Agenda E-19 (Summary)
Rules
September 2011

SUMMARY OF THE

REPORT OF THE JUDICIAL CONFERENCE

COMMITTEE ON RULES OF PRACTICE AND PROCEDURE

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

1. a. Approve the proposed amendments to Bankruptcy Rules 1007, 2015, 3001, 7054, and 7056, and transmit them to the Supreme Court for its consideration with a recommendation that they be adopted by the Court and transmitted to Congress in accordance with the law . . . . . pp. 4–8

   b. Approve the proposed revisions of Official Forms 1, 9A–9I, 10, and 25A and new Official Forms 10 (Attachment A), 10 (Supplement 1), and 10 (Supplement 2), to take effect on December 1, 2011 . . . . . pp. 8–12

2. Approve the proposed amendments to Criminal Rules 5, 15, and 58, and new Rule 37, and transmit them to the Supreme Court for its consideration with a recommendation that they be adopted by the Court and transmitted to Congress in accordance with the law . . . . . pp. 21–25

3. Approve the proposed revised *Procedures for the Judicial Conference's Committee on Rules of Practice and Procedure and Its Advisory Rules Committees* . . . . . pp. 30–31

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

- Federal Rules of Appellate Procedure . . . . . pp. 2–4
- Federal Rules of Bankruptcy Procedure . . . . . pp. 12–15
- Federal Rules of Civil Procedure . . . . . pp. 15–21
- Federal Rules of Criminal Procedure . . . . . pp. 25–27
- Federal Rules of Evidence . . . . . pp. 28–30
- Conference-Approved Legislative Proposals . . . . . p. 31
- Long-Range Planning . . . . . p. 32

Agenda E-19
Rules
September 2011

REPORT OF THE JUDICIAL CONFERENCE

COMMITTEE ON RULES OF PRACTICE AND PROCEDURE

TO THE CHIEF JUSTICE OF THE UNITED STATES AND MEMBERS OF THE JUDICIAL CONFERENCE OF THE UNITED STATES:

The Committee on Rules of Practice and Procedure (the "Committee") met on June 2–3, 2011. All members attended, except Judge Neil M. Gorsuch. Deputy Attorney General James M. Cole attended part of the meeting.

Representing the advisory rules committees were: Judge Jeffrey S. Sutton, Chair, and Professor Catherine T. Struve, Reporter, of the Advisory Committee on Appellate Rules; Judge Eugene R. Wedoff, Chair, Professor S. Elizabeth Gibson, Reporter, and Professor Troy A. McKenzie, Associate Reporter, of the Advisory Committee on Bankruptcy Rules; Judge Mark R. Kravitz, Chair, and Professor Edward H. Cooper, Reporter, of the Advisory Committee on Civil Rules; Judge Richard C. Tallman, Chair, Professor Sara Sun Beale, Reporter, and Professor Nancy J. King, Associate Reporter, of the Advisory Committee on Criminal Rules; and Chief Judge Sidney A. Fitzwater, Chair, and Professor Daniel J. Capra, Reporter, of the Advisory Committee on Evidence Rules.

Participating in the meeting were Professor Daniel R. Coquillette, the Committee's Reporter; Peter G. McCabe, the Committee's Secretary; Professor Geoffrey C. Hazard, Jr., Professor R. Joseph Kimble, and Joseph F. Spaniol, Jr., consultants to the Committee; Andrea L. Kuperman, Chief Counsel to the Rules Committees; James N. Ishida and Jeffrey N. Barr,

attorneys in the Office of Judges Programs in the Administrative Office; and Judge Barbara J. Rothstein, Director, and Dr. Joe Cecil and Dr. Emery G. Lee of the Federal Judicial Center. Elizabeth J. Shapiro, Jessica Hertz, Kathleen Felton, and Ted Hirt attended on behalf of the Department of Justice. Judge Anthony J. Scirica, former Committee Chair, also participated in the meeting.

FEDERAL RULES OF APPELLATE PROCEDURE

Rules Approved for Publication and Comment

The Advisory Committee on Appellate Rules submitted proposed amendments to Rules 28 and 28.1, and to Appellate Form 4, with a request that they be published for comment.[1] The proposed amendment to Rule 28 removes the requirement of separate statements of the case and of the facts, merging them into a single requirement that briefs contain a statement of the case and the facts. The approach is similar to that in the Supreme Court Rules. The proposed amendment to Rule 28.1 applies the change to cross-appeals. The proposed amendment to Form 4, the application to proceed in forma pauperis, makes some technical changes and removes the requirement that the applicant provide detailed information about expenditures for legal and other services in connection with the case. The Committee approved the advisory committee's recommendation to publish the proposed amendments for public comment.

Informational Items

At its Spring 2011 meeting, the advisory committee met jointly with the Bankruptcy Rules Advisory Committee to discuss proposed revisions to Part VIII of the Bankruptcy Rules

[1]As described in the Committee's March 2011 report to the Judicial Conference, the Committee approved of publication of proposed amendments to Appellate Rules 13, 14, and 24 in January 2011. Those proposed amendments will be published in August 2011, together with the proposed amendments to Rules 28 and 28.1 and Form 4.

(on bankruptcy appeals) and related revisions to Appellate Rule 6. These proposed revisions are discussed further on page 15 of this report.

The advisory committee also discussed a proposal to amend Appellate Rule 4(a)(4) to adjust the time to appeal after the disposition of a tolling motion. A joint subcommittee of members from the advisory committee and the Civil Rules Advisory Committee is working on this issue as well as other issues of mutual concern, including whether parties can "manufacture finality" necessary to appeal by voluntarily dismissing without prejudice unresolved peripheral claims when the district court has ruled on the main claims in the case.

In addition, the advisory committee considered a report by the Federal Judicial Center (FJC) on appellate costs awarded under Appellate Rule 39. The advisory committee had asked the FJC to conduct this research into how the circuit courts tax costs in light of concerns raised by that aspect of *Snyder v. Phelps*, 580 F.3d 206 (4th Cir. 2009), *aff'd*, 131 S. Ct. 1207 (2011). In *Snyder*, the Fourth Circuit taxed over $16,000 in costs against Albert Snyder after reversing the judgment in his favor against the Westboro Baptist Church for protesting near the funeral of Snyder's son, who died in Iraq. The FJC study found that the circuits vary in how they implement Appellate Rule 39's directives on costs. In particular, the variations stem from differences among the circuits over factors such as the ceilings (for purposes of reimbursement) on the cost per page of copying and on the number of copies. (In *Snyder*, most of the cost award — $ 16,060.80 — resulted from the costs of copying the briefs and voluminous appendices.) After discussing the FJC study at its Spring 2011 meeting, the Advisory Committee sent the study to the chief judge of each circuit, to enable each circuit to review its cost-award practices. The circuits' reaction to the study has been swift and positive. For example, the Fourth Circuit judges have voted to amend that court's rules to lower the maximum reimbursable copying cost to $0.15 a page. The Fourth Circuit's maximum reimbursable copying cost was $4.00 per page at

the time of the *Snyder* decision. This was in stark contrast to the practice in most circuits, which set maximum rates of $0.10 to $0.15 per page.

The advisory committee is examining several other issues, including whether the case law interpreting Rule 4(a)(2) on premature notices of appeal in civil cases raises rulemaking concerns; issues relating to sealing records on appeal and redactions in appellate briefs; a proposal to treat federally recognized Native American tribes the same as "states" for the purpose of the rule on amicus filings; and possible rulemaking issues raised by the decision in *Mohawk Industries, Inc. v. Carpenter*, 130 S. Ct. 599 (2009), which held that a district court's attorney-client privilege ruling did not qualify for immediate appeal under the collateral order doctrine.

FEDERAL RULES OF BANKRUPTCY PROCEDURE

Rules Recommended for Approval and Transmission

The Advisory Committee on Bankruptcy Rules submitted proposed amendments to Rules 1007, 2015, 3001, 7054, and 7056; proposed revisions to Official Forms 1, 9A–9I, 10, and 25A; and proposed new Official Forms 10 (Attachment A), 10 (Supplement 1), and 10 (Supplement 2), with a recommendation that they be approved and transmitted to the Judicial Conference. Except as noted below, the proposed changes were circulated to the bench and bar for comment in August 2010. Six witnesses appeared at a public hearing conducted on February 4, 2011, in Washington, D.C. The other scheduled public hearing on the proposed changes was canceled because the one witness who requested to testify at that hearing agreed to testify at the February 2011 hearing. The advisory committee considered more than 35 written comments on the proposed amendments.

Rule 1007(c)

This proposed amendment is a technical and conforming amendment to remove an inconsistency created by an amendment to Rule 1007(a) that went into effect on December 1, 2010. The proposed amendment eliminates a time limit for filing the list of creditors in an involuntary bankruptcy case. That time limit is inconsistent with the same limit in Rule 1007(a)(2), which was amended on December 1, 2010, to reduce the period to file the list of creditors from 14 to seven days, and is redundant of the time set out in Rule 1007(a)(2). Because this is a technical and conforming amendment, publication for public comment was unnecessary.

Rule 2015

The proposed amendment to Rule 2015(a) corrects a reference to 11 U.S.C. § 704 of the Bankruptcy Code. The 2005 amendments to the Code broke up § 704 into subsections. The proposed amendment changes the reference to § 704(8) in Rule 2015(a) to § 704(a)(8). Because this is a technical and conforming amendment, publication for public comment was unnecessary.

Rule 3001

The proposed amendment addresses the documents required for proofs of claim based on an open-end or revolving consumer credit account, such as credit card debt. Subdivision (c)(1) currently requires a creditor to attach to a proof of claim either the original or duplicate of the writing, if any, on which a claim or an interest in property is based. That provision would be amended to create an exception for claims governed by paragraph (3) of the subdivision. For claims based on an open-end or revolving consumer credit agreement, new paragraph (3) requires that a statement be filed with the proof of claim providing the following information, to the extent applicable: the name of the entity from whom the creditor purchased the account; the name of the entity to whom the debt was owed at the time of the account holder's last transaction; the date of the account holder's last transaction; the date of the last payment on the

account; and the charge-off date. There are a number of reasons for the clarified disclosure obligations. Because claims of this type — primarily for credit card debts — are frequently sold, the claim filer may be an entity unknown to the debtor. The debtor often needs the information paragraph (3) would require to associate the claim with a known account and to know whether the claim is timely. A party in interest may obtain a copy of the writing on which an open-end or revolving consumer credit claim is based by requesting it in writing from the claim holder.

These proposed amendments are revisions of proposals first published for comment in August 2009. The proposals were republished in August 2010 with revisions based on comments received after the 2009 publication. As published in August 2009, the proposed amendments to Rule 3001(c) would have required the holder of a claim based on an open-end or revolving consumer credit agreement to attach to its proof of claim the last account statement sent to the debtor before the commencement of the bankruptcy case. During the public comment period, many supported the increased disclosure requirements, but representatives of bulk purchasers of credit card debt objected to the account statement requirement, asserting that the statement will often not be available when the proof of claim is filed. Based on the public comments, the advisory committee concluded that if there is a less burdensome way for a creditor to provide the information needed to assess the validity of its claim, the rule should not insist on an exclusive and more costly means of providing the information. The provision was revised to allow creditors to provide relevant information in a more convenient fashion and to relieve claimants to which it applies from the general requirement of filing the original or duplicate of the writing on which the claim is based. Because the revisions were significant, the advisory committee published the revised proposal in August 2010.

The advisory committee carefully considered the comments received after publication in August 2010. The advisory committee concluded that the proposed amendment will permit

better enforcement of existing disclosure obligations and will clarify how creditors seeking recovery from bankruptcy estates for claims based on open-end or revolving consumer credit agreements can meet those obligations. The advisory committee concluded that a deadline for responding to a request for the underlying writing should be added, to enable the requesting party to determine when there has been a failure to comply if the request is met with silence. The advisory committee added a 30-day deadline for responding to a written request under proposed Rule 3001(c)(3)(B), starting from when the written request is sent and subject to enlargement or reduction by the court under Rule 9006 if cause is shown. The advisory committee also added to the committee note a statement that a proof of claim based on an open-end or revolving credit card agreement that is filed and executed in accordance with Rule 3001(a), (b), (c)(1), (c)(2), (c)(3)(A), and (e) is entitled to the benefit of subdivision (f), which provides that a proof of claim executed and filed in accordance with the rules constitutes prima facie evidence of the validity and amount of the claim. A claimant's failure to comply with proposed Rule 3001(c)(3)(B), which requires producing a copy of the writing on which the claim is based if an interested party requests it, will not affect the applicability of subdivision (f), but could subject the claimant to sanctions. The advisory committee also added a provision excepting home equity lines of credit from the Rule 3001(c)(3)(A) requirement that certain information be submitted with the proof of claim.

Finally, the advisory committee proposed amending Rule 3001(c)(1) to delete the option of filing with a proof of claim the original of a writing on which a claim is based, to conform with the instructions in Form 10. Because this proposed amendment is technical and conforming, publication for public comment was unnecessary.

Rule 7054

Rule 7054 incorporates Civil Rule 54(a)–(c) for adversary proceedings. The proposed amendment that was published for comment would amend subsection (b) on cost awards to extend the time — from one day to 14 days — for a party to respond to the prevailing party's bill of costs, and extend the time — from five to seven days — to seek court review of the costs taxed by the clerk. The first change is proposed to provide a more reasonable period for a response. The second period was changed to conform to the 2009 time-computation amendments, which changed five-day periods in the rules to seven-day periods. The changes are also intended to make these time periods consistent with Civil Rule 54.

Rule 7056

Rule 7056 makes Civil Rule 56 applicable in adversary proceedings. Civil Rule 56 was amended in December 2010 to impose a new default deadline for filing a summary judgment motion, tying the deadline to the close of discovery. Because hearings in bankruptcy cases sometimes occur shortly after the close of discovery, the proposed amendment to Rule 7056 bases the default deadline on the scheduled hearing date, rather than the close of discovery, requiring a summary judgment motion to be filed 30 days before the initial date set for an evidentiary hearing on any issue for which summary judgment is sought, unless a local rule or court order sets a different deadline. No comments were submitted on the proposed amendment.

Official Forms

The proposed amendment to Official Form 1 (Voluntary Petition) includes lines on the form for a foreign representative filing a chapter 15 petition to indicate the country of the debtor's center of main interests and countries in which related proceedings are pending. These amendments implement the requirements of new Rule 1004.2 (Petition in Chapter 15 Cases),

which is scheduled to go into effect on December 1, 2011. Because this is a technical and conforming change, publication was unnecessary.

The proposed amendments to Official Forms 9A–9I (Notice of Meeting of Creditors & Deadlines) conform to an amendment to Rule 2003(e) currently pending before Congress and scheduled to take effect on December 1, 2011, if Congress takes no action. The amendments also make some minor stylistic changes. Rule 2003(e) states that a meeting of creditors "may be adjourned . . . by announcement at the meeting of the adjourned date and time without further written notice." The proposed amendment to Rule 2003(e) would require the presiding official at a meeting of the creditors to file a statement specifying the date and time to which such a meeting is adjourned. The proposed amendments to Forms 9A–9I conform the wording to the proposed amendment to Rule 2003(e). Because the proposed changes are technical and conforming, publication for public comment was unnecessary.

The proposed amendment to Form 10 (Proof of Claim) includes: (1) a request for additional information about the interest rate for secured claims and a clarification that the information concerns the rate as of the filing of the petition; (2) clarification that a summary of supporting documents may be submitted only as an addition to copies of the documents themselves and not as a substitute; (3) additional emphasis on the need to redact documents attached to the form to eliminate personal identifiers; (4) changes to the date and signature box to emphasize the duty of care that must be exercised in filing a proof of claim and to require disclosure of the capacity in which the filer is acting; (5) the addition of a space for a uniform claim identifier; and (6) various formatting and stylistic changes. After public comment, the advisory committee made two changes to the published draft. First, the advisory committee deleted the debtor/trustee checkbox on page 1 of the form without adding a replacement, leaving the signature box as the place for disclosure of the identity of the person filing the claim.

Second, the advisory committee added a statement to the committee note explaining that the new requests for email addresses are intended only to facilitate communication with the claimant and that this information does not affect requirements for serving or providing notice to the claimant.[2]

Proposed Official Form 10 (Attachment A) (Mortgage Proof of Claim Attachment) is new. It would implement proposed amended Rule 3001(c)(2), relating to a claim secured by a security interest in the debtor's principal residence. The proposed amendments to Rule 3001(c)(2) were approved by the Supreme Court in April 2011 and are currently pending before Congress. Attachment A to proposed Official Form 10 would accompany the proof of claim for a home mortgage. The Attachment would require a statement of the principal and interest due as of the petition date; a statement of prepetition fees, expenses, and charges; and a statement of the amount necessary to cure a default as of the petition date. During the public comment period, some suggested that a mortgage lender should be required to attach a complete account history to its proof of claim. The advisory committee concluded that amending to require a complete loan history would require republication and delay the effective date of the form, which meant that rule amendments would likely become effective without all the implementing forms. The advisory committee also concluded that information about the experience after the proposed rules and forms become effective will be helpful in deciding whether to require a complete loan

[2]After publication, the advisory committee also decided to include additional statements in box 7 of Form 10 reminding claimants of the need to attach the documentation required by Rule 3001(c) for (1) claims secured by a security interest in the debtor's principal residence and (2) claims based on an open-end or revolving consumer credit agreement. However, the latter documentation requirement will not take effect until December 1, 2012, so the advisory committee did not present the additions to box 7 for the Standing Committee's approval, and those changes are not presented for Judicial Conference approval at this time.

history. The advisory committee revised the published proposal in other respects in response to comments received to clarify a few parts of the form and avoid duplication with other parts.

Official Form 10 (Supplement 1) (Notice of Mortgage Payment Change) is new. It is designed to implement Rule 3002.1(b), which is also pending before Congress. Supplement 1 to Official Form 10 would be used by the holder of a home mortgage claim to provide notice of any escrow account payment adjustment, interest payment change, or other mortgage payment change while a chapter 13 case is pending. After public comment, the advisory committee made some stylistic revisions and revised the proposal to address a concern about the provision for the reporting of escrow changes, to clarify that nonbankruptcy law determines only the form of disclosure and not the method of calculating escrow balances.

Official Form 10 (Supplement 2) (Notice of Postpetition Mortgage Fees, Expenses, and Charges) is new. Supplement 2 would implement Rule 3002.1(c). This supplement would be used in a chapter 13 case by the holder of a home mortgage claim to provide notice of the amount of any postpetition fees, expenses, and charges and the date they were incurred. After publication, the advisory committee made a stylistic change and corrected an internal reference.

The proposed amendment to Official Form 25A (Plan of Reorganization in Small Business Case Under Chapter 11) changes the effective date provision to reflect the 2009 amendments that increased from 10 to 14 days the time periods for filing a notice of appeal and for the duration of the stay of a confirmation order. No comments were submitted on this proposal.

The advisory committee recommended that all proposed amendments to the Official Forms and proposed new Official Forms go into effect on December 1, 2011.

The Committee concurred with the advisory committee's recommendations.

Recommendation: That the Judicial Conference —

a. Approve the proposed amendments to Bankruptcy Rules 1007, 2015, 3001, 7054, and 7056, and transmit them to the Supreme Court for its consideration with a recommendation that they be adopted by the Court and transmitted to Congress in accordance with the law.

b. Approve the proposed revisions of Official Forms 1, 9A–9I, 10, and 25A and new Official Forms 10 (Attachment A), 10 (Supplement 1), and 10 (Supplement 2), to take effect on December 1, 2011.

The proposed amendments to the Federal Rules of Bankruptcy Procedure are in Appendix A, with an excerpt from the advisory committee report.

Rules Approved for Publication and Comment

The advisory committee submitted proposed amendments to Rules 1007, 3007, 5009, 9006, 9013, and 9014, and proposed revisions of Official Forms 6C, 7, 22A, and 22C, with a request that they be published for comment. The Committee approved the advisory committee's recommendation to publish the proposed amendments for public comment.

Rule 1007

The proposed amendment to Rule 1007(b)(7) relieves individual debtors of the obligation to file Official Form 23 if the provider of an instructional course concerning personal financial management directly notifies the court that the debtor has completed the course.

Rule 3007

The proposed amendment to Rule 3007(a) allows the use of a negative notice procedure for objections to claims and clarifies the method for serving claim objections. The Code does not mandate that a hearing be conducted on every objection to a claim, but current Rule 3007(a) could be read to require that a hearing be calendared for all claim objections. Because the bases for some objections are straightforward and do not require a hearing for their resolution, the advisory committee recommended deleting the requirement for service of a "notice of the

hearing" on the objection and adding a reference to a possible "deadline for the claimant to request a hearing." The proposed amendment also clarifies that to the extent possible, claim objections should be served by first-class mail to the person designated on the proof of claim for receipt of notices, at the address there indicated. An additional method of service is required for objections to federal government claims. In addition, a claim objection must be served on an insured depository institution in the manner prescribed in Rule 7004(h), which was enacted by Congress.

Rule 5009

The proposed amendment to Rule 5009(b) reflects the proposed amendment of Rule 1007(b)(7), which relieves an individual debtor of the obligation to file a statement of completion of a personal financial management course if the course provider notifies the court directly that the debtor has completed it. Rule 5009(b) currently requires the clerk to send a notice to an individual debtor who has not filed the statement within 45 days after the first date set for the meeting of creditors, and the proposed amendment would require this notice to be sent only if the debtor is required to file the statement and has failed to do so in 45 days.

Rule 9006

The proposed amendment to Rule 9006(d) draws attention to the fact that the rule prescribes default deadlines for the service of motions and written responses. The proposal amends the rule title to add a reference to the "time for motion papers," and the coverage of subdivision (d) is expanded to address the time to serve a written response to a motion, not just opposing affidavits.

Rule 9013

The proposed amendment to Rule 9013, which addresses the form and service of motions, provides a cross-reference to the time periods in Rule 9006(d) and makes some stylistic changes. This amendment would call attention to the default deadlines for motion practice.

Rule 9014

The proposed amendment to Rule 9014, which addresses contested matters, similarly adds a cross-reference to the times under Rule 9006(d) for serving motions and responses.

Official Forms

The proposed amendment to Official Form 6C (Schedule C – Property Claimed as Exempt) would reflect the Supreme Court's decision in *Schwab v. Reilly*, 130 S. Ct. 2652 (2010), by providing a new option permitting the debtor to state the value of the claimed exemption as the "full fair market value of the exempted property."

The proposed amendment to Official Form 7 (Statement of Financial Affairs) would make the definition of "insider" consistent with the Bankruptcy Code's definition of the word by deleting the phrase "any owner of 5 percent or more of the voting or equity securities of a corporate debtor" and including "any persons in control of a corporate debtor."

The proposed amendments to Official Forms 22A (Chapter 7 Statement of Current Monthly Income and Means-Test Calculations) and 22C (Chapter 13 Statement of Current Monthly Income and Calculations of Commitment Period and Disposable Income) make a minor adjustment to the deduction for telecommunication expenses. The proposed amendment to Form 22C also responds to the Supreme Court's decision in *Hamilton v. Lanning*, 130 S. Ct. 2464 (2010), by adding a question asking above-median-income chapter 13 debtors to list any changes in the income and expenses reported on the form that have already occurred or are virtually certain to occur during the 12 months following the filing of the petition.

Informational Items

The advisory committee is continuing work on a comprehensive revision of Part VIII of the Bankruptcy Rules, which addresses appeals to district courts and bankruptcy appellate panels, to adopt a clearer and simpler style, to align the Part VIII rules more closely with the Federal Rules of Appellate Procedure, and to revise the rules to reflect electronic filing and existing and anticipated changes in information technology. The advisory committee met jointly with the Appellate Rules Committee at its April 2011 meeting to discuss issues presented by the intersection of the bankruptcy appellate rules and the Federal Rules of Appellate Procedure. In Summer 2011, a working group made up of representatives from the advisory committee and the Appellate Rules Committee, as well as the reporters, will engage in a thorough review and editing of the current draft of the revised Part VIII rules and committee notes. The advisory committee will likely seek to have the proposed Part VIII revisions published for public comment in August 2012.

The advisory committee is continuing its work revising and modernizing the bankruptcy forms. It will likely seek the Committee's approval for publication of a package of new forms for individual debtors in August 2012.

FEDERAL RULES OF CIVIL PROCEDURE

Rules Approved for Publication and Comment

The advisory committee submitted proposed amendments to Rule 45, and a conforming amendment to Rule 37, with a request that they be published for comment. The Committee approved the advisory committee's recommendation to publish the proposed amendments for public comment.

The proposed amendments to Rule 45, which covers both trial subpoenas and discovery subpoenas, address the following issues: (1) notice of service of a subpoena; (2) transfer of

subpoena-related motions; (3) simplification of the rule; and (4) trial subpoenas for distant parties and party officers. The advisory committee and its discovery subcommittee have been studying Rule 45 for several years. After receiving input from the public both informally and through a miniconference held in Dallas, Texas, and reviewing relevant literature, the advisory committee decided that these four areas, together with a number of other small changes, were the areas in which amendments would be most helpful.

In 1991, amendments to Rule 45 introduced the "documents only" subpoena, and added a requirement in Rule 45(b)(1) that each party be given notice of a subpoena that requires document production. That provision was later clarified to require that notice be provided before the subpoena is served, but experience has shown that many lawyers do not comply with the notice requirement. The proposed amendments move the notice provision to a more prominent position, making the provision Rule 45(a)(4), entitled "Notice to other parties." The proposed amendments require that the notice include a copy of the subpoena and extend the notice requirement to trial subpoenas.

The proposed amendments to Rule 45 continue to direct that motions to enforce or quash a subpoena, or to obtain a ruling on whether privilege protects material that was allegedly produced inadvertently, be made in the district where compliance with the subpoena is required, even when the underlying action is pending in a different district. But because on occasion there are strong reasons to have some issues resolved by the judge presiding over the main action, the proposed amendments remove any uncertainty about authority to transfer to the court where the action is pending by adding Rule 45(f), which permits a court asked to rule on a motion under Rule 45 to transfer the motion. The amendments contemplate that transfer will be rare, and permit it only if the parties and the person subject to the subpoena consent or in exceptional circumstances. The proposed amendments also provide that a lawyer admitted to practice in the

district where the motion is filed may file papers and present argument in the court where the action is pending. The proposed amendments authorize retransfer to the court where the motion is filed to enforce the order rendered by the court where the action is pending. Parallel proposed amendments to Rule 45(g) and Rule 37(b)(1) clarify that disobedience of a subpoena-related order entered after transfer is contempt of the court that entered the order and of the court where the motion was filed.

The proposed amendments also seek to simplify the 1991 version of the rule in several respects. Proposed Rule 45(a)(2) provides that the subpoena should issue from the court where the action is pending. Proposed Rule 45(b)(2) removes the uncertainty about where a subpoena may be served by replacing a four-part provision with one authorizing service "at any place within the United States." New Rule 45(c) collects the provisions on place of compliance and simplifies them, while preserving protections for nonparties subject to subpoenas. These changes are intended to make it easier for both parties and nonparties to understand and apply a rule that covers both discovery and trial.

The proposed amendments also resolve conflicting interpretations of the rule as to whether a party or party officer can be compelled by subpoena to travel more than 100 miles to attend trial. They are intended to restore the original meaning of the 1991 amendments and make clear that all subpoenas are subject to the geographical limitations of Rule 45(c), which is modeled on former Rule 45(b)(2). The provisions in the current rule have produced conflicting interpretations in the courts. Some courts interpret the current rule to mean that subpoenas may only be served and enforced within the boundaries permitted by Rule 45(b)(2) (relating to the place of serving a subpoena), and that the additional protections of Rule 45(c)(3)(A)(ii) — which directs that a subpoena be quashed if it "requires a person who is neither a party nor a party's officer to travel more than 100 miles" to attend trial — operate within those limitations. *See,*

e.g., *Johnson v. Big Lots Stores*, 251 F.R.D. 213 (E.D. La. 2008). Other courts interpret the exclusion of parties and party officers from the protections of Rule 45(c)(3)(A)(ii) to mean that attendance at trial of these witnesses can be compelled without regard to the geographical limitations on serving subpoenas contained in Rule 45(b)(2). *See, e.g.*, *In re Vioxx Prods. Liab. Litig.*, 438 F. Supp. 2d 664 (E.D. La. 2006). The advisory committee concluded that the 1991 amendments were not intended to create the expanded subpoena power recognized in *Vioxx* and similar cases, and the committee was also concerned that the *Vioxx* approach would raise a risk of tactical use of a subpoena to apply inappropriate pressure on the adverse party.

Although the advisory committee decided to reject the *Vioxx* line of cases, the committee heard from some lawyers at a miniconference it held in Dallas, Texas on October 4, 2010, who supported creating some limited authority to order such testimony in appropriate cases. The advisory committee also noted that some of the courts that interpret the rule as preventing them from ordering a party or its officer to testify at trial seem to regard that limitation as unduly restricting their ability to command testimony at trial. To respond to these concerns, the advisory committee recommended providing an appendix to the recommended proposal that would invite public comment on the possibility of providing authority to require trial testimony from a party or party officer. Although the advisory committee does not favor the proposal in the appendix, the committee felt that it would be helpful to solicit views on the disfavored alternative out of respect for the courts that hold a different view. If, after public comment, the advisory committee determines that it would be better to provide authority to require trial testimony by parties and party officers, the advisory committee could change its recommendation without the delay inherent in republication.

Informational Items

The advisory committee is considering possible rulemaking responses to concerns about preservation obligations and spoliation sanctions. At its April 2011 meeting, the advisory committee considered three possible approaches. The first would seek to provide specific guidance, defining preservation obligations in considerable detail. The second would focus on general obligations of reasonable behavior. The third possibility would focus on sanctions, relying on backward inference to shape preservation obligations. The discovery subcommittee is planning a miniconference in Dallas, Texas on September 9, 2011, to further examine possible approaches.

The advisory committee is continuing to examine the standards that apply to motions to dismiss for failure to state a claim upon which relief can be granted in light of the Supreme Court's decisions in *Bell Atlantic Corp. v. Twombly*, 550 U.S. 544 (2007), and *Ashcroft v. Iqbal*, 129 S. Ct. 1937 (2009). The advisory committee continues to study and monitor the lower courts' application of the Supreme Court decisions and the effect of those decisions on rates of filing of motions to dismiss and rates of grants or denials in different kinds of cases. At the request of the advisory committee, the Federal Judicial Center conducted an empirical analysis of experience with Rule 12(b)(6) motions to dismiss for failure to state a claim, which examined motions to dismiss filed in periods shortly before the *Twombly* decision and after the *Iqbal* decision, including the rates of filing motions to dismiss, rates of granting motions, and the frequency of granting leave to amend. That study was released shortly before the advisory committee's April 2011 meeting, and the advisory committee discussed it at the meeting. This study did not undertake to determine what happens after leave to amend is granted — whether an amended complaint is filed, whether the amended complaint is challenged, whether discovery continues while any renewed motion remains pending, and whether any renewed motion is

eventually granted. The FJC will be conducting a follow-up study to address some of these questions.

The advisory committee is also continuing to examine Rule 26(c), which addresses protective orders in discovery. The advisory committee has concluded that the present state of the case law does not show a problem needing major rule revisions. The committee will continue to carefully monitor the case law.

The advisory committee is taking a fresh look at the forms, to determine whether they should continue to be subject to the full Rules Enabling Act process. Different advisory committees take different approaches to the forms, and the committees are undertaking a joint project under the Standing Committee's guidance to determine how forms should be handled going forward.

A subcommittee has been formed to implement and oversee further work on ideas resulting from the 2010 Conference on Civil Litigation held at Duke University School of Law. One project generated from that conference is to determine whether the "rocket docket" practices in districts such as the Eastern District of Virginia can provide inspiration for changes to the federal rules. The advisory committee will hear panel presentations on this topic at its November 2011 meeting. Another project has been launched by a group of employment lawyers, including those who typically represent plaintiffs and those who typically represent defendants. They have made strong progress toward developing a protocol of presumptively unobjectionable discovery requests for employment disputes. The protocols will be proposed for adoption by individual courts as a pilot project. The hope is that success for this category of cases will encourage other groups to develop similar protocols for other types of cases. The subcommittee is also exploring suggestions on ways to make the present rules more effective, focusing on discovery, motions, and pretrial case management.

At its April 2011 meeting, the advisory committee also considered a suggestion to revise Rule 6(d), which provides additional time to act after certain kinds of service, to address a possible concern arising from the 2005 amendments that established a uniform rule for calculating the three added days. The 2005 amendments added the words "after service." The concern is that this could be read to include situations in which a party is allowed to act within a specified time after that party has made service on another party. The 2005 amendments were not intended to allow a party to control the time it has to act by choosing the means of service. The advisory committee will therefore eventually recommend changing "after service" to "after being served." The advisory committee does not recommend immediate publication of the proposed amendment. The current language has not caused any visible problem in practice. The rule now allows the three added days after electronic service, a choice that may be open to reconsideration, perhaps as part of a more general project on adjusting the rules to an increasingly electronic world. The other advisory committees would need to be involved in any such project. The advisory committee concluded that it would be better to defer publication, until a real-world problem appears, until the e-service provision is reconsidered, or until other style glitches appear that justify proposing a package of style corrections.

FEDERAL RULES OF CRIMINAL PROCEDURE

Rules Recommended for Approval and Transmission

The Advisory Committee on Criminal Rules submitted proposed amendments to Rules 5, 15, and 58, and new Rule 37, with a recommendation that they be approved and transmitted to the Judicial Conference. The proposed amendments to Rules 5 and 58 and new Rule 37 were circulated to the bench and bar for comment in August 2010. Scheduled public hearings on the amendments were canceled because no one asked to testify. The proposed amendment to Rule 15 was circulated to the bench and bar for comment in August 2008 and approved by the Judicial

Conference in September 2009, but remanded to the advisory committee by the Supreme Court for further study in April 2010. The advisory committee revised the language in the proposed amendment to Rule 15 and the accompanying committee note and determined that republication was unnecessary.

The proposed amendments to Rules 5 and 58 were designed to deal with aspects of the international extradition process and help ensure that certain treaty obligations of the United States are fulfilled. The proposed amendment to Rule 5(c) clarifies where an initial appearance should take place for persons who have been surrendered to the United States pursuant to an extradition request to a foreign country. The amendment codifies the longstanding practice that persons who are charged with criminal offenses in the United States and surrendered to the United States following extradition in a foreign country make their initial appearance in the jurisdiction that sought their extradition. The rule applies even if the defendant first arrives in another district. Interrupting an extradited defendant's transportation to hold an initial appearance in the district of arrival can impair the defendant's ability to obtain and consult with trial counsel and to prepare a defense in the district where the charges are pending.

The proposed amendments to Rules 5(d) and 58(b) are designed to help ensure that the United States fulfills its international obligations under Article 36 of the Vienna Convention on Consular Relations and bilateral treaties. Bilateral agreements with numerous countries require consular notification, whether or not the detained foreign national requests it. The proposed amendment does not address other issues surrounding Article 36 of the Vienna Convention, such as whether it creates individual rights that may be invoked in a judicial proceeding, and what, if any, remedy may exist for a violation. After considering public comments, the advisory committee recommended approval of the proposed amendments to Rules 5 and 58 as published.

The proposed amendment to Rule 15 authorizes the taking of depositions outside the United States without the defendant's presence in specified limited circumstances and with the district judge's approval. The amendment addresses cases in which important witnesses — for both the government and the defense — live in, or have fled to, countries where they cannot be reached by the court's subpoena power. The amendment does not apply if it is possible to bring the witness to the United States for trial or for a deposition at which the defendant can be present, or if it is feasible for the defendant to be present at a deposition outside the United States. The amendment authorizes only the taking of pretrial depositions; it does not speak to their admissibility. Questions of admissibility are left to the courts to resolve on a case-by-case basis, applying the Federal Rules of Evidence and the Constitution.

The proposed amendment requires that before such a deposition may be taken, the judge must make case-specific findings regarding: (1) the importance of the witness's testimony; (2) the likelihood that the witness's attendance at trial cannot be obtained; (3) why it is not feasible to have face-to-face confrontation by either (a) bringing the witness to the United States for a deposition at which the defendant can be present or (b) transporting the defendant to the deposition outside the United States; and (4) the ability of the defendant to meaningfully participate in the deposition through reasonable means.

After the proposed amendment was published for public comment in August 2008, the advisory committee received four comments. The Magistrate Judges Association endorsed the proposal. The General Counsel of the Drug Enforcement Administration raised some drafting issues. The Federal Defenders and the National Association of Criminal Defense Lawyers (NACDL) opposed the proposed amendment, primarily because of concerns about the effect of the proposed amendment on the defendant's rights under the Sixth Amendment's Confrontation Clause. NACDL argued that the amendment would create a right to introduce a deposition

obtained through the new procedure, thereby exceeding the authority of the Rules Enabling Act, and that the proposed amendment would be a back-door means of achieving the goals of a failed attempt to amend Rule 26 in 2002. To address the concerns raised during the public comment period, the advisory committee revised the proposed amendment by explicitly limiting it to felonies and amending the committee note to clarify that the decision to allow the taking of the deposition in no way forecloses or predetermines challenges to admissibility, whether based on the Confrontation Clause or on the Rules of Evidence. With these changes, the advisory committee approved the amendment for submission to the Standing Committee. The Standing Committee approved it in June 2009, and the Judicial Conference approved it in September 2009. In 2010, the Supreme Court remanded the proposed amendment to the advisory committee for further consideration.

At its April 2011 meeting, the advisory committee reconsidered the proposed amendment. The advisory committee made no change in the text of the amendment approved in 2009, but revised the committee note to further clarify that compliance with the procedural requirements for obtaining the deposition testimony does not predetermine its admissibility at trial. Following its April 2011 meeting, after consultation with the reporters and chairs of the Standing Committee and the Evidence Rules Committee, the advisory committee voted unanimously to revise the text of Rule 15(f) to state explicitly in the text of the rule that authorization to take a deposition does not determine admissibility. The advisory committee also approved a further revised committee note that describes the amendment to subdivision (f) and clarifies the relationship between the authority to take a deposition under Rule 15(c)(3) and the admission of the deposition testimony at trial. Because the changes simply move to the text a point previously made in the committee note, further emphasize the point in the committee note, and are in accordance with the comments previously received, republication was unnecessary.

The Standing Committee approved the revised amendment to Rule 15, with a few stylistic changes, at its June 2011 meeting.

Proposed new Rule 37 clarifies that the procedure described in Appellate Rule 12.1 and Civil Rule 62.1 for obtaining "indicative rulings" also applies in criminal cases. The proposed rule establishes procedures facilitating the remand of certain postjudgment motions filed after an appeal has been docketed in a case where the district court indicated it would grant the motion. After considering public comments, the advisory committee recommended approval of the proposed new rule as published.

The Committee concurred with the advisory committee's recommendations.

Recommendation: That the Judicial Conference approve the proposed amendments to Criminal Rules 5, 15, and 58, and new Rule 37, and transmit them to the Supreme Court for its consideration with a recommendation that they be adopted by the Court and transmitted to Congress in accordance with the law.

The proposed amendments to the Federal Rules of Criminal Procedure are in Appendix B, with an excerpt from the advisory committee report and a separate supplemental memo on the proposed amendment to Rule 15.

Rules Approved for Publication and Comment

The Advisory Committee on Criminal Rules submitted proposed amendments to Rules 12 and 34, with a request that they be published for comment.[3] The Committee approved the advisory committee's recommendation to publish the proposed amendments for public comment.

[3]As described in the Committee's March 2011 report to the Judicial Conference, the Committee approved of publication of a proposed amendment to Criminal Rule 11 in January 2011. That proposed amendment will be published in August 2011, together with the proposed amendments to Rules 12 and 34. Related to the proposed amendment to Rule 11, at its April 2011 meeting, the advisory committee approved of sending a letter to the Federal Judicial Center, recommending that the *Benchbook for U.S. District Court Judges* be amended to include a colloquy when taking a plea of guilty (1) to cover adverse consequences involving immigration status and (2) those flowing from conviction for sex offenses.

Rule 12(b)(3) lists motions that must be made before trial. Rule 12 allows a motion raising failure to state an offense at any time, in part because such a failure was thought to be jurisdictional. The proposal to amend Rule 12 arose from the Department of Justice's suggestion that the Supreme Court's decision in *United States v. Cotton*, 535 U.S. 625 (2002), which held that an indictment's failure to state an offense does not deprive the court of jurisdiction, undercut this rationale for not requiring such a defect to be raised before trial.

The advisory committee's examination of whether claims challenging the indictment for failure to state an offense should be added to the list of motions that must be raised before trial led to the proposal for clarifying the provisions setting out the consequences of making an untimely motion. The core elements of the proposed amendment are that it deletes the language in Rule 12(b)(3)(B) that allows a failure to state an offense claim to be raised "at any time while the case is pending," and it requires claims that an indictment fails to state an offense to be raised before trial. The proposed amendment also clarifies the standard for consideration of claims not raised before trial as required by Rule 12(b)(3). Except for claims of a failure to state an offense and double jeopardy — which may be reviewed when "prejudice" is shown — the courts may consider a claim only if the party who wishes to raise it can show "cause and prejudice," a phrase chosen to reflect the Supreme Court's interpretation of "good cause" in the current rule.

The proposed amendment also includes the following elements: (1) it continues to provide that a jurisdictional error can be raised at any time while a case is pending and places the jurisdictional provision in a more prominent position; (2) it enumerates in Rule 12(b)(3) a nonexclusive list of claims that must be raised before trial; (3) for all of the defenses, objections, and requests listed in Rule 12(b)(3), it introduces a new criterion for determining which must be raised before trial — whether the "basis" for the defense/objection/request is "then reasonably available"; (4) it shifts from Rule 12(b)(2) the requirement that motions raised before trial be

those that "the court can determine without a trial of the general issue" to (b)(3) and rephrases that limitation to provide that "the motion can be determined without a trial on the merits"; and (5) it shifts the provisions on the consequences of failing to make a timely motion from subdivision (e) to subdivision (c), solving an organizational problem within the current rule.

The proposed amendment to Rule 34 conforms that rule to the proposed amendment to Rule 12.

Informational Items

The advisory committee has considered for some time proposals to codify or expand the government's obligation to disclose exculpatory and impeaching information under *Brady v. Maryland*, 373 U.S. 83 (1963), and its progeny, but decided at its April 2011 meeting not to pursue an amendment to Rule 16 at this time. There were four reasons for the committee's decision not to act at this time. First, a comprehensive survey conducted by the FJC showed a lack of consensus within the federal judiciary as to whether an amendment is necessary. Second, the Department of Justice has implemented extensive institutional structural changes in policies, procedures, and training on discovery issues. Third, the advisory committee was not persuaded that a rule change was required to ensure that those changes will carry over from one administration to the next. Fourth, the advisory committee was not convinced that a rule change was necessary, given that the Supreme Court authority on a prosecutor's disclosure obligations is clear and that substantial sanctions are available for noncompliance. The advisory committee has recommended that the FJC create a guide to good practices for criminal discovery, that the *Benchbook for U.S. District Court Judges* be revised to include better guidance on pretrial discovery in criminal cases, and that more educational programs on overseeing such discovery be implemented for district judges.

FEDERAL RULES OF EVIDENCE

Rules Approved for Publication and Comment

The advisory committee submitted a proposed amendment to Rule 803(10), with a request that it be published for public comment. The proposed amendment revises the hearsay exception for absence of public record or entry to avoid a constitutional infirmity in the current rule in light of the Supreme Court's decision in *Melendez-Diaz v. Massachusetts*, 129 S. Ct. 2527 (2009). In *Melendez-Diaz*, the Court held that certificates reporting the results of forensic tests conducted by analysts are "testimonial" within the meaning of the Confrontation Clause, as construed in *Crawford v. Washington*. Consequently, admitting such certificates in lieu of in-court testimony violates the accused's right of confrontation. The advisory committee concluded that, in a criminal case, *Melendez-Diaz* also precludes the admission under Rule 803(10) of certificates offered to prove the absence of a public record. Like the certificates at issue in *Melendez-Diaz*, certificates proving the absence of public records are prepared with the sole motivation that they be used at trial as a substitute for live testimony. The proposed amendment adds a "notice-and-demand" procedure to the rule that would require the production of the person who prepared the certificate only if, after receiving notice from the government of intent to introduce a certificate, the defendant made a timely pretrial demand for production of the witness. The *Melendez-Diaz* Court specifically approved a state version of a notice-and-demand procedure. The Committee approved the advisory committee's recommendation to publish the proposed amendment for public comment.

Informational Items

The advisory committee is considering a suggestion that Rule 801(d)(1)(B) — the hearsay exemption for certain prior inconsistent statements — be amended to provide that prior consistent statements are admissible under the hearsay exemption whenever they would be

admissible to rehabilitate the witness's credibility. Under the current rule, some prior consistent statements offered to rehabilitate a witness's credibility are also admissible substantively under the hearsay exemption, but other rehabilitative statements are admissible only for rehabilitation and not substantively under the hearsay exemption. The justification for amending the rule is that there is no meaningful distinction between substantive and rehabilitative use of prior consistent statements. The advisory committee will consider a proposed amendment to the rule at its Fall 2011 meeting.

The advisory committee has decided not to propose amendments to Rules 803(6)–(8) (the hearsay exceptions for business records, absence of business records, and public records) to resolve an ambiguity revealed during the restyling project as to which party has the burden of showing trustworthiness or untrustworthiness. The advisory committee concluded that any problems in applying the rules are a result of a few outlier cases not generally followed; amending the rules could create new problems for courts and litigants; and the rules clearly place the burden of establishing untrustworthiness on the party who opposes admitting the evidence, making amendment unnecessary.

The advisory committee also voted not to move forward with a possible amendment to Rule 806, which allows the impeachment of hearsay declarants. As part of an ongoing review of case law on conflicting interpretations of the Evidence Rules, the advisory committee's reporter identified that rule as one that has conflicting interpretations. The advisory committee concluded that difficulties in amending the rule, coupled with concerns that changing it could undermine a good policy of barring extrinsic evidence to impeach hearsay declarants, warranted a decision not to proceed with a potential amendment.

The advisory committee continues to monitor case law developments after the Supreme Court's decision in *Crawford v. Washington*, 541 U.S. 36 (2004). Other than Rule 803(10), nothing in the developing case law appears to require amending the Evidence Rules at this time.[4]

The advisory committee is continuing work on a project to publish a pamphlet describing the federal common law on evidentiary privileges. The project is intended as a restatement of the federal common law, not a proposed codification of the law of privileges or a set of proposals for consideration by Congress.

The advisory committee will be sponsoring a symposium on the restyled Rules of Evidence in conjunction with its Fall meeting at the William and Mary Law School. The proceedings of the symposium will be published in the *William and Mary Law Review*.

PROCEDURES GOVERNING THE WORK OF THE RULES COMMITTEES

The Committee approved proposed revisions to the *Procedures for the Conduct of Business by the Judicial Conference Committees on Rules of Practice and Procedure*. The *Procedures* govern the work of the rules committees and are routinely included in the broadly circulated brochures containing the proposed rule changes for public comment. The Judicial Conference first promulgated the *Procedures* in 1983. The Judicial Conference approved revisions in 1989 to reflect the 1988 amendments to the Rules Enabling Act. Those amendments required an increase in public notice of proposed rule changes, prescribed open meetings, and made provisions requiring a follow-up notice to every individual who commented on a proposed rule more flexible. Since 1989, the committees' work, records, and communications have been

[4]After the Committee's June meeting, the Supreme Court issued its decision in *Bullcoming v. New Mexico*, No. 09-10876 (June 23, 2011), holding that the Confrontation Clause does not permit the prosecution to introduce a forensic lab report containing a testimonial certification through the in-court testimony of an analyst who did not sign the document or personally observe the test. The *Bullcoming* decision does not alter the conclusion that there is no need (other than in Rule 803(10)) for a rulemaking response to the *Crawford* line of cases at this time.

significantly affected by a number of changes, including the internet. Experience with the *Procedures* has also revealed some recurring practical difficulties. For these reasons, the Committee recommends revising the *Procedures*. The proposed revised *Procedures* account for the impact of the internet, propose ways to make the process more efficient, and follow the style protocols used in drafting the rules. In drafting the revised *Procedures*, the reporters to the Rules Committees worked through a number of issues, including the standard for republication; what comprises the official records of the committees, particularly with respect to correspondence; what records are to be posted on the rulemaking website and what records are maintained in the Administrative Office; whether transcripts should be prepared of public hearings; and when hearings can be canceled due to insufficient interest. The proposed revised *Procedures* are attached to this report in Appendix C. A redlined version comparing the revised *Procedures* to the present version, as well as a clean copy of the present version of the *Procedures*, are also included in Appendix C.

> **Recommendation:** That the Judicial Conference approve the proposed revised *Procedures for the Judicial Conference's Committee on Rules of Practice and Procedure and Its Advisory Rules Committees*.

CONFERENCE-APPROVED LEGISLATIVE PROPOSALS

At its September 2010 meeting, the Judicial Conference approved proposed amendments to Federal Rules of Appellate Procedure 4 and 40, clarifying the time to appeal or to seek rehearing in a case in which a United States officer or employee is a party. Those amendments were approved by the Supreme Court in April 2011 and are currently pending before Congress. The Judicial Conference also approved the Committee's recommendation to seek legislation amending 28 U.S.C. § 2107, consistent with the proposed amendment to Appellate Rule 4. The Committee is working with Congress on that legislation, to be coordinated with the effective date of the proposed rule changes.

LONG-RANGE PLANNING

The Committee reviewed and approved a memorandum to Judge Charles R. Breyer, Judiciary Planning Coordinator, updating the information the Committee previously provided on its work in implementing strategic initiatives and goals from the *Strategic Plan for the Federal Judiciary*.

Respectfully submitted,

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Lee H. Rosenthal, Chair

James M. Cole	Wallace B. Jefferson
Dean C. Colson	David F. Levi
Douglas R. Cox	William J. Maledon
Roy T. Englert	Reena Raggi
Neil M. Gorsuch	Patrick J. Schiltz
Marilyn L. Huff	James A. Teilborg
	Diane P. Wood

Appendix A – Proposed Amendments to the Federal Rules of Bankruptcy Procedure
Appendix B – Proposed Amendments to the Federal Rules of Criminal Procedure
Appendix C – Proposed Revised *Procedures for the Judicial Conference's Committee on Rules of Practice and Procedure and Its Advisory Rules Committees*

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

TO: Honorable Lee H. Rosenthal, Chair
Standing Committee on Rules of Practice and Procedure

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

DATE: May 6, 2011

RE: Report of the Advisory Committee on Bankruptcy Rules

I. Introduction

The Advisory Committee on Bankruptcy Rules met on April 7 and 8, 2011, in San Francisco, California.

* * * * *

Among the matters before the Committee were the proposed rule and form amendments and proposed new forms that were published for comment in August 2010. Thirty-seven comments were submitted in response to the publication. The Committee held a hearing in Washington, D.C., on February 4, 2011, at which six witnesses testified. Through a series of subcommittee conference calls and discussions at the San Francisco meeting, the Committee carefully considered the comments and testimony that were submitted. They are summarized below, along with the changes that the Committee recommends making to the published rules and forms in response to the comments received.

At its April meeting and at an earlier meeting in September 2010, the Committee took action on several matters that it now presents to the Standing Committee. The action items are grouped into three categories:

(a) matters published in August 2010 for which the Committee seeks approval for transmission to the Judicial Conference—amendments to Rules 3001(c), 7054, 7056, Official Form 10, and Official Form 25A; and new Official Forms 10 (Attachment A), 10 (Supplement 1), and 10 (Supplement 2);

(b) matters for which the Committee seeks approval for transmission to the Judicial Conference without publication—amendments to Rules 1007(c), 2015(a), 3001(c), and Official Forms 1 and 9A - 9I;

* * * * *

II. Action Items

A. Items for Final Approval

1. Amendments and New Forms Published for Comment in August 2010. **The Advisory Committee recommends that the proposed amendments and new forms that are summarized below be approved and forwarded to the Judicial Conference. The Advisory Committee recommends that the amended forms and new forms be effective on December 1, 2011.** The texts of the amended rules and forms and the new forms are set out in Appendix A.

Action Item 1. Rule 3001(c) would be amended to provide, in new paragraph (3), requirements for the documentation of claims based on an open-end or revolving consumer credit agreement. Subdivision (c)(1) currently requires the attachment to a proof of claim of the writing, if any, on which a claim or an interest in property is based. That provision would be amended to create an exception for claims governed by paragraph (3) of the subdivision. New paragraph (3) would require for an open-end or revolving consumer credit claim that a statement be filed with the proof of claim that provides the following information to the extent applicable: name of the entity from whom the creditor purchased the account; name of the entity to whom the debt was owed at the time of the account holder's last transaction; date of the account holder's last transaction; date of the last payment on the account; and the charge-off date. This information may be needed by the debtor to associate the claim with a known account, since claims of this type—primarily for credit card debts—are frequently sold one or more times before being held by the claim filer, which may be an entity unknown to the debtor. The required information would also provide a basis for assessing the timeliness of the claim. In addition to this information, which must be routinely provided, a party in interest could obtain a copy of the writing on which an open-end or revolving consumer credit claim is based by requesting it in writing from the holder of the claim.

a. Testimony and comments

Four witnesses testified at the February 4, 2011 hearing on these proposed amendments, and 24 people submitted written comments on them. Individual summaries of the testimony and comments are set forth in Appendix A. The major topics they addressed are the following:

Whether there is a need for the amendments. A few representatives of consumer lenders or purchasers of credit card debt questioned the need for the proposed amendments. They noted the low incidence of objections to the claims they file and said that in many cases the debtor has scheduled the debts owed to them, thus acknowledging the validity of their claims.

Lawyers for consumer debtors and a bankruptcy judge supported the rule's requirement that credit card claimants provide specific information to support their claims. They stated that these claimants are ignoring the current requirement for attaching the writing on which the claim is based and that, having purchased the claims in bulk, the claimants generally have very little information about the claims they file. Two comments noted that the U.S. Trustee Program recently entered into a settlement with Capital One Bank for filing thousands of previously discharged claims.

Whether the amendments place an appropriate burden on consumer lenders and debt purchasers. One witness representing the American Bankers Association testified that the proposed amendment would place an unreasonable burden on consumer lenders and debt purchasers and would improperly shift the burden of proof to the creditor. This, he said, would adversely affect an industry that purchased $100 billion of charged-off debt last year. Several representatives of debt purchasing companies suggested that the rule should acknowledge that compliance with the requirements of Rule 3001(c)(3)(A) entitles the claim to prima facie validity without regard to whether the supporting writing is requested or provided.

Some consumer lawyers commented that the proposed amendment would not place a sufficient burden on credit card claimants. They objected to excepting these types of claims from the general requirement for attachment of the writing on which a claim is based. Some argued for a requirement that a debt buyer who files a claim produce a complete chain of title, and another urged that a full account transaction history be required. One comment stated that the rule should require more diligence, more documentation, and more care in the preparation of a proof of claim given the "sorry state of compliance with existing rules." A representative of the National Association of Consumer Bankruptcy Attorneys characterized the proposed amendment as "quite modest and, at best, barely adequate to deal with widespread problems."

Whether subdivision (c)(3)(A) requires disclosure of the appropriate items of information. Some witnesses and commentators questioned the value of some of the information required to be included in the statement accompanying the proof of claim or suggested other information that should be required. Some comments suggested that particular provisions were ambiguous.

Whether subdivision (c)(3)(B) requires too much or too little of holders of credit card claims. Much of the public comment was addressed to the requirement that the claimant provide the writing on which the claim is based if a party in interest makes a written request for this document. Comments and testimony by some representatives of consumer lenders and bulk claims purchasers argued that a threshold showing of need for the writing should be required of the requesting party, that the rule should clarify the specific writing that should be produced for credit card claims, or that the provision should be deleted.

Some of the consumer bankruptcy lawyers, on the other hand, commented that there was no reason to have this special rule for holders of credit card claims and that they should have to produce the writing without request like all other creditors filing proofs of claim. Others argued that the rule should provide a time limit for the production of the writing in response to a request and that the Committee Note should state that the documentation that must be produced includes the chain of title, the contract upon which the claim is based, and a transaction record.

Some commentators on both sides of the issue said that requiring production of the writing will lead to litigation and delay.

Comments on previously approved amendments to Rule 3001(c). Some commentators representing bulk claims purchasers used this occasion to object to amendments to Rule 3001(c)(2) that were recently approved by the Supreme Court and transmitted to Congress. In particular they expressed displeasure with the requirement that interest, fees, expenses, and other charges included in a claim be itemized and with the authorization of sanctions for the failure to comply with the requirements of Rule 3001(c).

b. Committee consideration

Many of the issues raised in the testimony and written comments were ones that the Advisory Committee had previously considered. The Committee concluded that the proposed rule amendment will permit enforcement of an appropriate disclosure requirement on creditors seeking recovery from bankruptcy estates for claims based on open-end or revolving consumer credit agreements. Under the existing rule, all creditors are required to file the writing on which the claim is based. As reflected in comments from advocates for all affected parties, this requirement is generally not being complied with by credit card claimants. Rather than imposing a new requirement of document production on credit card claimants, the proposed amendments allow those creditors flexibility in providing information that will provide a basis for debtors and trustees to assess whether a claim is valid and enforceable. The proposed amendments for credit card claimants are less stringent than the requirements under existing Rule 3001(c), but they are designed to provide more information than is often provided under current practices. The Committee concluded that the comments and testimony did not provide any reason to revisit the basic decisions that it had previously reached.

The Committee did agree that a deadline for responding to a request for the underlying writing should be imposed. Specifying a time limit will enable the requesting party to determine

when there has been a failure to comply if the request is met with silence. The Committee therefore voted to add a 30-day deadline for responding to a written request under proposed Rule 3001(c)(3)(B). The time would run from when the written request is sent. This time limit would be subject to enlargement or reduction by the court for cause under Rule 9006.

Because there is no deadline for making a request under proposed Rule 3001(c)(3)(B), the Committee discussed the point at which a properly filed proof of claim based on an open-end or revolving credit card agreement would be entitled to be treated under Rule 3001(f) as prima facie evidence of the validity and amount of the claim. If the applicability of subdivision (f) depended upon compliance with proposed subsection (c)(3)(B), it would be uncertain whether the claim was entitled to the benefit of prima facie validity until a written request was made—if and whenever that might occur—and the claimant did or did not provide a proper response. The Committee voted to add to the Committee Note a statement that a proof of claim based on an open-end or revolving credit card agreement that is filed and executed in accordance with Rule 3001(a), (b), (c)(1), (c)(2), (c)(3)(A), and (e) is entitled to the benefit of subdivision (f). Failure of a claimant to comply with proposed Rule (c)(3)(B) would not affect the applicability of subdivision (f), but would subject the claimant to possible sanctions.

Finally, the Committee agreed with one witness that proposed Rule 3001(c)(3) is not intended to apply to home equity lines of credit. Those types of loans, which are secured by a security interest in the debtor's real property, are covered by the pending home mortgage amendments and were not intended to be included within subdivision (c)(3). The Committee therefore added an exception for these types of loans to proposed Rule 3001(c)(3).

Action Item 2. Rule 7054 incorporates Fed. R. Civ. P. 54(a) - (c) for adversary proceedings, and in subdivision (b) it provides for the awarding of costs. The proposed amendment that was published for comment would amend (b) to provide more time—14 days rather than one day—for a party to respond to the prevailing party's bill of costs, and extend from five to seven days the time for seeking court review of the costs taxed by the clerk. The first change was proposed in order to provide a more reasonable period of time for a response, and the latter period was changed to conform to the 2009 time-computation amendments, which changed five-day periods in the rules to seven days. These changes are also intended to make the rule consistent with Civil Rule 54, which was previously amended to adopt the proposed time periods.

One comment was submitted on this proposed amendment. Norman H. Meyer, Jr., Clerk of the U.S. Bankruptcy Court for the District of New Mexico, suggested that both time periods in Rule 7054(b) be extended to 14 days. His district's local rule allows 14 days after entry of the judgment to move for the taxation of costs, 14 days after notice of the motion to object to the bill of costs, and 14 days after the taxation of costs to seek court review.

Because one of the goals of the proposed amendment is to make Rule 7054(b) consistent with the civil rule, the Committee voted unanimously to recommend approval of the amended rule as published.

Action Item 3. Rule 7056 makes Fed. R. Civ. P. 56 applicable in adversary proceedings. Under Rule 9014(c), Rule 7056 also applies in contested matters unless the court directs otherwise. The amendment was proposed in response to the civil rule's imposition of a new default deadline for filing a motion for summary judgment. Under the civil rule, the deadline for filing a motion for summary judgment is 30 days after the close of all discovery, unless a different time is set by local rule or court order. Because hearings in bankruptcy cases sometimes occur shortly after the close of discovery, the proposed amendment to Rule 7056 bases the default deadline on the scheduled hearing date, rather than on the close of discovery. The deadline for filing a summary judgment motion would be 30 days before the initial date set for an evidentiary hearing on any issue for which summary judgment is sought, unless a local rule or the court sets a different deadline.

No one submitted a comment on this amendment. The Committee voted unanimously to recommend approval of the proposed amendment to Rule 7056 as published.

Action Item 4. Official Form 10 (Proof of Claim) would be amended in several respects. As published, the proposed amendments included the following:

- a request for additional information about the interest rate for secured claims and a clarification that the information concerns the rate as of the filing of the petition;
- clarification that a summary of supporting documents may be submitted only as an addition to copies of the documents themselves and not as a substitute;
- additional emphasis of the need to redact attached documents to eliminate personal data identifiers;
- changes to the date and signature box to emphasize the duty of care that must be exercised in filing a proof of claim and to require disclosure of the capacity in which the filer is acting;
- the addition of a space for a uniform claim identifier; and
- various formatting and stylistic changes.

a. Comments

Six comments were submitted regarding the proposed Form 10 amendments, and an additional inquiry was informally made regarding that form.

Judge Paul Mannes (Bankr. D. Md.) pointed out that, as proposed to be amended, Form 10 would contain two places to indicate whether the proof of claim is being filed by a trustee or debtor, rather than by a creditor. He suggested that the first request for that information be deleted, and that

the resulting space be used to allow the claimant to indicate that it did not receive notice of the filing of the bankruptcy case from the court.

Linda Spaight, of the Administrative Office's Bankruptcy Court Administrative Division, noted the continuation of an existing discrepancy between the form's instruction not to "send original documents, as attachments may be destroyed after scanning" and Rule 3001(c)'s requirement that the original or a duplicate of a writing on which a claim is based be attached.

The National Association of Consumer Bankruptcy Attorneys commented that Form 10, either on its face or in the instructions, should state that attachments are required for open-end consumer credit claims and mortgage claims. It stated that not all claimants will be familiar with the rules requiring the attachment of those documents.

Two attorneys expressed support for the amendments, and another commentator questioned whether "email" was spelled properly.

Finally, Robby Robinson of the Bankruptcy Court Administrative Division, on behalf of the NextGen project, informally questioned why requests for email addresses were added to Form 10 and whether the provision of that information was intended to constitute consent to receive notices and service by email.

b. Committee consideration

The Committee considered these comments and voted unanimously to recommend approval of the amendments to Form 10, with the following changes to the published draft:

- the deletion of the debtor/trustee checkbox on page 1 of the form, without adding a replacement for the checkbox, leaving the identity of the person filing the claim for disclosure only in the signature box; and

- the addition of a statement to the Committee Note, explaining that the new requests for email addresses are intended only to facilitate communication with the claimant and that the provision of this information does not affect any requirements for serving or providing notice to the claimant.

The Committee also decided to include additional statements in box 7 of Form 10 reminding claimants of the need to attach the documentation required by Rule 3001(c) for claims secured by a security interest in the debtor's principal residence and claims based on an open-end or revolving consumer credit agreement. Because the latter documentation requirement will not take effect until December 1, 2012, the Committee voted to delay recommending these additions to box 7 until June 2012, when it will submit them to the Standing Committee for approval.

The Committee decided to respond to the discrepancy between Rule 3001(c) and Form 10 — concerning whether original documents should be filed — by proposing a technical amendment to the rule, rather than amending the form. This change, which brings the rule into conformity with existing practice, is addressed in Part II.A.2 of this report.

Action Item 5. Official Form 10 (Attachment A) (Mortgage Proof of Claim Attachment) is new. It would implement the requirements of Rule 3001(c)(2) for a claim secured by a security interest in the debtor's principal residence. That rule amendment was recently approved by the Supreme Court and transmitted to Congress. Accompanying the proof of claim for a home mortgage, this attachment form would require a statement of the principal and interest due as of the petition date; a statement of prepetition fees, expenses, and charges; and a statement of the amount necessary to cure a default as of the petition date.

Two witnesses testified at the February 4, 2011 hearing about this and the other two proposed mortgage claims, and thirteen written comments were submitted. Summaries of the testimony and comments are included in Appendix A.

The Committee thoroughly discussed the testimony and comments that were submitted on the proposed mortgage forms. Members agreed that the major issue raised at the hearing and in the comments was whether a mortgage lender should be required to provide a complete account history as an attachment to its proof of claim. The Committee had considered this issue prior to recommending the proposed forms for publication, and the decision not to require this information was based largely on the desire to require the disclosure of information about the basis for a mortgage claim without imposing an undue burden on the mortgagee or overwhelming the debtor with too much detail. The Committee recognized that some of the comments and testimony, particularly those of Bankruptcy Judges Marvin Isgur (S.D. Tex.) and Elizabeth Magner (E.D La.), called into question whether the proper balance had been struck.

The Committee discussed various options for giving further consideration to whether a full loan history should be required. In the end, the Committee concluded that it was important that the proposed rules and forms requiring greater disclosure of information about mortgage claims not be delayed and that they remain on track to take effect in December 2011. Amending the attachment form to require a loan history would require republication and thus a year's delay in the effective date of the form. The Committee did not support allowing the rules to go into effect without all of the implementing forms.

The Committee did not, however, want to dismiss completely the possibility of requiring a loan history. Testimony and comments supporting such a requirement persuasively explained the value that this information might provide, in particular by showing how the lender applied prepetition payments it had received from the debtor. But the Committee noted that only a small number of persons had been heard from, and none of the comments were submitted by mortgage lenders or servicers. Some members of the Committee expressed concern about whether it would be feasible for creditors of all sizes to comply with a loan-history requirement and whether the costs

of implementing automation systems to provide this information were justified by the value of the information to parties and the courts.

The Committee concluded that gathering information about people's experience with the proposed rules and forms after they go into effect could be helpful in deciding later whether to require a loan history. The Committee discussed several means of gathering this information, including holding a mini-conference of mortgage lenders and servicers, chapter 13 trustees, consumer debtors' attorneys, and judges; asking the Federal Judicial Center to undertake a survey or study; or having the reporter publish a request for information. Ultimately, the Committee voted to give further consideration in the future to requiring attachment of a complete loan history to a proof of claim filed for a claim secured by a security interest in the debtor's principal residence. A decision by the Committee will be informed by information obtained after a period of experience with the currently proposed attachment form.

Following that decision, the Committee voted unanimously to approve Form 10 (Attachment A), with the changes noted below made to the published draft. These changes are responsive to comments that were submitted and Committee members' suggestions:

- Change the instruction at the top of Part 2 to read, "Itemize the fees, expenses, and charges due on the claim as of the petition date." This will clarify that the intended disclosure is of amounts remaining due as of the petition date, not all amounts that have been incurred as of that date.

- After the item in the Part 2 list labeled "Escrow shortage or deficiency," change the parenthetical to read, "(Do not include amounts that are part of any installment payment listed in Part 3.)." This will prevent duplication with the escrow portion of missed installment payments listed in Part 3.

- In Part 3, add a new line reading "Subtract amounts for which debtor is entitled to a refund."

- Add a new item in Part 3 reading "3. Calculation of cure amount."

- For ease of completion and reading, add numbers to the left and right columns of Part 2.

Action Item 6. Official Form 10 (Supplement 1) (Notice of Mortgage Payment Change) is new. Designed to implement Rule 3002.1(b), this form would be used by the holder of a home mortgage claim to provide notice of any escrow account payment adjustment, interest payment change, or other mortgage payment change while a chapter 13 case is pending.

Only two comments on the mortgage forms addressed Supplement 1 specifically. A chapter 13 trustee expressed support for the proposed form. He stated that notices of payment change are

not always provided during the chapter 13 case. Without that information, disbursements may be made that result in the debtor incurring late charges. He stated that the debtor needs complete information about the mortgage in order to emerge from bankruptcy with a fresh start.

Judge Marvin Isgur expressed concern about the form's provision for the reporting of escrow changes. He said that Supplement 1 should not instruct the mortgagee to attach an escrow account statement "prepared according to applicable nonbankruptcy law." He believed that the instruction provided for an analysis of an escrow shortage according to the federal Real Estate Settlement Procedures Act. That analysis, he said, might improperly allow the mortgagee to collect the escrow shortage as part of an ongoing adjusted mortgage payment, as well as under the plan as part of the cure payment.

The Committee had previously decided that the forms should not dictate the method of determining escrow arrearages, an issue on which courts disagree. In response to Judge Isgur's comment, however, the Committee concluded that the instructions in Parts 1 and 2 of the Notice of Mortgage Payment Change form should be worded the same way that Part 3 of Attachment A is worded: "Attach . . . an escrow account statement prepared . . . in a form consistent with applicable nonbankruptcy law" (rather than "prepared according to applicable nonbankruptcy law"). That change was intended to clarify that nonbankruptcy law determines only the form of disclosure and not the method of calculating escrow balances.

With that change and another minor stylistic change made, the Committee voted unanimously to recommend the approval of Form 10 (Supplement 1).

Action Item 7. Official Form 10 (Supplement 2) (Notice of Postpetition Mortgage Fees, Expenses, and Charges), which is new, would implement Rule 3002.1(c). It would be used in a chapter 13 case by the holder of a home mortgage claim to provide notice of the date incurred and amount of any postpetition fees, expenses, and charges.

Several comments on the proposed mortgage forms expressed general support for requiring home mortgage claimants to provide more information about changes in amounts required to be paid during the life of the chapter 13 plan. Three comments addressed Supplement 2 specifically.

One consumer attorney expressed strong support for requiring home mortgage claimants to inform debtors of any charges assessed during bankruptcy. In one of her cases, the mortgagee paid property taxes without the debtor's knowledge, even though those taxes were being paid under the plan. She said that toward the end of the five-year plan, the lender sought to foreclose due to its payment of the taxes. According to her, it took over a year and six hearings to resolve the matter (efforts that she handled pro bono).

Another consumer attorney stated that the forms implementing Rule 3002.1 (Supplements 1 and 2) should not be limited to chapter 13 cases, but should also apply in chapter 7 asset cases and in chapter 11 individual cases.

The National Association of Consumer Bankruptcy Attorneys urged the Committee to add to the Committee Note accompanying Supplement 2 a statement that mortgage claimants are not authorized to charge additional fees for providing the information required by the form.

After considering these comments, the Committee voted unanimously to recommend approval of Form 10 (Supplement 2) with only two minor changes to the form as published: the addition of numbers to the left and right columns of Part 1 and (to correct an internal reference) the substitution of "Notice" for "Claim" in the declaration at the end of the form.

Action Item 8. Official Form 25A (Plan of Reorganization in Small Business Case Under Chapter 11) would be amended to change the effective-date provision to reflect the 2009 amendments that increased from 10 to 14 days the time periods for filing a notice of appeal and for the duration of the stay of a confirmation order. Under the amended provision, the effective date of the plan would generally be the first business day following the date that is 14 days after the entry of the order of confirmation.

No comments were submitted on this proposed amendment. The Committee voted unanimously to recommend that it be approved as published.

2. Amendments for Which Final Approval is Sought Without Publication. **The Advisory Committee recommends that the proposed amendments that are summarized below be approved and forwarded to the Judicial Conference. The Advisory Committee recommends that the amended forms be effective on December 1, 2011.** Because the proposed amendments are technical or conforming in nature, the Committee concluded that publication for comment is not required. The texts of the amended rules and forms are set out in Appendix A.

Action Item 9. Rule 1007(c) would be amended to eliminate a time period that is now inconsistent with Rule 1007(a)(2). Rule 1007(c) prescribes the time limits for filing various documents. Among its provisions is the following sentence: "In an involuntary case, the list in subdivision (a)(2), and the schedules, statements, and other documents required by subdivision (b)(1) shall be filed by the debtor within 14 days of the entry of the order for relief." Rule 1007(a)(2) was amended as of December 1, 2010, to reduce to seven days the time for an involuntary debtor to file the list of creditors. Unfortunately, during the process leading to the amendment of Rule 1007(a)(2), the redundant deadline in subdivision (c) was overlooked. Thus it remains at 14 days, despite the change to seven days in subdivision (a)(2).

Because there is no need to repeat the deadline, the Committee voted unanimously at its September 2010 meeting to delete from subdivision (c) the time limit for filing the list of creditors in an involuntary case. As amended, the sentence would parallel the prior sentence that imposes time limits for filing schedules, statements, and other documents in a voluntary case.

Action Item 10. Rule 2015(a) would be amended to correct a reference to 11 U.S.C. § 704 of the Bankruptcy Code. Prior to the 2005 Amendments to the Code, § 704 was not divided into

subsections. Rule 2015(a) therefore correctly referred to § 704(8) in requiring the trustee or debtor in possession to file reports and summaries required by that provision. The 2005 Amendments, however, expanded § 704 and broke it into subsections. What was previously § 704(8) became § 704(a)(8).

In order to correct the now erroneous reference, the Committee voted unanimously at its September 2010 meeting to amend Rule 2015(a) to refer to § 704(a)(8).

Action Item 11. Rule 3001(c)(1) would be amended to delete the option of filing with a proof of claim the original of a writing on which a claim is based. As noted above, in response to the August 2010 publication of amendments to Rule 3001(c) and Form 10, Linda Spaight of the Administrative Office's Bankruptcy Court Administration Division submitted a comment pointing out a discrepancy between Rule 3001(c)(1) and paragraph 7 of the instructions for Form 10. The rule requires the attachment of "the original or duplicate" of a writing on which a claim is based, whereas the instructions direct the claimant not to "send original documents, as attachments may be destroyed after scanning."

The Committee concluded that the discrepancy pointed out by Ms. Spaight was created by earlier Committee action, and not by either the pending amendments to Rule 3001(c) or the proposed amendments to Form 10. Ms. Spaight's comment was therefore treated as a suggestion for an amendment to either Form 10 or Rule 3001(c). After discussion, the Committee concluded that the language of the form, rather than of the rule, reflects the current practice of filing copies, not originals, of documents supporting proofs of claim. It therefore voted unanimously to recommend the amendment of Rule 3001(c)(1) to replace "the original or a duplicate" with "a copy of the writing."

Action Item 12. Official Form 1 (Voluntary Petition) would be amended to include lines on the form for a foreign representative filing a chapter 15 petition to indicate the country of the debtor's center of main interests and countries in which related proceedings are pending. This amendment would implement the requirements of new Rule 1004.2 (Petition in Chapter 15 Cases), which is scheduled to go into effect on December 1, 2011.

The Committee voted unanimously at its September 2010 meeting to recommend approval of this conforming change to Form 1, with the same effective date as Rule 1004.2.

Action Item 13. Official Forms 9A - 9I (Notice of Meeting of Creditors & Deadlines) would be amended to conform to a rule amendment scheduled to take effect on December 1, 2011, and to make some minor stylistic changes.

Rule 2003(e) currently states that a meeting of creditors "may be adjourned . . . by announcement at the meeting of the adjourned date and time without further written notice." A pending amendment to Rule 2003(e) that has been approved by the Supreme Court and transmitted

to Congress would require the presiding official at a meeting of creditors to file a statement specifying the date and time to which such a meeting is adjourned.

All of the versions of Form 9 (A - I) reflect the current wording of Rule 2003(e). On the back of each form, the explanation of "Meeting of Creditors" states that the "meeting may be continued and concluded at a later date without further notice." The Committee therefore voted unanimously at its September 2010 meeting to recommend that the explanation be revised to state that the "meeting may be continued and concluded at a later date specified in a notice filed with the court." In addition, the amendment to the forms would correct a spelling and a punctuation error and call greater attention to the instruction to "See Reverse Side for Important Explanations."

* * * * *

Appendix A

PROPOSED AMENDMENTS TO THE FEDERAL RULES OF BANKRUPTCY PROCEDURE*

For Final Approval and Transmittal to the Judicial Conference

Rule 1007. Lists, Schedules, Statements, and Other Documents; Time Limits

* * * * *

(c) TIME LIMITS. In a voluntary case, the schedules, statements, and other documents required by subdivision (b)(1), (4), (5), and (6) shall be filed with the petition or within 14 days thereafter, except as otherwise provided in subdivisions (d), (e), (f), and (h) of this rule. In an involuntary case, ~~the list in subdivision (a)(2), and~~ the schedules, statements, and other documents required by subdivision (b)(1) shall be filed by the debtor within 14 days ~~of~~ after the entry of the order for relief.

* * * * *

COMMITTEE NOTE

In subdivision (c), the time limit for a debtor in an involuntary case to file the list required by subdivision (a)(2) is deleted as unnecessary. Subdivision (a)(2) provides that the list must be filed within seven days after the entry of the order for relief. The other change to subdivision (c) is stylistic.

Because this amendment is being made to conform to an amendment to Rule 1007(a)(2) that took effect on December 1, 2010, final approval is sought without publication.

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* New material is underlined; matter to be omitted is lined through.

Rule 2015. Duty to Keep Records, Make Reports, and Give Notice of Case or Change of Status

(a) TRUSTEE OR DEBTOR IN POSSESSION. A trustee or debtor in possession shall:

* * * * *

(3) file the reports and summaries required by § 704(a)(8) of the Code, which shall include a statement, if payments are made to employees, of the amounts of deductions for all taxes required to be withheld or paid for and in behalf of employees and the place where these amounts are deposited;

* * * * *

COMMITTEE NOTE

Subdivision (a)(3) is amended to correct the reference to § 704. The 2005 amendments to the Code expanded § 704 and created subsections within it. The provision that was previously § 704(8) became § 704(a)(8). The other change to (a)(3) is stylistic.

Final approval of this technical amendment is sought without publication.

Rule 3001. Proof of Claim[**]

* * * * *

(c) SUPPORTING INFORMATION.

(1) *Claim Based on a Writing*. Except for a claim governed by paragraph (3) of this subdivision, w~~W~~hen a claim, or an interest in property of the debtor securing the claim, is based on a writing, ~~the original or a duplicate~~ a copy of the writing shall be filed with the proof of claim. If the writing has been lost or destroyed, a statement of the circumstances of the loss or destruction shall be filed with the claim.

* * * * *

(3) *Claim Based on an Open-End or Revolving Consumer Credit Agreement.*

(A) When a claim is based on an open-end or revolving consumer credit agreement — except one for

---

[**] Incorporates amendments that are due to take effect on December 1, 2011, if Congress takes no action otherwise.

which a security interest is claimed in the debtor's real property — a statement shall be filed with the proof of claim, including all of the following information that applies to the account:

(i) the name of the entity from whom the creditor purchased the account;

(ii) the name of the entity to whom the debt was owed at the time of an account holder's last transaction on the account;

(iii) the date of an account holder's last transaction;

(iv) the date of the last payment on the account; and

(v) the date on which the account was charged to profit and loss.

(B) On written request by a party in interest, the holder of a claim based on an open-end or revolving

consumer credit agreement shall, within 30 days after the request is sent, provide the requesting party a copy of the writing specified in paragraph (1) of this subdivision.

COMMITTEE NOTE

Subdivision (c). Subdivision (c) is amended in several respects. The former requirement in paragraph (1) to file an original or duplicate of a supporting document is amended to reflect the current practice of filing only copies. The proof of claim form instructs claimants not to file the original of a document because it may be destroyed by the clerk's office after scanning.

Subdivision (c) is further amended to add paragraph (3). Except with respect to claims secured by a security interest in the debtor's real property (such as a home equity line of credit), paragraph (3) specifies information that must be provided in support of a claim based on an open-end or revolving consumer credit agreement (such as an agreement underlying the issuance of a credit card). Because a claim of this type may have been sold one or more times prior to the debtor's bankruptcy, the debtor may not recognize the name of the person filing the proof of claim. Disclosure of the information required by paragraph (3) will assist the debtor in associating the claim with a known account. It will also provide a basis for assessing the timeliness of the claim. The date, if any, on which the account was charged to profit and loss ("charge-off" date) under subparagraph (A)(v) should be determined in accordance with applicable standards for the classification and account management of consumer credit. A proof of claim executed and filed in accordance with subparagraph (A), as well as the applicable provisions of subdivisions (a), (b), (c)(2), and (e), constitutes prima

facie evidence of the validity and amount of the claim under subdivision (f).

To the extent that paragraph (3) applies to a claim, paragraph (1) of subdivision (c) is not applicable. A party in interest, however, may obtain the writing on which an open-end or revolving consumer credit claim is based by requesting in writing that documentation from the holder of the claim. The holder of the claim must provide the documentation within 30 days after the request is sent. The court, for cause, may extend or reduce that time period under Rule 9006.

Changes Made After Publication

Subdivision (c)(1). The requirement for the attachment of a writing on which a claim is based was changed to require that a copy, rather than the original or a duplicate, of the writing be provided.

Subdivision (c)(3). An exception to subparagraph (A) was added for open-end or revolving consumer credit agreements that are secured by the debtor's real property.

A time limit of 30 days for responding to a written request under subparagraph (B) was added.

Committee Note. A statement was added to clarify that if a proof of claim complies with subdivision (c)(3)(A), as well as with subdivisions (a), (b), (c)(2), and (e), it constitutes prima facie evidence of the validity and amount of the claim under subdivision (f).

Other changes. Stylistic changes were also made to the rule.

* * * * *

Rule 7054. Judgments; Costs

* * * * *

(b) COSTS. The court may allow costs to the prevailing party except when a statute of the United States or these rules otherwise provides. Costs against the United States, its officers and agencies shall be imposed only to the extent permitted by law. Costs may be taxed by the clerk on ~~one day's~~ 14 days' notice; on motion served within ~~five~~ seven days thereafter, the action of the clerk may be reviewed by the court.

COMMITTEE NOTE

Subdivision (b). Subdivision (b) is amended to provide more time for a party to respond to the prevailing party's bill of costs. The former rule's provision of one day's notice was unrealistically short. The change to 14 days conforms to the change made to Civil Rule 54(d). Extension from five to seven days of the time for serving a motion for court review of the clerk's action implements changes in connection with the December 1, 2009, amendment to Rule 9006(a) and the manner by which time is computed under the rules. Throughout the rules, deadlines have been amended in the following manner:

- 5-day periods became 7-day periods
- 10-day periods became 14-day periods
- 15-day periods became 14-day periods
- 20-day periods became 21-day periods
- 25-day periods became 28-day periods

Changes Made After Publication

No changes were made after publication.

* * * * *

Rule 7056. Summary Judgment

Rule 56 F.R.Civ.P. applies in adversary proceedings~~.~~, except that any motion for summary judgment must be made at least 30 days before the initial date set for an evidentiary hearing on any issue for which summary judgment is sought, unless a different time is set by local rule or the court orders otherwise.

COMMITTEE NOTE

The only exception to complete adoption of Rule 56 F.R.Civ.P. involves the default deadline for filing a summary judgment motion. Rule 56(c)(1)(A) makes the default deadline 30 days after the close of all discovery. Because in bankruptcy cases hearings can occur shortly after the close of discovery, a default deadline based on the scheduled hearing date, rather than the close of discovery, is adopted. As with Rule 56(c)(1), the deadline can be altered either by local rule or court order.

Changes Made After Publication

No changes were made after publication.

* * * * *

B1 (Official Form 1) (12/11)

United States Bankruptcy Court **_____DISTRICT OF _____**	**Voluntary Petition**
Name of Debtor (if individual, enter Last, First, Middle):	Name of Joint Debtor (Spouse) (Last, First, Middle):
All Other Names used by the Debtor in the last 8 years (include married, maiden, and trade names):	All Other Names used by the Joint Debtor in the last 8 years (include married, maiden, and trade names):
Last four digits of Soc. Sec. or Individual-Taxpayer I.D. (ITIN)/Complete EIN (if more than one, state all):	Last four digits of Soc. Sec. or Individual-Taxpayer I.D. (ITIN)/Complete EIN (if more than one, state all):
Street Address of Debtor (No. and Street, City, and State): ZIP CODE	Street Address of Joint Debtor (No. and Street, City, and State): ZIP CODE
County of Residence or of the Principal Place of Business:	County of Residence or of the Principal Place of Business:
Mailing Address of Debtor (if different from street address): ZIP CODE	Mailing Address of Joint Debtor (if different from street address): ZIP CODE
Location of Principal Assets of Business Debtor (if different from street address above): ZIP CODE	

Type of Debtor (Form of Organization) (Check **one** box.)	**Nature of Business** (Check **one** box.)	**Chapter of Bankruptcy Code Under Which the Petition is Filed** (Check **one** box.)
☐ Individual (includes Joint Debtors) *See Exhibit D on page 2 of this form.* ☐ Corporation (includes LLC and LLP) ☐ Partnership ☐ Other (If debtor is not one of the above entities, check this box and state type of entity below.)	☐ Health Care Business ☐ Single Asset Real Estate as defined in 11 U.S.C. § 101(51B) ☐ Railroad ☐ Stockbroker ☐ Commodity Broker ☐ Clearing Bank ☐ Other	☐ Chapter 7 ☐ Chapter 9 ☐ Chapter 11 ☐ Chapter 12 ☐ Chapter 13 ☐ Chapter 15 Petition for Recognition of a Foreign Main Proceeding ☐ Chapter 15 Petition for Recognition of a Foreign Nonmain Proceeding

Chapter 15 Debtors	**Tax-Exempt Entity** (Check box, if applicable.)	**Nature of Debts** (Check **one** box.)
Country of debtor's center of main interests: _____ _____ Each country in which a foreign proceeding by, regarding, or against debtor is pending: _____ _____	☐ Debtor is a tax-exempt organization under title 26 of the United States Code (the Internal Revenue Code).	☐ Debts are primarily consumer debts, defined in 11 U.S.C. § 101(8) as "incurred by an individual primarily for a personal, family, or household purpose." ☐ Debts are primarily business debts.

Filing Fee (Check one box.)

☐ Full Filing Fee attached.

☐ Filing Fee to be paid in installments (applicable to individuals only). Must attach signed application for the court's consideration certifying that the debtor is unable to pay fee except in installments. Rule 1006(b). See Official Form 3A.

☐ Filing Fee waiver requested (applicable to chapter 7 individuals only). Must attach signed application for the court's consideration. See Official Form 3B.

Chapter 11 Debtors

Check one box:

☐ Debtor is a small business debtor as defined in 11 U.S.C. § 101(51D).

☐ Debtor is not a small business debtor as defined in 11 U.S.C. § 101(51D).

Check if:

☐ Debtor's aggregate noncontingent liquidated debts (excluding debts owed to insiders or affiliates) are less than $2,190,000.

- -

Check all applicable boxes:

☐ 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).

Statistical/Administrative Information

THIS SPACE IS FOR COURT USE ONLY

☐ Debtor estimates that funds will be available for distribution to unsecured creditors.

☐ Debtor estimates that, after any exempt property is excluded and administrative expenses paid, there will be no funds available for distribution to unsecured creditors.

Estimated Number of Creditors

☐ 1-49	☐ 50-99	☐ 100-199	☐ 200-999	☐ 1,000-5,000	☐ 5,001-10,000	☐ 10,001-25,000	☐ 25,001-50,000	☐ 50,001-100,000	☐ Over 100,000

Estimated Assets

☐ $0 to $50,000	☐ $50,001 to $100,000	☐ $100,001 to $500,000	☐ $500,001 to $1 million	☐ $1,000,001 to $10 million	☐ $10,000,001 to $50 million	☐ $50,000,001 to $100 million	☐ $100,000,001 to $500 million	☐ $500,000,001 to $1 billion	☐ More than $1 billion

Estimated Liabilities

☐ $0 to $50,000	☐ $50,001 to $100,000	☐ $100,001 to $500,000	☐ $500,001 to $1 million	☐ $1,000,001 to $10 million	☐ $10,000,001 to $50 million	☐ $50,000,001 to $100 million	☐ $100,000,001 to $500 million	☐ $500,000,001 to $1 billion	☐ More than $1 billion

Voluntary Petition *(This page must be completed and filed in every case.)*	Name of Debtor(s):	
All Prior Bankruptcy Cases Filed Within Last 8 Years (If more than two, attach additional sheet.)		
Location Where Filed:	Case Number:	Date Filed:
Location Where Filed:	Case Number:	Date Filed:
Pending Bankruptcy Case Filed by any Spouse, Partner, or Affiliate of this Debtor (If more than one, attach additional sheet.)		
Name of Debtor:	Case Number:	Date Filed:
District:	Relationship:	Judge:

Exhibit A

(To be completed if debtor is required to file periodic reports (e.g., forms 10K and 10Q) with the Securities and Exchange Commission pursuant to Section 13 or 15(d) of the Securities Exchange Act of 1934 and is requesting relief under chapter 11.)

☐ Exhibit A is attached and made a part of this petition.

Exhibit B

(To be completed if debtor is an individual whose debts are primarily consumer debts.)

I, the attorney for the petitioner named in the foregoing petition, declare that I have informed the petitioner that [he or she] may proceed under chapter 7, 11, 12, or 13 of title 11, United States Code, and have explained the relief available under each such chapter. I further certify that I have delivered to the debtor the notice required by 11 U.S.C. § 342(b).

X _____

Signature of Attorney for Debtor(s) (Date)

Exhibit C

Does the debtor own or have possession of any property that poses or is alleged to pose a threat of imminent and identifiable harm to public health or safety?

☐ Yes, and Exhibit C is attached and made a part of this petition.

☐ No.

Exhibit D

(To be completed by every individual debtor. If a joint petition is filed, each spouse must complete and attach a separate Exhibit D.)

☐ Exhibit D, completed and signed by the debtor, is attached and made a part of this petition.

If this is a joint petition:

☐ Exhibit D, also completed and signed by the joint debtor, is attached and made a part of this petition.

Information Regarding the Debtor - Venue

(Check any applicable box.)

☐ Debtor has been domiciled or has had a residence, 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.

☐ There is a bankruptcy case concerning debtor's affiliate, general partner, or partnership pending in this District.

☐ Debtor is a debtor in a foreign proceeding and has its principal place of business or principal assets in the United States in this District, or has no principal place of business or assets in the United States but is a defendant in an action or proceeding [in a federal or state court] in this District, or the interests of the parties will be served in regard to the relief sought in this District.

Certification by a Debtor Who Resides as a Tenant of Residential Property

(Check all applicable boxes.)

☐ Landlord has a judgment against the debtor for possession of debtor's residence. (If box checked, complete the following.)

_____

(Name of landlord that obtained judgment)

_____

(Address of landlord)

☐ Debtor claims that under applicable nonbankruptcy law, there are circumstances under which the debtor would be permitted to cure the entire monetary default that gave rise to the judgment for possession, after the judgment for possession was entered, and

☐ Debtor has included with this petition the deposit with the court of any rent that would become due during the 30-day period after the filing of the petition.

☐ Debtor certifies that he/she has served the Landlord with this certification. (11 U.S.C. § 362(l)).

Voluntary Petition
(This page must be completed and filed in every case.)

Name of Debtor(s):

Signatures

Signature(s) of Debtor(s) (Individual/Joint)

I declare under penalty of perjury that the information provided in this petition is true and correct.
[If petitioner is an individual whose debts are primarily consumer debts and has 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 no bankruptcy petition preparer signs the petition] 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.

X _____
Signature of Debtor

X _____
Signature of Joint Debtor

_____
Telephone Number (if not represented by attorney)

_____
Date

Signature of a Foreign Representative

I declare under penalty of perjury that the information provided in this petition is true and correct, that I am the foreign representative of a debtor in a foreign proceeding, and that I am authorized to file this petition.

(Check only **one** box.)

☐ I request relief in accordance with chapter 15 of title 11, United States Code. Certified copies of the documents required by 11 U.S.C. § 1515 are attached.

☐ Pursuant to 11 U.S.C. § 1511, I request relief in accordance with the chapter of title 11 specified in this petition. A certified copy of the order granting recognition of the foreign main proceeding is attached.

X _____
(Signature of Foreign Representative)

_____
(Printed Name of Foreign Representative)

_____
Date

Signature of Attorney*

X _____
Signature of Attorney for Debtor(s)

_____
Printed Name of Attorney for Debtor(s)

_____
Firm Name

_____
Address

_____

_____

_____
Telephone Number

_____
Date

*In a case in which § 707(b)(4)(D) applies, this signature also constitutes a certification that the attorney has no knowledge after an inquiry that the information in the schedules is incorrect.

Signature of Non-Attorney Bankruptcy Petition Preparer

I declare under penalty of perjury that: (1) I am a bankruptcy petition preparer as defined in 11 U.S.C. § 110; (2) I prepared this document for compensation and have provided the debtor with a copy of this document and the notices and information required under 11 U.S.C. §§ 110(b), 110(h), and 342(b); and, (3) if rules or guidelines have been promulgated pursuant to 11 U.S.C. § 110(h) setting a maximum fee for services chargeable by bankruptcy petition preparers, I have given the debtor notice of the maximum amount before preparing any document for filing for a debtor or accepting any fee from the debtor, as required in that section. Official Form 19 is attached.

_____
Printed Name and title, if any, of Bankruptcy Petition Preparer

_____
Social-Security number (If the bankruptcy petition preparer is not an individual, state the Social-Security number of the officer, principal, responsible person or partner of the bankruptcy petition preparer.) (Required by 11 U.S.C. § 110.)

_____
Address

_____

X _____

_____
Date

Signature of bankruptcy petition preparer or officer, principal, responsible person, or partner whose Social-Security number is provided above.

Names and Social-Security numbers of all other individuals who prepared or assisted in preparing this document unless the bankruptcy petition preparer is not an individual.

If more than one person prepared this document, attach additional sheets conforming to the appropriate official form for each person.

A bankruptcy petition preparer's failure to comply with the provisions of title 11 and the Federal Rules of Bankruptcy Procedure may result in fines or imprisonment or both. 11 U.S.C. § 110; 18 U.S.C. § 156.

Signature of Debtor (Corporation/Partnership)

I declare under penalty of perjury that the information provided in this petition is true and correct, and that I have been authorized to file this petition on behalf of the debtor.

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

X _____
Signature of Authorized Individual

_____
Printed Name of Authorized Individual

_____
Title of Authorized Individual

_____
Date

COMMITTEE NOTE

The form is amended to implement Rule 1004.2. Subdivision (a) of that rule requires a chapter 15 petition to state the country of the debtor's center of main interests and to identify each country in which a foreign proceeding by, regarding, or against the debtor is pending. A box is added to the first page of the form for this purpose. Minor stylistic changes are also made.

Because this amendment to the form implements Rule 1004.2, which will take effect on December 1, 2011, if Congress takes no action otherwise, final approval is sought without publication.

B9A (Official Form 9A) (Chapter 7 Individual or Joint Debtor No Asset Case) (12/11)

UNITED STATES BANKRUPTCY COURT_____**District of**_____

Notice of
Chapter 7 Bankruptcy Case, Meeting of Creditors, & Deadlines

[A chapter 7 bankruptcy case concerning the debtor(s) listed below was filed on _____(date).]
or [A bankruptcy case concerning the debtor(s) listed below was originally filed under chapter_____on _____(date) and was converted to a case under chapter 7 on_____(date).]

You may be a creditor of the debtor. **This notice lists important deadlines.** You may want to consult an attorney to protect your rights. All documents filed in the case may be inspected at the bankruptcy clerk's office at the address listed below. NOTE: The staff of the bankruptcy clerk's office cannot give legal advice.

See Reverse Side for Important Explanations

Debtor(s) (name(s) and address):	Case Number: Last four digits of Social-Security or Individual Taxpayer-ID (ITIN) No(s)./Complete EIN:
All other names used by the Debtor(s) in the last 8 years (include married, maiden, and trade names):	Bankruptcy Trustee (name and address):
Attorney for Debtor(s) (name and address): Telephone number:	Telephone number:

Meeting of Creditors

Date: / / Time: ( ) A. M. Location:
( ) P. M.

Presumption of Abuse under 11 U.S.C. § 707(b)

See "Presumption of Abuse" on the reverse side.

Depending on the documents filed with the petition, one of the following statements will appear.

The presumption of abuse does not arise.

Or

The presumption of abuse arises.

Or

Insufficient information has been filed to date to permit the clerk to make any determination concerning the presumption of abuse. If more complete information, when filed, shows that the presumption has arisen, creditors will be notified.

Deadlines:

Papers must be *received* by the bankruptcy clerk's office by the following deadlines:

Deadline to Object to Debtor's Discharge or to Challenge Dischargeability of Certain Debts:

Deadline to Object to Exemptions:

Thirty (30) days after the *conclusion* of the meeting of creditors.

Creditors May Not Take Certain Actions:

In most instances, the filing of the bankruptcy case automatically stays certain collection and other actions against the debtor and the debtor's property. Under certain circumstances, the stay may be limited to 30 days or not exist at all, although the debtor can request the court to extend or impose a stay. If you attempt to collect a debt or take other action in violation of the Bankruptcy Code, you may be penalized. Consult a lawyer to determine your rights in this case.

Please Do Not File a Proof of Claim Unless You Receive a Notice To Do So.

Creditor with a Foreign Address:

A creditor to whom this notice is sent at a foreign address should read the information under "Do Not File a Proof of Claim at This Time" on the reverse side.

Address of the Bankruptcy Clerk's Office: Telephone number:	**For the Court:** Clerk of the Bankruptcy Court:
Hours Open:	Date:

EXPLANATIONS **B9A (Official Form 9A) (12/11)**

Filing of Chapter 7 Bankruptcy Case	A bankruptcy case under Chapter 7 of the Bankruptcy Code (title 11, United States Code) has been filed in this court by or against the debtor(s) listed on the front side, and an order for relief has been entered.
Legal Advice	The staff of the bankruptcy clerk's office cannot give legal advice. Consult a lawyer to determine your rights in this case.
Creditors Generally May Not Take Certain Actions	Prohibited collection actions are listed in Bankruptcy Code § 362. Common examples of prohibited actions include contacting the debtor by telephone, mail, or otherwise to demand repayment; taking actions to collect money or obtain property from the debtor; repossessing the debtor's property; starting or continuing lawsuits or foreclosures; and garnishing or deducting from the debtor's wages. Under certain circumstances, the stay may be limited to 30 days or not exist at all, although the debtor can request the court to extend or impose a stay.
Presumption of Abuse	If the presumption of abuse arises, creditors may have the right to file a motion to dismiss the case under § 707(b) of the Bankruptcy Code. The debtor may rebut the presumption by showing special circumstances.
Meeting of Creditors	A meeting of creditors is scheduled for the date, time, and location listed on the front side. *The debtor (both spouses in a joint case) must be present at the meeting to be questioned under oath by the trustee and by creditors.* Creditors are welcome to attend, but are not required to do so. The meeting may be continued and concluded at a later date specified in a notice filed with the court.
Do Not File a Proof of Claim at This Time	There does not appear to be any property available to the trustee to pay creditors. *You therefore should not file a proof of claim at this time.* If it later appears that assets are available to pay creditors, you will be sent another notice telling you that you may file a proof of claim, and telling you the deadline for filing your proof of claim. If this notice is mailed to a creditor at a foreign address, the creditor may file a motion requesting the court to extend the deadline.
Discharge of Debts	The debtor is seeking a discharge of most debts, which may include your debt. A discharge means that you may never try to collect the debt from the debtor. If you believe that the debtor is not entitled to receive a discharge under Bankruptcy Code § 727(a) *or* that a debt owed to you is not dischargeable under Bankruptcy Code § 523(a)(2), (4), or (6), you must file a complaint -- or a motion if you assert the discharge should be denied under § 727(a)(8) or (a)(9) -- in the bankruptcy clerk's office by the "Deadline to Object to Debtor's Discharge or to Challenge the Dischargeability of Certain Debts" listed on the front of this form. The bankruptcy clerk's office must receive the complaint or motion and any required filing fee by that deadline.
Exempt Property	The debtor is permitted by law to keep certain property as exempt. Exempt property will not be sold and distributed to creditors. The debtor must file a list of all property claimed as exempt. You may inspect that list at the bankruptcy clerk's office. If you believe that an exemption claimed by the debtor is not authorized by law, you may file an objection to that exemption. The bankruptcy clerk's office must receive the objections by the "Deadline to Object to Exemptions" listed on the front side.
Bankruptcy Clerk's Office	Any paper that you file in this bankruptcy case should be filed at the bankruptcy clerk's office at the address listed on the front side. You may inspect all papers filed, including the list of the debtor's property and debts and the list of the property claimed as exempt, at the bankruptcy clerk's office.
Creditor with a Foreign Address	Consult a lawyer familiar with United States bankruptcy law if you have any questions regarding your rights in this case.

Refer To Other Side For Important Deadlines and Notices

B9B (Official Form 9B) (Chapter 7 Corporation/Partnership No Asset Case) (12/11)

UNITED STATES BANKRUPTCY COURT_____**District of**_____

Notice of
Chapter 7 Bankruptcy Case, Meeting of Creditors, & Deadlines

[A chapter 7 bankruptcy case concerning the debtor(s) listed below was filed on _____(date).]
or [A bankruptcy case concerning the debtor(s) listed below was originally filed under chapter_____on _____(date) and was converted to a case under chapter 7 on_____(date).]

You may be a creditor of the debtor. **This notice lists important deadlines.** You may want to consult an attorney to protect your rights. All documents filed in the case may be inspected at the bankruptcy clerk's office at the address listed below. NOTE: The staff of the bankruptcy clerk's office cannot give legal advice.

See Reverse Side for Important Explanations

Debtor(s) (name(s) and address):	Case Number:
	Last four digits of Social-Security or Individual Taxpayer-ID (ITIN) No(s)./Complete EIN:
All other names used by the debtor(s) in the last 8 years (include trade names):	Bankruptcy Trustee (name and address):
Attorney for Debtor(s) (name and address): Telephone number:	Telephone number:

Meeting of Creditors

Date: / / Time: ( ) A. M. ( ) P. M. Location:

Creditors May Not Take Certain Actions:

In most instances, the filing of the bankruptcy case automatically stays certain collection and other actions against the debtor and the debtor's property. Under certain circumstances, the stay may be limited to 30 days or not exist at all, although the debtor can request the court to extend or impose a stay. If you attempt to collect a debt or take other action in violation of the Bankruptcy Code, you may be penalized. Consult a lawyer to determine your rights in this case.

Please Do Not File a Proof of Claim Unless You Receive a Notice To Do So.

Creditor with a Foreign Address:

A creditor to whom this notice is sent at a foreign address should read the information under "Do Not File a Proof of Claim at This Time" on the reverse side.

Address of the Bankruptcy Clerk's Office: Telephone number:	**For the Court:** Clerk of the Bankruptcy Court:
Hours Open:	Date:

Filing of Chapter 7 Bankruptcy Case	A bankruptcy case under Chapter 7 of the Bankruptcy Code (title 11, United States Code) has been filed in this court by or against the debtor(s) listed on the front side, and an order for relief has been entered.
Legal Advice	The staff of the bankruptcy clerk's office cannot give legal advice. Consult a lawyer to determine your rights in this case.
Creditors Generally May Not Take Certain Actions	Prohibited collection actions are listed in Bankruptcy Code § 362. Common examples of prohibited actions include contacting the debtor by telephone, mail, or otherwise to demand repayment; taking actions to collect money or obtain property from the debtor; repossessing the debtor's property; and starting or continuing lawsuits or foreclosures. Under certain circumstances, the stay may be limited to 30 days or not exist at all, although the debtor can request the court to extend or impose a stay.
Meeting of Creditors	A meeting of creditors is scheduled for the date, time, and location listed on the front side. *The debtor's representative must be present at the meeting to be questioned under oath by the trustee and by creditors.* Creditors are welcome to attend, but are not required to do so. The meeting may be continued and concluded at a later date specified in a notice filed with the court.
Do Not File a Proof of Claim at This Time	There does not appear to be any property available to the trustee to pay creditors. *You therefore should not file a proof of claim at this time.* If it later appears that assets are available to pay creditors, you will be sent another notice telling you that you may file a proof of claim, and telling you the deadline for filing your proof of claim. If this notice is mailed to a creditor at a foreign address, the creditor may file a motion requesting the court to extend the deadline.
Bankruptcy Clerk's Office	Any paper that you file in this bankruptcy case should be filed at the bankruptcy clerk's office at the address listed on the front side. You may inspect all papers filed, including the list of the debtor's property and debts and the list of the property claimed as exempt, at the bankruptcy clerk's office.
Creditor with a Foreign Address	Consult a lawyer familiar with United States bankruptcy law if you have any questions regarding your rights in this case.

Refer To Other Side For Important Deadlines and Notices

B9C (Official Form 9C) (Chapter 7 Individual or Joint Debtor Asset Case) (12/11)

UNITED STATES BANKRUPTCY COURT_____**District of**_____

Notice of
Chapter 7 Bankruptcy Case, Meeting of Creditors, & Deadlines

[A chapter 7 bankruptcy case concerning the debtor(s) listed below was filed on _____(date).]
or [A bankruptcy case concerning the debtor(s) listed below was originally filed under chapter_____on _____(date) and was converted to a case under chapter 7 on_____(date).]

You may be a creditor of the debtor. **This notice lists important deadlines.** You may want to consult an attorney to protect your rights. All documents filed in the case may be inspected at the bankruptcy clerk's office at the address listed below. NOTE: The staff of the bankruptcy clerk's office cannot give legal advice.

See Reverse Side for Important Explanations

Debtor(s) (name(s) and address):	Case Number: Last four digits of Social-Security or Individual Taxpayer-ID (ITIN) No(s)./Complete EIN:
All other names used by the Debtor(s) in the last 8 years (include married, maiden, and trade names): Attorney for Debtor(s) (name and address): Telephone number:	Bankruptcy Trustee (name and address): Telephone number:

Meeting of Creditors

Date: / / Time: ( ) A. M. ( ) P. M. Location:

Presumption of Abuse under 11 U.S.C. § 707(b)

See "Presumption of Abuse" on the reverse side.

Depending on the documents filed with the petition, one of the following statements will appear.

The presumption of abuse does not arise.

Or

The presumption of abuse arises.

Or

Insufficient information has been filed to date to permit the clerk to make any determination concerning the presumption of abuse. If more complete information, when filed, shows that the presumption has arisen, creditors will be notified.

Deadlines:

Papers must be *received* by the bankruptcy clerk's office by the following deadlines:

Deadline to File a Proof of Claim:

For all creditors (except a governmental unit): For a governmental unit:

Creditor with a Foreign Address:

A creditor to whom this notice is sent at a foreign address should read the information under "Claims" on the reverse side.

Deadline to Object to Debtor's Discharge or to Challenge Dischargeability of Certain Debts:

Deadline to Object to Exemptions:

Thirty (30) days after the *conclusion* of the meeting of creditors.

Creditors May Not Take Certain Actions:

In most instances, the filing of the bankruptcy case automatically stays certain collection and other actions against the debtor and the debtor's property. Under certain circumstances, the stay may be limited to 30 days or not exist at all, although the debtor can request the court to extend or impose a stay. If you attempt to collect a debt or take other action in violation of the Bankruptcy Code, you may be penalized. Consult a lawyer to determine your rights in this case.

Address of the Bankruptcy Clerk's Office:	**For the Court:**
Telephone number:	Clerk of the Bankruptcy Court:
Hours Open:	Date:

EXPLANATIONS **B9C (Official Form 9C) (12/11)**

Filing of Chapter 7 Bankruptcy Case	A bankruptcy case under Chapter 7 of the Bankruptcy Code (title 11, United States Code) has been filed in this court by or against the debtor(s) listed on the front side, and an order for relief has been entered.
Legal Advice	The staff of the bankruptcy clerk's office cannot give legal advice. Consult a lawyer to determine your rights in this case.
Creditors Generally May Not Take Certain Actions	Prohibited collection actions are listed in Bankruptcy Code § 362. Common examples of prohibited actions include contacting the debtor by telephone, mail, or otherwise to demand repayment; taking actions to collect money or obtain property from the debtor; repossessing the debtor's property; starting or continuing lawsuits or foreclosures; and garnishing or deducting from the debtor's wages. Under certain circumstances, the stay may be limited to 30 days or not exist at all, although the debtor can request the court to extend or impose a stay.
Meeting of Creditors	A meeting of creditors is scheduled for the date, time, and location listed on the front side. *The debtor (both spouses in a joint case) must be present at the meeting to be questioned under oath by the trustee and by creditors.* Creditors are welcome to attend, but are not required to do so. The meeting may be continued and concluded at a later date specified in a notice filed with the court.
Claims	A Proof of Claim is a signed statement describing a creditor's claim. If a Proof of Claim form is not included with this notice, you can obtain one at any bankruptcy clerk's office. A secured creditor retains rights in its collateral regardless of whether that creditor files a Proof of Claim. If you do not file a Proof of Claim by the "Deadline to File a Proof of Claim" listed on the front side, you might not be paid any money on your claim from other assets in the bankruptcy case. To be paid, you must file a Proof of Claim even if your claim is listed in the schedules filed by the debtor. Filing a Proof of Claim submits the creditor to the jurisdiction of the bankruptcy court, with consequences a lawyer can explain. For example, a secured creditor who files a Proof of Claim may surrender important nonmonetary rights, including the right to a jury trial. **Filing Deadline for a Creditor with a Foreign Address:** The deadlines for filing claims set forth on the front of this notice apply to all creditors. If this notice has been mailed to a creditor at a foreign address, the creditor may file a motion requesting the court to extend the deadline.
Discharge of Debts	The debtor is seeking a discharge of most debts, which may include your debt. A discharge means that you may never try to collect the debt from the debtor. If you believe that the debtor is not entitled to receive a discharge under Bankruptcy Code § 727(a) *or* that a debt owed to you is not dischargeable under Bankruptcy Code § 523(a)(2), (4), or (6), you must file a complaint -- or a motion if you assert the discharge should be denied under § 727(a)(8) or (a)(9) -- in the bankruptcy clerk's office by the "Deadline to Object to Debtor's Discharge or to Challenge the Dischargeability of Certain Debts" listed on the front of this form. The bankruptcy clerk's office must receive the complaint or motion and any required filing fee by that deadline.
Exempt Property	The debtor is permitted by law to keep certain property as exempt. Exempt property will not be sold and distributed to creditors. The debtor must file a list of all property claimed as exempt. You may inspect that list at the bankruptcy clerk's office. If you believe that an exemption claimed by the debtor is not authorized by law, you may file an objection to that exemption. The bankruptcy clerk's office must receive the objections by the "Deadline to Object to Exemptions" listed on the front side.
Presumption of Abuse	If the presumption of abuse arises, creditors may have the right to file a motion to dismiss the case under § 707(b) of the Bankruptcy Code. The debtor may rebut the presumption by showing special circumstances.
Bankruptcy Clerk's Office	Any paper that you file in this bankruptcy case should be filed at the bankruptcy clerk's office at the address listed on the front side. You may inspect all papers filed, including the list of the debtor's property and debts and the list of the property claimed as exempt, at the bankruptcy clerk's office.
Liquidation of the Debtor's Property and Payment of Creditors' Claims	The bankruptcy trustee listed on the front of this notice will collect and sell the debtor's property that is not exempt. If the trustee can collect enough money, creditors may be paid some or all of the debts owed to them, in the order specified by the Bankruptcy Code. To make sure you receive any share of that money, you must file a Proof of Claim, as described above.
Creditor with a Foreign Address	Consult a lawyer familiar with United States bankruptcy law if you have any questions regarding your rights in this case.

Refer To Other Side For Important Deadlines and Notices

B9D (Official Form 9D) (Chapter 7 Corporation/Partnership Asset Case) (12/11)

UNITED STATES BANKRUPTCY COURT_____**District of**_____

Notice of
Chapter 7 Bankruptcy Case, Meeting of Creditors, & Deadlines

[A chapter 7 bankruptcy case concerning the debtor(s) listed below was filed on _____(date).]
or [A bankruptcy case concerning the debtor(s) listed below was originally filed under chapter_____on _____(date) and was converted to a case under chapter 7 on_____(date).]

You may be a creditor of the debtor. **This notice lists important deadlines.** You may want to consult an attorney to protect your rights. All documents filed in the case may be inspected at the bankruptcy clerk's office at the address listed below. NOTE: The staff of the bankruptcy clerk's office cannot give legal advice.

See Reverse Side for Important Explanations

Debtor(s) (name(s) and address):	Case Number: Last four digits of Social-Security or Individual Taxpayer-ID (ITIN) No(s)./Complete EIN:
All other names used by the Debtor(s) in the last 8 years (include trade names):	Bankruptcy Trustee (name and address):
Attorney for Debtor(s) (name and address): Telephone number:	Telephone number:

Meeting of Creditors

Date: / / Time: ( ) A. M. ( ) P. M. Location:

Deadline to File a Proof of Claim

Papers must be *received* by the bankruptcy clerk's office by the following deadlines:

For all creditors (except a governmental unit): For a governmental unit:

Creditor with a Foreign Address:
A creditor to whom this notice is sent at a foreign address should read the information under "Claims" on the reverse side.

Creditors May Not Take Certain Actions:

In most instances, the filing of the bankruptcy case automatically stays certain collection and other actions against the debtor and the debtor's property. Under certain circumstances, the stay may be limited to 30 days or not exist at all, although the debtor can request the court to extend or impose a stay. If you attempt to collect a debt or take other action in violation of the Bankruptcy Code, you may be penalized. Consult a lawyer to determine your rights in this case.

Address of the Bankruptcy Clerk's Office: Telephone number:	**For the Court:** Clerk of the Bankruptcy Court:
Hours Open:	Date:

Filing of Chapter 7 Bankruptcy Case	A bankruptcy case under Chapter 7 of the Bankruptcy Code (title 11, United States Code) has been filed in this court by or against the debtor(s) listed on the front side, and an order for relief has been entered.
Legal Advice	The staff of the bankruptcy clerk's office cannot give legal advice. Consult a lawyer to determine your rights in this case.
Creditors Generally May Not Take Certain Actions	Prohibited collection actions are listed in Bankruptcy Code § 362. Common examples of prohibited actions include contacting the debtor by telephone, mail, or otherwise to demand repayment; taking actions to collect money or obtain property from the debtor; repossessing the debtor's property; and starting or continuing lawsuits or foreclosures. Under certain circumstances, the stay may be limited to 30 days or not exist at all, although the debtor can request the court to extend or impose a stay.
Meeting of Creditors	A meeting of creditors is scheduled for the date, time, and location listed on the front side. *The debtor's representative must be present at the meeting to be questioned under oath by the trustee and by creditors.* Creditors are welcome to attend, but are not required to do so. The meeting may be continued and concluded at a later date specified in a notice filed with the court.
Claims	A Proof of Claim is a signed statement describing a creditor's claim. If a Proof of Claim form is not included with this notice, you can obtain one at any bankruptcy clerk's office. A secured creditor retains rights in its collateral regardless of whether that creditor files a Proof of Claim. If you do not file a Proof of Claim by the "Deadline to File a Proof of Claim" listed on the front side, you might not be paid any money on your claim from other assets in the bankruptcy case. To be paid, you must file a Proof of Claim even if your claim is listed in the schedules filed by the debtor. Filing a Proof of Claim submits the creditor to the jurisdiction of the bankruptcy court, with consequences a lawyer can explain. For example, a secured creditor who files a Proof of Claim may surrender important nonmonetary rights, including the right to a jury trial. **Filing Deadline for a Creditor with a Foreign Address:** The deadlines for filing claims set forth on the front of this notice apply to all creditors. If this notice has been mailed to a creditor at a foreign address, the creditor may file a motion requesting the court to extend the deadline.
Liquidation of the Debtor's Property and Payment of Creditors' Claims	The bankruptcy trustee listed on the front of this notice will collect and sell the debtor's property that is not exempt. If the trustee can collect enough money, creditors may be paid some or all of the debts owed to them, in the order specified by the Bankruptcy Code. To make sure you receive any share of that money, you must file a Proof of Claim, as described above.
Bankruptcy Clerk's Office	Any paper that you file in this bankruptcy case should be filed at the bankruptcy clerk's office at the address listed on the front side. You may inspect all papers filed, including the list of the debtor's property and debts and the list of the property claimed as exempt, at the bankruptcy clerk's office.
Creditor with a Foreign Address	Consult a lawyer familiar with United States bankruptcy law if you have any questions regarding your rights in this case.

Refer To Other Side For Important Deadlines and Notices

B9E (Official Form 9E) (Chapter 11 Individual or Joint Debtor Case) (12/11)

UNITED STATES BANKRUPTCY COURT_____**District of**_____

Notice of
Chapter 11 Bankruptcy Case, Meeting of Creditors, & Deadlines

[A chapter 11 bankruptcy case concerning the debtor(s) listed below was filed on _____ (date).]
or [A bankruptcy case concerning the debtor(s) listed below was originally filed under chapter_____on _____ (date) and was converted to a case under chapter 11 on_____(date).]

You may be a creditor of the debtor. **This notice lists important deadlines.** You may want to consult an attorney to protect your rights. All documents filed in the case may be inspected at the bankruptcy clerk's office at the address listed below.
NOTE: The staff of the bankruptcy clerk's office cannot give legal advice.

See Reverse Side for Important Explanations

Debtor(s) (name(s) and address):	Case Number: Last four digits of Social-Security or Individual Taxpayer-ID (ITIN) No(s)./Complete EIN:
All other names used by the Debtor(s) in the last 8 years (include married, maiden, and trade names):	Attorney for Debtor(s) (name and address): Telephone number:

Meeting of Creditors

Date: / / Time: ( ) A. M. ( ) P. M. Location:

Deadlines:

Papers must be *received* by the bankruptcy clerk's office by the following deadlines:

Deadline to File a Proof of Claim:
Notice of deadline will be sent at a later time.

Creditor with a Foreign Address:
A creditor to whom this notice is sent at a foreign address should read the information under "Claims" on the reverse side.

Deadline to File a Complaint to Determine Dischargeability of Certain Debts:

Deadline to File a Complaint Objecting to Discharge of the Debtor:

First date set for hearing on confirmation of plan
Notice of that date will be sent at a later time.

Deadline to Object to Exemptions:

Thirty (30) days after the *conclusion* of the meeting of creditors.

Creditors May Not Take Certain Actions:

In most instances, the filing of the bankruptcy case automatically stays certain collection and other actions against the debtor and the debtor's property. Under certain circumstances, the stay may be limited to 30 days or not exist at all, although the debtor can request the court to extend or impose a stay. If you attempt to collect a debt or take other action in violation of the Bankruptcy Code, you may be penalized. Consult a lawyer to determine your rights in this case.

Address of the Bankruptcy Clerk's Office: **Telephone number:**	**For the Court:** Clerk of the Bankruptcy Court:
Hours Open:	Date:

EXPLANATIONS **B9E (Official Form 9E) (12/11)**

Filing of Chapter 11 Bankruptcy Case	A bankruptcy case under Chapter 11 of the Bankruptcy Code (title 11, United States Code) has been filed in this court by or against the debtor(s) listed on the front side, and an order for relief has been entered. Chapter 11 allows a debtor to reorganize or liquidate pursuant to a plan. A plan is not effective unless confirmed by the court. You may be sent a copy of the plan and a disclosure statement telling you about the plan, and you might have the opportunity to vote on the plan. You will be sent notice of the date of the confirmation hearing, and you may object to confirmation of the plan and attend the confirmation hearing. Unless a trustee is serving, the debtor will remain in possession of the debtor's property and may continue to operate any business.
Legal Advice	The staff of the bankruptcy clerk's office cannot give legal advice. Consult a lawyer to determine your rights in this case.
Creditors Generally May Not Take Certain Actions	Prohibited collection actions are listed in Bankruptcy Code § 362. Common examples of prohibited actions include contacting the debtor by telephone, mail, or otherwise to demand repayment; taking actions to collect money or obtain property from the debtor; repossessing the debtor's property; starting or continuing lawsuits or foreclosures; and garnishing or deducting from the debtor's wages. Under certain circumstances, the stay may be limited to 30 days or not exist at all, although the debtor can request the court to extend or impose a stay.
Meeting of Creditors	A meeting of creditors is scheduled for the date, time, and location listed on the front side. *The debtor (both spouses in a joint case) must be present at the meeting to be questioned under oath by the trustee and by creditors.* Creditors are welcome to attend, but are not required to do so. The meeting may be continued and concluded at a later date specified in a notice filed with the court. The court, after notice and a hearing, may order that the United States trustee not convene the meeting if the debtor has filed a plan for which the debtor solicited acceptances before filing the case.
Claims	A Proof of Claim is a signed statement describing a creditor's claim. If a Proof of Claim form is not included with this notice, you can obtain one at any bankruptcy clerk's office. You may look at the schedules that have been or will be filed at the bankruptcy clerk's office. If your claim is scheduled and is *not* listed as disputed, contingent, or unliquidated, it will be allowed in the amount scheduled unless you filed a Proof of Claim or you are sent further notice about the claim. Whether or not your claim is scheduled, you are permitted to file a Proof of Claim. If your claim is not listed at all *or* if your claim is listed as disputed, contingent, or unliquidated, then you must file a Proof of Claim or you might not be paid any money on your claim and may be unable to vote on a plan. The court has not yet set a deadline to file a Proof of Claim. If a deadline is set, you will be sent another notice. A secured creditor retains rights in its collateral regardless of whether that creditor files a Proof of Claim. Filing a Proof of Claim submits the creditor to the jurisdiction of the bankruptcy court, with consequences a lawyer can explain. For example, a secured creditor who files a Proof of Claim may surrender important nonmonetary rights, including the right to a jury trial. **Filing Deadline for a Creditor with a Foreign Address:** The deadline for filing claims will be set in a later court order and will apply to all creditors unless the order provides otherwise. If notice of the order setting the deadline is sent to a creditor at a foreign address, the creditor may file a motion requesting the court to extend the deadline.
Discharge of Debts	Confirmation of a chapter 11 plan may result in a discharge of debts, which may include all or part of your debt. *See* Bankruptcy Code § 1141 (d). Unless the court orders otherwise, however, the discharge will not be effective until completion of all payments under the plan. A discharge means that you may never try to collect the debt from the debtor except as provided in the plan. If you believe that a debt owed to you is not dischargeable under Bankruptcy Code § 523 (a) (2), (4), or (6), you must start a lawsuit by filing a complaint in the bankruptcy clerk's office by the "Deadline to File a Complaint to Determine Dischargeability of Certain Debts" listed on the front side. The bankruptcy clerk's office must receive the complaint and any required filing fee by that Deadline. If you believe that the debtor is not entitled to receive a discharge under Bankruptcy Code § 1141 (d) (3), you must file a complaint with the required filing fee in the bankruptcy clerk's office not later than the first date set for the hearing on confirmation of the plan. You will be sent another notice informing you of that date.
Exempt Property	The debtor is permitted by law to keep certain property as exempt. Exempt property will not be sold and distributed to creditors, even if the debtor's case is converted to chapter 7. The debtor must file a list of property claimed as exempt. You may inspect that list at the bankruptcy clerk's office. If you believe that an exemption claimed by the debtor is not authorized by law, you may file an objection to that exemption. The bankruptcy clerk's office must receive the objection by the "Deadline to Object to Exemptions" listed on the front side.
Bankruptcy Clerk's Office	Any paper that you file in this bankruptcy case should be filed at the bankruptcy clerk's office at the address listed on the front side. You may inspect all papers filed, including the list of the debtor's property and debts and the list of the property claimed as exempt, at the bankruptcy clerk's office.
Creditor with a Foreign Address	Consult a lawyer familiar with United States bankruptcy law if you have any questions regarding your rights in this case.

Refer To Other Side For Important Deadlines and Notices

B9E ALT (Official Form 9E ALT) (Chapter 11 Individual or Joint Debtor Case) (12/11)

UNITED STATES BANKRUPTCY COURT_____**District of**_____

Notice of
Chapter 11 Bankruptcy Case, Meeting of Creditors, & Deadlines

[A chapter 11 bankruptcy case concerning the debtor(s) listed below was filed on _____(date).]
or [A bankruptcy case concerning the debtor(s) listed below was originally filed under chapter_____on _____(date) and was converted to a case under chapter 11 on_____(date).]

You may be a creditor of the debtor. **This notice lists important deadlines.** You may want to consult an attorney to protect your rights. All documents filed in the case may be inspected at the bankruptcy clerk's office at the address listed below. NOTE: The staff of the bankruptcy clerk's office cannot give legal advice.

See Reverse Side for Important Explanations

Debtor(s) (name(s) and address):	Case Number:
	Last four digits of Social-Security or Individual Taxpayer-ID (ITIN) No(s)./Complete EIN:
All other names used by the Debtor(s) in the last 8 years (include married, maiden, and trade names):	Attorney for Debtor(s) (name and address): Telephone number:

Meeting of Creditors

Date: / / Time: ( ) A. M. ( ) P. M. Location:

Deadlines:

Papers must be *received* by the bankruptcy clerk's office by the following deadlines:

Deadline to File a Proof of Claim:

For all creditors (except a governmental unit): For a governmental unit:

Creditor with a Foreign Address:
A creditor to whom this notice is sent at a foreign address should read the information under "Claims" on the reverse side.

Deadline to File a Complaint to Determine Dischargeability of Certain Debts:

Deadline to File a Complaint Objecting to Discharge of the Debtor:

First date set for hearing on confirmation of plan
Notice of that date will be sent at a later time.

Deadline to Object to Exemptions:

Thirty (30) days after the *conclusion* of the meeting of creditors.

Creditors May Not Take Certain Actions:

In most instances, the filing of the bankruptcy case automatically stays certain collection and other actions against the debtor and the debtor's property. Under certain circumstances, the stay may be limited to 30 days or not exist at all, although the debtor can request the court to extend or impose a stay. If you attempt to collect a debt or take other action in violation of the Bankruptcy Code, you may be penalized. Consult a lawyer to determine your rights in this case.

Address of the Bankruptcy Clerk's Office: **Telephone number:**	**For the Court:** Clerk of the Bankruptcy Court:
Hours Open:	Date:

EXPLANATIONS **B9E ALT (Official Form 9E ALT) (12/11)**

Filing of Chapter 11 Bankruptcy Case	A bankruptcy case under Chapter 11 of the Bankruptcy Code (title 11, United States Code) has been filed in this court by or against the debtor(s) listed on the front side, and an order for relief has been entered. Chapter 11 allows a debtor to reorganize or liquidate pursuant to a plan. A plan is not effective unless confirmed by the court. You may be sent a copy of the plan and a disclosure statement telling you about the plan, and you might have the opportunity to vote on the plan. You will be sent notice of the date of the confirmation hearing, and you may object to confirmation of the plan and attend the confirmation hearing. Unless a trustee is serving, the debtor will remain in possession of the debtor's property and may continue to operate any business.
Legal Advice	The staff of the bankruptcy clerk's office cannot give legal advice. Consult a lawyer to determine your rights in this case.
Creditors Generally May Not Take Certain Actions	Prohibited collection actions are listed in Bankruptcy Code § 362. Common examples of prohibited actions include contacting the debtor by telephone, mail, or otherwise to demand repayment; taking actions to collect money or obtain property from the debtor; repossessing the debtor's property; starting or continuing lawsuits or foreclosures; and garnishing or deducting from the debtor's wages. Under certain circumstances, the stay may be limited to 30 days or not exist at all, although the debtor can request the court to extend or impose a stay.
Meeting of Creditors	A meeting of creditors is scheduled for the date, time, and location listed on the front side. *The debtor (both spouses in a joint case) must be present at the meeting to be questioned under oath by the trustee and by creditors.* Creditors are welcome to attend, but are not required to do so. The meeting may be continued and concluded at a later date specified in a notice filed with the court. The court, after notice and a hearing, may order that the United States trustee not convene the meeting if the debtor has filed a plan for which the debtor solicited acceptances before filing the case.
Claims	A Proof of Claim is a signed statement describing a creditor's claim. If a Proof of Claim form is not included with this notice, you can obtain one at any bankruptcy clerk's office. You may look at the schedules that have been or will be filed at the bankruptcy clerk's office. If your claim is scheduled and is *not* listed as disputed, contingent, or unliquidated, it will be allowed in the amount scheduled unless you filed a Proof of Claim or you are sent further notice about the claim. Whether or not your claim is scheduled, you are permitted to file a Proof of Claim. If your claim is not listed at all *or* if your claim is listed as disputed, contingent, or unliquidated, then you must file a Proof of Claim by the "Deadline to File a Proof of Claim" listed on the front side or you might not be paid any money on your claim and may be unable to vote on a plan. A secured creditor retains rights in its collateral regardless of whether that creditor files a Proof of Claim. Filing a Proof of Claim submits the creditor to the jurisdiction of the bankruptcy court, with consequences a lawyer can explain. For example, a secured creditor who files a Proof of Claim may surrender important nonmonetary rights, including the right to a jury trial. **Filing Deadline for a Creditor with a Foreign Address:** The deadlines for filing claims set forth on the front of this notice apply to all creditors. If this notice has been mailed to a creditor at a foreign address, the creditor may file a motion requesting the court to extend the deadline.
Discharge of Debts	Confirmation of a chapter 11 plan may result in a discharge of debts, which may include all or part of your debt. *See* Bankruptcy Code § 1141 (d). Unless the court orders otherwise, however, the discharge will not be effective until completion of all payments under the plan. A discharge means that you may never try to collect the debt from the debtor except as provided in the plan. If you believe that a debt owed to you is not dischargeable under Bankruptcy Code § 523 (a) (2), (4), or (6), you must start a lawsuit by filing a complaint in the bankruptcy clerk's office by the "Deadline to File a Complaint to Determine Dischargeability of Certain Debts" listed on the front side. The bankruptcy clerk's office must receive the complaint and any required filing fee by that Deadline. If you believe that the debtor is not entitled to receive a discharge under Bankruptcy Code § 1141 (d) (3), you must file a complaint with the required filing fee in the bankruptcy clerk's office not later than the first date set for the hearing on confirmation of the plan. You will be sent another notice informing you of that date.
Exempt Property	The debtor is permitted by law to keep certain property as exempt. Exempt property will not be sold and distributed to creditors, even if the debtor's case is converted to chapter 7. The debtor must file a list of property claimed as exempt. You may inspect that list at the bankruptcy clerk's office. If you believe that an exemption claimed by the debtor is not authorized by law, you may file an objection to that exemption. The bankruptcy clerk's office must receive the objection by the "Deadline to Object to Exemptions" listed on the front side.
Bankruptcy Clerk's Office	Any paper that you file in this bankruptcy case should be filed at the bankruptcy clerk's office at the address listed on the front side. You may inspect all papers filed, including the list of the debtor's property and debts and the list of the property claimed as exempt, at the bankruptcy clerk's office.
Creditor with a Foreign Address	Consult a lawyer familiar with United States bankruptcy law if you have any questions regarding your rights in this case.

Refer To Other Side For Important Deadlines and Notices

B9F (Official Form 9F) (Chapter 11 Corporation/Partnership Case) (12/11)

UNITED STATES BANKRUPTCY COURT_____**District of**_____

Notice of
Chapter 11 Bankruptcy Case, Meeting of Creditors, & Deadlines

[A chapter 11 bankruptcy case concerning the debtor(s) listed below was filed on _____(date).]
or [A bankruptcy case concerning the debtor(s) listed below was originally filed under chapter_____on _____(date) and was converted to a case under chapter 11 on_____(date).]

You may be a creditor of the debtor. **This notice lists important deadlines.** You may want to consult an attorney to protect your rights. All documents filed in the case may be inspected at the bankruptcy clerk's office at the address listed below.
NOTE: The staff of the bankruptcy clerk's office cannot give legal advice.

See Reverse Side for Important Explanations

Debtor(s) (name(s) and address):	Case Number: Last four digits of Social-Security or Individual Taxpayer-ID (ITIN) No(s)./Complete EIN:
All other names used by the Debtor(s) in the last 8 years (include trade names):	Attorney for Debtor(s) (name and address): Telephone number:

Meeting of Creditors

Date: / / Time: ( ) A. M. ( ) P. M. Location:

Deadline to File a Proof of Claim

Proof of Claim must be *received* by the bankruptcy clerk's office by the following deadline:

Notice of deadline will be sent at a later time.

Creditor with a Foreign Address:
A creditor to whom this notice is sent at a foreign address should read the information under "Claims" on the reverse side.

Deadline to File a Complaint to Determine Dischargeability of Certain Debts:

Creditors May Not Take Certain Actions:
In most instances, the filing of the bankruptcy case automatically stays certain collection and other actions against the debtor and the debtor's property. Under certain circumstances, the stay may be limited to 30 days or not exist at all, although the debtor can request the court to extend or impose a stay. If you attempt to collect a debt or take other action in violation of the Bankruptcy Code, you may be penalized. Consult a lawyer to determine your rights in this case.

Address of the Bankruptcy Clerk's Office: **Telephone number:**	**For the Court:** Clerk of the Bankruptcy Court:
Hours Open:	Date:

EXPLANATIONS **B9F (Official Form 9F) (12/11)**

Filing of Chapter 11 Bankruptcy Case	A bankruptcy case under Chapter 11 of the Bankruptcy Code (title 11, United States Code) has been filed in this court by or against the debtor(s) listed on the front side, and an order for relief has been entered. Chapter 11 allows a debtor to reorganize or liquidate pursuant to a plan. A plan is not effective unless confirmed by the court. You may be sent a copy of the plan and a disclosure statement telling you about the plan, and you might have the opportunity to vote on the plan. You will be sent notice of the date of the confirmation hearing, and you may object to confirmation of the plan and attend the confirmation hearing. Unless a trustee is serving, the debtor will remain in possession of the debtor's property and may continue to operate any business.
Legal Advice	The staff of the bankruptcy clerk's office cannot give legal advice. Consult a lawyer to determine your rights in this case.
Creditors Generally May Not Take Certain Actions	Prohibited collection actions are listed in Bankruptcy Code § 362. Common examples of prohibited actions include contacting the debtor by telephone, mail, or otherwise to demand repayment; taking actions to collect money or obtain property from the debtor; repossessing the debtor's property; and starting or continuing lawsuits or foreclosures. Under certain circumstances, the stay may be limited to 30 days or not exist at all, although the debtor can request the court to extend or impose a stay.
Meeting of Creditors	A meeting of creditors is scheduled for the date, time, and location listed on the front side. *The debtor's representative must be present at the meeting to be questioned under oath by the trustee and by creditors.* Creditors are welcome to attend, but are not required to do so. The meeting may be continued and concluded at a later date specified in a notice filed with the court. The court, after notice and a hearing, may order that the United States trustee not convene the meeting if the debtor has filed a plan for which the debtor solicited acceptances before filing the case.
Claims	A Proof of Claim is a signed statement describing a creditor's claim. If a Proof of Claim form is not included with this notice, you can obtain one at any bankruptcy clerk's office. You may look at the schedules that have been or will be filed at the bankruptcy clerk's office. If your claim is scheduled and is *not* listed as disputed, contingent, or unliquidated, it will be allowed in the amount scheduled unless you filed a Proof of Claim or you are sent further notice about the claim. Whether or not your claim is scheduled, you are permitted to file a Proof of Claim. If your claim is not listed at all *or* if your claim is listed as disputed, contingent, or unliquidated, then you must file a Proof of Claim or you might not be paid any money on your claim and may be unable to vote on a plan. The court has not yet set a deadline to file a Proof of Claim. If a deadline is set, you will be sent another notice. A secured creditor retains rights in its collateral regardless of whether that creditor files a Proof of Claim. Filing a Proof of Claim submits the creditor to the jurisdiction of the bankruptcy court, with consequences a lawyer can explain. For example, a secured creditor who files a Proof of Claim may surrender important nonmonetary rights, including the right to a jury trial. **Filing Deadline for a Creditor with a Foreign Address:** The deadline for filing claims will be set in a later court order and will apply to all creditors unless the order provides otherwise. If notice of the order setting the deadline is sent to a creditor at a foreign address, the creditor may file a motion requesting the court to extend the deadline.
Discharge of Debts	Confirmation of a chapter 11 plan may result in a discharge of debts, which may include all or part of your debt. *See* Bankruptcy Code § 1141 (d). A discharge means that you may never try to collect the debt from the debtor, except as provided in the plan. If you believe that a debt owed to you is not dischargeable under Bankruptcy Code § 1141 (d) (6) (A), you must start a lawsuit by filing a complaint in the bankruptcy clerk's office by the "Deadline to File a Complaint to Determine Dischargeability of Certain Debts" listed on the front side. The bankruptcy clerk's office must receive the complaint and any required filing fee by that deadline.
Bankruptcy Clerk's Office	Any paper that you file in this bankruptcy case should be filed at the bankruptcy clerk's office at the address listed on the front side. You may inspect all papers filed, including the list of the debtor's property and debts and the list of the property claimed as exempt, at the bankruptcy clerk's office.
Creditor with a Foreign Address	Consult a lawyer familiar with United States bankruptcy law if you have any questions regarding your rights in this case.

Refer To Other Side For Important Deadlines and Notices

B9F ALT (Official Form 9F ALT) (Chapter 11 Corporation/Partnership Case) (12/11)

UNITED STATES BANKRUPTCY COURT_____**District of**_____

Notice of
Chapter 11 Bankruptcy Case, Meeting of Creditors, & Deadlines

[A chapter 11 bankruptcy case concerning the debtor(s) listed below was filed on _____(date).]
or [A bankruptcy case concerning the debtor(s) listed below was originally filed under chapter_____on _____(date) and was converted to a case under chapter 11 on_____(date).]

You may be a creditor of the debtor. **This notice lists important deadlines.** You may want to consult an attorney to protect your rights. All documents filed in the case may be inspected at the bankruptcy clerk's office at the address listed below.
NOTE: The staff of the bankruptcy clerk's office cannot give legal advice.

See Reverse Side for Important Explanations

Debtor(s) (name(s) and address):	Case Number: Last four digits of Social-Security or Individual Taxpayer-ID (ITIN) No(s)./Complete EIN:
All other names used by the Debtor(s) in the last 8 years (include trade names):	Attorney for Debtor(s) (name and address): Telephone number:

Meeting of Creditors

Date: / / Time: ( ) A. M. ( ) P. M. Location:

Deadline to File a Proof of Claim

Proof of Claim must be *received* by the bankruptcy clerk's office by the following deadline:

For all creditors (except a governmental unit): For a governmental unit:

Creditor with a Foreign Address:
A creditor to whom this notice is sent at a foreign address should read the information under "Claims" on the reverse side.

Deadline to File a Complaint to Determine Dischargeability of Certain Debts:

Creditors May Not Take Certain Actions:
In most instances, the filing of the bankruptcy case automatically stays certain collection and other actions against the debtor and the debtor's property. Under certain circumstances, the stay may be limited to 30 days or not exist at all, although the debtor can request the court to extend or impose a stay. If you attempt to collect a debt or take other action in violation of the Bankruptcy Code, you may be penalized. Consult a lawyer to determine your rights in this case.

Address of the Bankruptcy Clerk's Office: **Telephone number:**	**For the Court:** Clerk of the Bankruptcy Court:
Hours Open:	Date:

EXPLANATIONS **B9F ALT (Official Form 9F ALT) (12/11)**

Filing of Chapter 11 Bankruptcy Case	A bankruptcy case under Chapter 11 of the Bankruptcy Code (title 11, United States Code) has been filed in this court by or against the debtor(s) listed on the front side, and an order for relief has been entered. Chapter 11 allows a debtor to reorganize or liquidate pursuant to a plan. A plan is not effective unless confirmed by the court. You may be sent a copy of the plan and a disclosure statement telling you about the plan, and you might have the opportunity to vote on the plan. You will be sent notice of the date of the confirmation hearing, and you may object to confirmation of the plan and attend the confirmation hearing. Unless a trustee is serving, the debtor will remain in possession of the debtor's property and may continue to operate any business.
Legal Advice	The staff of the bankruptcy clerk's office cannot give legal advice. Consult a lawyer to determine your rights in this case.
Creditors Generally May Not Take Certain Actions	Prohibited collection actions are listed in Bankruptcy Code § 362. Common examples of prohibited actions include contacting the debtor by telephone, mail, or otherwise to demand repayment; taking actions to collect money or obtain property from the debtor; repossessing the debtor's property; and starting or continuing lawsuits or foreclosures. Under certain circumstances, the stay may be limited to 30 days or not exist at all, although the debtor can request the court to extend or impose a stay.
Meeting of Creditors	A meeting of creditors is scheduled for the date, time, and location listed on the front side. *The debtor's representative must be present at the meeting to be questioned under oath by the trustee and by creditors.* Creditors are welcome to attend, but are not required to do so. The meeting may be continued and concluded at a later date specified in a notice filed with the court. The court, after notice and a hearing, may order that the United States trustee not convene the meeting if the debtor has filed a plan for which the debtor solicited acceptances before filing the case.
Claims	A Proof of Claim is a signed statement describing a creditor's claim. If a Proof of Claim form is not included with this notice, you can obtain one at any bankruptcy clerk's office. You may look at the schedules that have been or will be filed at the bankruptcy clerk's office. If your claim is scheduled and is *not* listed as disputed, contingent, or unliquidated, it will be allowed in the amount scheduled unless you filed a Proof of Claim or you are sent further notice about the claim. Whether or not your claim is scheduled, you are permitted to file a Proof of Claim. If your claim is not listed at all *or* if your claim is listed as disputed, contingent, or unliquidated, then you must file a Proof of Claim by the "Deadline to File Proof of Claim" listed on the front side, or you might not be paid any money on your claim and may be unable to vote on a plan. A secured creditor retains rights in its collateral regardless of whether that creditor files a Proof of Claim. Filing a Proof of Claim submits the creditor to the jurisdiction of the bankruptcy court, with consequences a lawyer can explain. For example, a secured creditor who files a Proof of Claim may surrender important nonmonetary rights, including the right to a jury trial. **Filing Deadline for a Creditor with a Foreign Address:** The deadlines for filing claims set forth on the front of this notice apply to all creditors. If this notice has been mailed to a creditor at a foreign address, the creditor may file a motion requesting the court to extend the deadline.
Discharge of Debts	Confirmation of a chapter 11 plan may result in a discharge of debts, which may include all or part of your debt. *See* Bankruptcy Code § 1141 (d). A discharge means that you may never try to collect the debt from the debtor, except as provided in the plan. If you believe that a debt owed to you is not dischargeable under Bankruptcy Code § 1141 (d) (6) (A), you must start a lawsuit by filing a complaint in the bankruptcy clerk's office by the "Deadline to File a Complaint to Determine Dischargeability of Certain Debts" listed on the front side. The bankruptcy clerk's office must receive the complaint and any required filing fee by that deadline.
Bankruptcy Clerk's Office	Any paper that you file in this bankruptcy case should be filed at the bankruptcy clerk's office at the address listed on the front side. You may inspect all papers filed, including the list of the debtor's property and debts and the list of the property claimed as exempt, at the bankruptcy clerk's office.
Creditor with a Foreign Address	Consult a lawyer familiar with United States bankruptcy law if you have any questions regarding your rights in this case.

Refer To Other Side For Important Deadlines and Notices

B9G (Official Form 9G) (Chapter 12 Individual or Joint Debtor Family Farmer or Family Fisherman) (12/11)

UNITED STATES BANKRUPTCY COURT_____**District of**_____

Notice of
Chapter 12 Bankruptcy Case, Meeting of Creditors, & Deadlines

[The debtor(s) listed below filed a chapter 12 bankruptcy case on _____(date).]
or [A bankruptcy case concerning the debtor(s) listed below was originally filed under chapter_____on _____ (date) and was converted to a case under chapter 12 on_____(date).]

You may be a creditor of the debtor. **This notice lists important deadlines.** You may want to consult an attorney to protect your rights. All documents filed in the case may be inspected at the bankruptcy clerk's office at the address listed below.
NOTE: The staff of the bankruptcy clerk's office cannot give legal advice.

See Reverse Side for Important Explanations

Debtor(s) (name(s) and address):	Case Number: Last four digits of Social-Security or Individual Taxpayer-ID (ITIN) No(s)./Complete EIN:
All other names used by the Debtor(s) in the last 8 years (include married, maiden, and trade names): Attorney for Debtor(s) (name and address): Telephone number:	Bankruptcy Trustee (name and address): Telephone number:

Meeting of Creditors

Date: / / Time: ( ) A. M. ( ) P. M. Location:

Deadlines:

Papers must be *received* by the bankruptcy clerk's office by the following deadlines:

Deadline to File a Proof of Claim:

For all creditors(except a governmental unit): For a governmental unit:

Creditor with a Foreign Address:

A creditor to whom this notice is sent at a foreign address should read the information under "Claims" on the reverse side.

Deadline to File a Complaint to Determine Dischargeability of Certain Debts:

Deadline to Object to Exemptions:

Thirty (30) days after the *conclusion* of the meeting of creditors.

Filing of Plan, Hearing on Confirmation of Plan

[The debtor has filed a plan. The plan or a summary of the plan is enclosed. The hearing on confirmation will be held:
Date:_____Time:_____Location:_____]
or [The debtor has filed a plan. The plan or a summary of the plan and notice of confirmation hearing will be sent separately.]
or [The debtor has not filed a plan as of this date. You will be sent separate notice of the hearing on confirmation of the plan.]

Creditors May Not Take Certain Actions:

In most instances, the filing of the bankruptcy case automatically stays certain collection and other actions against the debtor, the debtor's property, and certain codebtors. Under certain circumstances, the stay may be limited to 30 days or not exist at all, although the debtor can request the court to extend or impose a stay. If you attempt to collect a debt or take other action in violation of the Bankruptcy Code, you may be penalized. Consult a lawyer to determine your rights in this case.

Address of the Bankruptcy Clerk's Office: **Telephone number:**	**For the Court:** Clerk of the Bankruptcy Court:
Hours Open:	Date:

EXPLANATIONS **B9G (Official Form 9G) (12/11)**

Filing of Chapter 12 Bankruptcy Case	A bankruptcy case under Chapter 12 of the Bankruptcy Code (title 11, United States Code) has been filed in this court by the debtor(s) listed on the front side, and an order for relief has been entered. Chapter 12 allows family farmers and family fishermen to adjust their debts pursuant to a plan. A plan is not effective unless confirmed by the court. You may object to confirmation of the plan and appear at the confirmation hearing. A copy or summary of the plan [is included with this notice] *or* [will be sent to you later], and [the confirmation hearing will be held on the date indicated on the front of this notice] *or* [you will be sent notice of the confirmation hearing]. The debtor will remain in possession of the debtor's property and may continue to operate the debtor's business unless the court orders otherwise.
Legal Advice	The staff of the bankruptcy clerk's office cannot give legal advice. Consult a lawyer to determine your rights in this case.
Creditors Generally May Not Take Certain Actions	Prohibited collection actions against the debtor and certain codebtors are listed in Bankruptcy Code § 362 and § 1201. Common examples of prohibited actions include contacting the debtor by telephone, mail, or otherwise to demand repayment; taking actions to collect money or obtain property from the debtor; repossessing the debtor's property; starting or continuing lawsuits or foreclosures; and garnishing or deducting from the debtor's wages. Under certain circumstances, the stay may be limited in duration or not exist at all, although the debtor may have the right to request the court to extend or impose a stay.
Meeting of Creditors	A meeting of creditors is scheduled for the date, time, and location listed on the front side. *The debtor (both spouses in a joint case) must be present at the meeting to be questioned under oath by the trustee and by creditors.* Creditors are welcome to attend, but are not required to do so. The meeting may be continued and concluded at a later date specified in a notice filed with the court.
Claims	A Proof of Claim is a signed statement describing a creditor's claim. If a Proof of Claim form is not included with this notice, you can obtain one at any bankruptcy clerk's office. A secured creditor retains rights in its collateral regardless of whether that creditor files a Proof of Claim. If you do not file a Proof of Claim by the "Deadline to File a Proof of Claim" listed on the front side, you might not be paid any money on your claim from other assets in the bankruptcy case. To be paid, you must file a Proof of Claim even if your claim is listed in the schedules filed by the debtor. Filing a Proof of Claim submits the creditor to the jurisdiction of the bankruptcy court, with consequences a lawyer can explain. For example, a secured creditor who files a Proof of Claim may surrender important nonmonetary rights, including the right to a jury trial. **Filing Deadline for a Creditor with a Foreign Address:** The deadlines for filing claims set forth on the front of this notice apply to all creditors. If this notice has been mailed to a creditor at a foreign address, the creditor may file a motion requesting the court to extend the deadline.
Discharge of Debts	The debtor is seeking a discharge of most debts, which may include your debt. A discharge means that you may never try to collect the debt from the debtor. If you believe that a debt owed to you is not dischargeable under Bankruptcy Code § 523 (a) (2), (4), or (6), you must start a lawsuit by filing a complaint in the bankruptcy clerk's office by the "Deadline to File a Complaint to Determine Dischargeability of Certain Debts" listed on the front side. The bankruptcy clerk's office must receive the complaint and any required filing fee by that Deadline.
Exempt Property	The debtor is permitted by law to keep certain property as exempt. Exempt property will not be sold and distributed to creditors, even if the debtor's case is converted to chapter 7. The debtor must file a list of all property claimed as exempt. You may inspect that list at the bankruptcy clerk's office. If you believe that an exemption claimed by the debtor is not authorized by law, you may file an objection to that exemption. The bankruptcy clerk's office must receive the objection by the "Deadline to Object to Exemptions" listed on the front side.
Bankruptcy Clerk's Office	Any paper that you file in this bankruptcy case should be filed at the bankruptcy clerk's office at the address listed on the front side. You may inspect all papers filed, including the list of the debtor's property and debts and the list of the property claimed as exempt, at the bankruptcy clerk's office.
Creditor with a Foreign Address	Consult a lawyer familiar with United States bankruptcy law if you have any questions regarding your rights in this case.

Refer To Other Side For Important Deadlines and Notices

B9H (Official Form 9H) (Chapter 12 Corporation/Partnership Family Farmer or Family Fisherman) (12/11)

UNITED STATES BANKRUPTCY COURT_____**District of**_____

Notice of
Chapter 12 Bankruptcy Case, Meeting of Creditors, & Deadlines

[The debtor [corporation] *or* [partnership] listed below filed a chapter 12 bankruptcy case on _____ (date).]
or [A bankruptcy case concerning the debtor [corporation] *or* [partnership] listed below was originally filed under chapter_____ on _____ (date) and was converted to a case under chapter 12 on_____(date).]

You may be a creditor of the debtor. **This notice lists important deadlines.** You may want to consult an attorney to protect your rights. All documents filed in the case may be inspected at the bankruptcy clerk's office at the address listed below.
NOTE: The staff of the bankruptcy clerk's office cannot give legal advice.

See Reverse Side for Important Explanations

Debtor(s) (name(s) and address):	Case Number: Last four digits of Social-Security or Individual Taxpayer-ID (ITIN) No(s)./Complete EIN:
All other names used by the Debtor(s) in the last 8 years (include trade names): Attorney for Debtor(s) (name and address): Telephone number:	Bankruptcy Trustee (name and address): Telephone number:

Meeting of Creditors

Date: / / Time: ( ) A. M. ( ) P. M. Location:

Deadlines:

Papers must be *received* by the bankruptcy clerk's office by the following deadlines:

Deadline to File a Proof of Claim:

For all creditors(except a governmental unit): For a governmental unit:

Creditor with a Foreign Address:

A creditor to whom this notice is sent at a foreign address should read the information under "Claims" on the reverse side.

Deadline to File a Complaint to Determine Dischargeability of Certain Debts:

Filing of Plan, Hearing on Confirmation of Plan

[The debtor has filed a plan. The plan or a summary of the plan is enclosed. The hearing on confirmation will be held:
Date:_____Time:_____Location:_____]
or [The debtor has filed a plan. The plan or a summary of the plan and notice of confirmation hearing will be sent separately.]
or [The debtor has not filed a plan as of this date. You will be sent separate notice of the hearing on confirmation of the plan.]

Creditors May Not Take Certain Actions:

In most instances, the filing of the bankruptcy case automatically stays certain collection and other actions against the debtor and the debtor's property. Under certain circumstances, the stay may be limited to 30 days or not exist at all, although the debtor can request the court to extend or impose a stay. If you attempt to collect a debt or take other action in violation of the Bankruptcy Code, you may be penalized. Consult a lawyer to determine your rights in this case.

Address of the Bankruptcy Clerk's Office: **Telephone number:**	**For the Court:** Clerk of the Bankruptcy Court:
Hours Open:	Date:

Filing of Chapter 12 Bankruptcy Case	A bankruptcy case under Chapter 12 of the Bankruptcy Code (title 11, United States Code) has been filed in this court by the debtor listed on the front side, and an order for relief has been entered. Chapter 12 allows family farmers and family fishermen to adjust their debts pursuant to a plan. A plan is not effective unless confirmed by the court. You may object to confirmation of the plan and appear at the confirmation hearing. A copy or summary of the plan [is included with this notice] *or* [will be sent to you later], and [the confirmation hearing will be held on the date indicated on the front of this notice] *or* [you will be sent notice of the confirmation hearing]. The debtor will remain in possession of the debtor's property and may continue to operate the debtor's business unless the court orders otherwise.
Legal Advice	The staff of the bankruptcy clerk's office cannot give legal advice. Consult a lawyer to determine your rights in this case.
Creditors Generally May Not Take Certain Actions	Prohibited collection actions against the debtor and certain codebtors are listed in Bankruptcy Code § 362 and § 1201. Common examples of prohibited actions include contacting the debtor by telephone, mail, or otherwise to demand repayment; taking actions to collect money or obtain property from the debtor; repossessing the debtor's property; and starting or continuing lawsuits or foreclosures. Under certain circumstances, the stay may be limited in duration or not exist at all, although the debtor may have the right to request the court to extend or impose a stay.
Meeting of Creditors	A meeting of creditors is scheduled for the date, time, and location listed on the front side. *The debtor's representative must be present at the meeting to be questioned under oath by the trustee and by creditors.* Creditors are welcome to attend, but are not required to do so. The meeting may be continued and concluded at a later date specified in a notice filed with the court.
Claims	A Proof of Claim is a signed statement describing a creditor's claim. If a Proof of Claim form is not included with this notice, you can obtain one at any bankruptcy clerk's office. A secured creditor retains rights in its collateral regardless of whether that creditor files a Proof of Claim. If you do not file a Proof of Claim by the "Deadline to File a Proof of Claim" listed on the front side, you might not be paid any money on your claim from other assets in the bankruptcy case. To be paid, you must file a Proof of Claim even if your claim is listed in the schedules filed by the debtor. Filing a Proof of Claim submits the creditor to the jurisdiction of the bankruptcy court, with consequences a lawyer can explain. For example, a secured creditor who files a Proof of Claim may surrender important nonmonetary rights, including the right to a jury trial. **Filing Deadline for a Creditor with a Foreign Address:** The deadlines for filing claims set forth on the front of this notice apply to all creditors. If this notice has been mailed to a creditor at a foreign address, the creditor may file a motion requesting the court to extend the deadline.
Discharge of Debts	The debtor is seeking a discharge of most debts, which may include your debt. A discharge means that you may never try to collect the debt from the debtor. If you believe that a debt owed to you is not dischargeable under Bankruptcy Code § 523 (a) (2), (4), or (6), you must start a lawsuit by filing a complaint in the bankruptcy clerk's office by the "Deadline to File a Complaint to Determine Dischargeability of Certain Debts" listed on the front side. The bankruptcy clerk's office must receive the complaint and any required filing fee by that Deadline.
Bankruptcy Clerk's Office	Any paper that you file in this bankruptcy case should be filed at the bankruptcy clerk's office at the address listed on the front side. You may inspect all papers filed, including the list of the debtor's property and debts and the list of the property claimed as exempt, at the bankruptcy clerk's office.
Creditor with a Foreign Address	Consult a lawyer familiar with United States bankruptcy law if you have any questions regarding your rights in this case.

Refer To Other Side For Important Deadlines and Notices

B9I (Official Form 9I) (Chapter 13 Case) (12/11)

UNITED STATES BANKRUPTCY COURT_____**District of**_____

Notice of
Chapter 13 Bankruptcy Case, Meeting of Creditors, & Deadlines

[The debtor(s) listed below filed a chapter 13 bankruptcy case on _____ (date).]
or [A bankruptcy case concerning the debtor(s) listed below was originally filed under chapter_____
on _____ (date) and was converted to a case under chapter 13 on_____(date).]

You may be a creditor of the debtor. **This notice lists important deadlines.** You may want to consult an attorney to protect your rights. All documents filed in the case may be inspected at the bankruptcy clerk's office at the address listed below.
NOTE: The staff of the bankruptcy clerk's office cannot give legal advice.

See Reverse Side for Important Explanations

Debtor(s) (name(s) and address):	Case Number: Last four digits of Social-Security or Individual Taxpayer-ID (ITIN) No(s)./Complete EIN:
All other names used by the Debtor(s) in the last 8 years (include married, maiden, and trade names): Attorney for Debtor(s) (name and address): Telephone number:	Bankruptcy Trustee (name and address): Telephone number:

Meeting of Creditors

Date: / / Time: ( ) A. M. ( ) P. M. Location:

Deadlines:

Papers must be *received* by the bankruptcy clerk's office by the following deadlines:

Deadline to File a Proof of Claim:

For all creditors (except a governmental unit):

For a governmental unit (except as otherwise provided in Fed. R. Bankr. P. 3002(c)(1)):

Creditor with a Foreign Address:

A creditor to whom this notice is sent at a foreign address should read the information under "Claims" on the reverse side.

Deadline to Object to Debtor's Discharge or to Challenge Dischargeability of Certain Debts:

Deadline to Object to Exemptions:

Thirty (30) days after the *conclusion* of the meeting of creditors.

Filing of Plan, Hearing on Confirmation of Plan

[The debtor has filed a plan. The plan or a summary of the plan is enclosed. The hearing on confirmation will be held:
Date:_____Time:_____Location:_____]
or [The debtor has filed a plan. The plan or a summary of the plan and notice of confirmation hearing will be sent separately.]
or [The debtor has not filed a plan as of this date. You will be sent separate notice of the hearing on confirmation of the plan.]

Creditors May Not Take Certain Actions:

In most instances, the filing of the bankruptcy case automatically stays certain collection and other actions against the debtor, the debtor's property, and certain codebtors. Under certain circumstances, the stay may be limited to 30 days or not exist at all, although the debtor can request the court to extend or impose a stay. If you attempt to collect a debt or take other action in violation of the Bankruptcy Code, you may be penalized. Consult a lawyer to determine your rights in this case.

Address of the Bankruptcy Clerk's Office: **Telephone number:**	**For the Court:** Clerk of the Bankruptcy Court:
Hours Open:	Date:

EXPLANATIONS **B9I (Official Form 9I) (12/11)**

Filing of Chapter 13 Bankruptcy Case	A bankruptcy case under Chapter 13 of the Bankruptcy Code (title 11, United States Code) has been filed in this court by the debtor(s) listed on the front side, and an order for relief has been entered. Chapter 13 allows an individual with regular income and debts below a specified amount to adjust debts pursuant to a plan. A plan is not effective unless confirmed by the bankruptcy court. You may object to confirmation of the plan and appear at the confirmation hearing. A copy or summary of the plan [is included with this notice] *or* [will be sent to you later], and [the confirmation hearing will be held on the date indicated on the front of this notice] *or* [you will be sent notice of the confirmation hearing]. The debtor will remain in possession of the debtor's property and may continue to operate the debtor's business, if any, unless the court orders otherwise.
Legal Advice	The staff of the bankruptcy clerk's office cannot give legal advice. Consult a lawyer to determine your rights in this case.
Creditors Generally May Not Take Certain Actions	Prohibited collection actions against the debtor and certain codebtors are listed in Bankruptcy Code § 362 and § 1301. Common examples of prohibited actions include contacting the debtor by telephone, mail, or otherwise to demand repayment; taking actions to collect money or obtain property from the debtor; repossessing the debtor's property; starting or continuing lawsuits or foreclosures; and garnishing or deducting from the debtor's wages. Under certain circumstances, the stay may be limited to 30 days or not exist at all, although the debtor can request the court to exceed or impose a stay.
Meeting of Creditors	A meeting of creditors is scheduled for the date, time, and location listed on the front side. *The debtor (both spouses in a joint case) must be present at the meeting to be questioned under oath by the trustee and by creditors.* Creditors are welcome to attend, but are not required to do so. The meeting may be continued and concluded at a later date specified in a notice filed with the court.
Claims	A Proof of Claim is a signed statement describing a creditor's claim. If a Proof of Claim form is not included with this notice, you can obtain one at any bankruptcy clerk's office. A secured creditor retains rights in its collateral regardless of whether that creditor files a Proof of Claim. If you do not file a Proof of Claim by the "Deadline to File a Proof of Claim" listed on the front side, you might not be paid any money on your claim from other assets in the bankruptcy case. To be paid, you must file a Proof of Claim even if your claim is listed in the schedules filed by the debtor. Filing a Proof of Claim submits the creditor to the jurisdiction of the bankruptcy court, with consequences a lawyer can explain. For example, a secured creditor who files a Proof of Claim may surrender important nonmonetary rights, including the right to a jury trial. **Filing Deadline for a Creditor with a Foreign Address:** The deadlines for filing claims set forth on the front of this notice apply to all creditors. If this notice has been mailed to a creditor at a foreign address, the creditor may file a motion requesting the court to extend the deadline.
Discharge of Debts	The debtor is seeking a discharge of most debts, which may include your debt. A discharge means that you may never try to collect the debt from the debtor. If you believe that the debtor is not entitled to a discharge under Bankruptcy Code § 1328(f), you must file a motion objecting to discharge in the bankruptcy clerk's office by the "Deadline to Object to Debtor's Discharge or to Challenge the Dischargeability of Certain Debts" listed on the front of this form. If you believe that a debt owed to you is not dischargeable under Bankruptcy Code § 523(a)(2) or (4), you must file a complaint in the bankruptcy clerk's office by the same deadline. The bankruptcy clerk's office must receive the motion or the complaint and any required filing fee by that deadline.
Exempt Property	The debtor is permitted by law to keep certain property as exempt. Exempt property will not be sold and distributed to creditors, even if the debtor's case is converted to chapter 7. The debtor must file a list of all property claimed as exempt. You may inspect that list at the bankruptcy clerk's office. If you believe that an exemption claimed by the debtor is not authorized by law, you may file an objection to that exemption. The bankruptcy clerk's office must receive the objection by the "Deadline to Object to Exemptions" listed on the front side.
Bankruptcy Clerk's Office	Any paper that you file in this bankruptcy case should be filed at the bankruptcy clerk's office at the address listed on the front side. You may inspect all papers filed, including the list of the debtor's property and debts and the list of the property claimed as exempt, at the bankruptcy clerk's office.
Creditor with a Foreign Address	Consult a lawyer familiar with United States bankruptcy law if you have any questions regarding your rights in this case.

Refer To Other Side For Important Deadlines and Notices

COMMITTEE NOTE

The form's explanation of the "Meeting of Creditors" is amended to take account of the amendment of Rule 2003(e). When a meeting of creditors is adjourned to another date, the rule requires the official presiding at the meeting to file a statement specifying the date and time to which the meeting is adjourned. The explanation on all versions of the form is amended to reflect that requirement. Stylistic changes to the form are also made.

Final approval of these conforming and stylistic amendments is sought without publication.

B 10 (Official Form 10) (12/11)

UNITED STATES BANKRUPTCY COURT _____ DISTRICT OF _____

PROOF OF CLAIM

Name of Debtor:	Case Number:

NOTE: *Do not use this form to make a claim for an administrative expense that arises after the bankruptcy filing. You may file a request for payment of an administrative expense according to 11 U.S.C. § 503.*

Name of Creditor (the person or other entity to whom the debtor owes money or property):

COURT USE ONLY

Name and address where notices should be sent:

Telephone number: email:

❒ Check this box if this claim amends a previously filed claim.

Court Claim Number:_____
(*If known*)

Filed on:_____

Name and address where payment should be sent (if different from above):

Telephone number: email:

❒ Check this box if you are aware that anyone else has filed a proof of claim relating to this claim. Attach copy of statement giving particulars.

1. Amount of Claim as of Date Case Filed: $_____

If all or part of the claim is secured, complete item 4.

If all or part of the claim is entitled to priority, complete item 5.

❒Check this box if the claim includes interest or other charges in addition to the principal amount of the claim. Attach a statement that itemizes interest or charges.

2. Basis for Claim: _____
(See instruction #2)

3. Last four digits of any number by which creditor identifies debtor: ___ ___ ___ ___	**3a. Debtor may have scheduled account as:** _____ (See instruction #3a)	**3b. Uniform Claim Identifier (optional):** _ (See instruction #3b)

4. Secured Claim (See instruction #4)
Check the appropriate box if the claim is secured by a lien on property or a right of setoff, attach required redacted documents, and provide the requested information.

Nature of property or right of setoff: ❒Real Estate ❒Motor Vehicle ❒Other
Describe:

Value of Property: $_____

Annual Interest Rate_____% ❒Fixed or ❒Variable
(when case was filed)

Amount of arrearage and other charges, as of the time case was filed, included in secured claim, if any:
$_____

Basis for perfection: _____

Amount of Secured Claim: $_____

Amount Unsecured: $_____

5. Amount of Claim Entitled to Priority under 11 U.S.C. §507(a). If any part of the claim falls into one of the following categories, check the box specifying the priority and state the amount.

❒ Domestic support obligations under 11 U.S.C. §507(a)(1)(A) or (a)(1)(B).

❒ Wages, salaries, or commissions (up to $11,725*) earned within 180 days before the case was filed or the debtor's business ceased, whichever is earlier – 11 U.S.C. §507 (a)(4).

❒ Contributions to an employee benefit plan – 11 U.S.C. §507 (a)(5).

Amount entitled to priority:

❒ Up to $2,600* of deposits toward purchase, lease, or rental of property or services for personal, family, or household use – 11 U.S.C. §507 (a)(7).

❒ Taxes or penalties owed to governmental units – 11 U.S.C. §507 (a)(8).

❒ Other – Specify applicable paragraph of 11 U.S.C. §507 (a)(__).

$_____

**Amounts are subject to adjustment on 4/1/13 and every 3 years thereafter with respect to cases commenced on or after the date of adjustment.*

6. Credits. The amount of all payments on this claim has been credited for the purpose of making this proof of claim. (See instruction #6)

7. Documents: Attached are **redacted** copies of any documents that support the claim, such as promissory notes, purchase orders, invoices, itemized statements of running accounts, contracts, judgments, mortgages, and security agreements. If the claim is secured, box 4 has been completed, and **redacted** copies of documents providing evidence of perfection of a security interest are attached. *(See instruction #7, and the definition of "**redacted**".)*

DO NOT SEND ORIGINAL DOCUMENTS. ATTACHED DOCUMENTS MAY BE DESTROYED AFTER SCANNING.

If the documents are not available, please explain:

8. Signature: (See instruction #8)

Check the appropriate box.

❒ I am the creditor. ❒ I am the creditor's authorized agent. (Attach copy of power of attorney, if any.) ❒ I am the trustee, or the debtor, or their authorized agent. (See Bankruptcy Rule 3004.) ❒ I am a guarantor, surety, indorser, or other codebtor. (See Bankruptcy Rule 3005.)

I declare under penalty of perjury that the information provided in this claim is true and correct to the best of my knowledge, information, and reasonable belief.

Print Name: _____
Title: _____
Company: _____
Address and telephone number (if different from notice address above):
_____
_____
_____
Telephone number: email:

_____
(Signature) (Date)

Penalty for presenting fraudulent claim: Fine of up to $500,000 or imprisonment for up to 5 years, or both. 18 U.S.C. §§ 152 and 3571.

INSTRUCTIONS FOR PROOF OF CLAIM FORM

The instructions and definitions below are general explanations of the law. In certain circumstances, such as bankruptcy cases not filed voluntarily by the debtor, exceptions to these general rules may apply.

Items to be completed in Proof of Claim form

Court, Name of Debtor, and Case Number:
Fill in the federal judicial district in which the bankruptcy case was filed (for example, Central District of California), the debtor's full name, and the case number. If the creditor received a notice of the case from the bankruptcy court, all of this information is at the top of the notice.

Creditor's Name and Address:
Fill in the name of the person or entity asserting a claim and the name and address of the person who should receive notices issued during the bankruptcy case. A separate space is provided for the payment address if it differs from the notice address. The creditor has a continuing obligation to keep the court informed of its current address. See Federal Rule of Bankruptcy Procedure (FRBP) 2002(g).

1. Amount of Claim as of Date Case Filed:
State the total amount owed to the creditor on the date of the bankruptcy filing. Follow the instructions concerning whether to complete items 4 and 5. Check the box if interest or other charges are included in the claim.

2. Basis for Claim:
State the type of debt or how it was incurred. Examples include goods sold, money loaned, services performed, personal injury/wrongful death, car loan, mortgage note, and credit card. If the claim is based on delivering health care goods or services, limit the disclosure of the goods or services so as to avoid embarrassment or the disclosure of confidential health care information. You may be required to provide additional disclosure if an interested party objects to the claim.

3. Last Four Digits of Any Number by Which Creditor Identifies Debtor:
State only the last four digits of the debtor's account or other number used by the creditor to identify the debtor.

3a. Debtor May Have Scheduled Account As:
Report a change in the creditor's name, a transferred claim, or any other information that clarifies a difference between this proof of claim and the claim as scheduled by the debtor.

3b. Uniform Claim Identifier:
If you use a uniform claim identifier, you may report it here. A uniform claim identifier is an optional 24-character identifier that certain large creditors use to facilitate electronic payment in chapter 13 cases.

4. Secured Claim:
Check whether the claim is fully or partially secured. Skip this section if the claim is entirely unsecured. (See Definitions.) If the claim is secured, check the box for the nature and value of property that secures the claim, attach copies of lien documentation, and state, as of the date of the bankruptcy filing, the annual interest rate (and whether it is fixed or variable), and the amount past due on the claim.

5. Amount of Claim Entitled to Priority Under 11 U.S.C. §507(a).
If any portion of the claim falls into any category shown, check the appropriate box(es) and state the amount entitled to priority. (See Definitions.) A claim may be partly priority and partly non-priority. For example, in some of the categories, the law limits the amount entitled to priority.

6. Credits:
An authorized signature on this proof of claim serves as an acknowledgment that when calculating the amount of the claim, the creditor gave the debtor credit for any payments received toward the debt.

7. Documents:
Attach redacted copies of any documents that show the debt exists and a lien secures the debt. You must also attach copies of documents that evidence perfection of any security interest. You may also attach a summary in addition to the documents themselves. FRBP 3001(c) and (d). If the claim is based on delivering health care goods or services, limit disclosing confidential health care information. Do not send original documents, as attachments may be destroyed after scanning.

8. Date and Signature:
The individual completing this proof of claim must sign and date it. FRBP 9011. If the claim is filed electronically, FRBP 5005(a)(2) authorizes courts to establish local rules specifying what constitutes a signature. If you sign this form, you declare under penalty of perjury that the information provided is true and correct to the best of your knowledge, information, and reasonable belief. Your signature is also a certification that the claim meets the requirements of FRBP 9011(b). Whether the claim is filed electronically or in person, if your name is on the signature line, you are responsible for the declaration. Print the name and title, if any, of the creditor or other person authorized to file this claim. State the filer's address and telephone number if it differs from the address given on the top of the form for purposes of receiving notices. If the claim is filed by an authorized agent, attach a complete copy of any power of attorney, and provide both the name of the individual filing the claim and the name of the agent. If the authorized agent is a servicer, identify the corporate servicer as the company. Criminal penalties apply for making a false statement on a proof of claim.

DEFINITIONS

Debtor
A debtor is the person, corporation, or other entity that has filed a bankruptcy case.

Creditor
A creditor is a person, corporation, or other entity to whom debtor owes a debt that was incurred before the date of the bankruptcy filing. See 11 U.S.C. §101 (10).

Claim
A claim is the creditor's right to receive payment for a debt owed by the debtor on the date of the bankruptcy filing. See 11 U.S.C. §101 (5). A claim may be secured or unsecured.

Proof of Claim
A proof of claim is a form used by the creditor to indicate the amount of the debt owed by the debtor on the date of the bankruptcy filing. The creditor must file the form with the clerk of the same bankruptcy court in which the bankruptcy case was filed.

Secured Claim Under 11 U.S.C. §506(a)
A secured claim is one backed by a lien on property of the debtor. The claim is secured so long as the creditor has the right to be paid from the property prior to other creditors. The amount of the secured claim cannot exceed the value of the property. Any amount owed to the creditor in excess of the value of the property is an unsecured claim. Examples of liens on property include a mortgage on real estate or a security interest in a car. A lien may be voluntarily granted by a debtor or may be obtained through a court proceeding. In some states, a court judgment is a lien. A claim also may be secured if the creditor owes the debtor money (has a right to setoff).

Unsecured Claim
An unsecured claim is one that does not meet the requirements of a secured claim. A claim may be partly unsecured if the amount of the claim exceeds the value of the property on which the creditor has a lien.

Claim Entitled to Priority Under 11 U.S.C. §507(a)
Priority claims are certain categories of unsecured claims that are paid from the available money or property in a bankruptcy case before other unsecured claims.

Redacted
A document has been redacted when the person filing it has masked, edited out, or otherwise deleted, certain information. A creditor must show only the last four digits of any social-security, individual's tax-identification, or financial-account number, only the initials of a minor's name, and only the year of any person's date of birth. If the claim is based on the delivery of health care goods or services, limit the disclosure of the goods or services so as to avoid embarrassment or the disclosure of confidential health care information.

Evidence of Perfection
Evidence of perfection may include a mortgage, lien, certificate of title, financing statement, or other document showing that the lien has been filed or recorded.

INFORMATION

Acknowledgment of Filing of Claim
To receive acknowledgment of your filing, you may either enclose a stamped self-addressed envelope and a copy of this proof of claim or you may access the court's PACER system (www.pacer.psc.uscourts.gov) for a small fee to view your filed proof of claim.

Offers to Purchase a Claim
Certain entities are in the business of purchasing claims for an amount less than the face value of the claims. One or more of these entities may contact the creditor and offer to purchase the claim. Some of the written communications from these entities may easily be confused with official court documentation or communications from the debtor. These entities do not represent the bankruptcy court or the debtor. The creditor has no obligation to sell its claim. However, if the creditor decides to sell its claim, any transfer of such claim is subject to FRBP 3001(e), any applicable provisions of the Bankruptcy Code (11 U.S.C. § 101 *et seq*.), and any applicable orders of the bankruptcy court.

COMMITTEE NOTE

The form is amended in several respects. A new section—3b—is added to allow the reporting of a uniform claim identifier. This identifier, consisting of 24 characters, is used by some creditors to facilitate automated receipt, distribution, and posting of payments made by means of electronic funds transfers by chapter 13 trustees. Creditors are not required to use a uniform claim identifier.

Language is added to section 4 to clarify that the annual interest rate that must be reported for a secured claim is the rate applicable at the time the bankruptcy case was filed. Checkboxes for indicating whether the interest rate is fixed or variable are also added.

Section 7 of the form is revised to clarify that, consistent with Rule 3001(c), writings supporting a claim or evidencing perfection of a security interest must be attached to the proof of claim. If the documents are not available, the filer must provide an explanation for their absence. The instructions for this section of the form explain that summaries of supporting documents may be attached only in addition to the documents themselves.

Section 8—the date and signature box—is revised to include a declaration that is intended to impress upon the filer the duty of care that must be exercised in filing a proof of claim. The individual who completes the form must sign it. By doing so, he or she declares under penalty of perjury that the information provided "is true and correct to the best of my knowledge, information and reasonable belief." That individual must also provide identifying information—name; title; company; and, if not already provided, mailing address, telephone number, and email address—and indicate by checking the appropriate box the basis on which he or she is filing the proof of claim (for example, as creditor or authorized agent for the creditor). Because a trustee or debtor that files a proof of claim under Rule 3004 will indicate that basis for filing here, the checkbox on the first page of the form for stating the filer's status as a trustee or debtor is deleted. When a servicing agent files a proof of claim on behalf of a creditor, the individual completing the form must sign it and must provide his or her own name, as well as the name of the company that is the servicing agent.

Amendments are made to the instructions that reflect the changes made to the form, and stylistic and formatting changes are

made to the form and instructions. Spaces are added for providing email addresses in addition to other contact information in order to facilitate communication with the claimant. The provision of this additional information does not affect any requirements for serving or providing official notice to the claimant.

Changes Made After Publication

Page 1 of the form. The checkbox for identifying that the filer of the proof of claim is the debtor or the trustee, rather than a creditor, was deleted.

Committee Note. A statement was added to the Committee Note explaining that the new requests for email addresses are intended only to facilitate communication with the claimant and that the provision of this information does not affect any requirements for serving or providing notice to the claimant.

* * * * *

Mortgage Proof of Claim Attachment

If you file a claim secured by a security interest in the debtor's principal residence, you must use this form as an attachment to your proof of claim. See Bankruptcy Rule 3001(c)(2).

Name of debtor: _____ **Case number**: _____

Name of creditor: _____ **Last four digits** of any number you use to identify the debtor's account: ____ ____ ____ ____

Part 1: Statement of Principal and Interest Due as of the Petition Date

Itemize the principal and interest due on the claim as of the petition date (included in the Amount of Claim listed in Item 1 on your Proof of Claim form).

1. **Principal due** (1) $ _____

2. **Interest due**

Interest rate	From mm/dd/yyyy	To mm/dd/yyyy	Amount
_____%	__/__/____	__/__/____	$ _____
_____%	__/__/____	__/__/____	$ _____
_____%	__/__/____	__/__/____	+ $ _____
Total interest due as of the petition date			$ _____

Copy total here ▶ (2) + $ _____

3. **Total principal and interest due** (3) $ _____

Part 2: Statement of Prepetition Fees, Expenses, and Charges

Itemize the fees, expenses, and charges due on the claim as of the petition date (included in the Amount of Claim listed in Item 1 on the Proof of Claim form).

Description	Dates incurred	Amount
1. **Late charges**	_____	(1) $ _____
2. **Non-sufficient funds (NSF) fees**	_____	(2) $ _____
3. **Attorney's fees**	_____	(3) $ _____
4. **Filing fees and court costs**	_____	(4) $ _____
5. **Advertisement costs**	_____	(5) $ _____
6. **Sheriff/auctioneer fees**	_____	(6) $ _____
7. **Title costs**	_____	(7) $ _____
8. **Recording fees**	_____	(8) $ _____
9. **Appraisal/broker's price opinion fees**	_____	(9) $ _____
10. **Property inspection fees**	_____	(10) $ _____
11. **Tax advances (non-escrow)**	_____	(11) $ _____
12. **Insurance advances (non-escrow)**	_____	(12) $ _____
13. **Escrow shortage or deficiency** (Do not include amounts that are part of any installment payment listed in Part 3.)	_____	(13) $ _____
14. **Property preservation expenses. Specify**:_____	_____	(14) $ _____
15. **Other. Specify**:_____	_____	(15) $ _____
16. **Other. Specify**:_____	_____	(16) $ _____
17. **Other. Specify**:_____	_____	(17) + $ _____
18. **Total prepetition fees, expenses, and charges. Add all of the amounts listed above.**		(18) $ _____

Part 3. Statement of Amount Necessary to Cure Default as of the Petition Date

Does the installment payment amount include an escrow deposit?

- ☐ No
- ☐ Yes. Attach to the Proof of Claim form an escrow account statement prepared as of the petition date in a form consistent with applicable nonbankruptcy law.

---

1. **Installment payments due**	Date last payment received by creditor	__/__/____		
	Number of installment payments due	(1) _____		
2. **Amount of installment payments due**	_____installments @	$ _____		
	_____installments @	$ _____		
	_____installments @	+ $ _____		
	Total installment payments due as of the petition date	$ _____	Copy total here ►	(2) $ _____
3. **Calculation of cure amount**	**Add total prepetition fees, expenses, and charges**		Copy total from Part 2 here ►	+ $ _____
	Subtract total of unapplied funds (funds received but not credited to account)			- $ _____
	Subtract amounts for which debtor is entitled to a refund			- $ _____
	Total amount necessary to cure default as of the petition date			(3) $ _____

Copy total onto Item 4 of Proof of Claim form

COMMITTEE NOTE

This form is new. It must be completed and attached to a proof of claim secured by a security interest in a debtor's principal residence. The form, which implements Rule 3001(c)(2), requires an itemization of prepetition interest, fees, expenses, and charges included in the claim amount, as well as a statement of the amount necessary to cure any default as of the petition date. If the mortgage installment payments include an escrow deposit, an escrow account statement must also be attached to the proof of claim, as required by Rule 3001(c)(2)(C).

Changes Made After Publication

Part 2. The instruction at the beginning of this part was changed to require itemization of "fees, expenses, and charges due on the claim as of the petition date," rather than "fees, expenses, and charges incurred in connection with the claim as of the petition date."

The parenthetical following "Escrow shortage or deficiency" was changed to state more clearly that amounts that are part of any installment payment listed in Part 3 should not be included here.

Item numbers were added to the left and right columns.

Part 3. A heading labeled "3. Calculation of cure amount" was added.

A line reading "Subtract amounts for which debtor is entitled to a refund" was added.

* * * * *

B 10 (Supplement 1) (12/11)

UNITED STATES BANKRUPTCY COURT

_____ District of _____

In re _____,
Debtor

Case No. _____

Chapter 13

Notice of Mortgage Payment Change

If you file a claim secured by a security interest in the debtor's principal residence provided for under the debtor's plan pursuant to § 1322(b)(5), you must use this form to give notice of any changes in the installment payment amount. File this form as a supplement to your proof of claim at least 21 days before the new payment amount is due. See Bankruptcy Rule 3002.1.

Name of creditor: _____

Court claim no. (if known): _____

Last four digits of any number you use to identify the debtor's account: ____ ____ ____ ____

Date of payment change:
Must be at least 21 days after date of this notice ____/____/_____

New total payment:
Principal, interest, and escrow, if any $ _____

Part 1: Escrow Account Payment Adjustment

Will there be a change in the debtor's escrow account payment?

- ❑ No
- ❑ Yes. Attach a copy of the escrow account statement prepared in a form consistent with applicable nonbankruptcy law. Describe the basis for the change. If a statement is not attached, explain why:
  _____

Current escrow payment: $ _____ **New escrow payment:** $ _____

Part 2: Mortgage Payment Adjustment

Will the debtor's principal and interest payment change based on an adjustment to the interest rate in the debtor's variable-rate note?

- ❑ No
- ❑ Yes. Attach a copy of the rate change notice prepared in a form consistent with applicable nonbankruptcy law. If a notice is not attached, explain why: _____

Current interest rate: _____% **New interest rate:** _____%

Current principal and interest payment: $ _____ **New principal and interest payment:** $ _____

Part 3: Other Payment Change

Will there be a change in the debtor's mortgage payment for a reason not listed above?

- ❑ No
- ❑ Yes. Attach a copy of any documents describing the basis for the change, such as a repayment plan or loan modification agreement. (*Court approval may be required before the payment change can take effect.*)

Reason for change: _____

Current mortgage payment: $ _____ **New mortgage payment:** $ _____

Part 4: Sign Here

The person completing this Notice must sign it. Sign and print your name and your title, if any, and state your address and telephone number if different from the notice address listed on the proof of claim to which this Supplement applies.

Check the appropriate box.

❒ I am the creditor. ❒ I am the creditor's authorized agent.
(Attach copy of power of attorney, if any.)

I declare under penalty of perjury that the information provided in this Notice is true and correct to the best of my knowledge, information, and reasonable belief.

✘ _____ Date ____/_____/_____
Signature

Print: _____ Title _____
First Name Middle Name Last Name

Company _____

Address _____
Number Street

_____
City State ZIP Code

Contact phone (_____) _____– _____ Email _____

COMMITTEE NOTE

This form is new and applies in chapter 13 cases. It implements Rule 3002.1, which requires the holder of a claim secured by a security interest in the debtor's principal residence—or the holder's agent—to provide notice at least 21 days prior to a change in the amount of the ongoing mortgage installment payments. The form requires the holder of the claim to indicate the basis for the changed payment amount and when it will take effect. The notice must be filed as a supplement to the claim holder's proof of claim, and it must be served on the debtor, debtor's counsel, and the trustee.

The individual completing the form must sign and date it. By doing so, he or she declares under penalty of perjury that the information provided is true and correct to the best of that individual's knowledge, information, and reasonable belief. The signature is also a certification that the standards of Rule 9011(b) are satisfied.

Changes Made After Publication

Part 1. The instruction to "Attach a copy of the escrow account statement, prepared according to applicable nonbankruptcy law" was changed to "Attach a copy of the escrow account statement prepared in a form consistent with applicable nonbankruptcy law."

Part 2. The instruction to "Attach a copy of the rate change notice, prepared according to applicable nonbankruptcy law" was changed to "Attach a copy of the rate change notice prepared in a form consistent with applicable nonbankruptcy law."

Part 4. In the declaration, the word "claim" was changed to "Notice."

* * * * *

B 10 (Supplement 2) (12/11)

UNITED STATES BANKRUPTCY COURT

_____ District of _____

In re _____, Debtor

Case No. _____

Chapter 13

Notice of Postpetition Mortgage Fees, Expenses, and Charges

If you hold a claim secured by a security interest in the debtor's principal residence, you must use this form to give notice of any postpetition fees, expenses, and charges that you assert are recoverable against the debtor or against the debtor's principal residence. File this form as a supplement to your proof of claim. See Bankruptcy Rule 3002.1.

Name of creditor: _____ **Court claim no**. (if known): _____

Last four digits of any number you use to identify the debtor's account: ____ ____ ____ ____

Does this notice supplement a prior notice of postpetition fees, expenses, and charges?

- ❑ No
- ❑ Yes. Date of the last notice: ____/____/_____

Part 1: Itemize Postpetition Fees, Expenses, and Charges

Itemize the fees, expenses, and charges incurred on the debtor's mortgage account after the petition was filed. Do not include any escrow account disbursements or any amounts previously itemized in a notice filed in this case or ruled on by the bankruptcy court.

Description	Dates incurred		Amount
1. Late charges	_____	(1)	$ _____
2. Non-sufficient funds (NSF) fees	_____	(2)	$ _____
3. Attorney fees	_____	(3)	$ _____
4. Filing fees and court costs	_____	(4)	$ _____
5. Bankruptcy/Proof of claim fees	_____	(5)	$ _____
6. Appraisal/Broker's price opinion fees	_____	(6)	$ _____
7. Property inspection fees	_____	(7)	$ _____
8. Tax advances (non-escrow)	_____	(8)	$ _____
9. Insurance advances (non-escrow)	_____	(9)	$ _____
10. Property preservation expenses. Specify:_____	_____	(10)	$ _____
11. Other. Specify:_____	_____	(11)	$ _____
12. Other. Specify:_____	_____	(12)	$ _____
13. Other. Specify:_____	_____	(13)	$ _____
14. Other. Specify:_____	_____	(14)	$ _____

The debtor or trustee may challenge whether the fees, expenses, and charges you listed are required to be paid. See 11 U.S.C. § 1322(b)(5) and Bankruptcy Rule 3002.1.

Part 2: Sign Here

The person completing this Notice must sign it. Sign and print your name and your title, if any, and state your address and telephone number if different from the notice address listed on the proof of claim to which this Supplement applies.

Check the appropriate box.

❒ I am the creditor.

❒ I am the creditor's authorized agent. (Attach copy of power of attorney, if any.)

I declare under penalty of perjury that the information provided in this Notice is true and correct to the best of my knowledge, information, and reasonable belief.

✘ _____ Date ____/_____/_____
Signature

Print: _____ Title _____
First Name Middle Name Last Name

Company _____

Address _____
Number Street

_____
City State ZIP Code

Contact phone (_____) _____– _____ Email _____

COMMITTEE NOTE

This form is new and applies in chapter 13 cases. It implements Rule 3002.1, which requires the holder of a claim secured by a security interest in the debtor's principal residence—or the holder's agent—to file a notice of all postpetition fees, expenses, and charges within 180 days after they are incurred. The notice must be filed as a supplement to the claim holder's proof of claim, and it must be served on the debtor, debtor's counsel, and the trustee.

The individual completing the form must sign and date it. By doing so, he or she declares under penalty of perjury that the information provided is true and correct to the best of that individual's knowledge, information, and reasonable belief. The signature is also a certification that the standards of Rule 9011(b) are satisfied.

Changes Made After Publication

Part 1. Item numbers were added to the left and right columns.

Part 2. In the declaration, the word "claim" was changed to "Notice."

* * * * *

B25A (Official Form 25A) (12/11)

United States Bankruptcy Court
_____ District of _____

In re_____, Case No. _____
Debtor

Small Business Case under Chapter 11

[NAME OF PROPONENT]'S PLAN OF REORGANIZATION, DATED [INSERT DATE]

ARTICLE I
SUMMARY

This Plan of Reorganization (the "Plan") under chapter 11 of the Bankruptcy Code (the "Code") proposes to pay creditors of [insert the name of the debtor] (the "Debtor") from [specify sources of payment, such as an infusion of capital, loan proceeds, sale of assets, cash flow from operations, or future income]**.**

This Plan provides for _____ classes of secured claims; _____ classes of unsecured claims; and _____ classes of equity security holders. Unsecured creditors holding allowed claims will receive distributions, which the proponent of this Plan has valued at approximately __ cents on the dollar. This Plan also provides for the payment of administrative and priority claims [if payment is not in full on the effective date of this Plan with respect to any such claim (to the extent permitted by the Code or the claimant's agreement), identify such claim and briefly summarize the proposed treatment.]

All creditors and equity security holders should refer to Articles III through VI of this Plan for information regarding the precise treatment of their claim. A disclosure statement that provides more detailed information regarding this Plan and the rights of creditors and equity security holders has been circulated with this Plan. **Your rights may be affected. You should read these papers carefully and discuss them with your attorney, if you have one. (If you do not have an attorney, you may wish to consult one.)**

ARTICLE II
CLASSIFICATION OF CLAIMS AND INTERESTS

2.01 Class 1. All allowed claims entitled to priority under § 507 of the Code (except administrative expense claims under § 507(a)(2), ["gap" period claims in an involuntary case under § 507(a)(3),] and priority tax claims under § 507(a)(8)).

2.02 Class 2. The claim of _____ , to the extent allowed as a secured claim under § 506 of the Code.

[Add other classes of secured creditors, if any. Note: Section 1129(a)(9)(D) of the Code provides that a secured tax claim which would otherwise meet the description of a priority tax claim under § 507(a)(8) of the Code is to be paid in the same manner and over the same period as prescribed in § 507(a)(8).]

2.03 Class 3. All unsecured claims allowed under § 502 of the Code.

[Add other classes of unsecured claims, if any.]

2.04 Class 4 . Equity interests of the Debtor. [If the Debtor is an individual, change this heading to "The interests of the individual Debtor in property of the estate."]

ARTICLE III
TREATMENT OF ADMINISTRATIVE EXPENSE CLAIMS, U.S. TRUSTEES FEES, AND PRIORITY TAX CLAIMS

3.01 Unclassified Claims. Under section §1123(a)(1), administrative expense claims, ["gap" period claims in an involuntary case allowed under § 502(f) of the Code,] and priority tax claims are not in classes.

3.02 Administrative Expense Claims. Each holder of an administrative expense claim allowed under § 503 of the Code [, and a "gap" claim in an involuntary case allowed under § 502(f) of the Code,] will be paid in full on the effective date of this Plan (as defined in Article VII), in cash, or upon such other terms as may be agreed upon by the holder of the claim and the Debtor.

3.03 Priority Tax Claims. Each holder of a priority tax claim will be paid [specify terms of treatment consistent with § 1129(a)(9)(C) of the Code].

3.04 United States Trustee Fees. All fees required to be paid by 28 U.S.C. §1930(a)(6) (U.S. Trustee Fees) will accrue and be timely paid until the case is closed, dismissed, or converted to another chapter of the Code. Any U.S. Trustee Fees owed on or before the effective date of this Plan will be paid on the effective date.

ARTICLE IV
TREATMENT OF CLAIMS AND INTERESTS UNDER THE PLAN

4.01 Claims and interests shall be treated as follows under this Plan:

Class	Impairment	Treatment
Class 1 - Priority Claims	[State whether impaired or unimpaired.]	[Insert treatment of priority claims in this Class, including the form, amount and timing of distribution, if any. For example: "Class 1 is unimpaired by this Plan, and each holder of a Class 1 Priority Claim will be paid in full, in cash, upon the later of the effective date of this Plan as defined in Article VII, or the date on which such claim is allowed by a final non-appealable order. Except: _____."]
Class 2 – Secured Claim of [Insert name of secured creditor.]	[State whether impaired or unimpaired.]	[Insert treatment of secured claim in this Class, including the form, amount and timing of distribution, if any.] [Add class[es] of secured claims if applicable]
Class 3 - General Unsecured Creditors	[State whether impaired or unimpaired.]	[Insert treatment of unsecured creditors in this Class, including the form, amount and timing of distribution, if any.] [Add administrative convenience class if applicable]
Class 4 - Equity Security Holders of the Debtor	[State whether impaired or unimpaired.]	[Insert treatment of equity security holders in this Class, including the form, amount and timing of distribution, if any.]

ARTICLE V
ALLOWANCE AND DISALLOWANCE OF CLAIMS

5.01 Disputed Claim. A disputed claim is a claim that has not been allowed or disallowed [by a final non-appealable order], and as to which either: (i) a proof of claim has been filed or deemed filed, and the Debtor or another party in interest has filed an objection; or (ii) no proof of claim has been filed, and the Debtor has scheduled such claim as disputed, contingent, or unliquidated.

5.02 Delay of Distribution on a Disputed Claim. No distribution will be made on account of a disputed claim unless such claim is allowed [by a final non-appealable order].

5.03 Settlement of Disputed Claims. The Debtor will have the power and authority to settle and compromise a disputed claim with court approval and compliance with Rule 9019 of the Federal Rules of Bankruptcy Procedure.

ARTICLE VI
PROVISIONS FOR EXECUTORY CONTRACTS AND UNEXPIRED LEASES

6.01 Assumed Executory Contracts and Unexpired Leases.

(a) The Debtor assumes the following executory contracts and/or unexpired leases effective upon the [Insert "effective date of this Plan as provided in Article VII," "the date of the entry of the order confirming this Plan," or other applicable date]:

[List assumed executory contracts and/or unexpired leases.]

(b) The Debtor will be conclusively deemed to have rejected all executory contracts and/or unexpired leases not expressly assumed under section 6.01(a) above, or before the date of the order confirming this Plan, upon the [Insert "effective date of this Plan," "the date of the entry of the order confirming this Plan," or other applicable date]. A proof of a claim arising from the rejection of an executory contract or unexpired lease under this section must be filed no later than _____ (___) days after the date of the order confirming this Plan.

ARTICLE VII
MEANS FOR IMPLEMENTATION OF THE PLAN

[Insert here provisions regarding how the plan will be implemented as required under §1123(a)(5) of the Code. For example, provisions may include those that set out how the plan will be funded, as well as who will be serving as directors, officers or voting trustees of the reorganized debtor.]

ARTICLE VIII
GENERAL PROVISIONS

8.01 Definitions and Rules of Construction. The definitions and rules of construction set forth in §§ 101 and 102 of the Code shall apply when terms defined or construed in the Code are used in this Plan, and they are supplemented by the following definitions: [Insert additional definitions if necessary].

8.02 Effective Date of Plan. The effective date of this Plan is the first business day following the date that is fourteen days after the entry of the order of confirmation. If, however, a stay of the confirmation order is in effect on that date, the effective date will be the first business day after the date on which the stay of the confirmation order expires or is otherwise terminated.

8.03 Severability. If any provision in this Plan is determined to be unenforceable, the determination will in no way limit or affect the enforceability and operative effect of any other provision of this Plan.

8.04 Binding Effect. The rights and obligations of any entity named or referred to in this Plan will be binding upon, and will inure to the benefit of the successors or assigns of such entity.

8.05 Captions. The headings contained in this Plan are for convenience of reference only and do not affect the meaning or interpretation of this Plan.

[8.06 Controlling Effect. Unless a rule of law or procedure is supplied by federal law (including the Code or the Federal Rules of Bankruptcy Procedure), the laws of the State of _____ govern this Plan and any agreements, documents, and instruments executed in connection with this Plan, except as otherwise provided in this Plan.]

[8.07 Corporate Governance. [If the Debtor is a corporation include provisions required by § 1123(a)(6) of the Code.]]

ARTICLE IX
DISCHARGE

[If the Debtor is not entitled to discharge under 11 U.S.C. § 1141(d)(3) change this heading to "**NO DISCHARGE OF DEBTOR**."]

9.01. **[Option 1 – If Debtor is an individual and § 1141(d)(3) is not applicable]**
Discharge. Confirmation of this Plan does not discharge any debt provided for in this Plan until the court grants a discharge on completion of all payments under this Plan, or as otherwise provided in § 1141(d)(5) of the Code. The Debtor will not be discharged from any debt excepted from discharge under § 523 of the Code, except as provided in Rule 4007(c) of the Federal Rules of Bankruptcy Procedure.

[Option 2 -- If the Debtor is a partnership and section 1141(d)(3) of the Code is not applicable]
Discharge. On the confirmation date of this Plan, the debtor will be discharged from any debt that arose before confirmation of this Plan, subject to the occurrence of the effective date, to the extent specified in § 1141(d)(1)(A) of the Code. The Debtor will not be discharged from any debt imposed by this Plan.

[Option 3 -- If the Debtor is a corporation and § 1141(d)(3) is not applicable]

Discharge. On the confirmation date of this Plan, the debtor will be discharged from any debt that arose before confirmation of this Plan, subject to the occurrence of the effective date, to the extent specified in § 1141(d)(1)(A) of the Code, except that the Debtor will not be discharged of any debt: (i) imposed by this Plan; (ii) of a kind specified in § 1141(d)(6)(A) if a timely complaint was filed in accordance with Rule 4007(c) of the Federal Rules of Bankruptcy Procedure; or (iii) of a kind specified in § 1141(d)(6)(B).

[Option 4 – If § 1141(d)(3) is applicable]

No Discharge. In accordance with § 1141(d)(3) of the Code, the Debtor will not receive any discharge of debt in this bankruptcy case.

ARTICLE X
OTHER PROVISIONS

[Insert other provisions, as applicable.]

Respectfully submitted,

By: _____
The Plan Proponent

By:_____
Attorney for the Plan Proponent

COMMITTEE NOTE

Provision 8.02 of Article VIII of the form, which specifies the plan's effective date, is amended to reflect the change in the time periods of Rules 3020(e) and 8002(a) for a stay of the confirmation order and the filing of a notice of appeal. As of December 1, 2009, both time periods were increased from ten to fourteen days. The effective date of the plan will generally be the first business day after those time periods expire. Accordingly, the effective date of the plan is extended to the first business day following the date that is fourteen days after the entry of the order of confirmation. If, however, a stay of the confirmation order remains in effect on the specified effective date, the plan will instead go into effect on the first business day after the stay expires or is terminated, so long as the order of confirmation has not been vacated.

Changes Made After Publication

No changes were made after publication.

* * * * *

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

Agenda E-19 (Appendix B)
Rules
September 2011

MEMORANDUM

DATE: May 12, 2011 [revised June 30, 2011]

TO: Honorable Lee H. Rosenthal, Chair, Standing Committee on Rules of Practice and Procedure

FROM: Honorable Richard C. Tallman, Chair, Advisory Committee on Federal Rules of Criminal Procedure

RE: Report of the Criminal Advisory Committee

I. Introduction

The Advisory Committee on the Federal Rules of Criminal Procedure ("the Committee") met on April 11-12, 2011, in Portland, Oregon, and took action on a number of proposals.

* * * * *

This report presents four action items:

(1) approval to transmit to the Judicial Conference proposed amendments to Rules 5 and 58 (initial appearance in extradition cases and consular notification);

(2) approval to transmit to the Judicial Conference a proposed Rule 37 (indicative rulings);

(3) approval to transmit to the Judicial Conference proposed amendments to Rule 15 (depositions in foreign countries when the defendant is not physically present);

* * * * *

II. Action Items

1. ACTION ITEM—Rules 5 and 58

The proposed amendments to Rule 5 and Rule 58 were designed to (1) deal with unique aspects of the international extradition process and (2) ensure that certain treaty obligations of the United States are fulfilled. After reviewing public comments concerning these amendments, the Advisory Committee recommends that they be transmitted to the Judicial Conference as published.

Rule 5(c)(4)

The amendment to Rule 5(c) clarifies where an initial appearance should take place for persons who have been surrendered to the United States pursuant to an extradition request to a foreign country. The amendment codifies the longstanding practice that persons who are charged with criminal offenses in the United States and surrendered to the United States following extradition in a foreign country make their initial appearance in the jurisdiction that sought their extradition.

This rule is applicable even if the defendant arrives first in another district. Rule 5(a)(1)(B) requires the person be taken before a magistrate judge without unnecessary delay. Consistent with this obligation, it is preferable not to delay an extradited person's transportation for the purpose of holding an initial appearance in the district of arrival, even if the person will be present in that district for some time as a result of connecting flights or logistical difficulties. Interrupting an extradited defendant's transportation at this point can impair his or her ability to obtain and consult with trial counsel and to prepare his or her defense in the district where the charges are pending. It should also be noted that during foreign extradition proceedings, the extradited person, assisted by counsel, has already been afforded an opportunity to review the charging document, United States arrest warrant, and supporting evidence.

The Committee received two comments on this rule. The National Association of Criminal Defense Lawyers (NACDL) and the Federal Magistrate Judges Association (FMJA) suggested that the amendment be revised to require the initial appearance to be held "without unnecessary delay." The Advisory Committee declined to make this revision because the rule itself already makes this clear. Subdivision (a) of Rule 5 contains the timing requirements for all initial appearances, and subdivision (c) governs the place of initial appearances. Rule 5(a)(1) already requires all defendants who have been arrested to be taken before a magistrate judge "without unnecessary delay," and contains a provision that directly addresses cases in which the defendant has been arrested outside the United States.

Rule 5(a)(1)(B) now provides:

> (B) A person making an arrest outside the United States must take the defendant *without unnecessary delay* before a magistrate judge, unless a statute provides otherwise.

(Emphasis added). The Advisory Committee concluded that this provision—which is referred to in the Committee Note—addresses the concerns noted by the NACDL and FMJA. The Committee declined to add an additional statement regarding timing to subdivision (c), which governs only the *place* of the initial appearance, not its timing.

Rules 5(d) and 58

The proposed amendments to Rules 5(d) and 58(b) are designed to ensure that the United States fulfills its international obligations under Article 36 of the Vienna Convention on Consular Relations and other bilateral treaties. Bilateral agreements with numerous countries require consular notification whether or not the detained foreign national requests it. Article 36 of the Vienna Convention provides that detained foreign nationals shall be advised that they may have the consulate of their home country notified of their arrest and detention. Many questions remain unresolved concerning Article 36, including whether it creates individual rights that may be invoked in a judicial proceeding and what, if any, remedy may exist for a violation. *Sanchez-Llamas v. Oregon*, 548 U.S. 331 (2006). This amendment—which was proposed by the Department of Justice after consultation with the State Department—does not address those questions.

Comments were received from the NACDL and the FMJA. The NACDL endorsed the proposed amendment in principle, but suggested modifications to define "held in custody," to expand on the warnings given to defendants, and to make it clear that consular notification should not be delayed until the initial appearance. The Advisory Committee concluded that the term "held in custody" was sufficiently clear for this purpose, and declined to require a more detailed explanation or colloquy about consular notification at the initial appearance.

The Committee also concluded that the rule need not be revised to address administrative warnings that should take place prior to the initial appearance. The amendment was designed to be an additional assurance, in the nature of a "failsafe" provision, not the primary means of satisfying the United States' obligations under the Vienna Convention and other bilateral treaties. Consular notification advice is required to be given "without delay," and arresting officers are primarily responsible for providing this advice. *See* 28 C.F.R. 50.5 (requiring Department of Justice officers to inform foreign nationals they arrest of policies regarding consular notification). The Committee was advised that the government has taken substantial measures to ensure prompt compliance with the notification requirements, including implementing Justice Department regulations establishing a uniform procedure for consular notification when non-United States citizens are arrested or detained by officers of the Department; State Department instructions for federal, state, and local law enforcement officials on providing consular notification advice, which are available on a public

website and published in a booklet; and which are regularly covered in training of law enforcement authorities provided by the State Department.

The Committee also took note of two FMJA observations: (1) reservations about the necessity of procedural rules concerning consular notification, which is principally an executive function, and (2) the need to take great care to insure that the new procedures do not result in defendants being asked to incriminate themselves. The FMJA concluded that the proposed amendment was adequate.

The Committee voted unanimously to recommend that the amendment be approved as published and forwarded to the Judicial Conference.

Recommendation–The Advisory Committee recommends that the proposed amendments to Rules 5 and 58 be approved as published and forwarded to the Judicial Conference.

2. ACTION ITEM—Rule 37

Appellate Rule 12.1 and Civil Rule 62.1, both of which went into effect on December 1, 2009, create a mechanism for obtaining "indicative rulings." They establish procedures facilitating the remand of certain post-judgment motions filed after an appeal has been docketed in a case where the district court indicated it would grant the motion. Proposed Rule 37, which was published for comment in 2010, parallels Civil Rule 62.1 and clarifies that this procedure is available in criminal cases. After reviewing the comments received following publication, the Advisory Committee recommends that the amendment be approved as published and forwarded to the Judicial Conference.

The Committee received two comments concerning Rule 37. The FMJA stated that it "endorses the proposed changes." Writing on behalf of the NACDL, Peter Goldberger expressed support for the proposal and suggested two additions to the Committee Note that might be helpful to practitioners with little experience in appellate procedures:

(1) a parenthetical mentioning the possibility that the conditions of release or detention pending execution of sentence or pending appeal may be modified in the district court without resort to the new procedure; and

(2) a reference to the availability of the procedure in Section 2255 cases. The NACDL proposed adding such a reference to the portion of the Committee Note that reads:

In the criminal context, the Committee anticipates that Criminal Rule 37 will be used primarily if not exclusively for newly discovered evidence motions under Criminal Rule 33(b)(1) (*see United States v. Cronic*, 466 U.S. 648, 667 n.42 (1984)), reduced sentence motions under Criminal Rule 35(b), and motions under 18 U.S.C. § 3582(c). Rule 37 does

not attempt to define the circumstances in which an appeal limits or defeats the district court's authority to act in the face of a pending appeal.

After discussion, the Advisory Committee declined both of the NACDL's suggestions. The Committee determined that the first suggestion went substantially beyond the focus of the amendment itself, running the risk of being either over- or under-inclusive and violating the Standing Committee's policy of keeping Committee Notes short. Regarding the NACDL's second suggestion, the language the NACDL identified for purposes of adding a Section 2255 reference tracks the language of the Committee Note accompanying Appellate Rule 12.1, which was approved by the Standing Committee after considerable discussion. Prior to publishing proposed Criminal Rule 37, the Advisory Committee wrestled with whether to include a reference to the use of the indicative rulings procedure in Section 2255 cases. It eventually decided that the Committee Note as written already makes clear that the identified uses are not exclusive. The Advisory Committee maintained that conclusion after considering the NACDL's comments.

At the conclusion of this discussion, the Advisory Committee voted unanimously to recommend that Rule 37 be forwarded to the Standing Committee as published.

Recommendation–The Advisory Committee recommends that proposed Rule 37 be approved as published and forwarded to the Judicial Conference.

3. ACTION ITEM—Rule 15

The proposed amendment to Rule 15 would authorize the taking of depositions outside the United States without the defendant's presence in special limited circumstances with the district judge's approval.

The purpose of the amendment

The amendment, which applies only to depositions taken outside the United States, provides a procedural mechanism to address cases in which important witnesses—both government and defense witnesses—live in, or have fled to, countries where they cannot be reached by the court's subpoena power.

The amendment authorizes *only* the taking of pretrial depositions; it does not speak to their ultimate admissibility at trial. As stated in the Committee Note, questions of admissibility are left to the courts to resolve on a case-by-case basis, applying the Federal Rules of Evidence and the Constitution.

Issues concerning the propriety of allowing depositions for witnesses outside the United States and the procedures under which such depositions may be taken have arisen, and will continue to arise, in cases such as *United States v. Ali*, 528 F.3d 210 (4th Cir. 2008), *cert. denied*, 129 S. Ct.

1312 (2009).[1] The Committee concluded that it was appropriate to distill the analysis in cases such as *Ali* and use it to set forth a procedural framework in the Federal Rules of Criminal Procedure.

The amendment requires case-specific findings regarding (1) the importance of the witness's testimony, (2) the likelihood that the witness's attendance at trial cannot be obtained, and (3) why it is not feasible to have face-to-face confrontation by either (a) bringing the witness to the United States for a deposition at which the defendant can be present or (b) transporting the defendant to the deposition outside the United States.

The new procedure does not apply if it is possible to bring the witness to the United States for trial or for a deposition at which the defendant can be present, or if it is feasible for the defendant to be present at a deposition outside the United States. The proposal thus creates a very limited exception to the requirement that the defendant must be present at any deposition under Rule 15 unless the defendant waives the right to be present or is excluded by the court for being disruptive.

Although the amendment would not predetermine the admissibility of any deposition taken pursuant to it, in drafting the amendment the Committee was attentive to both criteria developed in the lower courts and to Supreme Court Confrontation Clause precedent.

The history of the amendment

The Department of Justice wrote to the Advisory Committee in 2006 proposing that Rule 15 be amended. After a period of study and discussion from 2006 to 2008, the Advisory Committee sought and received Standing Committee approval to publish the proposed amendment for public comment in 2008.

[1] The defendant in *Ali* was convicted of multiple crimes arising from his affiliation with an al-Qaeda terrorist cell and its plans to carry out terrorist acts in United States. Before trial Ali sought to suppress a confession he made in Saudi Arabia, alleging it was the product of torture by Mabahith security officials. As Saudi citizens residing in Saudi Arabia, the Mabahith officers were beyond the district court's subpoena power. The Saudi government denied the United States's request to allow the officers to testify at trial in the United States but permitted the officers to sit for depositions in Riyadh. The Saudi government had never before allowed such foreign access to a Mabahith officer. After finding it was not feasible for Ali (who was in custody following his earlier extradition from Saudi Arabia) to be transported to Riyadh for the depositions, the district court adopted procedures similar to those outlined in the proposed amendment. Ali had defense counsel both in Riyadh and with him in the United States, the Saudi officials testified under oath, defense counsel was able to cross-examine the Mabahith witnesses extensively, and a two-way video link allowed the defendant, judge, and jury to observe the demeanor of the witnesses. At trial the videotape presented side-by-side footage of the Mabahith officers testifying and the defendant's simultaneous reactions to the testimony. On appeal the Fourth Circuit held that introduction of deposition testimony taken under those procedures did not violate the Confrontation Clause.

After making several changes in response to public comments, in April 2009 the Advisory Committee recommended that the Standing Committee approve the proposed amendment and forward it to the Judicial Conference. Four comments were received in response to the publication of the proposed amendment, and one witness representing the Federal Defenders testified concerning the amendment. The Federal Magistrate Judges Association endorsed the proposal. The General Counsel of the Drug Enforcement Administration raised some issues concerning the drafting of the rule. The Federal Defenders and the National Association of Criminal Defense Lawyers opposed the rule and urged that it be withdrawn, or, at a minimum, substantially redrafted.

The principal arguments in the lengthy submissions from the Federal Defenders and NACDL concerned the effect of the proposed amendment on the defendant's rights under the Confrontation Clause of the Sixth Amendment. They argued that *Crawford v. Washington*, 541 U.S. 36 (2004), interprets the Confrontation Clause as providing an unqualified right to face-to-face confrontation that would preclude the admission of testimony preserved by a deposition taken under the proposed rule. There is no indication that the Supreme Court will continue to allow any exception to the right of face-to-face confrontation even when this would serve an important public policy interest and there are guarantees of trustworthiness. Moreover, the proposed amendment may not be confined to a small number of exceptional cases. The amendment is not, in the opponents' view, limited to cases where an interest as significant as national security is at issue, nor does it guarantee the level of participation by the defendant that was provided in *United States v. Ali*, 528 F.3d 210 (4th Cir. 2008), *cert. denied*, 129 S. Ct. 1312 (2009).

Specifically, as published the amendment (1) was not limited to transnational cases, (2) was not limited to felonies, (3) did not require a showing that the evidence sought is "necessary" to the government's case, and (4) imposed no obligation on the government to secure the witness's presence.

NACDL argued that the real significance of the amendment is not the taking of the depositions per se, but rather that it would enable the prosecution to present evidence at trial that has not been subject to confrontation. They argued that the amendment would in effect create a right to introduce the resulting deposition at trial, and as such exceed the authority of the Rules Enabling Act. It would also be a back door means of achieving the goals of the failed 2002 attempt to amend Rule 26. Rather than create inevitable constitutional challenges, they urge the Committee to await either legislation or further clarification from the case law. They also urged that the safeguards and limits in the proposed amendment are insufficient to restrict its scope and to guarantee the defendant's participation. In their view, "meaningfully participate . . . through reasonable means" creates only a vague and subjective test that offers little real protection. Similarly, the showing required would encompass every witness beyond the court's subpoena power. Finally, they noted there is reason to doubt the credibility and reliability of the testimony of the potential witnesses who are willing to be deposed, but not travel to the United States to testify. These will include, for example, persons who have fled justice in this country and know that their oath taken abroad will have no practical significance.

The Committee also heard testimony stressing the frequency with which the technology is inadequate or fails, as well as other problems that defense attorneys experience in taking foreign depositions, such as the requirement in some countries that only local counsel can question witnesses.

The Advisory Committee adopted several amendments intended to address some of the issues raised during the comment period. It explicitly limited the amendment to felonies. After discussion, the Committee declined to adopt a requirement that the Attorney General or his designee certify or determine that the case serves an important public interest. Although there was support for a mechanism that would guarantee that requests under the new rule would be rigorously reviewed within the Department of Justice and made only infrequently, members were concerned that adding a provision in the rules requiring the action by the Attorney General might raise separation of powers issues. (The Committee did add a provision requiring the attorney for the government to establish that the prosecution advances an important public interest, but this provision was deleted by the Standing Committee.)

The Committee also incorporated several minor changes suggested during the comment period and by the style consultant to improve the clarity of the proposed amendment.

The Committee did not adopt three other suggestions. First, it declined to limit the rule to government witnesses, though it recognized that there will be only a small number of cases in which a defendant will wish to use this procedure.[2] Second, the Committee declined to require the government to show that the deposition would produce evidence "necessary" to its case, viewing that standard as unrealistic when the government is still assembling its case. Third, the Committee declined to add a requirement that the government show it had made diligent efforts to secure the witness's testimony in the United States. In the Committee's view, this might actually water down the requirement in the rule as published that the witness's presence "cannot be obtained."

The Committee discussed the Confrontation Clause issues at length. Members emphasized that when the government (or a codefendant) seeks to introduce deposition testimony, the court will rule on admissibility under the Federal Rules of Evidence as well as the Sixth Amendment. Members stressed that providing a procedure to take a deposition did not guarantee its later admission, which could turn on a number of factors. For example, if the technology does not work well enough to allow the defendant to participate or to create a high-quality recording, the deposition would likely not be admitted. Similarly, the situation might change so that it would be possible for the witness to testify at the trial. The decision to allow the taking of the deposition in no way

[2] In cases involving a single defendant, Rule 15 would pose no difficulties if the defendant consented not to be present at the deposition of his witness, and there would be no Confrontation Clause barrier to the introduction of the deposition. However, in a case involving multiple defendants, one defendant might wish to depose a witness overseas, and another defendant who could not be present at the deposition might object to the admission of the evidence.

forecloses a Confrontation Clause challenge to admission or one based on the Rules of Evidence. The Committee Note was amended to make this point clear.

The proposed amendment is intended to meet the criteria developed in lower court decisions such as *Ali*, as well as the Supreme Court's Confrontation Clause decisions. Although there will undoubtably be issues arising from the use of technology, members felt that the district courts have ample authority and experience to handle those issues on a case by case basis.

The Advisory Committee voted, with three dissents, to approve the proposed amendment to Rule 15, as revised, and to send it to the Standing Committee. The Standing Committee approved the amendment in June 2009, and the Judicial Conference approved it in September 2009.

In 2010 the Supreme Court remanded the proposed amendment to the Advisory Committee for further consideration. No statement accompanied the Court's action.

The Committee's recommendation

At its April meeting the Advisory Committee voted, with one dissent, to recommend that the Standing Committee approve and transmit a revised Rule 15 proposal to the Judicial Conference. Initially, the Advisory Committee made no change in the text of the amendment approved in 2009, but substantially revised the Committee Note to clarify that authorizing the taking of the foreign deposition does not determine its admissibility at trial. Before the Standing Committee met in June 2011, the Advisory Committee submitted a supplemental memorandum describing revisions in the text of the proposed amendment to Rule 15 and the Committee Note that had been unanimously approved by an e-mail vote of the Advisory Committee. That supplemental memorandum is attached and describes the final version of the amendment proposed by the Advisory Committee. Because the changes further emphasized a point that had already been made in the Committee Note published for public comment, republication remained unnecessary.

As revised, the Committee Note emphasizes that the proposed amendment does not predetermine whether depositions conducted outside the presence of the defendant would be admissible at trial. Rather, it is limited to providing assistance in pretrial discovery. As is the case with all depositions, courts determine admissibility on a case-by-case basis, applying the Federal Rules of Evidence and the Constitution.

The revised Committee Note emphasizes the limited scope of the proposed amendment, which is significantly different from an earlier amendment to Rule 26 that the Supreme Court declined to transmit to Congress. *See* 207 F.R.D. 89, 93-104 (2002). The focus of the proposed 2002 amendment to Rule 26 was the admissibility of evidence at trial; the amendment would have authorized the use of two-way video transmissions in criminal cases in (1) "exceptional circumstances," with (2) "appropriate safeguards," and if (3) "the witness is unavailable."

Recommendation–The Advisory Committee recommends that the proposed amendment to Rule 15 be approved as revised and forwarded to the Judicial Conference.

*** * * * ***

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

To: **Hon. Lee H. Rosenthal, Chair**
Standing Committee on Rules of Practice and Procedure

From: **Hon. Richard C. Tallman, Chair**
Advisory Committee on Federal Rules of Criminal Procedure

Subject: **Proposed Amendment to Rule 15**

Date: **May 24, 2011 (revised June 2011)**

This memorandum supplements the material previously circulated in the Agenda Book. It includes revisions in the proposed amendment to Rule 15 and the accompanying Committee Note that have been unanimously approved by an e-mail vote of the Advisory Committee. These revisions are the result of consultation with the reporters and chairs of the Standing Committee and Evidence Rules Committee. This memorandum also brings to your attention an issue concerning the interplay between the proposed amendment and the Rules of Evidence.

1. The revision in the text of Rule 15 and the accompanying note.

The proposed amendment, which applies only to depositions taken outside the United States, provides a procedural mechanism to address cases in which important witnesses—both government and defense witnesses—live in, or have fled to, countries where they cannot be reached by the court's subpoena power. Following the Supreme Court's remand for further consideration, at its April meeting the Advisory Committee voted to transmit the text of the rule without change, but it revised the Committee Note to emphasize the limited function of the proposed amendment: it authorizes *only* the taking of pretrial depositions and does not speak to their ultimate admissibility at trial. As stated in the Committee Note, questions of admissibility are left to the courts to resolve on a case-by-case basis, applying the Federal Rules of Evidence and the Constitution.

In preparation for the meeting of the Standing Committee, further consultation among the committee chairs and reporters led to a consensus that it would be desirable to state that point in the text of Rule 15(f), which now states that "A party may use all or part of a deposition as provided by the Federal Rules of Evidence." By unanimous e-mail vote, the Advisory Committee approved the following language:

Rule 15. Depositions[*]

* * * * *

(f) Use as Evidence. Authorization to take a deposition under this rule does not determine admissibility. A party may use all or part of a deposition as provided by the Federal Rules of Evidence.

With the exception of this language—which moves to the text a point previously made in the Committee Note—the proposed amendment is identical to that previously approved by the Standing Committee and the Judicial Conference.

By email vote the Advisory Committee also approved a revised Committee Note that describes the amendment to subdivision (f) and clarifies the relationship between the authority to take a deposition under Rule 15(c)(3) and the admission of deposition testimony at trial. The revised Note language states:

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[*]After the distribution of this memorandum, the proposed language was revised to conform to the Standing Committee's style conventions. The restyled language was submitted on behalf of the Advisory Committee and approved at the Standing Committee meeting:

> **(f) Admissibility and Use as Evidence.** An order authorizing a deposition to be taken under this rule does not determine its admissibility.

While a party invokes Rule 15 in order to preserve testimony for trial, the rule does not determine whether the resulting deposition will be admissible, in whole or in part. Subdivision (f) provides that in the case of all depositions, questions of admissibility of the evidence obtained are left to the courts to resolve on a case by case basis. Under Rule 15(f), the courts make this determination applying the Federal Rules of Evidence, which state that relevant evidence is admissible except as otherwise provided by the Constitution, statutes, the Rules of Evidence, and other rules prescribed by the Supreme Court. Fed. R. Evid. 402.

Rule 15(c) as amended imposes significant procedural limitations on taking certain depositions in criminal cases. The amended rule authorizes a deposition outside a defendant's physical presence only in very limited circumstances after the trial court makes case-specific findings. Amended Rule 15(c)(3) delineates these circumstances and the specific findings a trial court must make before permitting parties to depose a witness outside the defendant's presence. The party requesting the deposition shoulders the burden of proof — by a preponderance of the evidence — on the elements that must be shown. The amended rule recognizes the important witness confrontation principles and vital law enforcement and other public interests that are involved**.**

2. The relationship between the proposed amendment to Rule 15 and the Rules of Evidence.

Because the admissibility of deposition testimony is governed by the Rules of Evidence, we have attempted to determine whether the amendment would have any implications for or effects on the Rules of Evidence. The Reporter and Chair of the Evidence Rules Committee have noted an ambiguity already present in Rule 804(a)(5) which might come into play if depositions were taken under the proposed amendment. Rule 804(a)(5) provides:

> (a) Definition of unavailability. ''Unavailability as a witness'' includes situations in which the declarant—
>
> > (5) is absent from the hearing and the proponent of a statement has been unable to procure the declarant's attendance (or in the case of a hearsay exception under subdivision (b)(2), (3), or (4), the declarant's attendance or testimony) by process or other reasonable means.

Subdivisions (b)(2), (3), and (4) govern dying declarations, statements against interest, and personal and family history. These forms of hearsay are admissible only when the declarant is unavailable under (a)(5). Under (a)(5), a declarant is unavailable only if the proponent has been "*unable to procure* the declarant's attendance (or in the case of a hearsay exception *under subdivision (b)(2), (3), or (4), the declarant's* attendance or *testimony*)." (Emphasis added.)

Because the parenthetical in Rule 804(a)(5) refers simply to "testimony," it might possibly be read to include testimony that is for one reason or another not admissible at trial. For example,

a prior deposition or testimony in a different case is inadmissible if the party against whom the testimony is now offered did not have an opportunity and similar motive to develop the testimony by direct, cross, or redirect examination. *See* Fed. R. Evid. 804(b)(1). In the criminal context, the government often has grand jury "testimony" by a witness which will not be admissible because there was no confrontation or cross examination. In any of these cases, Rule 804(a)(5) might be read at present to bar the admission of hearsay statements under Rule 804(b)(2)–(4). Similarly, if the proposed amendment to Rule 15 were adopted, a court might hold that the government "procure[d]" the resulting deposition "testimony" even if it were ruled inadmissible at trial for Confrontation Clause, poor quality recording, or any other reason. This interpretation would likely be of greatest concern in connection with declarations against interest. Dying declaration declarants are unlikely to be deposeable, and pedigree statements rarely come up.

We have found no cases in which this interpretation has been considered, and there is reason to think that courts would limit Rule 804(a)(5)'s preclusive effect to admissible testimony. As the Committee Note to 804(b) states: "The rule expresses preferences: testimony given on the stand in person is preferred over hearsay, and hearsay, if of a specified quality, is preferred over complete loss of the evidence of the declarant." If the rule is construed to implement those policy preferences, inadmissible testimony would certainly not be preferred, so it provides no basis for blocking the admission of quality hearsay. Thus Rule 804(b)'s second policy preference comes into play, and the rule should be interpreted to avoid "the complete loss of the evidence of the declarant."

The history of Rule 804 indicates that the drafters were aware of the possibility that civil and criminal depositions might be taken that would not be admissible,[1] and there is no indication that

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[1]Congress added the parenthetical to Rule 804(a)(5). As explained in MUELLER AND KIRKPATRICK ON FEDERAL EVIDENCE, 3d ed., § 8:108, 10–12 (footnotes omitted and emphasis added):

> On the definition of unavailability, Congress added the parenthetical qualification in Fed. R. Evid. 804(a)(5). The added language keeps the proponent invoking the dying statement, against-interest, or family history exceptions from claiming the speaker is unavailable because of unavoidable absence unless that proponent took reasonable steps to secure the speaker's testimony, *and the clear intent was to make the party who would invoke those exceptions try to depose the declarant or show why it couldn't be done*. The change originated in the House, and drew some comment and support. It also drew the opposition of the Advisory Committee, which defended the original version of Fed. R. Evid. 804(a)(5):
>
> > . . . None of them [dying declarations, declarations against interest, and declarations of pedigree] warrants this needless, impractical and highly restrictive complication. . . .
> >
> > Depositions are expensive and time-consuming. In any event, deposition

the Committee thought a deposition, once taken but ruled inadmissible, would block a finding of unavailability. To the contrary, since the language in question was added to force parties to try to take depositions, courts might be reluctant to adopt an interpretation that would penalize parties from taking depositions when possible and seeking to introduce them.

Although the proposed amendment does not create the ambiguity in Rule 804, it would provide one more circumstance in which these arguments might foreseeably arise if depositions taken under the rule were deemed inadmissible. Alternatively, if the proposed amendment were to increase the number of admissible depositions, that would have a different impact on the Evidence Rules: it would create situations in which declarations against interest—admissible before the amendment—would be barred because of the availability of a preferred form of evidence.

Because the proposal to amend Rule 15 came from the Department of Justice, we consulted with Jonathan Wroblewski and Kathleen Felton about this issue. This memorandum reflects their view of the law, and the Department continues to support the amendment to Rule 15.

We obviously hope that the issue addressed in this memo will not dissuade the Standing Committee from approving Rule 15 and sending it on to the Judicial Conference in the Fall. But I thought alerting you in advance of the June meeting would be helpful.

> procedures are available to those who wish to resort to them. Moreover, the deposition procedures of the Civil Rules and Criminal Rules are only imperfectly adapted to implementing the amendment. *No purpose is served unless the deposition, if taken, may be used in evidence. Under Civil Rule 32(a)(3) and Criminal Rule 15(e), a deposition, though taken, may not be admissible***,** and under Criminal Rule 15(a) substantial obstacles exist in the way of even taking a deposition.

This argument persuaded the Senate, which tried to delete the parenthetical phrase, but in the end it was restored by the Conference Committee and enacted into law.

PROPOSED AMENDMENTS TO THE FEDERAL RULES OF CRIMINAL PROCEDURE*

Rule 5. Initial Appearance

* * * * *

(c) Place of Initial Appearance; Transfer to Another District.

* * * * *

(4) ***Procedure for Persons Extradited to the United States.*** If the defendant is surrendered to the United States in accordance with a request for the defendant's extradition, the initial appearance must be in the district (or one of the districts) where the offense is charged.

(d) Procedure in a Felony Case.

(1) ***Advice.*** If the defendant is charged with a felony, the judge must inform the defendant of the following:

*New material is underlined; matter to be omitted is lined through.

* * * * *

(D) any right to a preliminary hearing; ~~and~~

(E) the defendant's right not to make a statement, and that any statement made may be used against the defendant; and

(F) if the defendant is held in custody and is not a United States citizen, that an attorney for the government or a federal law enforcement officer will:

(i) notify a consular officer from the defendant's country of nationality that the defendant has been arrested if the defendant so requests; or

(ii) make any other consular notification required by treaty or other international agreement.

* * * * *

Committee Note

Subdivision (c)(4). The amendment codifies the longstanding practice that persons who are charged with criminal offenses in the United States and surrendered to the United States following extradition in a foreign country make their initial appearance in the jurisdiction that sought their extradition.

This rule is applicable even if the defendant arrives first in another district. The earlier stages of the extradition process have already fulfilled some of the functions of the initial appearance. During foreign extradition proceedings, the extradited person, assisted by counsel, is afforded an opportunity to review the charging document, U.S. arrest warrant, and supporting evidence. Rule 5(a)(1)(B) requires the person be taken before a magistrate judge without unnecessary delay. Consistent with this obligation, it is preferable not to delay an extradited person's transportation to hold an initial appearance in the district of arrival, even if the person will be present in that district for some time as a result of connecting flights or logistical difficulties. Interrupting an extradited defendant's transportation at this point can impair his or her ability to obtain and consult with trial counsel and to prepare his or her defense in the district where the charges are pending.

Subdivision (d)(1)(F). This amendment is designed to ensure that the United States fulfills its international obligations under Article 36 of the Vienna Convention on Consular Relations, and other bilateral treaties. Bilateral agreements with numerous countries require consular notification whether or not the detained foreign national requests it. Article 36 of the Vienna Convention provides that detained foreign nationals shall be advised that they may have the consulate of their home country notified of their arrest and detention. At the time of this amendment, many questions remain unresolved concerning Article 36, including whether it creates

individual rights that may be invoked in a judicial proceeding and what, if any, remedy may exist for a violation of Article 36. *Sanchez-Llamas v. Oregon*, 548 U.S. 331 (2006). This amendment does not address those questions.

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Rule 15. Depositions

* * * * *

(c) Defendant's Presence.

(1) ***Defendant in Custody*.** Except as authorized by Rule 15(c)(3), the ~~The~~ officer who has custody of the defendant must produce the defendant at the deposition and keep the defendant in the witness's presence during the examination, unless the defendant:

(A) waives in writing the right to be present; or

(B) persists in disruptive conduct justifying exclusion after being warned by the court that

disruptive conduct will result in the defendant's exclusion.

(2) ***Defendant Not in Custody*****.** Except as authorized by Rule 15(c)(3), a ~~A~~ defendant who is not in custody has the right upon request to be present at the deposition, subject to any conditions imposed by the court. If the government tenders the defendant's expenses as provided in Rule 15(d) but the defendant still fails to appear, the defendant — absent good cause — waives both the right to appear and any objection to the taking and use of the deposition based on that right.

(3) ***Taking Depositions Outside the United States Without the Defendant's Presence*****.** The deposition of a witness who is outside the United States may be taken without the defendant's presence if the court makes case-specific findings

of all the following:

(A) the witness's testimony could provide substantial proof of a material fact in a felony prosecution;

(B) there is a substantial likelihood that the witness's attendance at trial cannot be obtained;

(C) the witness's presence for a deposition in the United States cannot be obtained;

(D) the defendant cannot be present because:

(i) the country where the witness is located will not permit the defendant to attend the deposition;

(ii) for an in-custody defendant, secure transportation and continuing custody cannot be assured at the witness's location; or

(iii) for an out-of-custody defendant, no reasonable conditions will assure an appearance at the deposition or at trial or sentencing; and

(E) the defendant can meaningfully participate in the deposition through reasonable means.

* * * * *

(f) Admissibility and Use as Evidence. An order authorizing a deposition to be taken under this rule does not determine its admissibility. A party may use all or part of a deposition as provided by the Federal Rules of Evidence.

* * * * *

Committee Note

Subdivisions (c)(3) and (f). This amendment provides a mechanism for taking depositions in cases in which important witnesses — government and defense witnesses both — live in, or have fled to, countries where they cannot be reached by the court's subpoena power. Although Rule 15 authorizes depositions of

witnesses in certain circumstances, the rule to date has not addressed instances where an important witness is not in the United States, there is a substantial likelihood the witness's attendance at trial cannot be obtained, and it would not be possible to securely transport the defendant or a co-defendant to the witness's location for a deposition.

While a party invokes Rule 15 in order to preserve testimony for trial, the rule does not determine whether the resulting deposition will be admissible, in whole or in part. Subdivision (f) provides that in the case of all depositions, questions of admissibility of the evidence obtained are left to the courts to resolve on a case by case basis. Under Rule 15(f), the courts make this determination applying the Federal Rules of Evidence, which state that relevant evidence is admissible except as otherwise provided by the Constitution, statutes, the Rules of Evidence, and other rules prescribed by the Supreme Court. Fed. R. Evid. 402.

Rule 15(c) as amended imposes significant procedural limitations on taking certain depositions in criminal cases. The amended rule authorizes a deposition outside a defendant's physical presence only in very limited circumstances after the trial court makes case-specific findings. Amended Rule 15(c)(3) delineates these circumstances and the specific findings a trial court must make before permitting parties to depose a witness outside the defendant's presence. The party requesting the deposition shoulders the burden of proof — by a preponderance of the evidence — on the elements that must be shown. The amended rule recognizes the important witness confrontation principles and vital law enforcement and other public interests that are involved.

This amendment does not supersede the relevant provisions of 18 U.S.C. § 3509, authorizing depositions outside the defendant's physical presence in certain cases involving child victims and witnesses, or any other provision of law.

CHANGES MADE TO PROPOSED AMENDMENT RELEASED FOR PUBLIC COMMENT

The limiting phrase "in the United States" was deleted from Rule 15(c)(1) and (2) and replaced with the phrase "Except as authorized by Rule 15(c)(3)." The revised language makes clear that foreign depositions under the authority of (c)(3) are exceptions to the provisions requiring the defendant's presence, but other depositions outside the United States remain subject to the general requirements of (c)(1) and (2). For example, a defendant may waive his right to be present at a foreign deposition, and a defendant who attends a foreign deposition may be removed from such a deposition if he is disruptive. In subdivision (c)(3)(D) the introductory phrase was revised to the simpler "because."

In order to restrict foreign depositions outside of the defendant's presence to situations where the deposition serves an important public interest, the limiting phrase "in a felony prosecution" was added to subdivision (c)(3)(A).

The text of subdivision (f) and the Committee Note were revised to state more clearly the limited purpose and effect of the amendment, which is providing assistance in pretrial discovery. Compliance with the procedural requirements for the taking of the foreign testimony does not predetermine admissibility at trial, which is determined on a case-by-case basis, applying the Federal Rules of Evidence and the Constitution.

Other changes were also made in the Committee Note. In conformity with the style conventions governing the rules, citations to cases were deleted, and other changes were made to improve clarity.

* * * * *

Rule 37. Indicative Ruling on a Motion for Relief That Is Barred by a Pending Appeal

(a) Relief Pending Appeal. If a timely motion is made for relief that the court lacks authority to grant because of an appeal that has been docketed and is pending, the court may:

(1) defer considering the motion;

(2) deny the motion; or

(3) state either that it would grant the motion if the court of appeals remands for that purpose or that the motion raises a substantial issue.

(b) Notice to the Court of Appeals. The movant must promptly notify the circuit clerk under Federal Rule of Appellate Procedure 12.1 if the district court states that it would grant the motion or that the motion raises a substantial issue.

(c) Remand. The district court may decide the motion if

the court of appeals remands for that purpose.

Committee Note

This new rule adopts for any motion that the district court cannot grant because of a pending appeal the practice that most courts follow when a party makes a motion under Rule 60(b) of the Federal Rules of Civil Procedure to vacate a judgment that is pending on appeal. After an appeal has been docketed and while it remains pending, the district court cannot grant a Rule 60(b) motion without a remand. But it can entertain the motion and deny it, defer consideration, or state that it would grant the motion if the court of appeals remands for that purpose or state that the motion raises a substantial issue. Experienced lawyers often refer to the suggestion for remand as an "indicative ruling." (Federal Rule of Appellate Procedure 4(b)(3) lists three motions that, if filed within the relevant time limit, suspend the effect of a notice of appeal filed before or after the motion is filed until the judgment of conviction is entered and the last such motion is ruled upon. The district court has authority to grant the motion without resorting to the indicative ruling procedure.)

The procedure formalized by Federal Rule of Appellate Procedure 12.1 is helpful when relief is sought from an order that the court cannot reconsider because the order is the subject of a pending appeal. In the criminal context, the Committee anticipates that Criminal Rule 37 will be used primarily if not exclusively for newly discovered evidence motions under Criminal Rule 33(b)(1) (*see United States v. Cronic*, 466 U.S. 648, 667 n.42 (1984)), reduced sentence motions under Criminal Rule 35(b), and motions under 18 U.S.C. § 3582(c). Rule 37 does not attempt to define the circumstances in which an appeal limits or defeats the district court's authority to act in the face of a pending appeal. The rules that govern

the relationship between trial courts and appellate courts may be complex, depending in part on the nature of the order and the source of appellate jurisdiction. Rule 37 applies only when those rules deprive the district court of authority to grant relief without appellate permission. If the district court concludes that it has authority to grant relief without appellate permission, it can act without falling back on the indicative ruling procedure.

To ensure proper coordination of proceedings in the district court and in the appellate court, the movant must notify the circuit clerk under Federal Rule of Appellate Procedure 12.1 if the district court states that it would grant the motion or that the motion raises a substantial issue. Remand is in the court of appeals' discretion under Federal Rule of Appellate Procedure 12.1.

Often it will be wise for the district court to determine whether it in fact would grant the motion if the court of appeals remands for that purpose. But a motion may present complex issues that require extensive litigation and that may either be mooted or be presented in a different context by decision of the issues raised on appeal. In such circumstances the district court may prefer to state that the motion raises a substantial issue, and to state the reasons why it prefers to decide only if the court of appeals agrees that it would be useful to decide the motion before decision of the pending appeal. The district court is not bound to grant the motion after stating that the motion raises a substantial issue; further proceedings on remand may show that the motion ought not be granted.

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Rule 58. Petty Offenses and Other Misdemeanors

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(b) Pretrial Procedure.

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(2) ***Initial Appearance*****.** At the defendant's initial appearance on a petty offense or other misdemeanor charge, the magistrate judge must inform the defendant of the following:

* * * * *

(F) the right to a jury trial before either a magistrate judge or a district judge — unless the charge is a petty offense; ~~and~~

(G) any right to a preliminary hearing under Rule 5.1, and the general circumstances, if any, under which the defendant may secure pretrial release; and

(H) if the defendant is held in custody and is not a

United States citizen, that an attorney for the government or a federal law enforcement officer will:

(i) notify a consular officer from the defendant's country of nationality that the defendant has been arrested if the defendant so requests; or

(ii) make any other consular notification required by treaty or other international agreement.

* * * * *

Committee Note

Subdivision (b)(2)(H). This amendment is designed to ensure that the United States fulfills its international obligations under Article 36 of the Vienna Convention on Consular Relations, and other bilateral treaties. Bilateral agreements with numerous countries require consular notification whether or not the detained foreign national requests it. Article 36 of the Vienna Convention provides that detained foreign nationals shall be advised that they may have the consulate of their home country notified of their arrest and detention. At the time of this amendment, many questions remain unresolved concerning Article 36, including whether it creates

individual rights that may be invoked in a judicial proceeding and what, if any, remedy may exist for a violation of Article 36. *Sanchez-Llamas v. Oregon*, 548 U.S. 331 (2006). This amendment does not address those questions.

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§ 440 Procedures for the Judicial Conference's Committee on Rules of Practice and Procedure and Its Advisory Rules Committees

§ 440.10 Overview

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

§ 440.20 Advisory Committees

§ 440.20.10 *Functions*

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

§ 440.20.20 *Suggestions and Recommendations*

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

§ 440.20.30 *Drafting Rule Changes*

(a) *Meetings*

Each advisory committee meets at the times and places that the chair designates. Advisory committee meetings must be open to the public, except when the committee — in open session and with a majority present — determines that it is in the public

interest to have all or part of the meeting closed and states the reason. Each meeting must be preceded by notice of the time and place, published in the *Federal Register* and on the judiciary's rulemaking website, sufficiently in advance to permit interested persons to attend.

(b) *Preparing Draft Changes*

The reporter assigned to each advisory committee should prepare for the committee, under the direction of the committee or its chair, draft rule changes, committee notes explaining their purpose, and copies or summaries of written recommendations and suggestions received by the committee.

(c) *Considering Draft Changes*

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

§ 440.20.40 *Publication and Public Hearings*

(a) *Publication*

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

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

(b) *Public Comment Period*

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

(c) *Hearings*

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

(d) *Expedited Procedures*

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

§ 440.20.50 *Procedures After the Comment Period*

(a) *Summary of Comments*

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

(b) *Advisory Committee Review; Republication*

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

(c) *Submission to the Standing Committee*

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

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

§ 440.20.60 *Preparing Minutes and Maintaining Records*

(a) *Minutes of Meetings*

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

(b) *Records*

The advisory committee's records consist of:

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

(c) *Public Access to Records*

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

§ 440.30 Standing Committee

§ 440.30.10 *Functions*

The Standing Committee's functions include:

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

§ 440.30.20 *Procedures*

(a) *Meetings*

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

(b) *Attendance by the Advisory Committee Chairs and Reporters*

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

(c) *Action on Proposed Rule Changes or Committee Notes*

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

(d) *Transmission to the Judicial Conference*

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

§ 440.30.30 *Preparing Minutes and Maintaining Records*

(a) *Minutes of Meetings*

The Secretary prepares minutes of Standing Committee meetings.

(b) *Records*

The Standing Committee's records consist of:

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

(c) *Public Access to Records*

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

PROPOSED REVISED PROCEDURES "REDLINE" VERSION

~~PROCEDURES FOR THE CONDUCT OF BUSINESS BY THE JUDICIAL CONFERENCE COMMITTEES ON RULES OF PRACTICE AND PROCEDURE~~

Scope

~~These procedures govern the operations of~~§ 440 Procedures for the Judicial Conference's Committee on Rules of Practice~~, Procedure, and Evidence (Standing Committee) and the various Judicial Conference Advisory Committees on Rules of Practice and Procedure in drafting and recommending new~~ and Procedure and Its Advisory Rules Committees

§ 440.10 Overview

The Rules Enabling Act, 28 U.S.C. §§ 2071–2077, authorizes the Supreme Court to prescribe general rules of practice~~,~~ and procedure~~, and evidence and amendments to existing rules.~~

~~Part I.~~ and rules of evidence for the federal courts. Under the Act, the Judicial Conference must appoint a standing committee, and may appoint advisory committees to recommend new and amended rules. Section 2073 requires the Judicial Conference to publish the procedures that govern the work of the Committee on Rules of Practice and Procedure (the "Standing Committee") and its Advisory Committees

~~1. Functions~~

~~Each~~ on the Rules of Appellate, Bankruptcy, Civil, and Criminal Procedure and on the Evidence Rules. *See* 28 U.S.C. § 2073(a)(1). These procedures do not limit the rules committees' authority. Failure to comply with them does not invalidate any rules committee action. *Cf.* 28 U.S.C. § 2073(c).

§ 440.20 Advisory ~~Committee shall carry on "a~~Committees

§ 440.20.10 *Functions*

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

§ 440.20.—20 ***Suggestions and Recommendations***

Suggestions and recommendations ~~with respect to~~on the rules ~~should be sent to the Secretary, Committee on Rules of Practice and Procedure,~~are submitted to the Secretary of the Standing Committee at the Administrative Office of the United States Courts, Washington, D.C. ~~20544, who shall, to the extent feasible, acknowledge in writing every written suggestion~~ The Secretary will acknowledge the suggestions or recommendation ~~so received~~ s and ~~shall~~ refer ~~all suggestions and recommendations~~them to the appropriate ~~A~~advisory committee. If the Standing Committee~~. To the extent feasible, the Secretary, in consultation with the Chairman of the Advisory Committee, shall advise the person making a recommendation or suggestion of the action taken thereon by the Advisory Committee.~~

~~3. Drafting Rules Changes~~

~~a. An Advisory Committee shall meet at such~~ takes formal action on them, that action will be reflected in the Standing Committee's minutes, which are posted on the judiciary's rulemaking website.

§ 440.20.30 ***Drafting Rule Changes***

(a) *Meetings*

Each advisory committee meets at the times and places ~~as~~that the ~~Chairman may authorize~~chair designates. ~~All~~ Advisory ~~C~~committee meetings ~~shall~~must be open to the public, except when the committee ~~so meeting,~~ — in open session and with a majority present~~,~~ — determines that it is in the public interest ~~that~~to have all or part ~~of the remainder~~ of the meeting ~~on that day shall be~~ closed ~~to the public~~ and states the reason ~~for closing the meeting.~~ Each meeting ~~shall~~must be preceded by notice of the time and place ~~of the meeting, including publication~~ published in the *Federal Register* and on the judiciary's rulemaking website, ~~sufficient~~sufficiently in advance to permit interested persons to attend.

(b) *Preparing Draft Changes*

~~b.~~ The reporter assigned to each ~~A~~advisory ~~C~~committee ~~shall~~should prepare for the committee, under the direction of the ~~C~~committee or its ~~Chairman~~chair, ~~prepare initial~~ draft rules changes, "~~C~~committee ~~N~~notes" explaining their purpose, and ~~intent,~~ copies or summaries of ~~all~~ written recommendations and suggestions received by the ~~Advisory Committee, and shall forward them to the Advisory C~~committee.

~~c. The Advisory Committee shall then meet to consider the draft proposed new rules and rules amendments, together with Committee Notes, make revisions therein, and submit them for approval of publication~~

(c) *Considering Draft Changes*

The advisory committee studies the rules' operation and effect. It meets to consider

proposed new and amended rules (together with committee notes), whether changes should be made, and whether they should be submitted to the Standing Committee, ~~or its Chairman, with~~ with a recommendation to approve for publication. The submission must be accompanied by a written report explaining the ~~Committee's~~advisory committee's action~~, including any minority or other separate views~~ and its evaluation of competing considerations.

~~4~~ § ~~440.~~—20.40 ***Publication and Public Hearings***

(a) ~~a.~~ ~~When publication~~*Publication*

Before any proposed rule change is ~~approved by~~published, the Standing Committee~~, t~~ must approve publication. The Secretary ~~shall~~ then arranges for ~~the~~ printing and ~~circulation of~~circulating the proposed ~~rules~~ changes to the bench ~~and~~, bar, and ~~to the~~ public ~~generally.~~. Publication ~~shall~~should be as wide as ~~practicable~~possible. ~~Notice of t~~The proposed ~~rule shall~~change must be published in the *Federal Register* ~~*and copies provided to appropriate legal publishing*~~and on the judiciary's rulemaking website. The Secretary must:

(1) notify members of Congress, federal judges, and the chief justice of each state's highest court of the proposed change, with a link to the judiciary's rulemaking website; and

(2) provide copies of the proposed change to legal-publishing firms with a request ~~that they be~~to timely included ~~in their publications. The Secretary shall also provide copies to the chief justice of the highest court of each state and, insofar as is practicable, to all individuals and organizations that request them.~~

~~b. In order to provide full notice and opportunity for comment on proposed rule changes, a period of~~ it in publications.

(b) *Public Comment Period*

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

(c) ~~c.~~*Hearings*

~~An A~~The advisory ~~C~~committee ~~shall~~must conduct public hearings on ~~all~~the proposed ~~rules~~ changes unless ~~elimination of such hearings~~eliminating them is approved under ~~the provisions of subparagraph d of this paragraph. The hearings shall be held at such~~paragraph (d) of this section or not enough witnesses ask to testify at a particular hearing. The hearings are held at the times and places ~~as determined by the chairman of the Advisory Committee and shall be preceded by adequate notice, including~~

~~publication in the~~ that the advisory committee's chair determines. Notice of the times and places must be published in the *Federal Register*. ~~*Proceedings shall be recorded and a transcript prepared. Subject to the provisions of paragraph six, such transcript shall be available for public inspection.*~~

~~*d. Exceptions to the time period for public comment and the public hearing requirement may be granted by the*~~ and on the judiciary's rulemaking website. The hearings must be recorded. Whenever possible, a transcript should be produced by a qualified court reporter.

(d) *Expedited Procedures*

The Standing Committee ~~or its chairman when~~may shorten the ~~Standing Committee~~public comment period or ~~its chairman~~eliminate public hearings if it determines that the administration of justice requires ~~that~~ a proposed rule change ~~should~~ to be expedited and that appropriate notice to the public ~~notice and comment may be achieved by a shortened comment period, without public hearings, or both.~~can still be provided and public comment obtained. The Standing Committee may also eliminate ~~the~~ public notice and comment ~~requirement if, in the case of~~for a technical or conforming amendment~~, it~~ if the Committee determines that ~~notice and comment~~they are ~~not appropriate or necessary~~unnecessary. ~~Whenever such~~ When an exception is made, the ~~Standing Committee shall~~chair must advise the Judicial Conference ~~of the exception and the reasons for the exception.~~

~~5. Subsequent Procedures~~

~~a. At the conclusion of the~~and provide the reasons.

§ 440.20.50 *Procedures After the Comment Period*

(a) *Summary of Comments*

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

(b) *Advisory Committee ~~shall review the proposed rules changes in the light of the~~Review; Republication*

The advisory committee reviews the proposed change in light of any comments and testimony. If the ~~A~~advisory ~~C~~committee makes ~~any~~ substantial changes, the proposed rule should be republished for an additional period ~~for~~of public ~~notice and comment may be provided.~~

~~b. The Advisory Committee shall submit proposed rules changes and Committee Notes, as finally agreed upon,~~ comment unless the advisory committee determines that republication would not be necessary to achieve adequate public comment

and would not assist the work of the rules committees.

(c) *Submission to the Standing Committee*

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

(1) be accompanied by a separate report of the comments received ~~and shall~~;
(2) explain ~~any~~the changes made ~~subsequent to~~after the original publication. ~~The submission shall also include minority views of Advisory Committee members who wish to have separate views recorded.~~

~~6. Records~~

~~a. The Chairman of the Advisory Committee shall arrange for the preparation of minutes of all Advisory Committee~~; and
(3) include an explanation of competing considerations examined by the advisory committee.

§ 440.20.60 ***Preparing Minutes and Maintaining Records***

(a) *Minutes of Meetings*

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

(~~b.~~) *Records*

The advisory committee's records ~~of an Advisory Committee shall~~ consist of ~~the~~:

- written suggestions received from the public; ~~the~~
- written comments received from the public on drafts of proposed rules. ~~responses thereto,~~;
- the committee's responses to public suggestions and comments;
- other correspondence with the public about proposed rule changes;
- electronic recordings and transcripts of public hearings~~, and summaries prepared by the reporter; all correspondence relating to proposed rules changes; minutes of Advisory Committee~~ (when prepared);
- the reporter's summaries of public comments and of testimony from public hearings;
- agenda books and materials prepared for committee meetings;
- minutes of committee meetings;
- approved drafts of rules changes; and
- reports to the Standing Committee. ~~The records shall be maintained at~~

(c) *Public Access to Records*

The records must be posted on the judiciary's rulemaking website, except for general

public correspondence about proposed rule changes and electronic recordings of hearings when transcripts are prepared. This correspondence and archived records are maintained by the Administrative Office of the United States Courts ~~for a minimum of two years~~ and ~~shall be~~are available for public inspection ~~during reasonable office hours. Thereafter the records may be transferred to a Government Records Center in accordance with applicable Government retention and disposition schedules.~~

~~c. Any portion of minutes, relating to~~. Minutes of a closed meeting ~~and~~may be made available to the public~~, may contain such~~ but with any deletions ~~as may be~~ necessary to avoid frustrating the purposes of closing the meeting ~~as provided in subparagraph 3a.~~

~~d. Copies of records shall be furnished to any person upon payment of a reasonable fee for the cost of reproduction.~~

~~**Part H -**~~ under § 440.20.30(a).

§ 440.30 Standing Committee

~~7~~ § 440.~~—~~30.10 ***Functions***

The Standing Committee~~ shall coordinate~~'s functions include:

(1) coordinating the work of the ~~several Advisory Committees, make suggestions of proposals to be studied by them, consider proposals recommended by the Advisory Committees, and transmit such proposals with its~~advisory committees;
(2) suggesting proposals for them to study;
(3) considering proposals they recommend for publication for public comment; and
(4) for proposed rule changes that have completed that process, deciding whether to accept or modify the proposals and transmit them with its own recommendation to the Judicial Conference, ~~or~~ recommit them to the ~~appropriate Advisory C~~advisory committee for further study and consideration, or reject them.

~~8~~ § 440.~~—~~30.20 ***Procedures***

(a~~.~~) *Meetings*

The Standing Committee ~~shall~~ meets at ~~such~~the times and places ~~as~~that the ~~Chairman may authorize~~chair designates. ~~All~~ Committee meetings ~~shall~~must be open to the public, except when the ~~c~~Committee ~~so meeting,~~ in open session and with a majority present, determines that it is in the public interest ~~that~~to have all or part of the ~~remainder of the~~ meeting ~~on that day shall be~~ closed ~~to the public~~ and states the reason ~~for closing the meeting.~~ Each meeting ~~shall~~must be preceded by notice of the time and place ~~of the meeting, including publication~~ published in the *Federal Register* and on the judiciary's rulemaking website, ~~sufficient~~sufficiently in advance

to permit interested persons to attend.

~~b. When an Advisory Committee's final recommendations for rules changes have been submitted, the Chairman and Reporter of~~ (b) *Attendance by the Advisory Committee ~~shall~~Chairs and Reporters*

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

(c) *Action on Proposed Rule Changes or Committee Notes~~.~~*

~~c.~~ The Standing Committee may accept, reject, or modify a ~~proposal. If a modification effects a substantial change, the proposal will be returned to the Advisory Committee with appropriate instructions.~~

~~d.~~proposed change or committee note, or may return the proposal to the advisory committee with instructions or recommendations.

(d) *Transmission to the Judicial Conference*

The Standing Committee ~~shall~~must transmit to the Judicial Conference the proposed rules changes and ~~C~~committee ~~N~~notes ~~approved by it~~ that it approves, together with the ~~A~~advisory ~~C~~committee report. The Standing Committee~~'~~s report ~~to the Judicial Conference shall~~ includes its own recommendations and explains any changes that it ~~has~~ made.

~~9. Records~~

~~a. The Secretary shall prepare minutes of all~~
§ 440.30.30 *Preparing Minutes and Maintaining Records*

(a) *Minutes of Meetings*

The Secretary prepares minutes of Standing Committee meetings.

~~(b.)~~ ~~The records of the~~*Records*

The Standing Committee ~~shall~~ 's records consist of~~:~~

- the minutes of Standing ~~and Advisory~~Committee and advisory committee meetings;
- agenda books and materials prepared for Standing Committee meetings~~;~~
- reports to the Judicial Conference~~;~~ and
- official correspondence ~~concerning~~about rules changes, including correspondence with ~~A~~advisory ~~C~~committee ~~Chairmen. The records shall be maintained at~~chairs

(c) *Public Access to Records*

The records must be posted on the judiciary's rulemaking website, except for official correspondence about rule changes. This correspondence and archived records are maintained by the Administrative Office of the United States Courts ~~for a minimum of two years~~ and ~~shall be~~are available for public inspection ~~during reasonable office hours. Thereafter the records may be transferred to a Government Records Center in accordance with applicable Government retention and disposition schedules.~~

~~c. Copies of records shall be furnished to any person upon payment of a reasonable fee for the cost of reproduction.~~

. Minutes of a closed meeting may be made available to the public but with any deletions necessary to avoid frustrating the purpose of closing the meeting under § 440.30.20(a).

PROCEDURES CURRENTLY IN EFFECT

PROCEDURES FOR THE CONDUCT OF BUSINESS BY THE JUDICIAL CONFERENCE COMMITTEES ON RULES OF PRACTICE AND PROCEDURE

Scope

These procedures govern the operations of the Judicial Conference Committee on Rules of Practice, Procedure, and Evidence (Standing Committee) and the various Judicial Conference Advisory Committees on Rules of Practice and Procedure in drafting and recommending new rules of practice, procedure, and evidence and amendments to existing rules.

Part I - Advisory Committees

1. Functions

   Each Advisory Committee shall carry on "a continuous study of the operation and effect of the general rules of practice and procedure now or hereafter in use" in its particular field, taking into consideration suggestions and recommendations received from any source, new statutes and court decisions affecting the rules, and legal commentary.

2. Suggestions and Recommendations

   Suggestions and recommendations with respect to the rules should be sent to the Secretary, Committee on Rules of Practice and Procedure, Administrative Office of the United States Courts, Washington, D.C. 20544, who shall, to the extent feasible, acknowledge in writing every written suggestion or recommendation so received and shall refer all suggestions and

recommendations to the appropriate Advisory Committee. To the extent feasible, the Secretary, in consultation with the Chairman of the Advisory Committee, shall advise the person making a recommendation or suggestion of the action taken thereon by the Advisory Committee.

3. Drafting Rules Changes

   a. An Advisory Committee shall meet at such times and places as the Chairman may authorize. All Advisory Committee meetings shall be open to the public, except when the committee so meeting, in open session and with a majority present, determines that it is in the public interest that all or part of the remainder of the meeting on that day shall be closed to the public and states the reason for closing the meeting. Each meeting shall be preceded by notice of the time and place of the meeting, including publication in the Federal Register, sufficient to permit interested persons to attend.

   b. The reporter assigned to each Advisory Committee shall, under the direction of the Committee or its Chairman, prepare initial draft rules changes, "Committee Notes" explaining their purpose and intent, copies or summaries of all written recommendations and suggestions received by the Advisory Committee, and shall forward them to the Advisory Committee.

   c. The Advisory Committee shall then meet to consider the draft proposed new rules and rules amendments, together with Committee Notes, make revisions therein, and submit them for approval of publication to the Standing Committee, or its Chairman, with a written report explaining the Committee's action, including any minority or other separate views.

4. Publication and Public Hearings

a. When publication is approved by the Standing Committee, the Secretary shall arrange for the printing and circulation of the proposed rules changes to the bench and bar, and to the public generally. Publication shall be as wide as practicable. Notice of the proposed rule shall be published in the Federal Register and copies provided to appropriate legal publishing firms with a request that they be timely included in their publications. The Secretary shall also provide copies to the chief justice of the highest court of each state and, insofar as is practicable, to all individuals and organizations that request them.

b. In order to provide full notice and opportunity for comment on proposed rule changes, a period of at least six months from the time of publication of notice in the Federal Register shall be permitted, unless a shorter period is approved under the provisions of subparagraph d of this paragraph.

c. An Advisory Committee shall conduct public hearings on all proposed rules changes unless elimination of such hearings is approved under the provisions of subparagraph d of this paragraph. The hearings shall be held at such times and places as determined by the chairman of the Advisory Committee and shall be preceded by adequate notice, including publication in the Federal Register. Proceedings shall be recorded and a transcript prepared. Subject to the provisions of paragraph six, such transcript shall be available for public inspection.

d. Exceptions to the time period for public comment and the public hearing requirement may be granted by the

Standing Committee or its chairman when the Standing Committee or its chairman determines that the administration of justice requires that a proposed rule change should be expedited and that appropriate public notice and comment may be achieved by a shortened comment period, without public hearings, or both. The Standing Committee may eliminate the public notice and comment requirement if, in the case of a technical or conforming amendment, it determines that notice and comment are not appropriate or necessary. Whenever such an exception is made, the Standing Committee shall advise the Judicial Conference of the exception and the reasons for the exception.

5. Subsequent Procedures

   a. At the conclusion of the comment period the reporter shall prepare a summary of the written comments received and the testimony presented at public hearings. The Advisory Committee shall review the proposed rules changes in the light of the comments and testimony. If the Advisory Committee makes any substantial change, an additional period for public notice and comment may be provided.

   b. The Advisory Committee shall submit proposed rules changes and Committee Notes, as finally agreed upon, to the Standing Committee. Each submission shall be accompanied by a separate report of the comments received and shall explain any changes made subsequent to the original publication. The submission shall also include minority views of Advisory Committee members who wish to have separate views recorded.

6. Records

a. The Chairman of the Advisory Committee shall arrange for the preparation of minutes of all Advisory Committee meetings.

b. The records of an Advisory Committee shall consist of the written suggestions received from the public; the written comments received on drafts of proposed rules, responses thereto, transcripts of public hearings, and summaries prepared by the reporter; all correspondence relating to proposed rules changes; minutes of Advisory Committee meetings; approved drafts of rules changes; and reports to the Standing Committee. The records shall be maintained at the Administrative Office of the United States Courts for a minimum of two years and shall be available for public inspection during reasonable office hours. Thereafter the records may be transferred to a Government Records Center in accordance with applicable Government retention and disposition schedules.

c. Any portion of minutes, relating to a closed meeting and made available to the public, may contain such deletions as may be necessary to avoid frustrating the purposes of closing the meeting as provided in subparagraph 3a.

d. Copies of records shall be furnished to any person upon payment of a reasonable fee for the cost of reproduction.

Part II - Standing Committee

7. Functions

The Standing Committee shall coordinate the work of the several Advisory Committees, make suggestions of proposals to be studied by them, consider proposals recommended by the Advisory Committees, and transmit such proposals with its recommendation to the Judicial Conference, or recommit them to the appropriate Advisory Committee for further study and consideration.

8. Procedures

a. The Standing Committee shall meet at such times and places as the Chairman may authorize. All Committee meetings shall be open to the public, except when the committee so meeting, in open session and with a majority present, determines that it is in the public interest that all or part of the remainder of the meeting on that day shall be closed to the public and states the reason for closing the meeting. Each meeting shall be preceded by notice of the time and place of the meeting, including publication in the Federal Register, sufficient to permit interested persons to attend.

b. When an Advisory Committee's final recommendations for rules changes have been submitted, the Chairman and Reporter of the Advisory Committee shall attend the Standing Committee meeting to present the proposed rules changes and Committee Notes.

c. The Standing Committee may accept, reject, or modify a proposal. If a modification effects a substantial change, the proposal will be returned to the Advisory Committee with appropriate instructions.

d. The Standing Committee shall transmit to the Judicial Conference the proposed rules changes and Committee Notes approved by it, together with the Advisory Committee report. The Standing Committee's report to the Judicial Conference shall include its recommendations and explain any changes it has made.

9. Records

a. The Secretary shall prepare minutes of all Standing Committee meetings.

b. The records of the Standing Committee shall consist of the minutes of Standing and Advisory Committee meetings, reports to the Judicial Conference, and correspondence concerning rules changes including correspondence with Advisory Committee Chairmen. The records shall be maintained at the Administrative Office of the United States Courts for a minimum of two years and shall be available for public inspection during reasonable office hours. Thereafter the records may be transferred to a Government Records Center in accordance with applicable Government retention and disposition schedules.

c. Copies of records shall be furnished to any person upon payment of a reasonable fee for the cost of reproduction.