plan

form process, and Mr. Kilpatrick explained the developments of an adequate protection order. Mr. Kilpatrick also noted that most of the comments received so far have been positive and many have included constructive suggestions for improvements. The Chair added that he anticipates many comments which should generate a full discussion of the plan form and the chapter 13 process at the spring 2014 meeting.

6. Report by the Mortgage Claim Form Working Group.

Oral report concerning amending Official Form 10A (Mortgage Proof of Claim Attachment) to require inclusion of a loan history.

Ms. Michaux explained that the working group was formed at the spring 2013 meeting. It has already had several conference calls, and the members hope to have a proposal for a detailed loan history to replace Official Form 10A ready to be considered at the spring 2014 meeting. The purpose of a detailed loan history, in contrast to the summary that is now Official Form 10A, Ms. Michaux said, is to provide as a default a clear accounting of how payments have been applied to the loan so that debtors can object to the claim calculation when appropriate.

7. Joint Report by the Subcommittees on Consumer Issues and Forms

- (A) Recommendations concerning (1) Suggestion 13-BK-E by Judge Carol Doyle to amend Rule 3002.1 to clarify that the rule applies to all claims secured by a chapter 13 debtor's principal residence when the plan proposes to maintain mortgage payments postpetition and (2) providing guidance on whether the creditor's obligations under Rule 3002.1 cease to apply if the automatic stay is lifted with respect to the residence.

The Reporter explained that Judge Doyle's suggestion highlights a case law split on whether Rule 3002.1(a) applies only in chapter 13 cases in which an arrearage is being cured under 11 U.S.C. § 1322(b)(5). Among other things, the rule requires a mortgagee to provide certain notices pertaining to payment changes, fees, expenses, and charges, but some courts have ruled that these reporting requirements arise only if the chapter 13 plan is curing an arrearage. Others, including Judge Doyle, have concluded that the reporting requirements apply so long as the plan provides for maintaining current payments on the debtor's mortgage.

The Subcommittees agreed with Judge Doyle that Rule 3002.1(a) should be amended to clarify that it requires compliance with the rule whenever a plan provides for the maintenance of postpetition mortgage payments. If a debtor is trying to remain current on a home mortgage, he or she needs to know if the amount required to be paid has changed, whether or not an arrearage is being cured. The Subcommittees also recommended amending the rule to clarify that it applies regardless of whether the debtor or the trustee is making plan payments. **The Advisory Committee agreed with both recommendations.**

The Subcommittees further agreed that the rule should be amended to clarify that the creditor's reporting requirements cease at some point after a motion to lift the automatic stay is granted with respect to the debtor's principal residence. There was no agreement, however, as to when that point arrives. The views coalesced around two positions: (1) effective date of the order terminating the stay and (2) transfer of title from the debtor.

The Advisory Committee discussed the two alternatives proposed by the Subcommittees. Some members favored termination of the reporting requirements when the stay is lifted because the date is easy to determine and would be uniform throughout national bankruptcy practice. A title transfer date, in contrast, would vary depending on state foreclosure law. Members supporting the title transfer date pointed out, however, that the debtor and creditor often continue to negotiate after the stay is lifted, with the mortgage eventually being reinstated. The Chair said that either proposal would merely be a default provision and that a court could order that reporting requirements continue if that made sense in a particular situation. **After further discussion, and over three dissents, the Committee recommended publishing the "stay termination" alternative as the default date for ending a creditor's Rule 3002.1(a) reporting requirements.** One member also suggested adding language to the Committee Note to encourage courts to consider requests for continued reporting in appropriate circumstances, but no particular language was recommended.

- (B) Oral report concerning Suggestion 11-BK-N by David S. Yen for a rule and form for applications to waive fees other than filing fees under 28 U.S.C. § 1930(f)(2) and (f)(3).

Judge Harris said that the Subcommittee tabled the suggestion until the Judicial Conference approved guidelines for fee waivers under 28 U.S.C. § 1930(b). As reported by Judge Smith at Item 3C above, fee waiver guidelines have now been approved. Judge Harris said that the Subcommittee will review the new guidelines, consider the suggestion, and report back at the spring meeting.

8. Report by the Subcommittee on Forms and the Forms Modernization Project.

- (A) Report on the status of the Forms Modernization Project and preliminary review of filing forms for non-individual debtors, including a chapter 15 petition.

Judge Perris provided an overview of the Forms Modernization Project and the Next Generation of CM/ECF. She said that the code for CM/ECF NextGen is being written now and that testing should begin in four test courts in January 2014. The test courts are scheduled to go live next summer, and the rest of the courts will follow later. She said that it would probably not be until early- to mid-2015 that all courts will be live on the first release of NextGen. The projected rollout is compatible with the release of the modernized bankruptcy forms, she said, because the bulk of the forms will not be ready to go into effect until December 1, 2015, shortly after most courts are expected to be using the first release of NextGen.



Judge Perris said that the individual debtor forms are currently out for public comment and that the Forms Subcommittee and Forms Modernization Project (FMP) will make recommendations for any needed changes and for final approval at the spring meeting. The recommended effective date for the individual debtor forms will be no earlier than December 1, 2015, however, because the new form numbering scheme developed for bankruptcy forms makes it necessary to put the bulk of the new forms into effect at the same time, and the non-individual debtor version of case opening forms will not be published for comment until next year. Mr. Myers briefly described the form numbering scheme and reported that an updated chart showing current and projected form numbers was included in the agenda materials beginning at page 281.

For this meeting, Judge Perris said that the FMP was seeking preliminary feedback on the non-individual debtor instruction booklet, case opening forms for non-individual debtors, B201, B202, B204, B205, B206Sum, B206A/B, B206D, B206E/F, B206G, B206H, B207, an Official Form for opening a chapter 15 case, B401, and the proof of claim form, B410. She said that the forms and their Committee Notes started at page 147 of the agenda materials. Members suggested a number of changes, and Judge Perris explained that the suggestions and any others she received would be evaluated by FMP working groups over the winter in the next round of form revisions.

- (B) Recommendation concerning Suggestion 13-BK-B by Judges Eric L. Frank and Bruce I. Fox to amend the Voluntary Petition to include checkboxes for the documents small business debtors are required to file under § 1116(1) of the Bankruptcy Code.

The Reporter said that the Subcommittee considered the suggestion and agreed that the following language should be added to both versions of the voluntary petition: “If you indicate that the debtor is a small business as defined in 11 U.S.C. § 101(51D), you must append the attachments required under 11 U.S.C. § 1116(a)(1).” **The Advisory Committee agreed with the recommendation.**

- (C) Oral report on the revision of the bankruptcy subpoena forms as a consequence of the amendment of Civil Rule 45 effective December 1, 2013.

Judge Harris explained that pending changes to Civil Rule 45 require revisions to the bankruptcy subpoena forms, which incorporate language directly from the rule. Although Director’s Procedural Forms are not required to be used, Subcommittee members and AO staff revised the bankruptcy subpoena forms to more closely follow the presentation and organization of the civil rule subpoena forms. Form 255 is to be used to compel testimony at a hearing or trial, Form 256 for a deposition, and Form 257 for production or inspection. As is the case currently, Form 254 is to be used as a subpoena for Rule 2004 examinations. Judge Harris said that because the subpoena forms are Director’s Procedural Forms, formal approval by the Advisory Committee is not necessary. He added that the forms are scheduled to go into effect on December 1, 2013, when revised Rule 45 becomes effective.

9. Report by the Subcommittee on Business Issues

- (A) Oral report on the status of the proposed amendments to Rules 7008, 7012, 7016, 9027, and 9033 scheduled to take effect on December 1, 2013, and other amendments proposed in response to the Supreme Court's decision in *Stern v. Marshall*, 131 S. Ct. 2594 (2011).

The Assistant Reporter said that the *Stern* rules (proposed amendments to Rules 7008, 7012, 7016, 9027, and 9033) have been approved by the Judicial Conference and are on track to become effective December 1, 2014, if approved by the Supreme Court and if Congress does not act to the contrary. He said that the timing was somewhat complicated, however, because after the Advisory Committee and the Standing Committee recommended the proposed amendments for final approval, the Supreme Court granted review of *Executive Benefits Insurance Agency v. Arkison*, No. 12-1200. One question presented in *Arkison* is whether bankruptcy judges are constitutionally authorized, based on the express or implied consent of the parties, to resolve a proceeding otherwise entitled to an Article III forum.

The Chair explained that the proposed *Stern* amendments are premised on the idea that parties can expressly consent to final adjudication by a bankruptcy judge. Because both *Arkison* and the proposed *Stern* amendments raise the issue of consent, he said, the Supreme Court may decide to hold any decision on the *Stern* rules until after *Arkison* is decided. If the Court holds consideration of the *Stern* rules past May 1, 2014, he said, the rules would not go into effect until December 1, 2015, at the earliest.

**NOTE:** After the meeting, the Advisory Committee and the Standing Committee reconsidered the decision to recommend submitting the *Stern* amendments to the Supreme Court. The rules package was submitted to the Court earlier than usual this year to give the Court the option of handling its Rules Enabling Act work at the beginning of its term. Including the *Stern* amendments in the rules package undermines the goal of presenting a clean package that the Court could consider and potentially resolve early in the term. In addition, concerns were raised that the proposed *Stern* amendments could be perceived as favoring one side of the *Arkison* debate, and that amendments to the rules might be required after the case was decided. Based on the new recommendations of the Advisory Committee and the Standing Committee, the Executive Committee of the Judicial Conference withdrew the proposed *Stern* amendments from the rules package submitted to the Supreme Court.

- (B) Recommendation concerning Suggestion 13-BK-D by David Tilem to add a checkbox for other voting parties to Official Form 14, the ballot for confirmation of a Chapter 11 plan.

The Assistant Reporter said that Mr. Tilem suggested the need for an “other” checkbox on Official Form 14, Ballot for Accepting or Rejecting Plan, to accommodate claims such as lease rejections. The Subcommittee considered the suggestion and concluded that no change was necessary. Official Form 14 is a generic ballot that is designed to incorporate the classes of

claims and interests described in the plan of reorganization. The plan proponent modifies the ballot form as needed so that each class identified in the plan has a ballot. If the plan proposes to separately classify lease rejection damages, for example, the proponent would incorporate that class name into the version of Official Form 14 given to members of the class.

**After a short discussion, no member opposed the Subcommittee's recommendation that no further action be taken on the suggestion.**

10. Report by the Subcommittee on Privacy, Public Access, and Appeals.

- (A) Recommendation concerning Suggestion 13-BK-A by David W. Ostrander to include the debtor's age on the Statement of Financial Affairs or the Schedules of Assets and Liabilities.

The Assistant Reporter said that the Advisory Committee has historically required debtors to disclose information on publicly available bankruptcy forms only if that information is deemed necessary to the bankruptcy process. For example, the means-test forms require information about whether the debtor is over or under age 65 because that information is necessary in order to apply the IRS national standards for health care costs. The Subcommittee was unable, however, to determine a more general bankruptcy administration need for public disclosure of the debtor's specific age on bankruptcy forms, and therefore recommended that no further action be taken on the suggestion. **No member opposed the recommendation.**

- (B) Recommendations concerning amendments to the bankruptcy appellate rules.

Judge Jordon said that the Subcommittee reviewed a number of previously tabled comments with respect to the restyled Part VIII bankruptcy appellate rules that are on track to become effective December 1, 2014. The Subcommittee concluded that some of the comments should be rejected at this time, and that others should be put in the bullpen or dugout until after the revised Part VIII rules take effect and there has been sufficient experience with them to determine whether any additional amendments will be needed.

The Reporter presented the suggestions and noted the Subcommittee's recommendation as to whether: (1) no change should be made, (2) a proposed amendment should be put in the bullpen for recommended implementation at a later date, or (3) a proposed amendment should be held in the dugout to be considered at a later date.

*Rule 8002 (Time for Filing Notices of Appeal)*

Comment 12-BK-033—Judge Christopher M. Klein: *Rule 8002 should include a provision like FRAP 4(a)(6), which permits the district court to reopen the time to file an appeal for someone who did not receive notice of entry of the judgment within 21 days after its entry.*

The Reporter said that FRAP 4(a)(6) is not incorporated into the existing appellate rules, and that, in light of the need for finality of a bankruptcy court order or judgment, the Subcommittee recommended against incorporating it into the restyled appellate rules. No committee member opposed the recommendation.

Comment 12-BK-033—Judge Christopher M. Klein: *It would be useful for Rule 8002 to have a provision similar to FRAP 4(a)(7), which addresses when a judgment or order is entered for purposes of Rule 4(a). The provision helps clarify timing issues presented by the separate-document requirement.*

The Subcommittee concluded that the rules specifying when a separate document is required and the impact of the requirement on the date of entry of the judgment are sufficiently confusing that, as suggested by Judge Klein, Rule 8002 would likely be improved by adding a provision similar to FRAP 4(a)(7). A proposed new Rule 8002(a)(5) was set out in the agenda materials beginning at page 324. **The Advisory Committee agreed to recommend the proposed change and placed it in the bullpen.**

*Rule 8003 (Appeal as of Right—How Taken; Docketing the Appeal) and Rule 8004 (Appeal by Leave—How Taken; Docketing the Appeal)*

Comment 12-BK-036—Mary P. Sharon, Clerk (1st Cir. BAP): *There is an inconsistency between Rule 8003 and Rule 8004. Rule 8003(c) requires the bankruptcy clerk to serve the notice of appeal, whereas Rule 8004(a) places that duty on the appellant.*

The Subcommittee recommends that no change be made to the service provisions of revised Rules 8003 and 8004. The rules are consistent with the parallel FRAP provisions. Because an appellant seeking leave to appeal under Rule 8004 will have to serve its motion on other parties, the Subcommittee concluded that it makes sense to require service of the notice of appeal along with the motion. No member opposed the Subcommittee's recommendation.

*Rule 8004 (Appeal by Leave—How Taken; Docketing the Appeal): In response to a comment suggesting that an appellate court be allowed to treat a motion for leave to appeal as a notice of appeal if a notice of appeal is not filed, the Subcommittee raised the following issue for further consideration: Should the requirement that a notice of appeal be filed, in addition to a motion for leave to appeal, be eliminated from revised Rule 8004?*

Subcommittee members observed that the requirement that a notice of appeal be filed along with a motion for leave to appeal has been as been a longstanding part of the rule on leave to appeal. No one outside the Subcommittee has questioned the need for a notice in this circumstance, and after careful consideration, the Subcommittee recommended that no change be made to the rule. No Advisory Committee member opposed the recommendation.

*Rule 8005 (Election to Have an Appeal Heard by the District Court Instead of the BAP)*

Comment 12-BK-033—Judge Christopher M. Klein: *Rule 8005 does not retain the provision of current Rule 8001(e)(2), which provides for the withdrawal of an election with the district court's acquiescence.*

For reasons described in the agenda materials, Subcommittee members recommended no change to revised Rule 8005. No Advisory Committee member opposed the recommendation.

*Rule 8006 (Certifying a Direct Appeal to the Court of Appeals)*

12-BK-033—Judge Christopher M. Klein: *Rule 8006(c) should provide an opportunity for the bankruptcy court to comment on the proceeding's suitability for direct appeal when a certification is jointly made by all appellants and appellees.*

Subcommittee members agreed that the court of appeals would likely benefit from the court's statement about whether the appeal satisfies one of the grounds for certification. The Subcommittee decided, however, that authorization should not be limited to the bankruptcy court. Because under Rule 8006(b) the matter might be deemed to be pending in the district court or BAP at the time or shortly after the parties file the certification, those courts should also be authorized to file a statement with respect to appeals pending before them. The Subcommittee's recommended amendment to Rule 8006(b) was set forth at page 330 of the agenda materials. **The Advisory Committee approved the proposed revisions to Rule 8006(b) for the bullpen. In addition, the Subcommittee was asked to consider whether a deadline for certifying a direct appeal should be added to the rule.**

*Rule 8009 (Record on Appeal; Sealed Documents)*

12-BK-005—Judge Robert J. Kressel; 12-BK-015—Judge Barry S. Schermer 12-BK-040—Bankruptcy Clerks Advisory Group: *Designation of the record should not be required.*

Because the recently appointed CM/ECF Subcommittee of the Standing Committee will likely consider this issue, the Subcommittee recommended deferring consideration of the suggestion until after the CM/ECF Subcommittee submits its report. **The Advisory Committee agreed and the suggestion was put in the dugout.**

*Rule 8010 (Completing and Transmitting the Record)*

12-BK-008—National Conference of Bankruptcy Judges; 12-BK-034—Oregon State Bar Debtor-Creditor Section Local Rules and Forms Committee; 12-BK-040—Bankruptcy Clerks Advisory Group: *Rule 8010(b)(1) should be revised to fix an outside deadline for the clerk's transmission of the record, even if parties are slow to designate the record.*

The suggestion would be moot if the suggestion to revise Rule 8009 to eliminate designation of the record is approved. The Subcommittee therefore recommended that consideration of this suggestion be deferred until after the CM/ECF Subcommittee submits its

report and the Subcommittee takes up the proposed amendment to Rule 8009. **The Advisory Committee agreed, and the suggestion was put in the dugout.**

12-BK-014—Judge Dennis Montali: *In some cases when the appellate court orders paper copies of the record to be delivered, it may be appropriate for the appellee to provide them. Add to the end of the first sentence of Rule 8010(b)(4), “or the appellee where appropriate.”*

The Subcommittee recommended no change because the issue of furnishing paper copies will likely diminish as courts continue to adapt to the use of electronic storage and transmittal of documents. No member of the Advisory Committee objected to the Subcommittee’s recommendation.

#### *Rule 8011 (Filing and Service; Signature)*

12-BK-005—Judge Robert J. Kressel; 12-BK-026—Judge S. Martin Teel, Jr.: *Rule 8011(a)(2) should not follow the ill-advised rule of FRAP 25(a)(2)(B) of having different filing rules for briefs and appendices. The filing rules should be the same for those documents as for all others—requiring receipt by the clerk by the deadline.*

The Subcommittee recommended no change. Currently, briefs are timely if mailed on or before the last day for filing. This practice is longstanding and is consistent with FRAP, which is one of the goals of amending the Part VIII rules. Moreover, as electronic filing of briefs becomes more prevalent, the mailing rules become less significant. No Advisory Committee member objected to the recommendation.

#### *Other Issues*

The Reporter said that the Subcommittee has retained three other comments on the revised Part VIII rules for further consideration. They concern whether a provision should be added to the rules providing for the issuance of a mandate by the district court and BAP upon the disposition of a bankruptcy appeal, and whether revised Rule 8023 should be amended to clarify the procedure for voluntary dismissal of appeals when (1) the appeal concerns an objection to discharge or (2) the trustee is a party to the appeal. It has been suggested that the requirements of Rules 7041 and 9019 for bankruptcy court review in those situations should also apply to appeals. The Subcommittee will make recommendations to the Advisory Committee regarding those comments at a later meeting.

#### 11. Report by the Subcommittee on Technology and Cross Border Insolvency.

Oral report concerning Suggestion 13-BK-F by Judge Barry Schermer to amend portions of the Bankruptcy Rules that apply to chapter 15 proceedings.

Mr. Baxter said that the Subcommittee concluded that the rules are inconsistent about the requirement of a summons when a chapter 15 petition is filed. In practice, he said, most courts do not issue a summons regardless of whether the case seeks recognition of a foreign main or a foreign non-main proceeding. He said that the Subcommittee is considering several alternatives and will bring a recommendation to the Advisory Committee at the spring meeting.

12. Report by the Subcommittee on Attorney Conduct and Health Care.

Oral report concerning Suggestion 13-BK-C by the American Bankruptcy Institute's Task Force on National Ethics Standards to amend Rule 2014 to specify the relevant connections that must be described in the verified statement accompanying an application to employ professionals.

The Chair acknowledged Professor Rappaport, who authored the suggestion and was at the meeting, and thanked her for her efforts on the suggestion.

Judge Jonker said that ABI's Ethics Task Force suggestion asserts that the Rule 2014 requirement to disclose all of a professional's "connections" to the debtor and other bankruptcy case parties in an employment application is overbroad and leads to voluminous "telephone-book" disclosures of every conceivable connection, thereby making it hard for courts and interested parties to find and evaluate those connections that are actually relevant. The suggestion would require disclosure only of "relevant connections," and it offered a definition of the term "relevant."

Judge Jonker reminded the Advisory Committee that a very similar suggestion was considered approximately ten years ago, but it was eventually withdrawn. He said that the current suggestion seems to make sense, but that the Subcommittee needs more information prior to making a decision. The Assistant Reporter is researching the issue, and there will be an update at the spring 2014 meeting.

Discussion Items

13. Oral report concerning Suggestion 13-BK-G by Gary Streeting to amend Rule 1015(b).

**Referred to the Consumer Subcommittee.**

14. Oral report concerning Suggestion 13-BK-H by Dan Dooley to amend Rule 2016 to require attorneys and other professionals employed by the estate to submit weekly reports and fee applications.

**Referred to the Business Subcommittee.**

15. Oral report concerning Suggestion 13-BK-I by Judge Stuart Bernstein to amend Official Forms 9F and 9F(Alt.).

**Referred to the Business Subcommittee.**

Information Items

16. Oral report on the status of bankruptcy-related legislation.

Mr. Wannamaker reviewed bankruptcy-related legislation that has been introduced in Congress. None of the bills, he said, seemed likely to move forward anytime soon.

17. Bullpen.

Mr. Wannamaker explained that the “bullpen” is a designation for items that have been approved by the Advisory Committee but are held for a time pending submission to the Standing Committee. He said that the bullpen was empty before this meeting, but as a result of Advisory Committee’s actions over the past two days, the following items had been approved to be held in the bullpen for submission to the Standing Committee in the future: (a) proposed revisions to Rule 8002(a)(5) (see Item 10B); and (b) proposed revisions to Rule 8006(b) (see Item 10B).

18. Dugout.

Mr. Wannamaker said that the “dugout” is a newly created designation for suggestions or issues that require further study before the Advisory Committee is asked to make a recommendation. A list of dugout items was included in the agenda materials.

The following items were added to the dugout during the meeting: (a) Recommendation for conforming change to Rule 1001 to track proposed changes to Fed. R. Civ. Pro 1; (b) Suggestion 12-BK-M (see Item 4E); and (c) Comments 12-BK-005, 12-BK-15, and 12-BK-040 regarding designation of the record in bankruptcy appeals (see Item 10B, Rule 8009).

19. Rules Docket.

Mr. Wannamaker asked members to review the Rules Docket and email any proposed changes to him.

20. Future meetings.

The spring 2014 meeting will be held April 22 – 23, in Austin, Texas. The fall 2014 meeting will be held September 29 – 30 in Charleston, South Carolina.



21. New business.  
No new business.
22. Adjourn.

Respectfully submitted,

Scott Myers