TITLE 11—APPENDIX

FEDERAL RULES OF BANKRUPTCY PROCEDURE

(Effective August 1, 1983, as amended to January 23, 2026)

HISTORICAL NOTE

The Federal Rules of Bankruptcy Procedure were adopted by order of the Supreme Court on Apr. 25, 1983, transmitted to Congress by the Chief Justice on the same day, and became effective Aug. 1, 1983.

The Rules have been amended Aug. 30, 1983, Pub. L. 98–91, §2(a), 97 Stat. 607, eff. Aug. 1, 1983; July 10, 1984, Pub. L. 98–353, title III, §321, 98 Stat. 357; Apr. 29, 1985, eff. Aug. 1, 1985; Mar. 30, 1987, eff. Aug. 1, 1987; Apr. 25, 1989, eff. Aug. 1, 1989; Apr. 30, 1991, eff. Aug. 1, 1991; Apr. 22, 1993, eff. Aug. 1, 1993; Apr. 29, 1994, eff. Aug. 1, 1994; Oct. 22, 1994, Pub. L. 103–394, title I, §114, 108 Stat. 4118; Apr. 27, 1995, eff. Dec. 1, 1995; Apr. 23, 1996, eff. Dec. 1, 1996; Apr. 11, 1997, eff. Dec. 1, 1997; Apr. 26, 1999, eff. Dec. 1, 1999; Apr. 17, 2000, eff. Dec. 1, 2000; Apr. 23, 2001, eff. Dec. 1, 2001; Apr. 29, 2002, eff. Dec. 1, 2002; Mar. 27, 2003, eff. Dec. 1, 2003; Apr. 26, 2004, eff. Dec. 1, 2004; Apr. 25, 2005, eff. Dec. 1, 2005; Apr. 12, 2006, eff. Dec. 1, 2006; Apr. 30, 2007, eff. Dec. 1, 2007; Apr. 23, 2008, eff. Dec. 1, 2008; Mar. 26, 2009, eff. Dec. 1, 2009; Apr. 28, 2010, eff. Dec. 1, 2010; Apr. 26, 2011, eff. Dec. 1, 2011; Apr. 23, 2012, eff. Dec. 1, 2012; Apr. 16, 2013, eff. Dec. 1, 2013; Apr. 25, 2014, eff. Dec. 1, 2014; Apr. 29, 2015, eff. Dec. 1, 2015; Apr. 28, 2016, eff. Dec. 1, 2016; Apr. 27, 2017, eff. Dec. 1, 2017; Apr. 26, 2018, eff. Dec. 1, 2018; Apr. 25, 2019, eff. Dec. 1, 2019; Apr. 27, 2020, eff. Dec. 1, 2020; Apr. 14, 2021, eff. Dec. 1, 2021; Apr. 11, 2022, eff. Dec. 1, 2022; Apr. 24, 2023, eff. Dec. 1, 2023; Apr. 2, 2024, eff. Dec. 1, 2024; Apr. 23, 2025, eff. Dec. 1, 2025.

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APPENDIX: LENGTH LIMITS STATED IN PART VIII OF THE FEDERAL RULES OF BANKRUPTCY PROCEDURE

EFFECTIVE DATE; APPLICATION; SUPERSEDURE OF PRIOR RULES; TRANSMISSION TO CONGRESS

Sections 2 to 4 of the Order of the Supreme Court, dated Apr. 25, 1983, provided:

"2. That the aforementioned Bankruptcy Rules shall take effect on August 1, 1983, and shall be applicable to proceedings then pending, except to the extent that in the opinion of the court their application in a pending proceeding would not be feasible or would work injustice, in which event the former procedure applies.

"3. That the Bankruptcy Rules, heretofore prescribed by this Court, be, and they hereby are, superseded by the new rules, effective August 1, 1983.

"4. That the Chief Justice be, and he hereby is, authorized to transmit these new Bankruptcy Rules to the Congress in accordance with the provisions of Section 2075 of Title 28, United States Code."

Rule 1001. Scope; Title; Citations; References to a Specific Form

(a) IN GENERAL. These rules, together with the Official Bankruptcy Forms, govern the procedure in cases under the Bankruptcy Code, Title 11 of the United States Code. They must be construed, administered, and employed by both the court and the parties to secure the just, speedy, and inexpensive determination of every case and proceeding.

(b) TITLES. These rules should be referred to as the Federal Rules of Bankruptcy Procedure and the forms as the Official Bankruptcy Forms.

(c) CITATIONS. In these rules, the Bankruptcy Code is cited with a section sign and number (§101). A rule is cited with "Rule" followed by the rule number (Rule 1001(a)).

(d) REFERENCES TO A SPECIFIC FORM. A reference to a "Form" followed by a number is a reference to an Official Bankruptcy Form.

(As amended Mar. 30, 1987, eff. Aug. 1, 1987; Apr. 30, 1991, eff. Aug. 1, 1991; Apr. 27, 2017, eff.

Dec. 1, 2017; Apr. 2, 2024, eff. Dec. 1, 2024.)

NOTES OF ADVISORY COMMITTEE ON RULES—1983

Section 247 of Public Law 95–598, 92 Stat. 2549 amended 28 U.S.C. §2075 by omitting the last sentence. The effect of the amendment is to require that procedural rules promulgated pursuant to 28 U.S.C. §2075 be consistent with the bankruptcy statute, both titles 11 and 28 U.S.C. Thus, although Rule 1001 sets forth the scope of the bankruptcy rules and forms, any procedural matters contained in title 11 or 28 U.S.C. with respect to cases filed under 11 U.S.C. would control. See 1 Collier, *Bankruptcy* 3.04 [2][c] (15th ed. 1980).

28 U.S.C. §151 establishes a United States Bankruptcy Court in each district as an adjunct to the district court. This provision does not, however, become effective until April 1, 1984. Public Law 95–598, §402(b). From October 1, 1979 through March 31, 1984, the courts of bankruptcy as defined in §1(10) of the Bankruptcy Act, and created in §2a of that Act continue to be the courts of bankruptcy. Public Law 95–598, §404(a). From their effective date these rules and forms are to be applicable in cases filed under chapters 7, 9, 11 and 13 of title 11 regardless of whether the court is established by the Bankruptcy Act or by 28 U.S.C. §151. Rule 9001 contains a broad and general definition of "bankruptcy court," "court" and "United States Bankruptcy Court" for this purpose.

"Bankruptcy Code" or "Code" as used in these rules means title 11 of the United States Code, the codification of the bankruptcy law. Public Law 95–598, §101. See Rule 9001.

"Bankruptcy Act" as used in the notes to these rules means the Bankruptcy Act of 1898 as amended which was repealed by §401(a) of Public Law 95–598.

These rules apply to all cases filed under the Code except as otherwise specifically stated.

The final sentence of the rule is derived from former Bankruptcy Rule 903. The objective of "expeditious and economical administration" of cases under the Code has frequently been recognized by the courts to be "a chief purpose of the bankruptcy laws." See *Katchen v. Landy*, 382 U.S. 323, 328 (1966): *Bailey v. Glover*, 88 U.S. (21 Wall.) 342, 346–47 (1874): *Ex parte Christy*, 44 U.S. (3 How.) 292, 312–14, 320–22 (1845). The rule also incorporates the wholesome mandate of the last sentence of Rule 1 of the Federal Rules of Civil Procedure. 2 Moore, *Federal Practice* 1.13 (2d ed. 1980); 4 Wright & Miller, *Federal Practice and Procedure-Civil* §1029 (1969).

NOTES OF ADVISORY COMMITTEE ON RULES—1987 AMENDMENT

Title I of the Bankruptcy Amendments and Federal Judgeship Act of 1984, Pub. L. No. 98–353, 98 Stat. 333 (hereinafter the 1984 amendments), created a new bankruptcy judicial system in which the role of the district court was substantially increased. 28 U.S.C. §1334 confers on the United States district courts original and exclusive jurisdiction over all cases under title 11 of the United States Code and original but not exclusive jurisdiction over civil proceedings arising under title 11 and civil proceedings arising in or related to a case under title 11.

Pursuant to 28 U.S.C. §157(a) the district court may but need not refer cases and proceedings within the district court's jurisdiction to the bankruptcy judges for the district. Judgments or orders of the bankruptcy judges entered pursuant to 28 U.S.C. §157(b)(1) and (c)(2) are subject to appellate review by the district courts or bankruptcy appellate panels under 28 U.S.C. §158(a).

Rule 81(a)(1) F.R.Civ.P. provides that the civil rules do not apply to proceedings in bankruptcy, except as they may be made applicable by rules promulgated by the Supreme Court, *e.g.*, Part VII of these rules. This amended Bankruptcy Rule 1001 makes the Bankruptcy Rules applicable to cases and proceedings under title 11, whether before the district judges or the bankruptcy judges of the district.

NOTES OF ADVISORY COMMITTEE ON RULES—1991 AMENDMENT

The citation to these rules is amended to conform to the citation form of the Federal Rules of Civil Procedure, Federal Rules of Appellate Procedure, and Federal Rules of Criminal Procedure.

COMMITTEE NOTES ON RULES—2017 AMENDMENT

The last sentence of the rule is amended to incorporate the changes to Rule 1 F.R.Civ.P. made in 1993 and 2015.

The word "administered" is added to recognize the affirmative duty of the court to exercise the authority conferred by these rules to ensure that bankruptcy cases and the proceedings within them are resolved not only fairly, but also without undue cost or delay. As officers of the court, attorneys share this responsibility with the judge to whom the case is assigned.

The addition of the phrase "employed by the court and the parties" emphasizes that parties share in the duty of using the rules to secure the just, speedy, and inexpensive determination of every case and proceeding. Achievement of this goal depends upon cooperative and proportional use of procedure by lawyers and parties.

This amendment does not create a new or independent source of sanctions. Nor does it abridge the scope of any other of these rules.

COMMITTEE NOTES ON RULES—2024 AMENDMENT

The Bankruptcy Rules are the fifth set of national procedural rules to be restyled. The restyled Rules of Appellate Procedure took effect in 1998. The restyled Rules of Criminal Procedure took effect in 2002. The restyled Rules of Civil Procedure took effect in 2007. The restyled Rules of Evidence took effect in 2011. The restyled Bankruptcy Rules apply the same general drafting guidelines and principles used in restyling the Appellate, Criminal, Civil, and Evidence Rules.

General Guidelines. Guidance in drafting, usage, and style was provided by Bryan A. Garner, *Guidelines for Drafting and Editing Court Rules*, Administrative Office of the United States Courts (1996) and Bryan A. Garner, *Dictionary of Modern Legal Usage* (2d ed. 1995). *See also* Joseph Kimble, *Guiding Principles for Restyling the Civil Rules*, in Preliminary Draft of Proposed Style Revision of the Federal Rules of Civil Procedure, at Mich. Bar J., Sept. 2005, at 56 and Mich. Bar J., Oct. 2005, at 52; Joseph Kimble, *Lessons in Drafting from the New Federal Rules of Civil Procedure*, 12 Scribes J. Legal Writing 25 (2008–2009).

Formatting Changes. Many of the changes in the restyled Bankruptcy Rules result from using format to achieve clearer presentations. The rules are broken down into constituent parts, using progressively indented subparagraphs with headings and substituting vertical for horizontal lists. "Hanging indents" are used throughout. These formatting changes make the structure of the rules graphic and make the restyled rules easier to read and understand even when the words are not changed.

Changes to Reduce Inconsistent, Ambiguous, Redundant, Repetitive, or Archaic Words. The restyled rules reduce the use of inconsistent terms that say the same thing in different ways. Because different words are presumed to have different meanings, such inconsistencies can result in confusion. The restyled rules reduce inconsistencies by using the same words to express the same meaning. The restyled rules also minimize the use of inherently ambiguous words. The restyled rules minimize the use of redundant "intensifiers." These are expressions that attempt to add emphasis, but instead state the obvious and create negative implications for other rules. The absence of intensifiers in the restyled rules does not change their substantive meaning. The restyled rules also remove words and concepts that are outdated or redundant.

Rule Numbers. The restyled rules keep the same numbers to minimize the effect on research. Subdivisions have been rearranged within some rules to achieve greater clarity and simplicity.

No Substantive Change. The style changes to the rules are intended to make no changes in substantive meaning. The Committee made special efforts to reject any purported style improvement that might result in a substantive change in the application of a rule. The Committee also declined to modify "sacred phrases"—those that have become so familiar in practice that to alter them would be unduly disruptive to practice and expectations. An example in the Bankruptcy Rules would be "meeting of creditors."

Legislative Rules. In those cases in which Congress enacted a rule by statute, in particular Rule 2002(n) (Bankruptcy Amendments and Federal Judgeship Act of 1984, Pub. L. No. 98–353, 98 Stat. 333, 357), Rule 3001(g) (98 Stat. at 361), and Rule 7004(b) and (h) (Bankruptcy Reform Act of 1994, Pub. L. No. 103–394, 108 Stat. 4106, 4118), the Committee has not restyled the rule.

PART I—COMMENCING A BANKRUPTCY CASE; THE PETITION, THE ORDER FOR RELIEF, AND RELATED MATTERS

Rule 1002. Commencing a Bankruptcy Case

(a) IN GENERAL. A bankruptcy case is commenced by filing a petition with the clerk.

(b) COPY TO THE UNITED STATES TRUSTEE. The clerk must promptly send a copy of the petition to the United States trustee.

(As amended Mar. 30, 1987, eff. Aug. 1, 1987; Apr. 30, 1991, eff. Aug. 1, 1991; Apr. 2, 2024, eff. Dec. 1, 2024.)

NOTES OF ADVISORY COMMITTEE ON RULES—1983

Under §§301–303 of the Code, a voluntary or involuntary case is commenced by filing a petition with the bankruptcy court. The voluntary petition may request relief under chapter 7, 9, 11, or 13 whereas an

involuntary petition may be filed only under chapter 7 or 11. Section 109 of the Code specifies the types of debtors for whom the different forms of relief are available and §303(a) indicates the persons against whom involuntary petitions may be filed.

The rule in subdivision (a) is in harmony with the Code in that it requires the filing to be with the bankruptcy court.

The number of copies of the petition to be filed is specified in this rule but a local rule may require additional copies. This rule provides for filing sufficient copies for the court's files and for the trustee in a chapter 7 or 13 case.

Official Form No. 1 may be used to seek relief voluntarily under any of the chapters. Only the original need be signed and verified, but the copies must be conformed to the original. See Rules 1008 and 9011(c). As provided in §362(a) of the Code, the filing of a petition acts as a stay of certain acts and proceedings against the debtor, property of the debtor, and property of the estate.

NOTES OF ADVISORY COMMITTEE ON RULES—1987 AMENDMENT

Rules 1002(a), governing a voluntary petition, 1003(a), governing an involuntary petition, and 1003(e), governing a petition in a case ancillary to a foreign proceeding, are combined into this Rule 1002. If a bankruptcy clerk has been appointed for the district, the petition is filed with the bankruptcy clerk. Otherwise, the petition is filed with the clerk of the district court.

The elimination of the reference to the Official Forms of the petition is not intended to change the practice. Rule 9009 provides that the Official Forms "shall be observed and used" in cases and proceedings under the Code.

Subdivision (b) which provided for the distribution of copies of the petition to agencies of the United States has been deleted. Some of these agencies no longer wish to receive copies of the petition, while others not included in subdivision (b) have now requested copies. The Director of the Administrative Office will determine on an ongoing basis which government agencies will be provided a copy of the petition.

The number of copies of a petition that must be filed is a matter for local rule.

NOTES OF ADVISORY COMMITTEE ON RULES—1991 AMENDMENT

Subdivision (b) is derived from Rule X–1002(a). The duties of the United States trustee pursuant to the Code and 28 U.S.C. §586(a) require that the United States trustee be apprised of the commencement of every case under chapters 7, 11, 12 and 13 and this is most easily accomplished by providing that office with a copy of the petition. Although 28 U.S.C. §586(a) does not give the United States trustee an administrative role in chapter 9 cases, §1102 of the Code requires the United States trustee to appoint committees and that section is applicable in chapter 9 cases pursuant to §901(a). It is therefore appropriate that the United States trustee receive a copy of every chapter 9 petition.

Notwithstanding subdivision (b), pursuant to Rule 5005(b)(3), the clerk is not required to transmit a copy of the petition to the United States trustee if the United States trustee requests that it not be transmitted. Many rules require the clerk to transmit a certain document to the United States trustee, but Rule 5005(b)(3) relieves the clerk of that duty under this or any other rule if the United States trustee requests that such document not be transmitted.

COMMITTEE NOTES ON RULES—2024 AMENDMENT

The language of Rule 1002 has been amended as part of the general restyling of the Bankruptcy Rules to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only.

Rule 1003. Involuntary Petition: Transferred Claims; Joining Other Creditors; Additional Time to Join

(a) TRANSFERRED CLAIMS. An entity that has transferred or acquired a claim for the purpose of commencing an involuntary case under Chapter 7 or Chapter 11 is not a qualified petitioner. A petitioner that has transferred or acquired a claim must attach to the petition and to any copy:

(1) all documents evidencing the transfer, whether it was unconditional, for security, or otherwise; and

(2) a signed statement that:

(A) affirms that the claim was not transferred for the purpose of commencing the case; and

(B) sets forth the consideration for the transfer and its terms.

(b) JOINING OTHER CREDITORS AFTER FILING. If an involuntary petition is filed by fewer than 3 creditors and the debtor's answer alleges the existence of 12 or more creditors as provided in §303(b), the debtor must attach to the answer:

(1) the names and addresses of all creditors; and

(2) a brief statement of the nature and amount of each creditor's claim.

(c) ADDITIONAL TIME TO JOIN. If there appear to be 12 or more creditors, the court must allow a reasonable time for other creditors to join the petition before holding a hearing on it.

(As amended Mar. 30, 1987, eff. Aug. 1, 1987; Apr. 2, 2024, eff. Dec. 1, 2024.)

NOTES OF ADVISORY COMMITTEE ON RULES—1983

Subdivision (a). Official Form No. 11 (Involuntary Case: Creditors' Petition), is prescribed for use by petitioning creditors to have a debtor's assets liquidated under chapter 7 of the Code or the business reorganized under chapter 11. It contains the required allegations as specified in §303(b) of the Code. Official Form 12 is prescribed for use by fewer than all the general partners to obtain relief for the partnership as governed by §303(b)(3) of the Code and Rule 1004(b).

Although the number of copies to be filed is specified in Rule 1002, a local rule may require additional copies.

Only the original need be signed and verified, but the copies must be conformed to the original. See Rules 1008 and 9011(c). The petition must be filed with the bankruptcy court. This provision implements §303(b) which provides that an involuntary case is commenced by filing the petition with the court.

As provided in §362 of the Code, the filing of the petition acts as a stay of certain acts and proceedings against the debtor, the debtor's property and property of the estate.

Subdivision (c) retains the explicitness of former Bankruptcy Rule 104(d) that a transfer of a claim for the purpose of commencing a case under the Code is a ground for disqualification of a party to the transfer as a petitioner.

Section 303(b) "is not intended to overrule Bankruptcy Rule 104(d), which places certain restrictions on the transfer of claims for the purpose of commencing an involuntary case." House Report No. 95–595, 95th Cong., 1st Sess. (1977) 322; Senate Report No. 95–989, 95th Cong., 2d Sess. (1978) 33.

The subdivision requires disclosure of any transfer of the petitioner's claim as well as a transfer to the petitioner and applies to transfers for security as well as unconditional transfers, *Cf. In re 69th & Crandon Bldg. Corp.*, 97 F.2d 392, 395 (7th Cir.), cert. denied, 305 U.S. 629 (1938), recognizing the right of a creditor to sign a bankruptcy petition notwithstanding a prior assignment of his claim for the purpose of security. This rule does not, however, qualify the requirement of §303(b)(1) that a petitioning creditor must have a claim not contingent as to liability.

Subdivision (d). Section 303(c) of the Code permits a creditor to join in the petition at any time before the case is dismissed or relief is ordered. While this rule does not require the court to give all creditors notice of the petition, the list of creditors filed by the debtor affords a petitioner the information needed to enable him to give notice for the purpose of obtaining the co-petitioners required to make the petition sufficient. After a reasonable opportunity has been afforded other creditors to join in an involuntary petition, the hearing on the petition should be held without further delay.

Subdivision (e). This subdivision implements §304. A petition for relief under §304 may only be filed by a foreign representative who is defined in §101(20) generally as a representative of an estate in a foreign proceeding. The term "foreign proceeding" is defined in §101(19).

Section 304(b) permits a petition filed thereunder to be contested by a party in interest. Subdivision (e)(2) therefore requires that the summons and petition be served on any person against whom the relief permitted by §304(b) is sought as well as on any other party the court may direct.

The rules applicable to the procedure when an involuntary petition is filed are made applicable generally when a case ancillary to a foreign proceeding is commenced. These rules include Rule 1010 with respect to issuance and service of a summons, Rule 1011 concerning responsive pleadings and motions, and Rule 1018 which makes various rules in Part VII applicable in proceedings on contested petitions.

The venue for a case ancillary to a foreign proceeding is provided in [former] 28 U.S.C. §1474.

NOTES OF ADVISORY COMMITTEE ON RULES—1987 AMENDMENT

The subject matter of subdivisions (a), (b), and (e) has been incorporated in Rules 1002, 1010, 1011, and 1018.

COMMITTEE NOTES ON RULES—2024 AMENDMENT

The language of Rule 1003 has been amended as part of the general restyling of the Bankruptcy Rules to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only.

Rule 1004. Involuntary Petition Against a Partnership

A petitioner who files an involuntary petition against a partnership under §303(b)(3) must promptly send a copy of the petition to—or serve a copy on—each general partner who is not a petitioner. The clerk must promptly issue a summons for service on any general partner who is not a petitioner. Rule 1010 governs the form and service of the summons.

(As amended Apr. 29, 2002, eff. Dec. 1, 2002; Apr. 2, 2024, eff. Dec. 1, 2024.)

NOTES OF ADVISORY COMMITTEE ON RULES—1983

This rule is adapted from former Bankruptcy Rule 105 and complements §§301 and 303(b)(3) of the Code.

Subdivision (a) specifies that while all general partners must consent to the filing of a voluntary petition, it is not necessary that they all execute the petition. It may be executed and filed on behalf of the partnership by fewer than all.

Subdivision (b) implements §303(b)(3) of the Code which provides that an involuntary petition may be filed by fewer than all the general partners or, when all the general partners are debtors, by a general partner, trustee of the partner or creditors of the partnership. Rule 1010, which governs service of a petition and summons in an involuntary case, specifies the time and mode of service on the partnership. When a petition is filed against a partnership under §303(b)(3), this rule requires an additional service on the nonfiling general partners. It is the purpose of this subdivision to protect the interests of the nonpetitioning partners and the partnership.

COMMITTEE NOTES ON RULES—2002 AMENDMENT

Section 303(b)(3)(A) of the Code provides that fewer than all of the general partners in a partnership may commence an involuntary case against the partnership. There is no counterpart provision in the Code setting out the manner in which a partnership commences a voluntary case. The Supreme Court has held in the corporate context that applicable nonbankruptcy law determines whether authority exists for a particular debtor to commence a bankruptcy case. *See Price v. Gurney*, 324 U.S. 100 (1945). The lower courts have followed this rule in the partnership context as well. *See, e.g., Jolly v. Pittore*, 170 B.R. 793 (S.D.N.Y. 1994); *Union Planters National Bank v. Hunters Horn Associates*, 158 B.R. 729 (Bankr. M.D. Tenn. 1993); *In re Channel 64 Joint Venture*, 61 B.R. 255 (Bankr. S.D. Oh. 1986). Rule 1004(a) could be construed as requiring the consent of all of the general partners to the filing of a voluntary petition, even if fewer than all of the general partners would have the authority under applicable nonbankruptcy law to commence a bankruptcy case for the partnership. Since this is a matter of substantive law beyond the scope of these rules, Rule 1004(a) is deleted as is the designation of subdivision (b).

The rule is retitled to reflect that it applies only to involuntary petitions filed against partnerships.

Changes Made After Publication and Comments. No changes since publication.

COMMITTEE NOTES ON RULES—2024 AMENDMENT

The language of Rule 1004 has been amended as part of the general restyling of the Bankruptcy Rules to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only.

Rule 1004.1. Voluntary Petition on Behalf of an Infant or Incompetent Person

(a) REPRESENTED INFANT OR INCOMPETENT PERSON. If an infant or an incompetent person has a representative—such as a general guardian, committee, conservator, or similar fiduciary—the representative may file a voluntary petition on behalf of the infant or incompetent person.

(b) UNREPRESENTED INFANT OR INCOMPETENT PERSON. If an infant or an incompetent person does not have a representative:

(1) a next friend or guardian ad litem may file the petition; and

(2) the court must appoint a guardian ad litem or issue any other order needed to protect the interests of the infant debtor or incompetent debtor.

(Added Apr. 29, 2002, eff. Dec. 1, 2002; amended Apr. 2, 2024, eff. Dec. 1, 2024.)

COMMITTEE NOTES ON RULES—2002

This rule is derived from Rule 17(c) F.R. Civ. P. It does not address the commencement of a case filed on behalf of a missing person. *See, e.g., In re King*, 234 B.R. 515 (Bankr. D.N.M. 1999)

Changes Made After Publication and Comments. No changes were made.

COMMITTEE NOTES ON RULES—2024 AMENDMENT

The language of Rule 1004.1 has been amended as part of the general restyling of the Bankruptcy Rules to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only.

Rule 1004.2. Petition in a Chapter 15 Case

(a) DESIGNATING THE CENTER OF MAIN INTERESTS. A petition under Chapter 15 for recognition of a foreign proceeding must:

(1) designate the country where the debtor has its center of main interests; and

(2) identify each country in which a foreign proceeding against, by, or regarding the debtor is pending.

(b) CHALLENGING THE DESIGNATION. The United States trustee or a party in interest may file a motion challenging the designation. If the motion is filed by a party in interest, a copy must be sent to the United States trustee. Unless the court orders otherwise, the motion must be filed at least 7 days before the date set for the hearing on the petition. The motion must be served on:

- the debtor;
- all persons or bodies authorized to administer the debtor's foreign proceedings;
- all entities against whom provisional relief is sought under §1519;
- all parties to litigation pending in the United States in which the debtor was a party when the petition was filed; and
- any other entity as the court orders.

(Added Apr. 26, 2011, eff. Dec. 1, 2011; amended Apr. 2, 2024, eff. Dec. 1, 2024.)

COMMITTEE NOTES ON RULES—2011

This rule is new. Subdivision (a) directs any entity that files a petition for recognition of a foreign proceeding under chapter 15 of the Code to state in the petition the center of the debtor's main interests. The petition must also list each country in which a foreign proceeding involving the debtor is pending. This information will assist the court and parties in interest in determining whether the foreign proceeding is a foreign main or nonmain proceeding.

Subdivision (b) sets a deadline of seven days prior to the hearing on the petition for recognition for filing a motion challenging the statement in the petition regarding the country in which the debtor's center of main interests is located.

Changes Made After Publication. The rule was first published for comment in August 2008. After publication, the deadline in subdivision (b) for challenging the designation of the center of the debtor's main interests was changed from "60 days after the notice of the petition has been given" to "no later than seven days before the date set for the hearing on the petition."

The rule as revised was published in August 2009. Minor stylistic changes were made to the rule's language and the Committee Note following that publication.

No comments were submitted on proposed Rule 1004.2 after its republication in August 2009.

COMMITTEE NOTES ON RULES—2024 AMENDMENT

The language of Rule 1004.2 has been amended as part of the general restyling of the Bankruptcy Rules to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only.

Rule 1005. Caption of a Petition; Title of the Case

(a) CAPTION AND TITLE; REQUIRED INFORMATION. A petition's caption must contain the name of the court, the title of the case, and the case number (if known). The title must include the following information about the debtor:

(1) name;
(2) employer-identification number;
(3) the last 4 digits of the social-security number or individual taxpayer-identification number;
(4) any other federal taxpayer-identification number; and
(5) all other names the debtor has used within 8 years before the petition was filed.

(b) PETITION NOT FILED BY THE DEBTOR. A petition not filed by the debtor must include all names that the petitioner knows have been used by the debtor.

(As amended Mar. 30, 1987, eff. Aug. 1, 1987; Mar. 27, 2003, eff. Dec. 1, 2003; Apr. 23, 2008, eff. Dec. 1, 2008; Apr. 2, 2024, eff. Dec. 1, 2024.)

NOTES OF ADVISORY COMMITTEE ON RULES—1983

The title of the case should include all names used by the debtor, such as trade names, former married names and maiden name. See also Official Form No. 1 and the Advisory Committee Note to that Form. Additional names of the debtor are also required to appear in the caption of each notice to creditors. See Rule 2002(m).

COMMITTEE NOTES ON RULES—2003 AMENDMENT

The rule is amended to implement the Judicial Conference policy to limit the disclosure of a party's social security number and similar identifiers. Under the rule, as amended, only the last four digits of the debtor's social security number need be disclosed. Publication of the employer identification number does not present the same identity theft or privacy protection issues. Therefore, the caption must include the full employer identification number.

Debtors must submit with the petition a statement setting out their social security numbers. This enables the clerk to include the full social security number on the notice of the section 341 meeting of creditors, but the statement itself is not submitted in the case or maintained in the case file.

Changes Made After Publication and Comments. The rule was changed only slightly after publication. The rule was changed to make clear that only the debtor's social security number is truncated to the final four digits, but other numerical identifiers must be set out in full. The rule also was amended to include a requirement that a debtor list other federal taxpayer identification numbers that may be in use.

COMMITTEE NOTES ON RULES—2008 AMENDMENT

The rule is amended to require the disclosure of all names used by the debtor in the past eight years. Section 727(a)(8) was amended in 2005 to extend the time between chapter 7 discharges from six to eight years, and the rule is amended to implement that change. The rule also is amended to require the disclosure of the last four digits of an individual debtor's taxpayer-identification number. This truncation of the number applies only to individual debtors. This is consistent with the requirements of Rule 9037.

Changes Made After Publication. No changes were made after publication.

COMMITTEE NOTES ON RULES—2024 AMENDMENT

The language of Rule 1005 has been amended as part of the general restyling of the Bankruptcy Rules to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only.

Rule 1006. Filing Fee

(a) IN GENERAL. Unless (b) or (c) applies, every petition must be accompanied by the filing fee. In this rule [1] "filing fee" means:

(1) the filing fee required by 28 U.S.C. §1930(a)(1)–(5); and
(2) any other fee that the Judicial Conference of the United States requires under 28 U.S.C.

§1930(b) to be paid upon filing.

(b) PAYING BY INSTALLMENT.

(1) *Application to Pay by Installment*. The clerk must accept for filing an individual's voluntary petition, regardless of whether any part of the filing fee is paid, if it is accompanied by a completed and signed application to pay in installments (Form 103A).

(2) *Court Decision on Installments*. Before the meeting of creditors, the court may order payment of the entire filing fee or may order the debtor to pay it in installments, designating the number of installments (not to exceed 4), the amount of each one, and payment dates. All payments must be made within 120 days after the petition is filed. The court may, for cause, extend the time to pay an installment, but the last one must be paid within 180 days after the petition is filed.

(3) *Postponing Other Payments*. Until the filing fee has been paid in full, the debtor or Chapter 13 trustee must not make any further payment to an attorney or any other person who provides services to the debtor in connection with the case.

(c) WAIVING THE FILING FEE. The clerk must accept for filing an individual's voluntary Chapter 7 petition if it is accompanied by a completed and signed application to waive the filing fee (Form 103B).

(As amended Mar. 30, 1987, eff. Aug. 1, 1987; Apr. 23, 1996, eff. Dec. 1, 1996; Apr. 23, 2008, eff. Dec. 1, 2008; Apr. 27, 2017, eff. Dec. 1, 2017; Apr. 2, 2024, eff. Dec. 1, 2024.)

NOTES OF ADVISORY COMMITTEE ON RULES—1983

28 U.S.C. §1930 specifies the filing fees for petitions under chapters 7, 9, 11 and 13 of the Code. It also permits the payment in installments by individual debtors.

Subdivision (b) is adapted from former Bankruptcy Rule 107. The administrative cost of installments in excess of four is disproportionate to the benefits conferred. Prolonging the period beyond 180 days after the commencement of the case causes undesirable delays in administration. Paragraph (2) accordingly continues the imposition of a maximum of four on the number of installments and retains the maximum period of installment payments allowable on an original application at 120 days. Only in extraordinary cases should it be necessary to give an applicant an extension beyond the four months. The requirement of paragraph (3) that filing fees be paid in full before the debtor may pay an attorney for services in connection with the case codifies the rule declared in *In re Latham*, 271 Fed. 538 (N.D.N.Y. 1921), and *In re Darr*, 232 Fed. 415 (N.D. Cal. 1916).

NOTES OF ADVISORY COMMITTEE ON RULES—1987 AMENDMENT

Subdivision (b)(3) is expanded to prohibit payments by the debtor or the chapter 13 trustee not only to attorneys but to any person who renders services to the debtor in connection with the case.

NOTES OF ADVISORY COMMITTEE ON RULES—1996 AMENDMENT

The Judicial Conference prescribes miscellaneous fees pursuant to 28 U.S.C. §1930(b). In 1992, a $30 miscellaneous administrative fee was prescribed for all chapter 7 and chapter 13 cases. The Judicial Conference fee schedule was amended in 1993 to provide that an individual debtor may pay this fee in installments.

Subdivision (a) of this rule is amended to clarify that every petition must be accompanied by any fee prescribed under 28 U.S.C. §1930(b) that is required to be paid when a petition is filed, as well as the filing fee prescribed by 28 U.S.C. §1930(a). By defining "filing fee" to include Judicial Conference fees, the procedures set forth in subdivision (b) for paying the filing fee in installments will also apply with respect to any Judicial Conference fee required to be paid at the commencement of the case.

GAP Report on Rule 1006. No changes since publication, except for a stylistic change in subdivision (a).

COMMITTEE NOTES ON RULES—2008 AMENDMENT

Subdivision (a) is amended to include a reference to new subdivision (c), which deals with fee waivers under 28 U.S.C. §1930(f), which was added in 2005.

Subdivision (b)(1) is amended to delete the sentence requiring a disclosure that the debtor has not paid an attorney or other person in connection with the case. Inability to pay the filing fee in installments is one of the requirements for a fee waiver under the 2005 revisions to 28 U.S.C. §1930(f). If the attorney payment

prohibition were retained, payment of an attorney's fee would render many debtors ineligible for installment payments and thus enhance their eligibility for the fee waiver. The deletion of this prohibition from the rule, which was not statutorily required, ensures that debtors who have the financial ability to pay the fee in installments will do so rather than request a waiver.

Subdivision (b)(3) is amended in conformance with the changes to subdivision (b)(1) to reflect the 2005 amendments. The change is meant to clarify that subdivision (b)(3) refers to payments made after the debtor has filed the bankruptcy case and after the debtor has received permission to pay the fee in installments. Otherwise, the subdivision may conflict with the intent and effect of the amendments to subdivision (b)(1).

Changes Made After Publication. No changes were made after publication.

COMMITTEE NOTES ON RULES—2017 AMENDMENT

Subdivision (b)(1) is amended to clarify that an individual debtor's voluntary petition, accompanied by an application to pay the filing fee in installments, must be accepted for filing, even if the court requires the initial installment to be paid at the time the petition is filed and the debtor fails to make that payment. Because the debtor's bankruptcy case is commenced upon the filing of the petition, dismissal of the case due to the debtor's failure to make the initial or a subsequent installment payment is governed by Rule 1017(b)(1).

COMMITTEE NOTES ON RULES—2024 AMENDMENT

The language of Rule 1006 has been amended as part of the general restyling of the Bankruptcy Rules to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only.

[1] *So in original. Probably should be followed by a comma.*

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

(a) LISTS OF NAMES AND ADDRESSES.

(1) *Voluntary Case*. In a voluntary case, the debtor must file with the petition a list containing the name and address of each entity included or to be included on Schedules D, E/F, G, and H of the Official Forms. Unless it is a governmental unit, a corporate debtor must:

(A) include a corporate-ownership statement containing the information described in Rule 7007.1; and

(B) promptly file a supplemental statement if changed circumstances make the original statement inaccurate.

(2) *Involuntary Case*. Within 7 days after the order for relief has been entered in an involuntary case, the debtor must file a list containing the name and address of each entity included or to be included on Schedules D, E/F, G, and H of the Official Forms.

(3) *Chapter 11—List of Equity Security Holders*. Unless the court orders otherwise, a Chapter 11 debtor must, within 14 days after the order for relief is entered, file a list of the debtor's equity security holders by class. The list must show the number and type of interests registered in each holder's name, along with the holder's last known address or place of business.

(4) *Chapter 15—Information Required from a Foreign Representative*. If a foreign representative files a petition under Chapter 15 for recognition of a foreign proceeding, the representative must—in addition to the documents required by §1515—include with the petition:

(A) a corporate-ownership statement containing the information described in Rule 7007.1; and

(B) unless the court orders otherwise, a list containing the names and addresses of:

(i) all persons or bodies authorized to administer the debtor's foreign proceedings;

(ii) all entities against whom provisional relief is sought under §1519; and

(iii) all parties to litigation pending in the United States in which the debtor was a party when the petition was filed.

(5) *Extending the Time to File*. On motion and for cause, the court may extend the time to file

any list required by this Rule 1007(a). Notice of the motion must be given to:

- the United States trustee;
- any trustee;
- any committee elected under §705 or appointed under §1102; and
- any other party as the court orders.

(b) SCHEDULES, STATEMENTS, AND OTHER DOCUMENTS.

(1) *In General*. Except in a Chapter 9 case or when the court orders otherwise, the debtor must file—prepared as prescribed by the appropriate Official Form, if any—

(A) schedules of assets and liabilities;

(B) a schedule of current income and expenditures;

(C) a schedule of executory contracts and unexpired leases;

(D) a statement of financial affairs;

(E) copies of all payment advices or other evidence of payment that the debtor received from any employer within 60 days before the petition was filed—with all but the last 4 digits of the debtor's social-security number or individual taxpayer-identification number deleted; and

(F) a record of the debtor's interest, if any, in an account or program of the type specified in §521(c).

(2) *Statement of Intention*. In a Chapter 7 case, an individual debtor must:

(A) file the statement of intention required by §521(a) (Form 108); and

(B) before or upon filing, serve a copy on the trustee and the creditors named in the statement.

(3) *Credit-Counseling Statement*. Unless the United States trustee has determined that the requirement to file a credit-counseling statement under §109(h) does not apply in the district, an individual debtor must file a statement of compliance (included in Form 101). The debtor must include one of the following:

(A) a certificate and any debt-repayment plan required by §521(b);

(B) a statement that the debtor has received the credit-counseling briefing required by §109(h)(1), but does not have a §521(b) certificate;

(C) a certification under §109(h)(3); or

(D) a request for a court determination under §109(h)(4).

(4) *Current Monthly Income—Chapter 7*. Unless §707(b)(2)(D) applies, an individual debtor in a Chapter 7 case must:

(A) file a statement of current monthly income (Form 122A–1); and

(B) if that income exceeds the median family income for the debtor's state and household size, file the Chapter 7 means-test calculation (Form 122A–2).

(5) *Current Monthly Income—Chapter 11*. An individual debtor in a Chapter 11 case (unless under Subchapter V) must file a statement of current monthly income (Form 122B).

(6) *Current Monthly Income—Chapter 13*. A debtor in a Chapter 13 case must:

(A) file a statement of current monthly income (Form 122C–1); and

(B) if that income exceeds the median family income for the debtor's state and household size, file the Chapter 13 calculation of disposable income (Form 122C-2).

(7) *Personal Financial-Management Course*. Unless an approved provider has notified the court that the debtor has completed a course in personal financial management after filing the petition or the debtor is not required to complete one as a condition to discharge, an individual debtor in a Chapter 7 or Chapter 13 case—or in a Chapter 11 case in which §1141(d)(3) applies—must file a certificate of course completion issued by the provider.

(8) *Limitation on a Homestead Exemption*. This Rule 1007(b)(8) applies if an individual debtor

in a Chapter 11, 12, or 13 case claims an exemption under §522(b)(3)(A) in property of the type described in §522(p)(1) and the property value exceeds the amount specified in §522(q)(1). The debtor must file a statement about any pending proceeding in which the debtor may be found:

(A) guilty of the type of felony described in §522(q)(1)(A); or

(B) liable for the type of debt described in §522(q)(1)(B).

(c) TIME TO FILE.

(1) *Voluntary Case—Various Documents*. Unless (d), (e), (f), or (h) provides otherwise, the debtor in a voluntary case must file the documents required by (b)(1), (b)(4), (b)(5), and (b)(6) with the petition or within 14 days after it is filed.

(2) *Involuntary Case—Various Documents*. In an involuntary case, the debtor must file the documents required by (b)(1) within 14 days after the order for relief is entered.

(3) *Credit-Counseling Documents*. In a voluntary case, the documents required by (b)(3)(A), (C), or (D) must be filed with the petition. Unless the court orders otherwise, a debtor who has filed a statement under (b)(3)(B) must file the documents required by (b)(3)(A) within 14 days after the order for relief is entered.

(4) *Financial-Management Course*. Unless the court extends the time to file, an individual debtor must file the certificate required by (b)(7) as follows:

(A) in a Chapter 7 case, within 60 days after the first date set for the meeting of creditors under §341; and

(B) in a Chapter 11 or Chapter 13 case, no later than the date the last payment is made under the plan or the date a motion for a discharge is filed under §1141(d)(5)(B) or §1328(b).

(5) *Limitation on Homestead Exemption*. The debtor must file the statement required by (b)(8) no earlier than the date of the last payment made under the plan or the date a motion for a discharge is filed under §1141(d)(5)(B), 1228(b), or 1328(b).

(6) *Documents in a Converted Case*. Unless the court orders otherwise, a document filed before a case is converted to another chapter is considered filed in the converted case.

(7) *Extending the Time to File*. Except as §1116(3) provides otherwise, the court, on motion and for cause, may extend the time to file a document under this rule. The movant must give notice of the motion to:

- the United States trustee;
- any committee elected under §705 or appointed under §1102; and
- any trustee, examiner, and other party as the court orders.

If the motion is granted, notice must be given to the United States trustee and to any committee, trustee, and other party as the court orders.

(d) LIST OF THE 20 LARGEST UNSECURED CREDITORS IN A CHAPTER 9 OR CHAPTER 11 CASE. In addition to the lists required by (a), a debtor in a Chapter 9 case or in a voluntary Chapter 11 case must file with the petition a list containing the names, addresses, and claims of the creditors that hold the 20 largest unsecured claims, excluding insiders, as prescribed by the appropriate Official Form (Form 104 or 204). In an involuntary Chapter 11 case, the debtor must file the list within 2 days after the order for relief is entered under §303(h).

(e) CHAPTER 9 LISTS. In a Chapter 9 case, the court must set the time for the debtor to file the list required by (a). If a proposed plan requires real estate assessments to be revised so that the proportion of special assessments or special taxes for some property will be different from the proportion in effect when the petition is filed, the debtor must also file a list that shows—for each adversely affected property—the name and address of each known holder of title, both legal and equitable. On motion and for cause, the court may modify the requirements of this Rule 1007(e) and those of (a).

(f) SOCIAL-SECURITY NUMBER. In a voluntary case, an individual debtor must submit with the petition a verified statement that gives the debtor's social-security number or states that the debtor

does not have one (Form 121). In an involuntary case, the debtor must submit the statement within 14 days after the order for relief is entered.

(g) PARTNERSHIP CASE. The general partners of a debtor partnership must file for the partnership the list required by (a) and the documents required by (b)(1)(A)–(D). The court may order any general partner to file a statement of personal assets and liabilities and may set the deadline for doing so.

(h) INTERESTS IN PROPERTY ACQUIRED OR ARISING AFTER A PETITION IS FILED. After the petition is filed in a Chapter 7, 11, 12, or 13 case, if the debtor acquires—or becomes entitled to acquire—an interest in property described in §541(a)(5), the debtor must file a supplemental schedule and include any claimed exemption. Unless the court allows additional time, the debtor must file the schedule within 14 days after learning about the property interest. This duty continues even after the case is closed but does not apply to property acquired after an order is entered:

(1) confirming a Chapter 11 plan (other than one confirmed under §1191(b)); or

(2) discharging the debtor in a Chapter 12 case, a Chapter 13 case, or a case under Subchapter V of Chapter 11 in which the plan is confirmed under §1191(b).

(i) SECURITY HOLDERS KNOWN TO OTHERS. After notice and a hearing and for cause, the court may direct an entity other than the debtor or trustee to:

(1) disclose any list of the debtor's security holders in its possession or under its control by:

(A) producing the list or a copy of it;

(B) allowing inspection or copying; or

(C) making any other disclosure; and

(2) indicate the name, address, and security held by each listed holder.

(j) IMPOUNDING LISTS. On a party in interest's motion and for cause, the court may impound any list filed under this rule and may refuse inspection. But the court may permit a party in interest to inspect or use an impounded list on terms prescribed by the court.

(k) DEBTOR'S FAILURE TO FILE A REQUIRED DOCUMENT. If a debtor fails to properly prepare and file a list, schedule, or statement (other than a statement of intention) as required by this rule, the court may order:

(1) that the trustee, a petitioning creditor, a committee, or other party do so within the time set by the court; and

(2) that the cost incurred be reimbursed as an administrative expense.

(l) COPIES TO THE UNITED STATES TRUSTEE. The clerk must promptly send to the United States trustee a copy of every list, schedule, or statement filed under (a)(1), (a)(2), (b), (d), or (h).

(m) INFANT OR INCOMPETENT PERSON. If a debtor knows that a person named in a list of creditors or in a schedule is an infant or is incompetent, the debtor must also include the name, address, and legal relationship of anyone on whom process would be served in an adversary proceeding against that person under Rule 7004(b)(2).

(As amended Mar. 30, 1987, eff. Aug. 1, 1987; Apr. 30, 1991, eff. Aug. 1, 1991; Apr. 23, 1996, eff. Dec. 1, 1996; Apr. 23, 2001, eff. Dec. 1, 2001; Mar. 27, 2003, eff. Dec. 1, 2003; Apr. 25, 2005, eff. Dec. 1, 2005; Apr. 23, 2008, eff. Dec. 1, 2008; Mar. 26, 2009, eff. Dec. 1, 2009; Apr. 28, 2010, eff. Dec. 1, 2010; Apr. 23, 2012, eff. Dec. 1, 2012; Apr. 16, 2013, eff. Dec. 1, 2013; Apr. 29, 2015, eff. Dec. 1, 2015; Apr. 11, 2022, eff. Dec. 1, 2022; Apr. 2, 2024, eff. Dec. 1, 2024.)

NOTES OF ADVISORY COMMITTEE ON RULES—1983

This rule is an adaptation of former Rules 108, 8–106, 10–108 and 11–11. As specified in the rule, it is applicable in all types of cases filed under the Code.

Subdivision (a) requires at least a list of creditors with their names and addresses to be filed with the petition. This list is needed for notice of the meeting of creditors (Rule 2002) and notice of the order for relief (§342 of the Code). The list will also serve to meet the requirements of §521(1) of the Code. Subdivision (a)

recognizes that it may be impossible to file the schedules required by §521(1) and subdivision (b) of the rule at the time the petition is filed but in order for the case to proceed expeditiously and efficiently it is necessary that the clerk have the names and addresses of creditors. It should be noted that subdivision (d) of the rule requires a special list of the 20 largest unsecured creditors in chapter 9 and 11 cases. That list is for the purpose of selecting a committee of unsecured creditors.

Subdivision (b) is derived from former Rule 11–11 and conforms with §521. This subdivision indicates the forms to be used. The court may dispense with the filing of schedules and the statement of affairs pursuant to §521.

Subdivisions (c) and (f) specify the time periods for filing the papers required by the rule as well as the number of copies. The provisions dealing with an involuntary case are derived from former Bankruptcy Rule 108. Under the Code, a chapter 11 case may be commenced by an involuntary petition (§303(a)), whereas under the Act, a Chapter XI case could have been commenced only by a voluntary petition. A motion for an extension of time to file the schedules and statements is required to be made on notice to parties, as the court may direct, including a creditors' committee if one has been appointed under §1102 of the Code and a trustee or examiner if one has been appointed pursuant to §1104 of the Code. Although written notice is preferable, it is not required by the rule; in proper circumstances the notice may be by telephone or otherwise.

Subdivision (d) is new and requires that a list of the 20 largest unsecured creditors, excluding insiders as defined in §101(25) [now 101(31)] of the Code, be filed with the petition. The court, pursuant to §1102 of the Code, is required to appoint a committee of unsecured creditors as soon as practicable after the order for relief. That committee generally is to consist of the seven largest unsecured creditors who are willing to serve. The list should, as indicated on Official Form No. 9, specify the nature and amount of the claim. It is important for the court to be aware of the different types of claims existing in the case and this form should supply such information.

Subdivision (e) applies only in chapter 9 municipality cases. It gives greater discretion to the court to determine the time for filing a list of creditors and any other matter related to the list. A list of creditors must at some point be filed since one is required by §924 of the Code. When the plan affects special assessments, the definitions in §902(2) and (3) [now 902(3), (4)] for "special tax payer" and "special tax payer affected by the plan" become relevant.

Subdivision (g) is derived from former Rules 108(c) and 11–11. Nondebtor general partners are liable to the partnership's trustee for any deficiency in the partnership's estate to pay creditors in full as provided by §723 of the Code. Subdivision (g) authorizes the court to require a partner to file a statement of personal assets and liabilities to provide the trustee with the relevant information.

Subdivision (h) is derived from former Bankruptcy Rule 108(e) for chapter 7, 11 and 13 purposes. It implements the provisions in and language of §541(a)(5) of the Code.

Subdivisions (i) and (j) are adapted from §§165 and 166 of the Act and former Rule 10–108(b) and (c) without change in substance. The term "party in interest" is not defined in the Code or the rules, but reference may be made to §1109(b) of the Code. In the context of this subdivision, the term would include the debtor, the trustee, any indenture trustee, creditor, equity security holder or committee appointed pursuant to §1102 of the Code.

Subdivision (k) is derived from former Rules 108(d) and 10–108(a).

NOTES OF ADVISORY COMMITTEE ON RULES—1987 AMENDMENT

Subdivisions (b), (c), and (g) are amended to provide for the filing of a schedule of current income and current expenditures and the individual debtor's statement of intention. These documents are required by the 1984 amendments to §521 of the Code. Official Form No. 6A is prescribed for use by an individual debtor for filing a schedule of current income and current expenditures in a chapter 7 or chapter 11 case. Although a partnership or corporation is also required by §521(1) to file a schedule of current income and current expenditures, no Official Form is prescribed therefor.

The time for filing the statement of intention is governed by §521(2)(A). A copy of the statement of intention must be served on the trustee and the creditors named in the statement within the same time. The provisions of subdivision (c) governing the time for filing when a chapter 11 or chapter 13 case is converted to a chapter 7 case have been omitted from subdivision (c) as amended. Filing after conversion is now governed exclusively by Rule 1019.

Subdivision (f) has been abrogated. The number of copies of the documents required by this rule will be determined by local rule.

Subdivision (h) is amended to include a direct reference to §541(a)(5).

Subdivision (k) provides that the court may not order an entity other than the debtor to prepare and file the statement of intention.

NOTES OF ADVISORY COMMITTEE ON RULES—1991 AMENDMENT

References to Official Form numbers and to the Chapter 13 Statement are deleted and subdivision (b) is amended in anticipation of future revision and renumbering of the Official Forms. The debtor in a chapter 12 or chapter 13 case shall file the list, schedules and statements required in subdivisions (a)(1), (b)(1), and (h). It is expected that the information currently provided in the Chapter 13 Statement will be included in the schedules and statements as revised not later than the effective date of these rule amendments.

Subdivisions (a)(4) and (c) are amended to provide the United States trustee with notice of any motion to extend the time for the filing of any lists, schedules, or statements. Such notice enables the United States trustee to take appropriate steps to avoid undue delay in the administration of the case. See 28 U.S.C. §586(a)(3)(G). Subdivisions (a)(4) and (c) are amended further to provide notice to committees elected under §705 or appointed pursuant to §1102 of the Code. Committees of retired employees appointed pursuant to §1114 are not included.

The additions of references to unexpired leases in subdivisions (b)(1) and (g) indicate that the schedule requires the inclusion of unexpired leases as well as other executory contracts.

The words "with the court" in subdivisions (b)(1), (e), and (g) are deleted as unnecessary. See Rules 5005(a) and 9001(3).

Subdivision (l), which is derived from Rule X–1002(a), provides the United States trustee with the information required to perform certain administrative duties such as the appointment of a committee of unsecured creditors. In a chapter 7 case, the United States trustee should be aware of the debtor's intention with respect to collateral that secures a consumer debt so that the United States trustee may monitor the progress of the case. Pursuant to §307 of the Code, the United States trustee has standing to raise, appear and be heard on issues and the lists, schedules and statements contain information that, when provided to the United States trustee, enable that office to participate effectively in the case. The United States trustee has standing to move to dismiss a chapter 7 or 13 case for failure to file timely the list, schedules or statement required by §521(1) of the Code. See §§707(a)(3) and 1307(c)(9). It is therefore necessary for the United States trustee to receive notice of any extension of time to file such documents. Upon request, the United States trustee also may receive from the trustee or debtor in possession a list of equity security holders.

NOTES OF ADVISORY COMMITTEE ON RULES—1996 AMENDMENT

Subdivision (c) is amended to provide that schedules and statements filed prior to the conversion of a case to another chapter shall be deemed filed in the converted case, whether or not the case was a chapter 7 case prior to conversion. This amendment is in recognition of the 1991 amendments to the Official Forms that abrogated the Chapter 13 Statement and made the same forms for schedules and statements applicable in all cases.

This subdivision also contains a technical correction. The phrase "superseded case" creates the erroneous impression that conversion of a case results in a new case that is distinct from the original case. The effect of conversion of a case is governed by §348 of the Code.

GAP Report on Rule 1007(c). No changes since publication, except for stylistic changes.

COMMITTEE NOTES ON RULES—2001 AMENDMENT

Subdivision (m) is added to enable the person required to mail notices under Rule 2002 to mail them to the appropriate guardian or other representative when the debtor knows that a creditor or other person listed is an infant or incompetent person.

The proper mailing address of the representative is determined in accordance with Rule 7004(b)(2), which requires mailing to the person's dwelling house or usual place of abode or at the place where the person regularly conducts a business or profession.

Changes Made After Publication and Comments. No changes were made.

COMMITTEE NOTES ON RULES—2003 AMENDMENT

[*Subdivision (a)*.] This rule is amended to require the debtor to file a corporate ownership statement setting out the information described in Rule 7007.1. Requiring debtors to file the statement provides the court with an opportunity to make judicial disqualification determinations at the outset of the case. This could reduce problems later in the case by preventing the initial assignment of the case to a judge who holds a financial interest in a parent company of the debtor or some other entity that holds a significant ownership interest in the debtor. Moreover, by including the disclosure statement filing requirement at the commencement of the case, the debtor does not have to make the same disclosure filing each time it is involved in an adversary proceeding throughout the case. The debtor also must file supplemental statements as changes in ownership might arise.

Changes Made After Publication and Comments. No changes since publication.

[*Subdivisions (c) and (f)*.] The rule is amended to add a requirement that a debtor submit a statement setting out the debtor's social security number. The addition is necessary because of the corresponding amendment to Rule 1005 which now provides that the caption of the petition includes only the final four digits of the debtor's social security number. The debtor submits the statement, but it is not filed, nor is it included in the case file. The statement provides the information necessary to include on the service copy of the notice required under Rule 2002(a)(1). It will also provide the information to facilitate the ability of creditors to search the court record by a search of a social security number already in the creditor's possession.

Changes Made After Publication and Comments. The rule amendment is made in response to the extensive commentary that urged the Advisory Committee to continue the obligation contained in current Rule 1005 that a debtor must include his or her social security number on the caption of the bankruptcy petition. Rule 1005 is amended to limit that disclosure to the final four digits of the social security number, and Rule 1007 is amended to reinstate the obligation in a manner that will provide more protection of the debtor's privacy while continuing access to the information to those persons with legitimate need for that data. The debtor must disclose the information, but the method of disclosure is by a verified statement that is submitted to the clerk. The statement is not filed in the case and does not become a part of the court record. Therefore, it enables the clerk to deliver that information to the creditors and the trustee in the case, but it does not become a part of the court record governed by §107 of the Bankruptcy Code and is not available to the public.

COMMITTEE NOTES ON RULES—2005 AMENDMENT

Notice to creditors and other parties in interest is essential to the operation of the bankruptcy system. Sending notice requires a convenient listing of the names and addresses of the entities to whom notice must be sent, and virtually all of the bankruptcy courts have adopted a local rule requiring the submission of a list of these entities with the petition and in a particular format. These lists are commonly called the "mailing matrix."

Given the universal adoption of these local rules, the need for such lists in all cases is apparent. Consequently, the rule is amended to require the debtor to submit such a list at the commencement of the case. This list may be amended when necessary. *See* Rule 1009(a).

The content of the list is described by reference to Schedules D through H of the Official Forms rather than by reference to creditors or persons holding claims. The cross reference to the Schedules as the source of the names for inclusion in the list ensures that persons such as codebtors or nondebtor parties to executory contracts and unexpired leases will receive appropriate notices in the case.

While this rule renders unnecessary, in part, local rules on the subject, this rule does not direct any particular format or form for the list to take. Local rules still may govern those particulars of the list.

Subdivision (c) is amended to reflect that subdivision (a)(1) no longer requires the debtor to file a schedule of liabilities with the petition in lieu of a list of creditors. The filing of the list is mandatory, and subdivision (b) of the rule requires the filing of schedules. Thus, subdivision (c) no longer needs to account for the possibility that the debtor can delay filing a schedule of liabilities when the petition is accompanied by a list of creditors. Subdivision (c) simply addresses the situation in which the debtor does not file schedules or statements with the petition, and the procedure for seeking an extension of time for filing.

Other changes are stylistic.

Changes Made After Publication and Comment. No changes since publication.

COMMITTEE NOTES ON RULES—2008 AMENDMENT

The title of this rule is expanded to refer to "documents" in conformity with the 2005 amendments to §521 and related provisions of the Bankruptcy Code that include a wider range of documentary requirements.

Subdivision (a) is amended to require that any foreign representative filing a petition for recognition to commence a case under chapter 15, which was added to the Code in 2005, file a list of entities with whom the debtor is engaged in litigation in the United States. The foreign representative filing the petition for recognition must also list any entities against whom provisional relief is being sought as well as all persons or bodies authorized to administer foreign proceedings of the debtor. This should ensure that entities most interested in the case, or their representatives, will receive notice of the petition under Rule 2002(q).

Subdivision (a)(4) is amended to require the foreign representative who files a petition for recognition under chapter 15 to file the documents described in §1515 of the Code as well as a corporate ownership statement. The subdivision is also amended to identify the foreign representative in language that more closely follows the text of the Code. Former subdivision (a)(4) is renumbered as subdivision (a)(5) and stylistic changes were made to the subdivision.

Subdivision (b)(1) addresses schedules, statements, and other documents that the debtor must file unless the court orders otherwise and other than in a case under chapter 9. This subdivision is amended to include documentary requirements added by the 2005 amendments to §521 that apply to the same group of debtors

and have the same time limits as the existing requirements of (b)(1). Consistent with the E-Government Act of 2002, Pub. L. No. 107–347, the payment advices should be redacted before they are filed.

Subdivision (b)(2) is amended to conform to the renumbering of the subsections of §521.

Subdivisions (b)(3) through (b)(8) are new and implement the 2005 amendments to the Code. Subdivision (b)(3) provides for the filing of a document relating to the credit counseling requirement provided by the 2005 amendments to §109 in the context of an Official Form that warns the debtor of the consequences of failing to comply with the credit counseling requirement.

Subdivision (b)(4) addresses the filing of information about current monthly income, as defined in §101, for certain chapter 7 debtors and, if required, additional calculations of expenses required by the 2005 amendments to §707(b).

Subdivision (b)(5) addresses the filing of information about current monthly income, as defined in §101, for individual chapter 11 debtors. The 2005 amendments to §1129(a)(15) condition plan confirmation for individual debtors on the commitment of disposable income, as defined in §1325(b)(2), which is based on current monthly income.

Subdivision (b)(6) addresses the filing of information about current monthly income, as defined in §101, for chapter 13 debtors and, if required, additional calculations of expenses. These changes are necessary because the 2005 amendments to §1325 require that the determination of disposable income begin with current monthly income.

Subdivision (b)(7) reflects the 2005 amendments to §§727 and 1328 of the Code that condition the receipt of a discharge on the completion of a personal financial management course, with certain exceptions. Certain individual chapter 11 debtors may also be required to complete a personal financial management course under §727(a)(11) as incorporated by §1141(d)(3)(C). To evidence compliance with that requirement, the subdivision requires the debtor to file the appropriate Official Form certifying that the debtor has completed the personal financial management course.

Subdivision (b)(8) requires an individual debtor in a case under chapter 11, 12, or 13 to file a statement that there are no reasonable grounds to believe that the restrictions on a homestead exemption as set out in §522(q) of the Code are applicable. Sections 1141(d)(5)(C), 1228(f), and 1328(h) each provide that the court shall not enter a discharge order unless it finds that there is no reasonable cause to believe that §522(q) applies. Requiring the debtor to submit a statement to that effect in cases under chapters 11, 12, and 13 in which an exemption is claimed in excess of the amount allowed under §522(q)(1) provides the court with a basis to conclude, in the absence of any contrary information, that §522(q) does not apply. Creditors receive notice under Rule 2002(f)(11) of the time to request postponement of the entry of the discharge to permit an opportunity to challenge the debtor's assertions in the Rule 1007(b)(8) statement in appropriate cases.

Subdivision (c) is amended to include time limits for the filing requirements added to subdivision (b) due to the 2005 amendments to the Code, and to make conforming amendments. Separate time limits are provided for the documentation of credit counseling and for the statement of the completion of the financial management course. While most documents relating to credit counseling must be filed with the voluntary petition, the credit counseling certificate and debt repayment plan can be filed within 15 days of the filing of a voluntary petition if the debtor files a statement under subdivision (b)(3)(B) with the petition. Sections 727(a)(11), 1141(d)(3), and 1328(g) of the Code require individual debtors to complete a personal financial management course prior to the entry of a discharge. The amendment allows the court to enlarge the deadline for the debtor to file the statement of completion. Because no party is harmed by the enlargement, no specific restriction is placed on the court's discretion to enlarge the deadline, even after its expiration.

Subdivision (c) of the rule is also amended to recognize the limitation on the extension of time to file schedules and statements when the debtor is a small business debtor. Section 1116(3), added to the Code in 2005, establishes a specific standard for courts to apply in the event that the debtor in possession or the trustee seeks an extension for filing these forms for a period beyond 30 days after the order for relief.

Changes Made After Publication. Subdivision (a)(4) was amended to insert the requirement that the foreign representative who files the chapter 15 petition must file the corporate ownership statement. Subdivision (b)(4) was amended to provide that all individual debtors rather than just those whose debts are primarily consumer debts must file the statement of current monthly income. Subdivisions (b)(7) and (c) were amended to make the obligation to file a statement of the completion of a personal financial management course applicable to certain individual chapter 11 debtors as well as to individual debtors in chapters 7 and 13. Subdivision (c) is also amended to provide the court with broad discretion to enlarge the time to file the statement of completion of a personal financial management course. The Committee Note was amended to explain these changes.

COMMITTEE NOTES ON RULES—2009 AMENDMENT

The rule is amended to implement changes in connection with the amendment to Rule 9006(a) and the manner by which time is computed under the rules. Each deadline in the rule of fewer than 30 days is amended to substitute a deadline that is a multiple of seven days. Throughout the rules, deadlines are amended in the following manner:

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

COMMITTEE NOTES ON RULES—2010 AMENDMENT

Subdivision (a)(2). Subdivision (a)(2) is amended to shorten the time for a debtor to file a list of the creditors included on the various schedules filed or to be filed in the case. This list provides the information necessary for the clerk to provide notice of the §341meeting of creditors in a timely manner.

Subdivision (c). Subdivision (c) is amended to provide additional time for individual debtors in chapter 7 to file the statement of completion of a course in personal financial management. This change is made in conjunction with an amendment to Rule 5009 requiring the clerk to provide notice to debtors of the consequences of not filing the statement in a timely manner.

Changes Made After Publication. No changes since publication.

COMMITTEE NOTES ON RULES—2012 AMENDMENT

Subdivision (c). 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.

COMMITTEE NOTES ON RULES—2013 AMENDMENT

Subdivision (b)(7) is amended to relieve 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 that the debtor has completed the course. Course providers approved under §111 of the Code may be permitted to file this notification electronically with the court immediately upon the debtor's completion of the course. If the provider does not notify the court, the debtor must file the statement, prepared as prescribed by the appropriate Official Form, within the time period specified by subdivision (c).

Changes Made After Publication and Comment. No changes were made after publication and comment.

COMMITTEE NOTES ON RULES—2015 AMENDMENT

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

COMMITTEE NOTES ON RULES—2022 AMENDMENT

The rule is amended in response to the enactment of the Small Business Reorganization Act of 2019, Pub. L. No. 116–54, 133 Stat. 1079. That law gives a small business debtor the option of electing to be a debtor under subchapter V of chapter 11. As amended, subdivision (b)(5) of the rule includes an exception for subchapter V cases. Because Code §1129(a)(15) is inapplicable to such cases, there is no need for an individual debtor in a subchapter V case to file a statement of current monthly income.

Subdivision (h) is amended to provide that the duty to file a supplemental schedule under the rule terminates upon confirmation of the plan in a subchapter V case, unless the plan is confirmed under §1191(b), in which case it terminates upon discharge as provided in §1192.

COMMITTEE NOTES ON RULES—2024 AMENDMENT

The language of Rule 1007 has been amended as part of the general restyling of the Bankruptcy Rules to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only.

Additionally, the following substantive changes have been made.

Rule 1007(b)(7) is amended in two ways. First, language is added to make the rule inapplicable to debtors who are not required to complete an instructional course concerning personal financial management as a condition to discharge. *See* 11 U.S.C. §§727(a)(11), 1328(g)(2), 1141(d)(3)(C). Second, the rule is amended to require an individual debtor who has completed an instructional course concerning personal financial

management to file the certificate of course completion (often called a Certificate of Debtor Education) issued by the approved provider of that course in lieu of filing an Official Form, if the provider has not notified the court that the debtor has completed the course.

The amendment to Rule 1007(c)(4) reflects the amendment to Rule 1007(b)(7) described above.

Rule 1008. Requirement to Verify Petitions and Accompanying Documents

A petition, list, schedule, statement, and any amendment must be verified or must contain an unsworn declaration under 28 U.S.C. §1746.

(As amended Apr. 30, 1991, eff. Aug. 1, 1991; Apr. 2, 2024, eff. Dec. 1, 2024.)

NOTES OF ADVISORY COMMITTEE ON RULES—1983

This rule retains the requirement under the Bankruptcy Act and rules that petitions and accompanying papers must be verified. Only the original need be signed and verified, but the copies must be conformed to the original. See Rule 9011(c).

The verification may be replaced by an unsworn declaration as provided in 28 U.S.C. §1746. See also, Official Form No. 1 and Advisory Committee Note.

NOTES OF ADVISORY COMMITTEE ON RULES—1991 AMENDMENT

The amendments to this rule are stylistic.

COMMITTEE NOTES ON RULES—2024 AMENDMENT

The language of Rule 1008 has been amended as part of the general restyling of the Bankruptcy Rules to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only.

Rule 1009. Amending a Voluntary Petition, List, Schedule, or Statement

(a) IN GENERAL.

(1) *By a Debtor*. A debtor may amend a voluntary petition, list, schedule, or statement at any time before the case is closed. The debtor must give notice of the amendment to the trustee and any affected entity.

(2) *By a Party in Interest*. On a party in interest's motion and after notice and a hearing, the court may order a voluntary petition, list, schedule, or statement to be amended. The clerk must give notice of the amendment to entities that the court designates.

(b) AMENDING A STATEMENT OF INTENTION. A debtor may amend a statement of intention at any time before the time provided in §521(a)(2) expires. The debtor must give notice of the amendment to the trustee and any affected entity.

(c) AMENDING A STATEMENT OF SOCIAL-SECURITY NUMBER. If a debtor learns that a social-security number shown on the statement submitted under Rule 1007(f) is incorrect, the debtor must:

(1) promptly submit an amended verified statement with the correct number (Form 121); and

(2) give notice of the amendment to all entities required to be listed under Rule 1007(a)(1) or (a)(2).

(d) COPY TO THE UNITED STATES TRUSTEE. The clerk must promptly send a copy of every amendment filed under this rule to the United States trustee.

(As amended Mar. 30, 1987, eff. Aug. 1, 1987; Apr. 30, 1991, eff. Aug. 1, 1991; Apr. 12, 2006, eff. Dec. 1, 2006; Apr. 23, 2008, eff. Dec. 1, 2008; Apr. 2, 2024, eff. Dec. 1, 2024.)

NOTES OF ADVISORY COMMITTEE ON RULES—1983

This rule continues the permissive approach adopted by former Bankruptcy Rule 110 to amendments of voluntary petitions and accompanying papers. Notice of any amendment is required to be given to the trustee.

This is particularly important with respect to any amendment of the schedule of property affecting the debtor's claim of exemptions. Notice of any amendment of the schedule of liabilities is to be given to any creditor whose claim is changed or newly listed.

The rule does not continue the provision permitting the court to order an amendment on its own initiative. Absent a request in some form by a party in interest, the court should not be involved in administrative matters affecting the estate.

If a list or schedule is amended to include an additional creditor, the effect on the dischargeability of the creditor's claim is governed by the provisions of §523(a)(3) of the Code.

NOTES OF ADVISORY COMMITTEE ON RULES—1987 AMENDMENT

Subdivision (a) is amended to require notice and a hearing in the event a party in interest other than the debtor seeks to amend. The number of copies of the amendment will be determined by local rule of court.

Subdivision (b) is added to treat amendments of the statement of intention separately from other amendments. The intention of the individual debtor must be performed within 45 days of the filing of the statement, unless the court extends the period. Subdivision (b) limits the time for amendment to the time for performance under §521(2)(B) [now 521(a)(2)(B)] of the Code or any extension granted by the court.

NOTES OF ADVISORY COMMITTEE ON RULES—1991 AMENDMENT

The amendments to subdivision (a) are stylistic.

Subdivision (c) is derived from Rule X–1002(a) and is designed to provide the United States trustee with current information to enable that office to participate effectively in the case.

COMMITTEE NOTES ON RULES—2006 AMENDMENT

Subdivision (c). Rule 2002(a)(1) provides that the notice of the §341 meeting of creditors include the debtor's social security number. It provides creditors with the full number while limiting publication of the social security number otherwise to the final four digits of the number to protect the debtor's identity from others who do not have the same need for that information. If, however, the social security number that the debtor submitted under Rule 1007(f) is incorrect, then the only notice to the entities contained on the list filed under Rule 1007(a)(1) or (a)(2) would be incorrect. This amendment adds a new subdivision (c) that directs the debtor to submit a verified amended statement of social security number and to give notice of the new statement to all entities in the case who received the notice containing the erroneous social security number.

Subdivision (d). Former subdivision (c) becomes subdivision (d) and is amended to include new subdivision (c) amendments in the list of documents that the clerk must transmit to the United States trustee.

Other amendments are stylistic.

Changes Made After Publication. No changes since publication.

COMMITTEE NOTES ON RULES—2008 AMENDMENT

Subdivision (b) is amended to conform to the 2005 amendments to §521 of the Code.

Changes Made After Publication. No changes were made after publication.

COMMITTEE NOTES ON RULES—2024 AMENDMENT

The language of Rule 1009 has been amended as part of the general restyling of the Bankruptcy Rules to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only.

Rule 1010. Serving an Involuntary Petition and Summons

(a) IN GENERAL. After an involuntary petition has been filed, the clerk must promptly issue a summons for service on the debtor. The summons must be served with a copy of the petition in the manner that Rule 7004(a) and (b) provide for service of a summons and complaint. If service cannot be so made, the court may order service by mail to the debtor's last known address, and by at least one publication as the court orders. Service may be made anywhere. Rule 7004(e) and Fed. R. Civ. P. 4(l) govern service under this rule.

(b) CORPORATE-OWNERSHIP STATEMENT. A corporation that files an involuntary petition must file and serve with the petition a corporate-ownership statement containing the information described in Rule 7007.1.

(As amended Mar. 30, 1987, eff. Aug. 1, 1987; Apr. 30, 1991, eff. Aug. 1, 1991; Apr. 22, 1993, eff.

Aug. 1, 1993; Apr. 11, 1997, eff. Dec. 1, 1997; Apr. 23, 2008, eff. Dec. 1, 2008; Apr. 28, 2016, eff. Dec. 1, 2016; Apr. 2, 2024, eff. Dec. 1, 2024.)

NOTES OF ADVISORY COMMITTEE ON RULES—1983

This rule provides the procedure for service of the involuntary petition and summons. It does not deal with service of a summons and complaint instituting an adversary proceeding pursuant to Part VII.

While this rule is similar to former Bankruptcy Rule 111, it substitutes the clerk of the bankruptcy court for the clerk of the district court as the person who is to issue the summons.

The modes of service prescribed by the rule are personal or by mail, when service can be effected in one of these ways in the United States. Such service is to be made in the manner prescribed in adversary proceedings by Rule 7004(a) and (b). If service must be made in a foreign country, the mode of service is one of that set forth in Rule 4(i) F.R.Civ.P.

When the methods set out in Rule 7004(a) and (b) cannot be utilized, service by publication coupled with mailing to the last known address is authorized. *Cf.* Rule 7004(c). The court determines the form and manner of publication as provided in Rule 9007. The publication need not set out the petition or the order directing service by publication. In order to apprise the debtor fairly, however, the publication should include all the information required to be in the summons by Official Form No. 13 and a notice indicating how service is being effected and how a copy of the petition may be obtained.

There are no territorial limits on the service authorized by this rule, which continues the practice under the former rules and Act. There must, however, be a basis for jurisdiction pursuant to §109(a) of the Code for the court to order relief. Venue provisions are set forth in [former] 28 U.S.C. §1472.

Subdivision (f) of Rule 7004 and subdivisions (g) and (h) of Rule 4 F.R.Civ.P. govern time and proof of service and amendment of process or of proof of service.

Rule 1004 provides for transmission to nonpetitioning partners of a petition filed against the partnership by fewer than all the general partners.

NOTES OF ADVISORY COMMITTEE ON RULES—1987 AMENDMENT

The rule has been broadened to include service of a petition commencing a case ancillary to a foreign proceeding, previously included in Rule 1003(e)(2).

NOTES OF ADVISORY COMMITTEE ON RULES—1991 AMENDMENT

Reference to the Official Form number is deleted in anticipation of future revision and renumbering of the Official Forms.

Rule 4(g) and (h) F.R.Civ.P. made applicable by this rule refers to Rule 4(g) and (h) F.R.Civ.P. in effect on January 1, 1990, notwithstanding any subsequent amendment thereto. See Rule 7004(g).

NOTES OF ADVISORY COMMITTEE ON RULES—1993 AMENDMENT

This rule is amended to delete the reference to the Official Form. The Official Form for the summons was abrogated in 1991. Other amendments are stylistic and make no substantive change.

NOTES OF ADVISORY COMMITTEE ON RULES—1997 AMENDMENT

The amendments to this rule are technical, are promulgated solely to conform to changes in subdivision designations in Rule 4, F.R.Civ.P., and in Rule 7004, and are not intended to effectuate any material change in substance.

In 1996, the letter designation of subdivision (f) of Rule 7004 (Summons; Time Limit for Service) was changed to subdivision (e). In 1993, the provisions of Rule 4, F.R.Civ.P., relating to proof of service contained in Rule 4(g) (Return) and Rule 4(h) (Amendments), were placed in the new subdivision (l) of Rule 4 (Proof of Service). The technical amendments to Rule 1010 are designed solely to conform to these new subdivision designations.

The 1996 amendments to Rule 7004 and the 1993 amendments to Rule 4, F.R.Civ.P., have not affected the availability of service by first class mail in accordance with Rule 7004(b) for the service of a summons and petition in an involuntary case commenced under §303 or an ancillary case commenced under [former] §304 of the Code.

GAP Report on Rule 1010. These amendments, which are technical and conforming, were not published for comment.

COMMITTEE NOTES ON RULES—2008 AMENDMENT

This rule is amended to implement the 2005 amendments to the Code, which repealed §304 and replaced it with chapter 15 governing ancillary and other cross-border cases. Under chapter 15, a foreign representative

commences a case by filing a petition for recognition of a pending foreign nonmain proceeding. The amendment requires service of the summons and petition on the debtor and any entity against whom the representative is seeking provisional relief. Until the court enters a recognition order under §1517, no stay is in effect unless the court enters some form of provisional relief under §1519. Thus, only those entities against whom specific provisional relief is sought need to be served. The court may, however, direct that service be made on additional entities as appropriate.

This rule does not apply to a petition for recognition of a foreign main proceeding.

The rule is also amended by renumbering the prior rule as subdivision (a) and adding a new subdivision (b) requiring any corporate creditor that files or joins an involuntary petition to file a corporate ownership statement.

Changes Made After Publication. No changes were made after publication.

COMMITTEE NOTES ON RULES—2016 AMENDMENT

Subdivision (a) of this rule is amended to remove provisions regarding the issuance of a summons for service in certain chapter 15 proceedings. The requirements for notice and service in chapter 15 proceedings are found in Rule 2002(q).

COMMITTEE NOTES ON RULES—2024 AMENDMENT

The language of Rule 1010 has been amended as part of the general restyling of the Bankruptcy Rules to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only.

REFERENCES IN TEXT

The Federal Rules of Civil Procedure, referred to in subd. (a), are set out in the Appendix to Title 28, Judiciary and Judicial Procedure.

Rule 1011. Responsive Pleading in an Involuntary Case; Effect of a Motion

(a) WHO MAY CONTEST A PETITION. A debtor may contest an involuntary petition filed against it. In a partnership case under Rule 1004, a nonpetitioning general partner—or a person who is alleged to be a general partner but denies the allegation—may contest the petition.

(b) DEFENSES AND OBJECTIONS; TIME TO FILE. A defense or objection to the petition must be presented as prescribed by Fed. R. Civ. P. 12. It must be filed and served within 21 days after the summons is served. But if service is made by publication on a party or partner who does not reside in—or cannot be found in—the state where the court sits, the court must set the time to file and serve the answer.

(c) EFFECT OF A MOTION. Serving a motion under Fed. R. Civ. P. 12(b) extends the time to file and serve an answer as Fed. R. Civ. P. 12(a) permits.

(d) LIMITATION ON ASSERTING A DEBTOR'S CLAIM AGAINST A PETITIONING CREDITOR. A debtor's answer must not assert a claim against a petitioning creditor except to defeat the petition.

(e) LIMIT ON PLEADINGS. No pleading other than an answer to the petition is allowed, but the court may order a reply to an answer and set the time for filing and service.

(f) CORPORATE-OWNERSHIP STATEMENT. A corporation that responds to the petition must file a corporate-ownership statement containing the information described in Rule 7007.1. The corporation must do so with its first appearance, pleading, motion, or response, or other first request to the court.

(As amended Mar. 30, 1987, eff. Aug. 1, 1987; Apr. 26, 2004, eff. Dec. 1, 2004; Apr. 23, 2008, eff. Dec. 1, 2008; Mar. 26, 2009, eff. Dec. 1, 2009; Apr. 28, 2016, eff. Dec. 1, 2016; Apr. 2, 2024, eff. Dec. 1, 2024.)

NOTES OF ADVISORY COMMITTEE ON RULES—1983

This rule is derived from former Bankruptcy Rule 112. A petition filed by fewer than all the general partners under Rule 1004(b) to have an order for relief entered with respect to the partnership is referred to as a petition against the partnership because of the adversary character of the proceeding it commences. *Cf.* §303(b)(3) of the Code; 2 Collier *Bankruptcy* 303.05[5][a] (15th ed. 1981); 2 *id*. 18.33[2], 18.46 (14th ed.

1966). One who denies an allegation of membership in the firm is nevertheless recognized as a party entitled to contest a petition filed against a partnership under subdivision (b) of Rule 1004 in view of the possible consequences to him of an order for relief against the entity alleged to include him as a member. See §723 of the Code; *Francis v. McNeal*, 228 U.S. 695 (1913); *Manson v. Williams*, 213 U.S. 453 (1909); *Carter v. Whisler*, 275 Fed. 743, 746–747 (8th Cir. 1921). The rule preserves the features of the former Act and Rule 112 and the Code permitting no response by creditors to an involuntary petition or petition against a partnership under Rule 1004(b).

Subdivision (b): Rule 12 F.R.Civ.P. has been looked to by the courts as prescribing the mode of making a defense or objection to a petition in bankruptcy. See *Fada of New York, Inc. v. Organization Service Co., Inc*., 125 F.2d 120. (2d Cir. 1942); *In the Matter of McDougald*, 17 F.R.D. 2, 5 (W.D. Ark. 1955); *In the Matter of Miller*, 6 Fed. Rules Serv. 12f.26, Case No. 1 (N.D. Ohio 1942); *Tatum v. Acadian Production Corp. of La*., 35 F. Supp. 40, 50 (E.D. La. 1940); 2 Collier, *supra* 303.07 (15th ed. 1981); 2 *id*. at 134–40 (14th ed. 1966). As pointed out in the Note accompanying former Bankruptcy Rule 915 an objection that a debtor is neither entitled to the benefits of the Code nor amenable to an involuntary petition goes to jurisdiction of the subject matter and may be made at any time consistent with Rule 12(h)(3) F.R.Civ.P. Nothing in this rule recognizes standing in a creditor or any other person not authorized to contest a petition to raise an objection that a person eligible to file a voluntary petition cannot be the subject of an order for relief on an involuntary petition. See Seligson & King, *Jurisdiction and Venue in Bankruptcy*, 36 Ref.J. 36, 38–40 (1962).

As Collier has pointed out with respect to the Bankruptcy Act, "the mechanics of the provisions in §18a and b relating to time for appearance and pleading are unnecessarily confusing. . . . It would seem, though, to be more straightforward to provide, as does Federal Rule 12(a), that the time to respond runs from the date of service rather than the date of issuance of process." 2 Collier, *supra* at 119. The time normally allowed for the service and filing of an answer or motion under Rule 1011 runs from the date of the issuance of the summons. Compare Rule 7012. Service of the summons and petition will ordinarily be made by mail under Rule 1010 and must be made within 10 days of the issuance of the summons under Rule 7004(e), which governs the time of service. When service is made by publication, the court should fix the time for service and filing of the response in the light of all the circumstances so as to afford a fair opportunity to the debtor to enter a defense or objection without unduly delaying the hearing on the petition. *Cf*. Rule 12(a) F.R.Civ.P.

Subdivision (c): Under subdivision (c), the timely service of a motion permitted by Rule 12(b), (e), (f), or (h) F.R.Civ.P. alters the time within which an answer must be filed. If the court denies a motion or postpones its disposition until trial on the merits, the answer must be served within 10 days after notice of the court's action. If the court grants a motion for a more definite statement, the answer may be served any time within 10 days after the service of the more definite statement.

Many of the rules governing adversary proceedings apply to proceedings on a contested petition unless the court otherwise directs as provided in Rule 1018. The specific provisions of this Rule 1011 or 7005, however, govern the filing of an answer or motion responsive to a petition. The rules of Part VII are adaptations of the corresponding Federal Rules of Civil Procedure, and the effect of Rule 1018 is thus to make the provisions of Civil Rules 5, 8, 9, 15, and 56, *inter alia*, generally applicable to the making of defenses and objections to the petition. Rule 1018 follows prior law and practice in this respect. See 2 Collier, *Bankruptcy* 18.39–18.41 (14th ed. 1966).

Subdivision (d). This subdivision adopts the position taken in many cases that an affirmative judgment against a petitioning creditor cannot be sought by a counterclaim filed in an answer to an involuntary petition. See, *e.g., Georgia Jewelers, Inc. v. Bulova Watch Co*., 302 F.2d 362, 369–70 (5th Cir. 1962); *Associated Electronic Supply Co. of Omaha v. C.B.S. Electronic Sales Corp*., 288 F.2d 683, 684–85 (8th Cir. 1961). The subdivision follows *Harris v. Capehart-Farnsworth Corp*., 225 F.2d 268 (8th Cir. 1955), in permitting the debtor to challenge the standing of a petitioner by filing a counterclaim against him. It does not foreclose the court from rejecting a counterclaim that cannot be determined without unduly delaying the decision upon the petition. See *In the Matter of Bichel Optical Laboratories, Inc*., 299 F. Supp. 545 (D. Minn. 1969).

Subdivision (e). This subdivision makes it clear that no reply needs to be made to an answer, including one asserting a counterclaim, unless the court orders otherwise.

NOTES OF ADVISORY COMMITTEE ON RULES—1987 AMENDMENT

The rule has been broadened to make applicable in ancillary cases the provisions concerning responsive pleadings to involuntary petitions.

COMMITTEE NOTES ON RULES—2004 AMENDMENT

The amendment to Rule 1004 that became effective on December 1, 2002, deleted former subdivision (a) of that rule leaving only the provisions relating to involuntary petitions against partnerships. The rule no longer includes subdivisions. Therefore, this technical amendment changes the reference to Rule 1004(b) to Rule

1004.

COMMITTEE NOTES ON RULES—2008 AMENDMENT

The rule is amended to reflect the 2005 amendments to the Code, which repealed §304 and added chapter 15. Section 304 covered cases ancillary to foreign proceedings, while chapter 15 governs ancillary and other cross-border cases and introduces the concept of a petition for recognition of a foreign proceeding.

The rule is also amended in tandem with the amendment to Rule 1010 to require the parties responding to an involuntary petition and a petition for recognition of a foreign proceeding to file corporate ownership statements to assist the court in determining whether recusal is necessary.

COMMITTEE NOTES ON RULES—2009 AMENDMENT

The rule is amended to implement changes in connection with the amendment to Rule 9006(a) and the manner by which time is computed under the rules. The deadline in the rule is amended to substitute a deadline that is a multiple of seven days. Throughout the rules, deadlines are amended in the following manner:

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

Changes Made After Publication. No changes were made after publication.

COMMITTEE NOTES ON RULES—2016 AMENDMENT

This rule is amended to remove provisions regarding chapter 15 proceedings. The requirements for responses to a petition for recognition of a foreign proceeding are found in Rule 1012.

COMMITTEE NOTES ON RULES—2024 AMENDMENT

The language of Rule 1011 has been amended as part of the general restyling of the Bankruptcy Rules to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only.

REFERENCES IN TEXT

The Federal Rules of Civil Procedure, referred to in subds. (b) and (c), are set out in the Appendix to Title 28, Judiciary and Judicial Procedure.

Rule 1012. Contesting a Petition in a Chapter 15 Case

(a) WHO MAY CONTEST THE PETITION. A debtor or a party in interest may contest a Chapter 15 petition for recognition of a foreign proceeding.

(b) TIME TO FILE A RESPONSE. Unless the court sets a different time, a response to the petition must be filed at least 7 days before the date set for a hearing on the petition.

(c) CORPORATE-OWNERSHIP STATEMENT. A corporation that responds to the petition must file a corporate-ownership statement containing the information described in Rule 7007.1. The corporation must do so with its first appearance, pleading, motion, or response, or other first request to the court.

(Added Apr. 28, 2016, eff. Dec. 1, 2016; amended Apr. 2, 2024, eff. Dec. 1, 2024.)

NOTES OF ADVISORY COMMITTEE ON RULES—1987

This rule [former Rule 1012—Examination of Debtor, Including Discovery, on Issue of Nonpayment of Debts in Involuntary Cases] is abrogated [abrogated Mar. 30, 1987, eff. Aug. 1, 1987]. The discovery rules apply whenever an involuntary petition is contested. Rule 1018.

COMMITTEE NOTES ON RULES—2016 AMENDMENT

This rule is added to govern responses to petitions for recognition in cross-border cases. It incorporates provisions formerly found in Rule 1011. Subdivision (a) provides that the debtor or a party in interest may

contest the petition. Subdivision (b) provides for presentation of responses no later than 7 days before the hearing on the petition, unless the court directs otherwise. Subdivision (c) governs the filing of corporate ownership statements by entities responding to the petition.

COMMITTEE NOTES ON RULES—2024 AMENDMENT

The language of Rule 1012 has been amended as part of the general restyling of the Bankruptcy Rules to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only.

Rule 1013. Contested Petition in an Involuntary Case; Default

(a) HEARING AND DISPOSITION. When a petition in an involuntary case is contested, the court must:

(1) rule on the issues presented at the earliest practicable time; and

(2) promptly issue an order for relief, dismiss the petition, or issue any other appropriate order.

(b) DEFAULT. If the petition is not contested within the time allowed by Rule 1011, the court must issue the order for relief on the next day or as soon as practicable.

(As amended Apr. 30, 1991, eff. Aug. 1, 1991; Apr. 22, 1993, eff. Aug. 1, 1993; Apr. 2, 2024, eff. Dec. 1, 2024.)

NOTES OF ADVISORY COMMITTEE ON RULES—1983

This rule is adapted from former Bankruptcy Rule 115(a) and (c) and applies in chapter 7 and 11 cases. The right to trial by jury under §19a of the Bankruptcy Act has been abrogated and the availability of a trial by jury is within the discretion of the bankruptcy judge pursuant to [former] 28 U.S.C. §1480(b). Rule 9015 governs the demand for a jury trial.

Subdivision (b) of Rule 1013 is derived from former Bankruptcy Rule 115(c) and §18(e) of the Bankruptcy Act. If an order for relief is not entered on default, dismissal will ordinarily be appropriate but the court may postpone definitive action. See also Rule 9024 with respect to setting aside an order for relief on default for cause.

Subdivision (e) of former Bankruptcy Rule 115 has not been carried over because its provisions are covered by §303(i) of the Code.

NOTES OF ADVISORY COMMITTEE ON RULES—1991 AMENDMENT

Reference to the Official Form number is deleted in anticipation of future revision and renumbering of the Official Forms.

NOTES OF ADVISORY COMMITTEE ON RULES—1993 AMENDMENT

Subdivision (c) is abrogated because the official form for the order for relief was abrogated in 1991. Other amendments are stylistic and make no substantive change.

COMMITTEE NOTES ON RULES—2024 AMENDMENT

The language of Rule 1013 has been amended as part of the general restyling of the Bankruptcy Rules to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only.

Rule 1014. Transferring a Case to Another District; Dismissing a Case Improperly Filed

(a) DISMISSAL OR TRANSFER.

(1) *Petition Filed in the Proper District*. If a petition is filed in the proper district, the court may transfer the case to another district in the interest of justice or for the convenience of the parties. The court may do so:

(A) on its own or on a party in interest's timely motion; and

(B) only after a hearing on notice to the petitioner, United States trustee, and other entities as

the court orders.

(2) *Petition Filed in an Improper District*. If a petition is filed in an improper district, the court may dismiss the case or may transfer it to another district on the same grounds and under the same procedures as stated in (1).

(b) PETITIONS INVOLVING THE SAME OR RELATED DEBTORS FILED IN DIFFERENT DISTRICTS.

(1) *Scope*. This Rule 1014(b) applies if petitions commencing cases or seeking recognition under Chapter 15 are filed in different districts by, regarding, or against:

(A) the same debtor;

(B) a partnership and one or more of its general partners;

(C) two or more general partners; or

(D) a debtor and an affiliate.

(2) *Court Action*. The court in the district where the first petition is filed may determine the district or districts in which the cases should proceed in the interest of justice or for the convenience of the parties. The court may do so on timely motion and after a hearing on notice to:

- the United States trustee;
- entities entitled to notice under Rule 2002(a); and
- other entities as the court orders.

(3) *Later-Filed Petitions*. The court in the district where the first petition is filed may order the parties to the later-filed cases not to proceed further until the motion is decided.

(As amended Mar. 30, 1987, eff. Aug. 1, 1987; Apr. 30, 1991, eff. Aug. 1, 1991; Apr. 30, 2007, eff. Dec. 1, 2007; Apr. 28, 2010, eff. Dec. 1, 2010; Apr. 25, 2014, eff. Dec. 1, 2014; Apr. 2, 2024, eff. Dec. 1, 2024.)

NOTES OF ADVISORY COMMITTEE ON RULES—1983

This rule is derived from former Bankruptcy Rule 116 which contained venue as well as transfer provisions. Public Law 95–598, however, placed the venue provisions in [former] 28 U.S.C. §1472, and no purpose is served by repeating them in this rule. Transfer of cases is provided in [former] 28 U.S.C. §1475 but this rule adds the procedure for obtaining transfer. Pursuant to [former] 28 U.S.C. §1472, proper venue for cases filed under the Code is either the district of domicile, residence, principal place of business, or location of principal assets for 180 days or the longer portion thereof immediately preceding the petition. [Former] 28 U.S.C. §1475 permits the court to transfer a case in the interest of justice and for the convenience of the parties. If the venue is improper, the court may retain or transfer the case in the interest of justice and for the convenience of the parties pursuant to [former] 28 U.S.C. §1477.

Subdivision (a) of the rule is derived from former Bankruptcy Rule 116(b). It implements [former] 28 U.S.C. §§1475 and 1477 and clarifies the procedure to be followed in requesting and effecting transfer of a case. Subdivision (a) protects the parties against being subjected to a transfer except on a timely motion of a party in interest. If the transfer would result in fragmentation or duplication of administration, increase expense, or delay closing the estate, such a factor would bear on the timeliness of the motion as well as on the propriety of the transfer under the standards prescribed in subdivision (a). Subdivision (a) of the rule requires the interest of justice and the convenience of the parties to be the grounds of any transfer of a case or of the retention of a case filed in an improper district as does [former] 28 U.S.C. §1477. *Cf.* 28 U.S.C. §1404(a) (district court may transfer any civil action "[f]or the convenience of parties and witnesses, in the interest of justice"). It also expressly requires a hearing on notice to the petitioner or petitioners before the transfer of any case may be ordered. Under this rule, a motion by a party in interest is necessary. There is no provision for the court to act on its own initiative.

Subdivision (b) is derived from former Bankruptcy Rule 116(c). It authorizes the court in which the first petition is filed under the Code by or against a debtor to entertain a motion seeking a determination whether the case so commenced should continue or be transferred and consolidated or administered jointly with another case commenced by or against the same or related person in another court under a different chapter of the Code. Subdivision (b) is correlated with [former] 28 U.S.C. §1472 which authorizes petitioners to file cases involving a partnership and partners or affiliated debtors.

The reference in subdivision (b) to petitions filed "by" a partner or "by" any other of the persons mentioned is to be understood as referring to voluntary petitions. It is not the purpose of this subdivision to permit more than one case to be filed in the same court because a creditor signing an involuntary petition happens to be a partner, a partnership, or an affiliate of a debtor.

Transfers of adversary proceedings in cases under title 11 are governed by Rule 7087 and [former] 28 U.S.C. §1475.

NOTES OF ADVISORY COMMITTEE ON RULES—1987 AMENDMENT

Both paragraphs 1 and 2 of subdivision (a) are amended to conform to the standard for transfer in 28 U.S.C. §1412. Formerly, 28 U.S.C. §1477 authorized a court either to transfer or retain a case which had been commenced in a district where venue was improper. However, 28 U.S.C. §1412, which supersedes 28 U.S.C. §1477, authorizes only the transfer of a case. The rule is amended to delete the reference to retention of a case commenced in the improper district. Dismissal of a case commenced in the improper district as authorized by 28 U.S.C. §1406 has been added to the rule. If a timely motion to dismiss for improper venue is not filed, the right to object to venue is waived.

The last sentence of the rule has been deleted as unnecessary.

NOTES OF ADVISORY COMMITTEE ON RULES—1991 AMENDMENT

Subdivision (b) is amended to provide that a motion for transfer of venue under this subdivision shall be filed in the district in which the first petition is pending. If the case commenced by the first petition has been transferred to another district prior to the filing of a motion to transfer a related case under this subdivision, the motion must be filed in the district to which the first petition had been transferred.

The other amendments to this rule are consistent with the responsibilities of the United States trustee in the supervision and administration of cases pursuant to 28 U.S.C. §586(a)(3). The United States trustee may appear and be heard on issues relating to the transfer of the case or dismissal due to improper venue. See §307 of the Code.

COMMITTEE NOTES ON RULES—2007 AMENDMENT

Courts have generally held that they have the authority to dismiss or transfer cases on their own motion. The amendment recognizes this authority and also provides that dismissal or transfer of the case may take place only after notice and a hearing.

Other amendments are stylistic.

Changes Made After Publication. No changes since publication.

COMMITTEE NOTES ON RULES—2010 AMENDMENT

Subdivision (b). Subdivision (b) of the rule is amended to provide that petitions for recognition of a foreign proceeding are included among those that are governed by the procedure for determining where cases should go forward when multiple petitions involving the same debtor are filed. The amendment adds a specific reference to chapter 15 petitions and also provides that the rule governs proceedings regarding a debtor as well as those that are filed by or against a debtor.

Other changes are stylistic.

Changes Made After Publication. No changes since publication.

COMMITTEE NOTES ON RULES—2014 AMENDMENT

Subdivision (b) provides a practical solution for resolving venue issues when related cases are filed in different districts. It designates the court in which the first-filed petition is pending as the decision maker if a party seeks a determination of where the related cases should proceed. Subdivision (b) is amended to clarify when proceedings in the subsequently filed cases are stayed. It requires an order of the court in which the first-filed petition is pending to stay proceedings in the related cases. Requiring a court order to trigger the stay will prevent the disruption of other cases unless there is a judicial determination that this subdivision of the rule applies and that a stay of related cases is needed while the court makes its venue determination.

Notice of the hearing must be given to all debtors, trustees, creditors, indenture trustees, and United States trustees in the affected cases, as well as any other entity that the court directs. Because the clerk of the court that makes the determination often may lack access to the names and addresses of entities in other cases, a court may order the moving party to provide notice.

The other changes to subdivision (b) are stylistic.

Changes Made After Publication and Comment. The only change made after publication and comment was stylistic.

COMMITTEE NOTES ON RULES—2024 AMENDMENT

The language of Rule 1014 has been amended as part of the general restyling of the Bankruptcy Rules to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only.

Rule 1015. Consolidating or Jointly Administering Cases Pending in the Same District

(a) CONSOLIDATING CASES INVOLVING THE SAME DEBTOR. The court may consolidate two or more cases that are regarding or brought by or against the same debtor and that are pending in its district.

(b) JOINTLY ADMINISTERING CASES INVOLVING RELATED DEBTORS; EXEMPTIONS OF SPOUSES; PROTECTIVE ORDERS TO AVOID CONFLICTS OF INTEREST.

(1) *In General*. The court may order joint administration of the estates in a joint case or in two or more cases pending in the court if they are brought by or against:

(A) spouses;

(B) a partnership and one or more of its general partners;

(C) two or more general partners; or

(D) a debtor and an affiliate.

(2) *Potential Conflicts of Interest*. Before issuing a joint-administration order, the court must consider how to protect the creditors of different estates against potential conflicts of interest.

(3) *Exemptions in Cases Involving Spouses*. If spouses have filed separate petitions—with one electing exemptions under §522(b)(2) and the other under §522(b)(3)—and the court orders joint administration, that order must:

(A) set a reasonable time for the debtors to elect the same exemptions; and

(B) advise the debtors that if they fail to do so, they will be considered to have elected exemptions under §522(b)(2).

(c) PROTECTIVE ORDERS TO AVOID UNNECESSARY COSTS AND DELAY. When cases are consolidated or jointly administered, the court may issue orders to avoid unnecessary costs and delay while still protecting the parties' rights under the Code.

(As amended Mar. 30, 1987, eff. Aug. 1, 1987; Apr. 23, 2008, eff. Dec. 1, 2008; Apr. 28, 2010, eff. Dec. 1, 2010; Apr. 27, 2017, eff. Dec. 1, 2017; Apr. 2, 2024, eff. Dec. 1, 2024.)

NOTES OF ADVISORY COMMITTEE ON RULES—1983

Subdivision (a) of this rule is derived from former Bankruptcy Rule 117(a). It applies to cases when the same debtor is named in both voluntary and involuntary petitions, when husband and wife have filed a joint petition pursuant to §302 of the Code, and when two or more involuntary petitions are filed against the same debtor. It also applies when cases are pending in the same court by virtue of a transfer of one or more petitions from another court. Subdivision (c) allows the court discretion regarding the order of trial of issues raised by two or more involuntary petitions against the same debtor.

Subdivision (b) recognizes the propriety of joint administration of estates in certain kinds of cases. The election or appointment of one trustee for two or more jointly administered estates is authorized by Rule 2009. The authority of the court to order joint administration under subdivision (b) extends equally to the situation when the petitions are filed under different sections, *e.g.*, when one petition is voluntary and the other involuntary, and when all of the petitions are filed under the same section of the Code.

Consolidation of cases implies a unitary administration of the estate and will ordinarily be indicated under the circumstances to which subdivision (a) applies. This rule does not deal with the consolidation of cases involving two or more separate debtors. Consolidation of the estates of separate debtors may sometimes be appropriate, as when the affairs of an individual and a corporation owned or controlled by that individual are so intermingled that the court cannot separate their assets and liabilities. Consolidation, as distinguished from joint administration, is neither authorized nor prohibited by this rule since the propriety of consolidation depends on substantive considerations and affects the substantive rights of the creditors of the different

estates. For illustrations of the substantive consolidation of separate estates, see *Sampsell v. Imperial Paper & Color Corp*., 313 U.S. 215 (1941). See also *Chemical Bank N.Y. Trust Co. v. Kheel*, 369 F.2d 845 (2d Cir. 1966); Seligson & Mandell, *Multi-Debtor Petition—Consolidation of Debtors and Due Process of Law*, 73 Com.L.J. 341 (1968); Kennedy, *Insolvency and the Corporate Veil in the United States* in *Proceedings of the 8th International Symposium on Comparative Law* 232, 248–55 (1971).

Joint administration as distinguished from consolidation may include combining the estates by using a single docket for the matters occurring in the administration, including the listing of filed claims, the combining of notices to creditors of the different estates, and the joint handling of other purely administrative matters that may aid in expediting the cases and rendering the process less costly.

Subdivision (c) is an adaptation of the provisions of Rule 42(a) F.R.Civ.P. for the purposes of administration of estates under this rule. The rule does not deal with filing fees when an order for the consolidation of cases or joint administration of estates is made.

A joint petition of husband and wife, requiring the payment of a single filing fee, is permitted by §302 of the Code. Consolidation of such a case, however, rests in the discretion of the court; see §302(b) of the Code.

NOTES OF ADVISORY COMMITTEE ON RULES—1987 AMENDMENT

The amendment to subdivision (b) implements the provisions of §522(b) of the Code, as enacted by the 1984 amendments.

COMMITTEE NOTES ON RULES—2008 AMENDMENT

The rule is amended to conform to the change in the numbering of §522(b) of the Code that was made as a part of the 2005 amendments. Former subsections (b)(1) and (b)(2) of §522 were renumbered as subsections (b)(2) and (b)(3), respectively. The rule is amended to make the parallel change.

Changes Made After Publication. No changes were made after publication.

COMMITTEE NOTES ON RULES—2010 AMENDMENT

Subdivision (a). By amending subdivision (a) to include cases regarding the same debtor, the rule explicitly recognizes that the court's authority to consolidate cases when more than one petition is filed includes the authority to consolidate cases when one or more of the petitions is filed under chapter 15. This amendment is made in conjunction with the amendment to Rule 1014(b), which also governs petitions filed under chapter 15 regarding the same debtor as well as those filed by or against the debtor.

Changes Made After Publication. No changes since publication.

COMMITTEE NOTES ON RULES—2017 AMENDMENT

Subdivision (b) is amended to replace "a husband and wife" with "spouses" in light of the Supreme Court's decision in *Obergefell v. Hodges*, 135 S. Ct. 2584 (2015).

COMMITTEE NOTES ON RULES—2024 AMENDMENT

The language of Rule 1015 has been amended as part of the general restyling of the Bankruptcy Rules to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only.

Rule 1016. Death or Incompetency of a Debtor

(a) CHAPTER 7 CASE. In a Chapter 7 case, the debtor's death or incompetency does not abate the case. The case continues, as far as possible, as though the death or incompetency had not occurred.

(b) CHAPTER 11, 12, OR 13 CASE. Upon the debtor's death or incompetency in a Chapter 11, 12, or 13 case, the court may dismiss the case or may permit it to continue if further administration is possible and is in the parties' best interests. If the case continues, it must proceed and be concluded in the same manner as though the death or incompetency had not occurred.

(As amended Apr. 30, 1991, eff. Aug. 1, 1991; Apr. 2, 2024, eff. Dec. 1, 2024.)

NOTES OF ADVISORY COMMITTEE ON RULES—1983

This rule is derived from former Rules 118 and 11–16. In a chapter 11 reorganization case or chapter 13 individual's debt adjustment case, the likelihood is that the case will be dismissed.

NOTES OF ADVISORY COMMITTEE ON RULES—1991 AMENDMENT

This rule is amended to conform to 25 F.R.Civ.P. and to include chapter 12 cases.

COMMITTEE NOTES ON RULES—2024 AMENDMENT

The language of Rule 1016 has been amended as part of the general restyling of the Bankruptcy Rules to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only.

Rule 1017. Dismissing a Case; Suspending Proceedings; Converting a Case to Another Chapter

(a) DISMISSING A CASE—IN GENERAL. Except as provided in §707(a)(3), 707(b), 1208(b), or 1307(b), or in Rule 1017(b), (c), or (e), the court must conduct a hearing on notice under Rule 2002 before dismissing a case on the petitioner's motion, for want of prosecution or other cause, or by the parties' consent. For the purpose of the notice, a debtor who has not already filed a list of creditors and their addresses must do so before the deadline set by the court. If the debtor fails to timely file the list, the court may order the debtor or another entity to do so.

(b) DISMISSING A CASE FOR FAILURE TO PAY AN INSTALLMENT TOWARD THE FILING FEE. If the debtor fails to pay any installment toward the filing fee, the court may dismiss the case after a hearing on notice to the debtor and trustee. If the court dismisses or closes the case without full payment of the filing fee, previous installment payments must be distributed as if full payment had been made.

(c) DISMISSING A VOLUNTARY CHAPTER 7 OR CHAPTER 13 CASE FOR FAILURE TO FILE A DOCUMENT ON TIME. On motion of the United States trustee, the court may dismiss a voluntary Chapter 7 case under §707(a)(3), or a Chapter 13 case under §1307(c)(9), for a failure to timely file the information required by §521(a)(1). But the court may do so only after a hearing on notice served by the United States trustee on the debtor, trustee, and any other entity as the court orders.

(d) DISMISSING A CASE OR SUSPENDING PROCEEDINGS UNDER §305. The court may dismiss a case or suspend proceedings under §305 only after a hearing on notice under Rule 2002(a).

(e) DISMISSING AN INDIVIDUAL DEBTOR'S CHAPTER 7 CASE FOR ABUSE OR CONVERTING IT TO CHAPTER 11 OR 13.

(1) *In General*. On motion under §707(b), the court may dismiss an individual debtor's Chapter 7 case for abuse or, with the debtor's consent, convert it to Chapter 11 or 13. The court may do so only after a hearing on notice to:

- the debtor;
- the trustee;
- the United States trustee; and
- any other entity as the court orders.

(2) *Time to File a Motion; Content*. Except as §704(b)(2) provides otherwise, a motion to dismiss a case for abuse under §707(b) or (c) must be filed within 60 days after the first date set for the meeting of creditors under §341(a). On request made within the 60-day period, the court may, for cause, extend the time to file. The motion must:

(A) set forth all matters to be considered at the hearing; and

(B) if made under §707(b)(1) and (3), state with particularity the circumstances alleged to constitute abuse.

(3) *Hearing on the Court's Own Motion; Serving Notice*. If the hearing is set on the court's own motion, the clerk must serve notice on the debtor within 60 days after the first date set for the meeting of creditors under §341(a). The notice must set forth all matters to be considered at the hearing.

(f) PROCEDURES FOR DISMISSING, SUSPENDING, OR CONVERTING A CASE.

(1) *In General*. Rule 9014 governs a proceeding to dismiss or suspend a case or to convert it to

another chapter—except under §706(a), 1112(a), 1208(a) or (b), or 1307(a) or (b).

(2) *Cases Requiring a Motion*. Dismissing or converting a case under §706(a), 1112(a), 1208(b), or 1307(b) requires a motion filed and served as required by Rule 9013.

(3) *Conversion in a Chapter 12 or 13 Case*. If the debtor files a conversion notice under §1208(a) or §1307(a), the case will be converted without court order. The notice date becomes the date of the conversion order in applying §348(c) or Rule 1019. The clerk must promptly send a copy of the notice to the United States trustee.

(As amended Mar. 30, 1987, eff. Aug. 1, 1987; Apr. 30, 1991, eff. Aug. 1, 1991; Apr. 22, 1993, eff. Aug. 1, 1993; Apr. 26, 1999, eff. Dec. 1, 1999; Apr. 17, 2000, eff. Dec. 1, 2000; Apr. 23, 2008, eff. Dec. 1, 2008; Apr. 2, 2024, eff. Dec. 1, 2024.)

NOTES OF ADVISORY COMMITTEE ON RULES—1983

Subdivision (a) of this rule is derived from former Bankruptcy Rule 120(a). While the rule applies to voluntary and involuntary cases, the "consent of the parties" referred to is that of petitioning creditors and the debtor in an involuntary case. The last sentence recognizes that the court should not be confined to petitioning creditors in its choice of parties on whom to call for assistance in preparing the list of creditors when the debtor fails to do so. This subdivision implements §§303(j), 707, 1112 and 1307 of the Code by specifying the manner of and persons to whom notice shall be given and requiring the court to hold a hearing on the issue of dismissal.

Subdivision (b) is derived from former Bankruptcy Rule 120(b). A dismissal under this subdivision can occur only when the petition has been permitted to be filed pursuant to Rule 1006(b). The provision for notice in paragraph (3) is correlated with the provision in Rule 4006 when there is a waiver, denial, or revocation of a discharge. As pointed out in the Note accompanying Rule 4008, the purpose of notifying creditors of a debtor that no discharge has been granted is to correct their assumption to the contrary so that they can take appropriate steps to protect their claims.

Subdivision (c) is new and specifies the notice required for a hearing on dismissal or suspension pursuant to §305 of the Code. The suspension to which this subdivision refers is that of the case; it does not concern abstention of the court in hearing an adversary proceeding pursuant to [former] 28 U.S.C. §1478(b).

Subdivision (d). Any proceeding, whether by a debtor or other party, to dismiss or convert a case under §§706, 707, 1112, or 1307 is commenced by a motion pursuant to Rule 9014.

NOTES OF ADVISORY COMMITTEE ON RULES—1987 AMENDMENT

Subdivision (d) is amended to provide that dismissal or conversion pursuant to §§706(a), 707(b), 1112(a), and 1307(b) is not automatically a contested matter under Rule 9014. Conversion or dismissal under these sections is initiated by the filing and serving of a motion as required by Rule 9013. No hearing is required on these motions unless the court directs.

Conversion of a chapter 13 case to a chapter 7 case as authorized by §1307(a) is accomplished by the filing of a notice of conversion. The notice of conversion procedure is modeled on the voluntary dismissal provision of Rule 41(a)(1) F.R.Civ.P. Conversion occurs on the filing of the notice. No court order is required.

Subdivision (e) is new and provides the procedure to be followed when a court on its own motion has made a preliminary determination that an individual debtor's chapter 7 case may be dismissed pursuant to §707(b) of the Code, which was added by the 1984 amendments. A debtor's failure to attend the hearing is not a ground for dismissal pursuant to §707(b).

NOTES OF ADVISORY COMMITTEE ON RULES—1991 AMENDMENT

Subdivision (a) is amended to clarify that all entities required to receive notice under Rule 2002, including but not limited to creditors, are entitled to the 20 day notice of the hearing to dismiss the case. The United States trustee receives the notice pursuant to Rule 2002(k).

The word "petition" is changed to "case" in subdivisions (a), (b), and (c) to conform to §§707, 930, 1112, 1208, and 1307.

Subdivision (d) is amended to conform to §348(c) of the Code which refers to the "conversion order."

Subdivisions (a) and (d) are amended to provide procedures for dismissal or conversion of a chapter 12 case. Procedures for dismissal or conversion under §1208(a) and (b) are the same as the procedures for dismissal or conversion of a chapter 13 case under §1307(a) and (b).

Subdivision (e) is amended to conform to the 1986 amendment to §707(b) of the Code which permits the United States trustee to make a motion to dismiss a case for substantial abuse. The time limit for such a motion is added by this subdivision. In general, the facts that are the basis for a motion to dismiss under §707(b) exist at the time the case is commenced and usually can be discovered early in the case by reviewing

the debtor's schedules and examining the debtor at the meeting of creditors. Since dismissal for substantial abuse has the effect of denying the debtor a discharge in the chapter 7 case based on matters which may be discovered early, a motion to dismiss under §707(b) is analogous to an objection to discharge pursuant to Rule 4004 and, therefore, should be required to be made within a specified time period. If matters relating to substantial abuse are not discovered within the time period specified in subdivision (e) because of the debtor's false testimony, refusal to obey a court order, fraudulent schedules or other fraud, and the debtor receives a discharge, the debtor's conduct may constitute the basis for revocation of the discharge under §727(d) and (e) of the Code.

NOTES OF ADVISORY COMMITTEE ON RULES—1993 AMENDMENT

Subdivision (d) is amended to clarify that the date of the filing of a notice of conversion in a chapter 12 or chapter 13 case is treated as the date of the conversion order for the purpose of applying Rule 1019. Other amendments are stylistic and make no substantive change.

COMMITTEE NOTES ON RULES—1999 AMENDMENT

Subdivision (b)(3), which provides that notice of dismissal for failure to pay the filing fee shall be sent to all creditors within 30 days after the dismissal, is deleted as unnecessary. Rule 2002(f) provides for notice to creditors of the dismissal of a case.

Rule 2002(a) and this rule currently require notice to all creditors of a hearing on dismissal of a voluntary chapter 7 case for the debtor's failure to file a list of creditors, schedules, and statement of financial affairs within the time provided in §707(a)(3) of the Code. A new subdivision (c) is added to provide that the United States trustee, who is the only entity with standing to file a motion to dismiss under §707(a)(3) or §1307(c)(9), is required to serve the motion on only the debtor, the trustee, and any other entities as the court directs. This amendment, and the amendment to Rule 2002, will have the effect of avoiding the expense of sending notices of the motion to all creditors in a chapter 7 case.

New subdivision (f) is the same as current subdivision (d), except that it provides that a motion to suspend all proceedings in a case or to dismiss a case for substantial abuse of chapter 7 under §707(b) is governed by Rule 9014.

Other amendments to this rule are stylistic or for clarification.

GAP Report on Rule 1017. No changes since publication, except for stylistic changes in Rule 1017(e) and (f).

COMMITTEE NOTES ON RULES—2000 AMENDMENT

This rule is amended to permit the court to grant a timely request filed by the United States trustee for an extension of time to file a motion to dismiss a chapter 7 case under §707(b), whether the court rules on the request before or after the expiration of the 60-day period.

Reporter's Note on Text of Rule 1017(e). The above text of Rule 1017(e) is not based on the text of the rule in effect on this date. The above text embodies amendments that have been promulgated by the Supreme Court in April 1999 and, unless Congress acts with respect to the amendments, will become effective on December 1, 1999.

GAP Report on Rule 1017(e). No changes since publication.

COMMITTEE NOTES ON RULES—2008 AMENDMENT

Subdivision (e) is amended to implement the 2005 amendments to §707 of the Code. These statutory amendments permit conversion of a chapter 7 case to a case under chapter 11 or 13, change the basis for dismissal or conversion from "substantial abuse" to "abuse," authorize parties other than the United States trustee to bring motions under §707(b) under certain circumstances, and add §707(c) to create an explicit ground for dismissal based on the request of a victim of a crime of violence or drug trafficking. The conforming amendments to subdivision (e) preserve the time limits already in place for §707(b) motions, except to the extent that §704(b)(2) sets the deadline for the United States trustee to act. In contrast to the grounds for a motion to dismiss under §707(b)(2), which are quite specific, the grounds under §707(b)(1) and (3) are very general. Therefore, to enable the debtor to respond, subdivision (e) requires that motions to dismiss under §707(b)(1) and (3) state with particularity the circumstances alleged to constitute abuse.

Changes Made After Publication. No changes were made after publication.

COMMITTEE NOTES ON RULES—2024 AMENDMENT

The language of Rule 1017 has been amended as part of the general restyling of the Bankruptcy Rules to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only.

Rule 1018. Contesting a Petition in an Involuntary or Chapter 15 Case; Vacating an Order for Relief; Applying Part VII Rules

(a) APPLYING PART VII RULES. Unless the court orders or a Part I rule provides otherwise, Rules 7005, 7008–10, 7015–16, 7024–26, 7028–37, 7052, 7054, 7056, and 7062—together with any other Part VII rules as the court may order—apply to the following:

(1) a proceeding that contests either an involuntary petition or a Chapter 15 petition for recognition; and

(2) a proceeding to vacate an order for relief.

(b) REFERENCES TO AN "ADVERSARY PROCEEDING." Any reference to an "adversary proceeding" in the rules listed in (a) is a reference to the proceedings listed in (a)(1)–(2).

(c) "COMPLAINT" MEANS "PETITION." For the proceedings described in (a), a reference to the "complaint" in the Federal Rules of Civil Procedure must be read as a reference to the petition.

(As amended Mar. 30, 1987, eff. Aug. 1, 1987; Apr. 28, 2010, eff. Dec. 1, 2010; Apr. 2, 2024, eff. Dec. 1, 2024.)

NOTES OF ADVISORY COMMITTEE ON RULES—1983

The rules in Part VII to which this rule refers are adaptations of the Federal Rules of Civil Procedure for the purpose of governing the procedure in adversary proceedings in cases under the Code. See the Note accompanying Rule 7001 *infra*. Because of the special need for dispatch and expedition in the determination of the issues in an involuntary petition, see *Acme Harvester Co. v. Beekman Lumber Co*., 222 U.S. 300, 309 (1911), the objective of some of the Federal Rules of Civil Procedure and their adaptations in Part VII to facilitate the settlement of multiple controversies involving many persons in a single lawsuit is not compatible with the exigencies of bankruptcy administration. See *United States F. & G. Co. v. Bray*, 225 U.S. 205, 218 (1912). For that reason Rules 7013, 7014 and 7018–7023 will rarely be appropriate in a proceeding on a contested petition.

Certain terms used in the Federal Rules of Civil Procedure have altered meanings when they are made applicable in cases under the Code by these rules. See Rule 9002 *infra*. This Rule 1018 requires that the terms "adversary proceedings" when used in the rules in Part VII and "complaint" when used in the Federal Rules of Civil Procedure be given altered meanings when they are made applicable to proceedings relating to a contested petition or proceedings to vacate any order for relief. A motion to vacate an order for relief, whether or not made on a petition that was or could have been contested, is governed by the rules in Part VII referred to in this Rule 1018.

NOTES OF ADVISORY COMMITTEE ON RULES—1987 AMENDMENT

Rule 1018 is amended to include within its terms a petition commencing an ancillary case when it is contested. This provision was formerly included in Rule 1003(e)(4).

Although this rule does not contain an explicit authorization for the entry of an order for relief when a debtor refuses to cooperate in discovery relating to a contested involuntary petition, the court has ample power under Rule 37(b) F.R.Civ.P., as incorporated by Rule 7037, to enter an order for relief under appropriate circumstances. Rule 37(b) authorizes the court to enter judgment by default or an order that "facts shall be taken as established."

COMMITTEE NOTES ON RULES—2010 AMENDMENT

The rule is amended to reflect the enactment of chapter 15 of the Code in 2005. As to chapter 15 cases, the rule applies to contests over the petition for recognition and not to all matters that arise in the case. Thus, proceedings governed by §1519(e) and §1521(e) of the Code must comply with Rules 7001(7) and 7065, which provide that actions for injunctive relief are adversary proceedings governed by Part VII of the rules. The rule is also amended to clarify that it applies to contests over an involuntary petition, and not to matters merely "relating to" a contested involuntary petition. Matters that may arise in a chapter 15 case or an involuntary case, other than contests over the petition itself, are governed by the otherwise applicable rules.

Other changes are stylistic.

Changes Made After Publication. No changes since publication.

COMMITTEE NOTES ON RULES—2024 AMENDMENT

The language of Rule 1018 has been amended as part of the general restyling of the Bankruptcy Rules to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only.

REFERENCES IN TEXT

The Federal Rules of Civil Procedure, referred to in subd. (c), are set out in the Appendix to Title 28, Judiciary and Judicial Procedure.

Rule 1019. Converting or Reconverting a Chapter 11, 12, or 13 Case to Chapter 7

(a) FILING VARIOUS DOCUMENTS; FILING A STATEMENT OF INTENTION.

(1) *Lists, Inventories, Schedules, Statements of Financial Affairs*. Unless the court orders otherwise, when a Chapter 11, 12, or 13 case is converted or reconverted to Chapter 7, the lists, inventories, schedules, and statements of financial affairs previously filed are considered filed in the Chapter 7 case. If they have not been previously filed, the debtor must comply with Rule 1007 as if an order for relief had been entered on an involuntary petition on the same date as the order directing that the case continue under Chapter 7.

(2) *Statement of Intention*. A statement of intention, if required, must be filed within 30 days after the conversion order is entered or before the first date set for the meeting of creditors, whichever is earlier. The court may, for cause, extend the time to file only on motion filed—or on oral request made during a hearing—before the time has expired. Notice of an extension must be given to the United States trustee and to any committee, trustee, or other party as the court orders.

(b) NEW TIME TO FILE A §707(b) OR (c) MOTION, A PROOF OF CLAIM, A COMPLAINT OBJECTING TO DISCHARGE, OR A COMPLAINT TO DETERMINE DISCHARGEABILITY.

(1) *When a New Time Begins*. When a case is converted to Chapter 7, a new time begins under Rule 1017, 3002, 4004, or 4007 to file:

(A) a motion under §707(b) or (c);

(B) a proof of claim;

(C) a complaint objecting to discharge; or

(D) a complaint to determine whether a specific debt may be discharged.

(2) *When a New Time Does Not Begin*. No new time to file begins when a case is reconverted to Chapter 7 after a previous conversion to Chapter 11, 12, or 13 if the time to file in the original Chapter 7 case has expired.

(3) *New Time to Object to a Claimed Exemption*. When a case is converted to Chapter 7, a new time begins under Rule 4003(b) to object to a claimed exemption unless:

(A) more than 1 year has elapsed since the court issued the first order confirming a plan under Chapter 11, 12, or 13; or

(B) the case was previously pending in Chapter 7 and time has expired to object to a claimed exemption in the original Chapter 7 case.

(c) PROOF OF CLAIM FILED BEFORE CONVERSION. A proof of claim filed by a creditor before conversion is considered filed in the Chapter 7 case.

(d) TURNING OVER DOCUMENTS AND PROPERTY. Unless the court orders otherwise, after a trustee in the Chapter 7 case qualifies or assumes duties, the debtor in possession—or the previously acting trustee—must promptly turn over to the Chapter 7 trustee all documents and property of the estate that are in its possession or control.

(e) FINAL REPORT AND ACCOUNT; SCHEDULE OF UNPAID POSTPETITION DEBTS.

(1) *In a Chapter 11 or Chapter 12 Case*. Unless the court orders otherwise, when a Chapter 11 or 12 case is converted to Chapter 7, the debtor in possession or, if the debtor is not a debtor in possession, the trustee serving at the time of conversion must:

(A) within 14 days after conversion, file a schedule of unpaid debts incurred after the petition was filed but before conversion and include the name and address of each claim holder; and

(B) within 30 days after conversion, file and send to the United States trustee a final report and account.

(2) *In a Chapter 13 Case*. Unless the court orders otherwise, when a Chapter 13 case is converted to Chapter 7:

(A) within 14 days after conversion, the debtor must file a schedule of unpaid debts incurred after the petition was filed but before conversion and include the name and address of each claim holder; and

(B) within 30 days after conversion, the trustee must file and send to the United States trustee a final report and account.

(3) *Converting a Case to Chapter 7 After a Plan Has Been Confirmed*. Unless the court orders otherwise, if a case under Chapter 11, 12, or 13 is converted to a case under Chapter 7 after a plan is confirmed, the debtor must file:

(A) a schedule of property that was acquired after the petition was filed but before conversion and was not listed in the final report and account, except when a Chapter 13 case is converted to Chapter 7 and §348(f)(2) does not apply;

(B) a schedule of unpaid debts that were incurred after confirmation but before conversion and were not listed in the final report and account; and

(C) a schedule of executory contracts and unexpired leases that were entered into or assumed after the petition was filed but before conversion.

(4) *Copy to the United States Trustee*. The clerk must promptly send to the United States trustee a copy of any schedule filed under this Rule 1019(e).

(f) PRECONVERSION ADMINISTRATIVE EXPENSES; POSTPETITION CLAIMS.

(1) *Request to Pay an Administrative Expense; Time to File*. A request to pay an administrative expense incurred before conversion is timely filed under §503(a) if it is filed before conversion or within a time set by the court. Such a request by a governmental unit is timely if it is filed:

(A) before conversion; or

(B) within 180 days after conversion or within a time set by the court, whichever is later.

(2) *Proof of Claim Against the Debtor or the Estate*. A proof of claim under §348(d) against either the debtor or the estate may be filed as specified in Rules 3001(a)–(d) and 3002.

(3) *Giving Notice of Certain Time Limits*. After the filing of a schedule of debts incurred after the case was commenced but before conversion, the clerk, or the court's designee, must notify the entities listed on the schedule of:

(A) the time to request payment of an administrative expense; and

(B) the time to file a proof of claim under §348(d), unless a notice of insufficient assets to pay a dividend has been mailed under Rule 2002(e).

(As amended Mar. 30, 1987, eff. Aug. 1, 1987; Apr. 30, 1991, eff. Aug. 1, 1991; Apr. 23, 1996, eff. Dec. 1, 1996; Apr. 11, 1997, eff. Dec. 1, 1997; Apr. 26, 1999, eff. Dec. 1, 1999; Apr. 23, 2008, eff. Dec. 1, 2008; Mar. 26, 2009, eff. Dec. 1, 2009; Apr. 28, 2010, eff. Dec. 1, 2010; Apr. 2, 2024, eff. Dec. 1, 2024.)

NOTES OF ADVISORY COMMITTEE ON RULES—1983

This rule is derived from former Bankruptcy Rule 122 and implements §348 of the Code. The rule applies to proceedings in a chapter 7 case following supersession of a case commenced under chapter 11 or 13, whether the latter was initiated by an original petition or was converted from a pending chapter 7 or another chapter case. The rule is not intended to invalidate any action taken in the superseded case before its conversion to chapter 7.

Paragraph (1): If requirements applicable in the superseded case respecting the filing of schedules of debts and property, or lists of creditors and inventory, and of statements of financial affairs have been complied with before the order directing conversion to liquidation, these documents will ordinarily provide all the

information about the debts, property, financial affairs, and contracts of the debtor needed for the administration of the estate. If the information submitted in the superseded case is inadequate for the purposes of administration, however, the court may direct the preparation of further informational material and the manner and time of its submission pursuant to paragraph (1). If no schedules, lists, inventories, or statements were filed in the superseded case, this paragraph imposes the duty on the debtor to file schedules and a statement of affairs pursuant to Rule 1007 as if an involuntary petition had been filed on the date when the court directed the conversion of the case to a liquidation case.

Paragraphs (2) and (3). Paragraph (2) requires notice to be given to all creditors of the order of conversion. The notice is to be included in the notice of the meeting of creditors and Official Form No. 16 may be adapted for use. A meeting of creditors may have been held in the superseded case as required by §341(a) of the Code but that would not dispense with the need to hold one in the ensuing liquidation case. Section 701(a) of the Code permits the court to appoint the trustee acting in the chapter 11 or 13 case as interim trustee in the chapter 7 case. Section 702(a) of the Code allows creditors to elect a trustee but only at the meeting of creditors held under §341. The right to elect a trustee is not lost because the chapter 7 case follows a chapter 11 or 13 case. Thus a meeting of creditors is necessary. The date fixed for the meeting of creditors will control at least the time for filing claims pursuant to Rule 3002(c). That time will remain applicable in the ensuing chapter 7 case except as paragraph (3) provides, if that time had expired in an earlier chapter 7 case which was converted to the chapter 11 or 13 case, it is not revived in the subsequent chapter 7 case. The same is true if the time for filing a complaint objecting to discharge or to determine nondischargeability of a debt had expired. Paragraph (3), however, recognizes that such time may be extended by the court under Rule 4004 or 4007 on motion made within the original prescribed time.

Paragraph (4) renders it unnecessary to file anew claims that had been filed in the chapter 11 or 13 case before conversion to chapter 7.

Paragraph (5) contemplates that typically, after the court orders conversion of a chapter case to liquidation, a trustee under chapter 7 will forthwith take charge of the property of the estate and proceed expeditiously to liquidate it. The court may appoint the interim trustee in the chapter 7 case pursuant to §701(a) of the Code. If creditors do not elect a trustee under §702, the interim trustee becomes the trustee.

Paragraph (6) requires the trustee or debtor in possession acting in the chapter 11 or 13 case to file a final report and schedule of debts incurred in that case. This schedule will provide the information necessary for giving the notice required by paragraph (7) of the rule.

Paragraph (7) requires that claims that arose in the chapter 11 or 13 case be filed within 60 days after entry of the order converting the case to one under chapter 7. Claims not scheduled pursuant to paragraph (6) of the rule or arising from the rejection of an executory contract entered into during the chapter case may be filed within a time fixed by the court. Pursuant to §348(c) of the Code, the conversion order is treated as the order for relief to fix the time for the trustee to assume or reject executory contracts under §365(d).

Paragraph (8) permits the extension of the time for filing claims when claims are not timely filed but only with respect to any surplus that may remain in the estate. See also §726(a)(2)(C) and (3) of the Code.

NOTES OF ADVISORY COMMITTEE ON RULES—1987 AMENDMENT

Paragraph (1) is amended to provide for the filing of a statement of intention in a case converted to chapter 7. Paragraph (1)(B) is added to provide for the filing of the statement of intention when a case is converted to chapter 7. The time for filing the statement of intention and for an extension of that time is governed by §521(2)(A) [now 521(a)(2)(A)] of the Code. An extension of time for other required filings is governed by Rule 1007(c), which paragraph (1)(A) incorporates by reference. Because of the amendment to Rule 1007(c), the filing of new lists, schedules, and statements is now governed exclusively by Rule 1019(1).

Paragraph (3) of the rule is expanded to include the effect of conversion of a chapter 11 or 13 case to a chapter 7 case. On conversion of a case from chapter 11 or 13 to a chapter 7 case, parties have a new period within which to file claims or complaints relating to the granting of the discharge or the dischargeability of a debt. This amendment is consistent with the holding and reasoning of the court in *F & M Marquette Nat'l Bank v. Richards*, 780 F.2d 24 (8th Cir. 1985).

Paragraph (4) is amended to deal directly with the status of claims which are properly listed on the schedules filed in a chapter 11 case and deemed filed pursuant to §1111(a) of the Code. Section 1111(a) is only applicable to the chapter 11 case. On conversion of the chapter 11 case to a chapter 7 case, paragraph (4) governs the status of claims filed in the chapter 11 case. The Third Circuit properly construed paragraph (4) as applicable to claims deemed filed in the superseded chapter 11 case. *In re Crouthamel Potato Chip Co.*, 786 F.2d 141 (3d Cir. 1986).

The amendment to paragraph (4) changes that result by providing that only claims that are actually filed in the chapter 11 case are treated as filed in the superseding chapter 7 case. When chapter 11 cases are converted

to chapter 7 cases, difficulties in obtaining and verifying the debtors' records are common. It is unfair to the chapter 7 trustee and creditors to require that they be bound by schedules which may not be subject to verification.

Paragraph (6) is amended to place the obligation on the chapter 13 debtor to file a schedule of unpaid debts incurred during the superseded chapter 13 case.

NOTES OF ADVISORY COMMITTEE ON RULES—1991 AMENDMENT

This rule is amended to include conversion of a case from chapter 12 to chapter 7 and to implement the United States trustee system.

The amendments to paragraph (1)(A) are stylistic. Reference to the statement of executory contracts is deleted to conform to the amendment to Rule 1007(b)(1) which changes the statement to a schedule of executory contracts and unexpired leases.

Paragraph (1)(B) is amended to enable the United States trustee to monitor the progress of the case and to take appropriate action to enforce the debtor's obligation to perform the statement of intention in a timely manner.

Paragraph (2) is deleted because notice of conversion of the case is required by Rules 1017(d), 2002(f)(2), and 9022. The United States trustee, who supervises trustees pursuant to 28 U.S.C. §586(a), may give notice of the conversion to the trustee in the superseded case.

Paragraph (6), renumbered as paragraph (5), is amended to reduce to 15 days the time for filing a schedule of postpetition debts and requires inclusion of the name and address of each creditor in connection with the postpetition debt. These changes will enable the clerk to send postpetition creditors a timely notice of the meeting of creditors held pursuant to §341(a) of the Code. The amendments to this paragraph also provide the United States trustee with the final report and account of the superseded case, and with a copy of every schedule filed after conversion of the case. Conversion to chapter 7 terminates the service of the trustee in the superseded case pursuant to §348(e) of the Code. Sections 704(a)(9), 1106(a)(1), 1107(a), 1202(b)(1), 1203 and 1302(b)(1) of the Code require the trustee or debtor in possession to file a final report and account with the court and the United States trustee. The words "with the court" are deleted as unnecessary. See Rules 5005(a) and 9001(3).

Paragraph (7), renumbered as paragraph (6), is amended to conform the time for filing postpetition claims to the time for filing prepetition claims pursuant to paragraph (3) (renumbered as paragraph (2)) of this rule and Rule 3002(c). This paragraph is also amended to eliminate the need for a court order to provide notice of the time for filing claims. It is anticipated that this notice will be given together with the notice of the meeting of creditors. It is amended further to avoid the need to fix a time for filing claims arising under §365(d) if it is a no asset case upon conversion. If assets become available for distribution, the court may fix a time for filing such claims pursuant to Rule 3002(c)(4).

The additions of references to unexpired leases in paragraph (1)(A) and in paragraphs (6) and (7) (renumbered as paragraphs (5) and (6)) are technical amendments to clarify that unexpired leases are included as well as other executory contracts.

NOTES OF ADVISORY COMMITTEE ON RULES—1996 AMENDMENT

Subdivision (7) is abrogated to conform to the abrogation of Rule 3002(c)(6).

GAP Report on Rule 1019. No changes were made to the text of the rule. The Committee Note was changed to conform to the proposed changes to Rule 3002 (see GAP Report on Rule 3002 below).

NOTES OF ADVISORY COMMITTEE ON RULES—1997 AMENDMENT

The amendments to subdivisions (3) and (5) are technical corrections and stylistic changes. The phrase "superseded case" is deleted because it creates the erroneous impression that conversion of a case results in a new case that is distinct from the original case. Similarly, the phrase "original petition" is deleted because it erroneously implies that there is a second petition with respect to a converted case. See §348 of the Code.

GAP Report on Rule 1019. No changes to the published draft.

COMMITTEE NOTES ON RULES—1999 AMENDMENT

Paragraph (1)(B) is amended to clarify that a motion for an extension of time to file a statement of intention must be made by written motion filed before the time expires, or by oral request made at a hearing before the time expires.

Subdivision (6) is amended to provide that a holder of an administrative expense claim incurred after the commencement of the case, but before conversion to chapter 7, is required to file a request for payment under §503(a) within a time fixed by the court, rather than a proof of claim under §501 and Rules 3001(a)–(d) and 3002. The 180-day period applicable to governmental units is intended to conform to §502(b)(9) of the Code

and Rule 3002(c)(1). It is unnecessary for the court to fix a time for filing requests for payment if it appears that there are not sufficient assets to pay preconversion administrative expenses. If a time for filing a request for payment of an administrative expense is fixed by the court, it may be enlarged as provided in Rule 9006(b). If an administrative expense claimant fails to timely file the request, it may be tardily filed under §503(a) if permitted by the court for cause.

The final sentence of Rule 1019(6) is deleted because it is unnecessary in view of the other amendments to this paragraph. If a party has entered into a postpetition contract or lease with the trustee or debtor that constitutes an administrative expense, a timely request for payment must be filed in accordance with this paragraph and §503(b) of the Code. The time for filing a proof of claim in connection with the rejection of any other executory contract or unexpired lease is governed by Rule 3002(c)(4).

The phrase "including the United States, any state, or any subdivision thereof" is deleted as unnecessary. Other amendments to this rule are stylistic.

GAP Report on Rule 1019. The proposed amendments to Rule 1019(6) were changed to delete the deadline for filing requests for payment of preconversion administrative expenses that would be applicable in all cases, and to provide instead that the court may fix such a deadline. The committee note was revised to clarify that it is not necessary for the court to fix a deadline where there are insufficient assets to pay preconversion administrative expenses.

COMMITTEE NOTES ON RULES—2008 AMENDMENT

Subdivision (2) is amended to include a new filing period for motions under §707(b) and (c) of the Code when a case is converted to chapter 7. The establishment of a deadline for filing such motions is not intended to express a position as to whether such motions are permitted under the Code.

Changes Made After Publication. The Committee Note was amended by adding the second sentence to the Note stating explicitly that the rule was not intended to take a position on whether motions to dismiss a case under §707(b) and (c) are proper in a case that is converted from another chapter.

COMMITTEE NOTES ON RULES—2009 AMENDMENT

The rule is amended to implement changes in connection with the amendment to Rule 9006(a) and the manner by which time is computed under the rules. The deadlines in the rule are amended to substitute a deadline that is a multiple of seven days. Throughout the rules, deadlines are amended in the following manner:

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

COMMITTEE NOTES ON RULES—2010 AMENDMENT

Subdivision (2). Subdivision (2) is redesignated as subdivision (2)(A), and a new subdivision (2)(B) is added to the rule. Subdivision (2)(B) provides that a new time period to object to a claim of exemption arises when a case is converted to chapter 7 from chapter 11, 12, or 13. The new time period does not arise, however, if the conversion occurs more than one year after the first order confirming a plan, even if the plan was subsequently modified. A new objection period also does not arise if the case was previously pending under chapter 7 and the objection period had expired in the prior chapter 7 case.

Changes Made After Publication. No changes since publication.

COMMITTEE NOTES ON RULES—2024 AMENDMENT

The language of Rule 1019 has been amended as part of the general restyling of the Bankruptcy Rules to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only.

Rule 1020. Designating a Chapter 11 Debtor as a Small Business Debtor

(a) IN GENERAL. In a voluntary Chapter 11 case, the debtor must state in the petition whether the debtor is a small business debtor and, if so, whether the debtor elects to have Subchapter V of Chapter 11 apply. In an involuntary Chapter 11 case, the debtor must provide the same information

in a statement filed within 14 days after the order for relief. The case must proceed in accordance with the debtor's statement, unless and until the court issues an order finding that the statement is incorrect.

(b) OBJECTING TO THE DESIGNATION. The United States trustee or a party in interest may object to the debtor's designation. The objection must be filed within 30 days after the conclusion of the meeting of creditors held under §341(a) or within 30 days after an amendment to the designation is filed, whichever is later.

(c) PROCEDURE; SERVICE. An objection or request under this rule is governed by Rule 9014 and must be served on:

- the debtor;
- the debtor's attorney;
- the United States trustee;
- the trustee;
- the creditors included on the list filed under Rule 1007(d)—or if a committee has been appointed under §1102(a)(3), the committee or its authorized agent; and
- any other entity as the court orders.

(Added Apr. 11, 1997, eff. Dec. 1, 1997; amended Apr. 23, 2008, eff. Dec. 1, 2008; Mar. 26, 2009, eff. Dec. 1, 2009; Apr. 11, 2022, eff. Dec. 1, 2022; Apr. 2, 2024, eff. Dec. 1, 2024.)

NOTES OF ADVISORY COMMITTEE ON RULES—1997

This rule is designed to implement §§1121(e) and 1125(f) that were added to the Code by the Bankruptcy Reform Act of 1994.

GAP Report on Rule 1020. The phrase "or by a later date as the court, for cause, may fix" at the end of the published draft was deleted. The general provisions on reducing or extending time periods under Rule 9006 will be applicable.

COMMITTEE NOTES ON RULES—2008 AMENDMENT

Under the Code, as amended in 2005, there are no longer any provisions permitting or requiring a small business debtor to elect to be treated as a small business. Therefore, the election provisions in the rule are eliminated.

The 2005 amendments to the Code include several provisions relating to small business cases under chapter 11. Section 101 includes definitions of "small business debtor" and "small business case." The purpose of the new language in this rule is to provide a procedure for informing the parties, the United States trustee, and the court of whether the debtor is a small business debtor, and to provide procedures for resolving disputes regarding the proper characterization of the debtor. Because it is important to resolve such disputes early in the case, a time limit for objecting to the debtor's self-designation is imposed. Rule 9006(b)(1), which governs enlargement of time, is applicable to the time limits set forth in this rule.

An important factor in determining whether the debtor is a small business debtor is whether the United States trustee has appointed a committee of unsecured creditors under §1102, and whether such a committee is sufficiently active and representative. Subdivision (c), relating to the appointment and activity of a committee of unsecured creditors, is designed to be consistent with the Code's definition of "small business debtor."

Changes Made After Publication. No changes were made after publication.

COMMITTEE NOTES ON RULES—2009 AMENDMENT

The rule is amended to implement changes in connection with the amendment to Rule 9006(a) and the manner by which time is computed under the rules. The deadline in the rule is amended to substitute a deadline that is a multiple of seven days. Throughout the rules, deadlines are amended in the following manner:

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

COMMITTEE NOTES ON RULES—2022 AMENDMENT

The rule is amended in response to the enactment of the Small Business Reorganization Act of 2019 (SBRA), Pub. L. No. 116–54, 133 Stat. 1079. That law gives a small business debtor the option of electing to

be a debtor under subchapter V of chapter 11. The title and subdivision (a) of the rule are amended to include that option and to require a small business debtor to state in its voluntary petition, or in a statement filed within 14 days after the order for relief is entered in an involuntary case, whether it elects to proceed under subchapter V. The rule does not address whether the court, on a case-by-case basis, may allow a debtor to make an election to proceed under subchapter V after the times specified in subdivision (a) or, if it can, under what conditions.

Former subdivision (c) of the rule is deleted because the existence or level of activity of a creditors' committee is no longer a criterion for small-business-debtor status. The SBRA eliminated that portion of the definition of "small business debtor" in §101(51D) of the Code.

Former subdivision (d) is redesignated as subdivision (c), and the list of entities to be served is revised to reflect that in most small business and subchapter V cases there will not be a committee of creditors.

COMMITTEE NOTES ON RULES—2024 AMENDMENT

The language of Rule 1020 has been amended as part of the general restyling of the Bankruptcy Rules to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only.

Rule 1021. Designating a Chapter 7, 9, or 11 Case as a Health Care Business Case

(a) IN GENERAL. If a petition in a Chapter 7, 9, or 11 case designates the debtor as a health care business, the case must proceed in accordance with the designation unless the court orders otherwise.

(b) SEEKING A COURT DETERMINATION. The United States trustee or a party in interest may move the court to determine whether the debtor is a health care business. Proceedings on the motion are governed by Rule 9014. If the motion is filed by a party in interest, a copy must be sent to the United States trustee. The motion must be served on:

- the debtor;
- the trustee;
- any committee elected under §705 or appointed under §1102, or its authorized agent;
- in a Chapter 9 or Chapter 11 case in which an unsecured creditors' committee has not been appointed under §1102, the creditors on the list filed under Rule 1007(d); and
- any other entity as the court orders.

(Added Apr. 23, 2008, eff. Dec. 1, 2008; amended Apr. 2, 2024, eff. Dec. 1, 2024.)

COMMITTEE NOTES ON RULES—2008

Section 101(27A) of the Code, added by the 2005 amendments, defines a health care business. This rule provides procedures for designating the debtor as a health care business. The debtor in a voluntary case, or petitioning creditors in an involuntary case, make that designation by checking the appropriate box on the petition. The rule also provides procedures for resolving disputes regarding the status of the debtor as a health care business.

Changes Made After Publication. No changes were made after publication.

COMMITTEE NOTES ON RULES—2024 AMENDMENT

The language of Rule 1021 has been amended as part of the general restyling of the Bankruptcy Rules to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only.

PART II—OFFICERS AND ADMINISTRATION; NOTICES; MEETINGS; EXAMINATIONS; ELECTIONS AND APPOINTMENTS; FINAL REPORT; COMPENSATION

Rule 2001. Appointing an Interim Trustee Before the Order for Relief in an

Involuntary Chapter 7 Case

(a) APPOINTING AN INTERIM TRUSTEE. After an involuntary Chapter 7 case commences but before an order for relief, the court may, on a party in interest's motion, order the United States trustee to appoint an interim trustee under §303(g). The motion must set forth the need for the appointment and may be granted only after a hearing on notice to:

- the debtor;
- the petitioning creditors;
- the United States trustee; and
- other parties in interest as the court orders.

(b) BOND REQUIRED. An interim trustee may be appointed only if the movant furnishes a bond, in an amount that the court approves, to indemnify the debtor for any costs, attorney's fees, expenses, and damages allowable under §303(i).

(c) THE ORDER'S CONTENT. The court's order must state the reason the appointment is needed and specify the trustee's duties.

(d) THE INTERIM TRUSTEE'S FINAL REPORT. Unless the court orders otherwise, after the qualification of a trustee selected under §702, the interim trustee must:

(1) promptly deliver to the trustee all the records and property of the estate that are in the interim trustee's possession or under its control; and

(2) within 30 days after the trustee qualifies, file a final report and account.

(As amended Mar. 30, 1987, eff. Aug. 1, 1987; Apr. 30, 1991, eff. Aug. 1, 1991; Apr. 2, 2024, eff. Dec. 1, 2024.)

NOTES OF ADVISORY COMMITTEE ON RULES—1983

This rule is adapted from former Bankruptcy Rule 201. See also former Chapter X Rule 10–201. In conformity with title 11 of the United States Code, this rule substitutes "interim trustee" for "receiver." Subdivision (a) and (e) of Rule 201 are not included because the provisions contained therein are found in detail in §303(g) of the Code, or they are inconsistent with §701 of the Code. Similarly, the provisions in Rule 201(d) relating to a debtor's counterbond are not included because of their presence in §303(g).

Subdivision (a) makes it clear that the court may not on its own motion order the appointment of an interim trustee before an order for relief is entered. Appointment may be ordered only on motion of a party in interest.

Subdivision (b) requires those seeking the appointment of an interim trustee to furnish a bond. The bond may be the same one required of petitioning creditors under §303(e) of the Code to indemnify the debtor for damages allowed by the court under §303(i).

Subdivision (c) requires that the order specify which duties enumerated in §303(g) shall be performed by the interim trustee. Reference should be made to Rule 2015 for additional duties required of an interim trustee including keeping records and filing periodic reports with the court.

Subdivision (d) requires turnover of records and property to the trustee selected under §702 of the Code, after qualification. That trustee may be the interim trustee who becomes the trustee because of the failure of creditors to elect one under §702(d) or the trustee elected by creditors under §702(b), (c).

NOTES OF ADVISORY COMMITTEE ON RULES—1991 AMENDMENT

This rule is amended to conform to §303(g) of the Code which provides that the United States trustee appoints the interim trustee. See Rule X–1003. This rule does not apply to the exercise by the court of the power to act sua sponte pursuant to §105(a) of the Code.

COMMITTEE NOTES ON RULES—2024 AMENDMENT

The language of Rule 2001 has been amended as part of the general restyling of the Bankruptcy Rules to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only.

Rule 2002. Notices

(a) 21-DAY NOTICES TO THE DEBTOR, TRUSTEE, CREDITORS, AND INDENTURE TRUSTEES. Except as (h), (i), (l), (p), and (q) provide otherwise, the clerk or the court's designee

must give the debtor, the trustee, all creditors, and all indenture trustees at least 21 days' notice by mail of:

(1) the meeting of creditors under §341 or §1104(b), which notice—unless the court orders otherwise—must include the debtor's:

(A) employer-identification number;

(B) social-security number; and

(C) any other federal taxpayer-identification number;

(2) a proposal to use, sell, or lease property of the estate other than in the ordinary course of business—unless the court, for cause, shortens the time or orders another method of giving notice;

(3) a hearing to approve a compromise or settlement other than an agreement under Rule 4001(d)—unless the court, for cause, orders that notice not be given;

(4) a hearing on a motion to dismiss a Chapter 7, 11, or 12 case or to convert it to another chapter—unless the hearing is under §707(a)(3) or §707(b) or is on a motion to dismiss the case for failure to pay the filing fee;

(5) the time to accept or reject a proposed modification to a plan;

(6) a hearing on a request for compensation or for reimbursement of expenses, if the request exceeds $1,000;

(7) the time to file a proof of claim under Rule 3003(c);

(8) the time to file an objection to—and the time of the hearing to consider whether to confirm—a Chapter 12 plan; and

(9) the time to object to confirming a Chapter 13 plan.

(b) 28-DAY NOTICES TO THE DEBTOR, TRUSTEE, CREDITORS, AND INDENTURE TRUSTEES. Except as (l) provides otherwise, the clerk or the court's designee must give the debtor, trustee, all creditors, and all indenture trustees at least 28 days' notice by mail of:

(1) the time to file an objection and the time of the hearing to:

(A) consider approving a disclosure statement; or

(B) determine under §1125(f) whether a plan includes adequate information to make a separate disclosure statement unnecessary;

(2) the time to file an objection to—and the time of the hearing to consider whether to confirm—a Chapter 9 or 11 plan; and

(3) the time of the hearing to consider whether to confirm a Chapter 13 plan.

(c) CONTENT OF A NOTICE.

(1) *Proposed Use, Sale, or Lease of Property*. Subject to Rule 6004, a notice of a proposed use, sale, or lease of property under (a)(2) must include:

(A) a general description of the property;

(B) the time and place of any public sale;

(C) the terms and conditions of any private sale;

(D) the time to file objections; and

(E) for a proposed sale or lease of personally identifiable information under §363(b)(1), a statement whether the sale is consistent with any policy that prohibits transferring the information.

(2) *Hearing on an Application for Compensation or Reimbursement*. A notice under (a)(6) of a hearing on a request for compensation or for reimbursement of expenses must identify the applicant and the amounts requested.

(3) *Hearing on Confirming a Plan That Proposes an Injunction*. If a plan proposes an injunction against conduct not otherwise enjoined under the Code, the notice under (b)(2) must:

(A) state in conspicuous language (bold, italic, or underlined text) that the plan proposes an injunction;

(B) describe briefly the nature of the injunction; and
(C) identify the entities that would be subject to it.

(d) NOTICE TO EQUITY SECURITY HOLDERS IN A CHAPTER 11 CASE. Unless the court orders otherwise, in a Chapter 11 case the clerk or the court's designee must give notice as the court orders to the equity security holders of:
(1) the order for relief;
(2) a meeting of equity security holders under §341;
(3) a hearing on a proposed sale of all, or substantially all, the debtor's assets;
(4) a hearing on a motion to dismiss a case or convert it to another chapter;
(5) the time to file an objection to—and the time of the hearing to consider whether to approve—a disclosure statement;
(6) the time to file an objection to—and the time of the hearing to consider whether to confirm—a Chapter 11 plan; and
(7) the time to accept or reject a proposal to modify a plan.

(e) GIVING NOTICE OF NO DIVIDEND IN A CHAPTER 7 CASE. In a Chapter 7 case, if it appears from the schedules that there are no assets from which to pay a dividend, the notice of the meeting of creditors may state:
(1) that fact;
(2) that filing proofs of claim is unnecessary; and
(3) that further notice of the time to file proofs of claim will be given if enough assets become available to pay a dividend.

(f) OTHER NOTICES.
(1) *Various Notices to the Debtor, Creditors, and Indenture Trustees*. Except as (l) provides otherwise, the clerk, or some other person as the court [1] may direct, must give the debtor, creditors, and indenture trustees notice by mail of:
(A) the order for relief;
(B) a case's dismissal or conversion to another chapter;
(C) a suspension of proceedings under §305;
(D) the time to file a proof of claim under Rule 3002;
(E) the time to file a complaint to object to the debtor's discharge under §727, as Rule 4004 provides;
(F) the time to file a complaint to determine whether a debt is dischargeable under §523, as Rule 4007 provides;
(G) a waiver, denial, or revocation of a discharge, as Rule 4006 provides;
(H) entry of an order confirming a plan in a Chapter 9, 11, 12 or 13 case;
(I) a summary of the trustee's final report in a Chapter 7 case if the net proceeds realized exceed $1,500;
(J) a notice under Rule 5008 regarding the presumption of abuse;
(K) a statement under §704(b)(1) about whether the debtor's case would be presumed to be an abuse under §707(b); and
(L) the time to request a delay in granting the discharge under §1141(d)(5)(C), 1228(f), or 1328(h).

(2) *Notice of the Time to Accept or Reject a Plan*. Notice of the time to accept or reject a plan under Rule 3017(c) must be given in accordance with Rule 3017(d).

(g) ADDRESSING NOTICES.
(1) *In General*. A notice mailed to a creditor, indenture trustee, or equity security holder must be addressed as the entity or its authorized agent provided in its last request filed in the case. The request may be:

(A) a proof of claim filed by a creditor or an indenture trustee designating a mailing address (unless a notice of no dividend has been given under (e) and a later notice of a possible dividend under Rule 3002(c)(5) has not been given); or

(B) a proof of interest filed by an equity security holder designating a mailing address.

(2) *When No Request Has Been Filed*. Except as §342(f) provides otherwise, if a creditor or indenture trustee has not filed a request under (1) or Rule 5003(e), the notice must be mailed to the address shown on the list of creditors or schedule of liabilities, whichever is filed later. If an equity security holder has not filed a request, the notice must be mailed to the address shown on the list of equity security holders.

(3) *Notices to Representatives of an Infant or Incompetent Person*. This paragraph (3) applies if a list or schedule filed under Rule 1007 includes a name and address of an infant's or an incompetent person's representative, and a person other than that representative files a request or proof of claim designating a different name and mailing address. Unless the court orders otherwise, the notice must be mailed to the designated address of:

(A) the representative; and

(B) the person filing the request or proof of claim.

(4) *Using an Address Agreed to Between an Entity and a Notice Provider*. Notwithstanding (g)(1)–(3), when the court orders that notice be given, the notice provider may do so in the manner agreed to between the provider and an entity, and at the address or addresses the entity supplies. An address supplied by the entity is conclusively presumed to be a proper address. But a failure to use a supplied address does not invalidate a notice that is otherwise effective under applicable law.

(5) *When a Notice Is Not Brought to a Creditor's Attention*. A creditor may treat a notice as not having been brought to the creditor's attention under §342(g)(1) only if, before the notice was issued, the creditor has filed a statement:

(A) designating the name and address of the person or organizational subdivision responsible for receiving notices; and

(B) describing the creditor's procedures for delivering notices to the designated person or organizational subdivision.

(h) NOTICE TO CREDITORS WHO FILED PROOFS OF CLAIM IN A CHAPTER 7, 12, OR 13 CASE.

(1) *Voluntary Case*. This paragraph (1) applies in a voluntary Chapter 7 case, or in a Chapter 12 or 13 case. After 70 days following the order for relief under that chapter or the date of the order converting the case to Chapter 12 or 13, the court may direct that all notices required by (a) be mailed only to:

- the debtor;
- the trustee;
- indenture trustees;
- creditors with claims for which proofs of claim have been filed; and
- creditors that are still permitted to file proofs of claim because they have received an extension of time under Rule 3002(c)(1) or (2).

(2) *Involuntary Case*. In an involuntary chapter [2] 7 case, after 90 days following the order for relief, the court may order that all notices required by (a) be mailed only to those entities listed in (1).

(3) *When Notice of Insufficient Assets Has Been Given*. If notice of insufficient assets to pay a dividend has been given to creditors under (e), after 90 days following the mailing of a notice of the time to file proofs of claim under Rule 3002(c)(5), the court may order that notices be mailed only to those entities listed in (1).

(i) NOTICE TO A COMMITTEE.

(1) *In General*. Any notice required to be mailed under this Rule 2002 must also be mailed to a committee elected under §705 or appointed under §1102, or to its authorized agent.

(2) *Limiting Notices*. The court may order that a notice required by (a)(2), (3), or (6) be:

(A) sent to the United States trustee; and

(B) mailed only to:

(i) the committees elected under §705 or appointed under §1102, or to their authorized agents; and

(ii) those creditors and equity security holders who file—and serve on the trustee or debtor in possession—a request that all notices be mailed to them.

(3) *Copy to a Committee*. A notice required under (a)(1), (a)(5), (b), (f)(1)(B)–(C), or (f)(1)(H)—and any other notice as the court orders—must be sent to a committee appointed under §1114.

(j) NOTICE TO THE UNITED STATES. A notice required to be mailed to all creditors under this Rule 2002 must also be mailed:

(1) in a Chapter 11 case in which the Securities and Exchange Commission has filed either a notice of appearance or a request to receive notices, to the SEC at any place it designates;

(2) in a commodity-broker case, to the Commodity Futures Trading Commission at Washington, D.C.;

(3) in a Chapter 11 case, to the Internal Revenue Service at the address in the register maintained under Rule 5003(e) for the district where the case is pending;

(4) in a case in which the documents disclose that a debt (other than for taxes) is owed to the United States, to the United States attorney for the district where the case is pending and to the United States department, agency, or instrumentality through which the debtor became indebted; or

(5) in a case in which the filed documents disclose a stock interest of the United States, to the Secretary of the Treasury at Washington, D.C.

(k) NOTICE TO THE UNITED STATES TRUSTEE.

(1) *In General*. Except in a Chapter 9 case or unless the United States trustee requests otherwise, the clerk or the court's designee must send to the United States trustee notice of:

(A) all matters described in (a)(2)–(4), (a)(8)–(9), (b), (f)(1)(A)–(C), (f)(1)(E), (f)(1)(G)–(I), and (q);

(B) all hearings on applications for compensation or for reimbursement of expenses; and

(C) any other matter if the United States trustee requests it or the court orders it.

(2) *Time to Send*. The notice must be sent within the time that (a) or (b) prescribes.

(3) *Exception Under the Securities Investor Protection Act*. In a case under the Securities Investor Protection Act, 15 U.S.C. §78aaa et seq., these rules do not require any document to be sent to the United States trustee.

(l) NOTICE BY PUBLICATION. The court may order notice by publication if notice by mail is impracticable or if it is desirable to supplement the notice.

(m) ORDERS CONCERNING NOTICES. Except as these rules provide otherwise, the court may designate the matters about which, the entity to whom, and the form and manner in which a notice must be sent.

(n) NOTICE OF AN ORDER FOR RELIEF IN A CONSUMER CASE. In a voluntary case commenced under the Code by an individual debtor whose debts are primarily consumer debts, the clerk, or some other person as the court may direct, shall give the trustee and all creditors notice by mail of the order for relief not more than 20 days after the entry of such order.

(o) CAPTION. The caption of a notice given under this Rule 2002 must conform to Rule 1005. The caption of a debtor's notice to a creditor must also include the information that §342(c) requires.

(p) NOTICE TO A CREDITOR WITH A FOREIGN ADDRESS.

(1) *When Notice by Mail Does Not Suffice*. At the request of the United States trustee or a party in interest, or on its own, the court may find that a notice mailed to a creditor with a foreign address within the time these rules prescribe would not give the creditor reasonable notice. The court may then order that the notice be supplemented with notice by other means or that the time prescribed for the notice by mail be extended.

(2) *Notice of the Time to File a Proof of Claim*. Unless the court, for cause, orders otherwise, a creditor with a foreign address must be given at least 30 days' notice of the time to file a proof of claim under Rule 3002(c) or Rule 3003(c).

(3) *Determining a Foreign Address*. Unless the court, for cause, orders otherwise, the mailing address of a creditor with a foreign address must be determined under (g).

(q) NOTICE OF A PETITION FOR RECOGNITION OF A FOREIGN PROCEEDING; NOTICE OF AN INTENT TO COMMUNICATE WITH A FOREIGN COURT OR FOREIGN REPRESENTATIVE.

(1) *Timing of the Notice; Who Must Receive It.* After a petition for recognition of a foreign proceeding is filed, the court must promptly hold a hearing on it. The clerk or the court's designee must promptly give at least 21 days' notice by mail of the hearing to:

- the debtor;
- all persons or bodies authorized to administer the debtor's foreign proceedings;
- all entities against whom provisional relief is being sought under §1519;
- all parties to litigation pending in the United States in which the debtor was a party when the petition was filed; and
- any other entities as the court orders.

If the court consolidates the hearing on the petition with a hearing on a request for provisional relief, the court may set a shorter notice period.

(2) *Content of the Notice*. The notice must:

(A) state whether the petition seeks recognition as a foreign main proceeding or a foreign nonmain proceeding; and

(B) include a copy of the petition and any other document the court specifies.

(3) *Communicating with a Foreign Court or Foreign Representative*. If the court intends to communicate with a foreign court or foreign representative, the clerk or the court's designee must give notice by mail of the court's intention to all those listed in (q)(1).

(As amended Pub. L. 98–91, §2(a), Aug. 30, 1983, 97 Stat. 607; Pub. L. 98–353, title III, §321, July 10, 1984, 98 Stat. 357; Mar. 30, 1987, eff. Aug. 1, 1987; Apr. 30, 1991, eff. Aug. 1, 1991; Apr. 22, 1993, eff. Aug. 1, 1993; Apr. 23, 1996, eff. Dec. 1, 1996; Apr. 11, 1997, eff. Dec. 1, 1997; Apr. 26, 1999, eff. Dec. 1, 1999; Apr. 17, 2000, eff. Dec. 1, 2000; Apr. 23, 2001, eff. Dec. 1, 2001; Mar. 27, 2003, eff. Dec. 1, 2003; Apr. 26, 2004, eff. Dec. 1, 2004; Apr. 25, 2005, eff. Dec. 1, 2005; Apr. 23, 2008, eff. Dec. 1, 2008; Mar. 26, 2009, eff. Dec. 1, 2009; Apr. 28, 2016, eff. Dec. 1, 2016; Apr. 27, 2017, eff. Dec. 1, 2017; Apr. 27, 2020, eff. Dec. 1, 2020; Apr. 2, 2024, eff. Dec. 1, 2024.)

NOTES OF ADVISORY COMMITTEE ON RULES—1983

Some of the notices required by this rule may be given either by the clerk or as the court may otherwise direct. For example, the court may order the trustee or debtor in possession to transmit one or more of the notices required by this rule, such as, notice of a proposed sale of property. See §363(b) of the Code. When publication of notices is required or desirable, reference should be made to Rule 9008.

Notice of the order for relief is required to be given by §342 of the Code and by subdivision (f)(1) of this rule. That notice may be combined with the notice of the meeting of creditors as indicated in Official Form No. 16, the notice and order of the meeting of creditors.

Subdivision (a) sets forth the requirement that 20 days notice be given of the significant events in a case under the Bankruptcy Code. The former Act and Rules provided a ten day notice in bankruptcy and Chapter XI cases, and a 20 day notice in a Chapter X case. This rule generally makes uniform the 20 day notice

provision except that subdivision (b) contains a 25 day period for certain events in a chapter 9, 11, or 13 case. Generally, Rule 9006 permits reduction of time periods. Since notice by mail is complete on mailing, the requirement of subdivision (a) is satisfied if the notices are deposited in the mail at least 20 days before the event. See Rule 9006(e). The exceptions referred to in the introductory phrase include the modifications in the notice procedure permitted by subdivision (h) as to non-filing creditors, subdivision (i) as to cases where a committee is functioning, and subdivision (k) where compliance with subdivision (a) is impracticable.

The notice of a proposed sale affords creditors an opportunity to object to the sale and raise a dispute for the court's attention. Section 363(b) of the Code permits the trustee or debtor in possession to sell property, other than in the ordinary course of business, only after notice and hearing. If no objection is raised after notice, §102(1) provides that there need not be an actual hearing. Thus, absent objection, there would be no court involvement with respect to a trustee's sale. Once an objection is raised, only the court may pass on it.

Prior to the Code the court could shorten the notice period for a proposed sale of property or dispense with notice. This subdivision (a), permits the 20 day period to be shortened in appropriate circumstances but the rule does not contain a provision allowing the court to dispense with notice. The rule is thus consistent with the Code, §§363(b) and 102(1)(A) of the Code. See 28 U.S.C. §2075. It may be necessary, in certain circumstances, however, to use a method of notice other than mail. Subdivision (a)(2) vests the court with discretion, on cause shown, to order a different method. Reference should also be made to Rule 6004 which allows a different type of notice of proposed sales when the property is of little value.

Notice of the hearing on an application for compensation or reimbursement of expenses totalling $100 or less need not be given. In chapter 13 cases relatively small amounts are sometimes allowed for post-confirmation services and it would not serve a useful purpose to require advance notice.

Subdivision (b) is similar to subdivision (a) but lengthens the notice time to 25 days with respect to those events particularly significant in chapter 9, 11 and 13 cases. The additional time may be necessary to formulate objections to a disclosure statement or confirmation of a plan and preparation for the hearing on approval of the disclosure statement or confirmation. The disclosure statement and hearing thereon is only applicable in chapter 9 cases (§901(a) of the Code), and chapter 11 cases (§1125 of the Code).

Subdivision (c) specifies certain matters that should be included in the notice of a proposed sale of property and notice of the hearing on an application for allowances. Rule 6004 fixes the time within which parties in interest may file objections to a proposed sale of property.

Subdivision (d) relates exclusively to the notices given to equity security holders in chapter 11 cases. Under chapter 11, a plan may impair the interests of the debtor's shareholders or a plan may be a relatively simple restructuring of unsecured debt. In some cases, it is necessary that equity interest holders receive various notices and in other cases there is no purpose to be served. This subdivision indicates that the court is not mandated to order notices but rather that the matter should be treated with some flexibility. The court may decide whether notice is to be given and how it is to be given. Under §341(b) of the Code, a meeting of equity security holders is not required in each case, only when it is ordered by the court. Thus subdivision (d)(2) requires notice only when the court orders a meeting.

In addition to the notices specified in this subdivision, there may be other events or matters arising in a case as to which equity security holders should receive notice. These are situations left to determination by the court.

Subdivision (e), authorizing a notice of the apparent insufficiency of assets for the payment of any dividend, is correlated with Rule 3002(c)(5), which provides for the issuance of an additional notice to creditors if the possibility of a payment later materializes.

Subdivision (f) provides for the transmission of other notices to which no time period applies. Clause (1) requires notice of the order for relief; this complements the mandate of §342 of the Code requiring such notice as is appropriate of the order for relief. This notice may be combined with the notice of the meeting of creditors to avoid the necessity of more than one mailing. See Official Form No. 16, notice of meeting of creditors.

Subdivision (g) recognizes that an agent authorized to receive notices for a creditor may, without a court order, designate where notices to the creditor he represents should be addressed. Agent includes an officer of a corporation, an attorney at law, or an attorney in fact if the requisite authority has been given him. It should be noted that Official Forms Nos. 17 and 18 do not include an authorization of the holder of a power of attorney to receive notices for the creditor. Neither these forms nor this rule carries any implication that such an authorization may not be given in a power of attorney or that a request for notices to be addressed to both the creditor or his duly authorized agent may not be filed.

Subdivision (h). After the time for filing claims has expired in a chapter 7 case, creditors who have not filed their claims in accordance with Rule 3002(c) are not entitled to share in the estate except as they may come within the special provisions of §726 of the Code or Rule 3002(c)(6). The elimination of notice to creditors

who have no recognized stake in the estate may permit economies in time and expense. Reduction of the list of creditors to receive notices under this subdivision is discretionary. This subdivision does not apply to the notice of the meeting of creditors.

Subdivision (i) contains a list of matters of which notice may be given a creditors' committee or to its authorized agent in lieu of notice to the creditors. Such notice may serve every practical purpose of a notice to all the creditors and save delay and expense. *In re Schulte-United, Inc*., 59 F.2d 553, 561 (8th Cir. 1932).

Subdivision (j). The premise for the requirement that the district director of internal revenue receive copies of notices that all creditors receive in a chapter 11 case is that every debtor is potentially a tax debtor of the United States. Notice to the district director alerts him to the possibility that a tax debtor's estate is about to be liquidated or reorganized and that the debtor may be discharged. When other indebtedness to the United States is indicated, the United States attorney is notified as the person in the best position to protect the interests of the government. In addition, the provision requires notice by mail to the head of any department, agency, or instrumentality of the United States through whose action the debtor became indebted to the United States. This rule is not intended to preclude a local rule from requiring a state or local tax authority to receive some or all of the notices to creditors under these rules.

Subdivision (k) specifies two kinds of situations in which notice by publication may be appropriate: (1) when notice by mail is impracticable; and (2) when notice by mail alone is less than adequate. Notice by mail may be impracticable when, for example, the debtor has disappeared or his records have been destroyed and the names and addresses of his creditors are unavailable, or when the number of creditors with nominal claims is very large and the estate to be distributed may be insufficient to defray the costs of issuing the notices. Supplementing notice by mail is also indicated when the debtor's records are incomplete or inaccurate and it is reasonable to believe that publication may reach some of the creditors who would otherwise be missed. Rule 9008 applies when the court directs notice by publication under this rule. Neither clause (2) of subdivision (a) nor subdivision (k) of this rule is concerned with the publication of advertisement to the general public of a sale of property of the estate at public auction under Rule 6004(b). See 3 Collier, *Bankruptcy* 522–23 (14th ed. 1971); 4B *id*. 1165–67 (1967); 2 *id*. 363.03 (15th ed. 1981).

Subdivision (m). Inclusion in notices to creditors of information as to other names used by the debtor as required by Rule 1005 will assist them in the preparation of their proofs of claim and in deciding whether to file a complaint objecting to the debtor's discharge. Additional names may be listed by the debtor on his statement of affairs when he did not file the petition. The mailing of notices should not be postponed to await a delayed filing of the statement of financial affairs.

NOTES OF ADVISORY COMMITTEE ON RULES—1987 AMENDMENT

Subdivision (a) is amended to provide that notice of a hearing on an application for compensation must be given only when the amount requested is in excess of $500.

Subdivision (d). A new notice requirement is added as clause (3). When a proposed sale is of all or substantially all of the debtor's assets, it is appropriate that equity security holders be given notice of the proposed sale. The clauses of subdivision (d) are renumbered to accommodate this addition.

Subdivision (f). Clause (7) is eliminated. Mailing of a copy of the discharge order is governed by Rule 4004(g).

Subdivision (g) is amended to relieve the clerk of the duty to mail notices to the address shown in a proof of claim when a notice of no dividend has been given pursuant to Rule 2002. This amendment avoids the necessity of the clerk searching proofs of claim which are filed in no dividend cases to ascertain whether a different address is shown.

Subdivision (n) was enacted by §321 of the 1984 amendments.

NOTES OF ADVISORY COMMITTEE ON RULES—1991 AMENDMENT

Subdivision (a)(3) is amended to exclude compromise or settlement agreements concerning adequate protection or which modify or terminate the automatic stay, provide for use of cash collateral, or create a senior or equal lien on collateral to obtain credit. Notice requirements relating to approval of such agreements are governed by Rule 4001(d).

Subdivision (a)(5) is amended to include a hearing on dismissal or conversion of a chapter 12 case. This subdivision does not apply when a hearing is not required. It is also amended to avoid the necessity of giving notice to all creditors of a hearing on the dismissal of a consumer debtor's case based on substantial abuse of chapter 7. Such hearings on dismissal under §707(b) of the Code are governed by Rule 1017(e).

Subdivision (a)(9) is added to provide for notice of the time fixed for filing objections and the hearing to consider confirmation of a plan in a chapter 12 case. Section 1224 of the Code requires "expedited notice" of the confirmation hearing in a chapter 12 case and requires that the hearing be concluded not later than 45 days after the filing of the plan unless the time is extended for cause. This amendment establishes 20 days as the

notice period. The court may shorten this time on its own motion or on motion of a party in interest. The notice includes both the date of the hearing and the date for filing objections, and must be accompanied by a copy of the plan or a summary of the plan in accordance with Rule 3015(d).

Subdivision (b) is amended to delete as unnecessary the references to subdivisions (h) and (i).

Subdivision (d) does not require notice to equity security holders in a chapter 12 case. The procedural burden of requiring such notice is outweighed by the likelihood that all equity security holders of a family farmer will be informed of the progress of the case without formal notice. Subdivision (d) is amended to recognize that the United States trustee may convene a meeting of equity security holders pursuant to §341(b).

Subdivision (f)(2) is amended and subdivision (f)(4) is deleted to require notice of any conversion of the case, whether the conversion is by court order or is effectuated by the debtor filing a notice of conversion pursuant to §§1208(a) or 1307(a). Subdivision (f)(8), renumbered (f)(7), is amended to include entry of an order confirming a chapter 12 plan. Subdivision (f)(9) is amended to increase the amount to $1,500.

Subdivisions (g) and (j) are amended to delete the words "with the court" and subdivision (i) is amended to delete the words "with the clerk" because these phrases are unnecessary. See Rules 5005(a) and 9001(3).

Subdivision (i) is amended to require that the United States trustee receive notices required by subdivision (a)(2), (3) and (7) of this rule notwithstanding a court order limiting such notice to committees and to creditors and equity security holders who request such notices. Subdivision (i) is amended further to include committees elected pursuant to §705 of the Code and to provide that committees of retired employees appointed in chapter 11 cases receive certain notices.

Subdivision (k) is derived from Rule X–1008. The administrative functions of the United States trustee pursuant to 28 U.S.C. §586(a) and standing to be heard on issues under §307 and other sections of the Code require that the United States trustee be informed of developments and issues in every case except chapter 9 cases. The rule omits those notices described in subdivision (a)(1) because a meeting of creditors is convened only by the United States trustee, and those notices described in subdivision (a)(4) (date fixed for filing claims against a surplus), subdivision (a)(6) (time fixed to accept or reject proposed modification of a plan), subdivision (a)(8) (time fixed for filing proofs of claims in chapter 11 cases), subdivision (f)(3) (time fixed for filing claims in chapter 7, 12, and 13 cases), and subdivision (f)(5) (time fixed for filing complaint to determine dischargeability of debt) because these notices do not relate to matters that generally involve the United States trustee. Nonetheless, the omission of these notices does not prevent the United States trustee from receiving such notices upon request. The United States trustee also receives notice of hearings on applications for compensation or reimbursement without regard to the $500 limitation contained in subdivision (a)(7) of this rule. This rule is intended to be flexible in that it permits the United States trustee in a particular judicial district to request notices in certain categories, and to request not to receive notices in other categories, when the practice in that district makes that desirable.

NOTES OF ADVISORY COMMITTEE ON RULES—1993 AMENDMENT

Subdivision (j) is amended to avoid the necessity of sending an additional notice to the Washington, D.C. address of the Securities and Exchange Commission if the Commission prefers to have notices sent only to a local office. This change also clarifies that notices required to be mailed pursuant to this rule must be sent to the Securities and Exchange Commission only if it has filed a notice of appearance or has filed a written request. Other amendments are stylistic and make no substantive change.

NOTES OF ADVISORY COMMITTEE ON RULES—1996 AMENDMENT

Paragraph (a)(4) is abrogated to conform to the abrogation of Rule 3002(c)(6). The remaining paragraphs of subdivision (a) are renumbered, and references to these paragraphs contained in other subdivisions of this rule are amended accordingly.

Paragraph (f)(8) is amended so that a summary of the trustee's final account, which is prepared after distribution of property, does not have to be mailed to the debtor, all creditors, and indenture trustees in a chapter 7 case. Parties are sufficiently protected by receiving a summary of the trustee's final report that informs parties of the proposed distribution of property.

Subdivision (h) is amended (1) to provide that an order under this subdivision may not be issued if a notice of no dividend is given pursuant to Rule 2002(e) and the time for filing claims has not expired as provided in Rule 3002(c)(5); (2) to clarify that notices required to be mailed by subdivision (a) to parties other than creditors must be mailed to those entities despite an order issued pursuant to subdivision (h); (3) to provide that if the court, pursuant to Rule 3002(c)(1) or 3002(c)(2), has granted an extension of time to file a proof of claim, the creditor for whom the extension has been granted must continue to receive notices despite an order issued pursuant to subdivision (h); and (4) to delete references to subdivision (a)(4) and Rule 3002(c)(6), which have been abrogated.

Other amendments to this rule are stylistic.

GAP Report on Rule 2002. No changes since publication, except for stylistic changes and the correction of a typographical error in the committee note.

NOTES OF ADVISORY COMMITTEE ON RULES—1997 AMENDMENT

Paragraph (a)(1) is amended to include notice of a meeting of creditors convened under §1104(b) of the Code for the purpose of electing a trustee in a chapter 11 case. The court for cause shown may order the 20-day period reduced pursuant to Rule 9006(c)(1).

Subdivision (n) is amended to conform to the 1994 amendment to §342 of the Code. As provided in §342(c), the failure of a notice given by the debtor to a creditor to contain the information required by §342(c) does not invalidate the legal effect of the notice.

GAP Report on Rule 2002. No changes to the published draft.

COMMITTEE NOTES ON RULES—1999 AMENDMENT

Paragraph (a)(4) is amended to conform to the amendments to Rule 1017. If the United States trustee files a motion to dismiss a case for the debtor's failure to file the list of creditors, schedules, or the statement of financial affairs within the time specified in §707(a)(3), the amendments to this rule and to Rule 1017 eliminate the requirement that all creditors receive notice of the hearing.

Paragraph (a)(4) is amended further to conform to Rule 1017(b), which requires that notice of the hearing on dismissal of a case for failure to pay the filing fee be served on only the debtor and the trustee.

Paragraph (f)(2) is amended to provide for notice of the suspension of proceedings under §305.

GAP Report on Rule 2002. No changes since publication.

COMMITTEE NOTES ON RULES—2000 AMENDMENT

Paragraph (a)(6) is amended to increase the dollar amount from $500 to $1,000. The amount was last amended in 1987, when it was changed from $100 to $500. The amendment also clarifies that the notice is required only if a particular entity is requesting more than $1,000 as compensation or reimbursement of expenses. If several professionals are requesting compensation or reimbursement, and only one hearing will be held on all applications, notice under paragraph (a)(6) is required only with respect to the entities that have requested more than $1,000. If each applicant requests $1,000 or less, notice under paragraph (a)(6) is not required even though the aggregate amount of all applications to be considered at the hearing is more than $1,000.

If a particular entity had filed prior applications or had received compensation or reimbursement of expenses at an earlier time in the case, the amounts previously requested or awarded are not considered when determining whether the present application exceeds $1,000 for the purpose of applying this rule.

GAP Report on Rule 2002(a). No changes since publication.

COMMITTEE NOTES ON RULES—2001 AMENDMENT

Subdivision (c)(3) is added to assure that parties given notice of a hearing to consider confirmation of a plan under subdivision (b) are given adequate notice of an injunction provided for in the plan if it would enjoin conduct that is not otherwise enjoined by operation of the Code. The validity and effect of any injunction provided for in a plan are substantive law matters that are beyond the scope of these rules.

The notice requirement of subdivision (c)(3) is not applicable to an injunction contained in a plan if it is substantially the same as an injunction provided under the Code. For example, if a plan contains an injunction against acts to collect a discharged debt from the debtor, Rule 2002(c)(3) would not apply because that conduct would be enjoined under §524(a)(2) upon the debtor's discharge. But if a plan provides that creditors will be enjoined from asserting claims against persons who are not debtors in the case, the notice of the confirmation hearing must include the information required under Rule 2002(c)(3) because that conduct would not be enjoined by operation of the Code. *See* §524(e).

The requirement that the notice identify the entities that would be subject to the injunction requires only reasonable identification under the circumstances. If the entities that would be subject to the injunction cannot be identified by name, the notice may describe them by class or category if reasonable under the circumstances. For example, it may be sufficient for the notice to identify the entities as "all creditors of the debtor" and for the notice to be published in a manner that satisfies due process requirements.

Subdivision (g) has been revised to clarify that where a creditor or indenture trustee files both a proof of claim which includes a mailing address and a separate request designating a mailing address, the last paper filed determines the proper address. The amendments also clarify that a request designating a mailing address is effective only with respect to a particular case.

Under Rule 2002(g), a duly filed proof of claim is considered a request designating a mailing address if a notice of no dividend has been given under Rule 2002(e), but has been superseded by a subsequent notice of

possible dividend under Rule 3002(c)(5). A duly filed proof of interest is considered a request designating a mailing address of an equity security holder.

Rule 2002(g)(3) is added to assure that notices to an infant or incompetent person under this rule are mailed to the appropriate guardian or other legal representative. Under Rule 1007(m), if the debtor knows that a creditor is an infant or incompetent person, the debtor is required to include in the list and schedule of creditors the name and address of the person upon whom process would be served in an adversary proceeding in accordance with Rule 7004(b)(2). If the infant or incompetent person, or another person, files a request or proof of claim designating a different name and mailing address, the notices would have to be mailed to both names and addresses until the court resolved the issue as to the proper mailing address.

The other amendments to Rule 2002(g) are stylistic.

Changes Made After Publication and Comments. In Rule 2002(c)(3), the word "highlighted" was replaced with "underlined" because highlighted documents are difficult to scan electronically for inclusion in the clerks' files. The Committee Note was revised to put in a more prominent position the statement that the validity and effect of any injunction provided for in a plan are substantive matters beyond the scope of the rules.

In Rule 2002(g), no changes were made.

COMMITTEE NOTES ON RULES—2003 AMENDMENT

Subdivision (a)(1) of the rule is amended to direct the clerk or other person giving notice of the §341 or §1104(b) meeting of creditors to include the debtor's full social security number on the notice. Official Form 9, the form of the notice of the meeting of creditors that will become a part of the court's file in the case, will include only the last four digits of the debtor's social security number. This rule, however, directs the clerk to include the full social security number on the notice that is served on the creditors and other identified parties, unless the court orders otherwise in a particular case. This will enable creditors and other parties in interest who are in possession of the debtor's social security number to verify the debtor's identity and proceed accordingly. The filed Official Form 9, however, will not include the debtor's full social security number. This will prevent the full social security number from becoming a part of the court's file in the case, and the number will not be included in the court's electronic records. Creditors who already have the debtor's social security number will be able to verify the existence of a case under the debtor's social security number, but any person searching the electronic case files without the number will not be able to acquire the debtor's social security number.

Changes Made After Publication and Comments. The rule amendment was made in response to concerns of both private creditors and taxing authorities that truncating the social security number of a debtor to the last four digits would unduly hamper their ability to identify the debtor and govern their actions accordingly. Therefore, the Advisory Committee amended Rule 2002 to require the clerk to include the debtor's full social security number on the notice informing creditors of the §341 meeting and other significant deadlines in the case. This is essentially a continuation of the practice under the current rules, and the amendment is necessary because of the amendment to Rule 1005 that restricts publication of the social security number on the caption of the petition to the final four digits of the number.

COMMITTEE NOTES ON RULES—2004 AMENDMENT

The rule is amended to reflect that the structure of the Internal Revenue Service no longer includes a District Director. Thus, rather than sending notice to the District Director, the rule now requires that the notices be sent to the location designated by the Service and set out in the register of addresses maintained by the clerk under Rule 5003(e). The other change is stylistic.

COMMITTEE NOTES ON RULES—2005 AMENDMENT

A new paragraph (g)(4) is inserted in the rule. The new paragraph authorizes an entity and a notice provider to agree that the notice provider will give notices to the entity at the address or addresses set out in their agreement. Rule 9001(9) sets out the definition of a notice provider.

The business of many entities is national in scope, and technology currently exists to direct the transmission of notice (both electronically and in paper form) to those entities in an accurate and much more efficient manner than by sending individual notices to the same creditor by separate mailings. The rule authorizes an entity and a notice provider to determine the manner of the service as well as to set the address or addresses to which the notices must be sent. For example, they could agree that all notices sent by the notice provider to the entity must be sent to a single, nationwide electronic or postal address. They could also establish local or regional addresses to which notices would be sent in matters pending in specific districts. Since the entity and notice provider also can agree on the date of the commencement of service under the agreement, there is no need to set a date in the rule after which notices would have to be sent to the address or addresses that the entity establishes. Furthermore, since the entity supplies the address to the notice provider, use of that address

is conclusively presumed to be proper. Nonetheless, if that address is not used, the notice still may be effective if the notice is otherwise effective under applicable law. This is the same treatment given under Rule 5003(e) to notices sent to governmental units at addresses other than those set out in that register of addresses.

The remaining subdivisions of Rule 2002(g) continue to govern the addressing of a notice that is not sent pursuant to an agreement described in Rule 2002(g)(4).

Changes Made After Publication and Comment. No changes since publication.

COMMITTEE NOTES ON RULES—2008 AMENDMENT

Subdivision (b) is amended to provide for 25 days' notice of the time for the court to make a final determination whether the plan in a small business case can serve as a disclosure statement. Conditional approval of a disclosure statement in a small business case is governed by Rule 3017.1 and does not require 25 days' notice. The court may consider this matter in a hearing combined with the confirmation hearing in a small business case.

Because of the requirements of Rule 6004(g), subdivision (c)(1) is amended to require that a trustee leasing or selling personally identifiable information under §363(b)(1)(A) or (B) of the Code, as amended in 2005, include in the notice of the lease or sale transaction a statement as to whether the lease or sale is consistent with a policy prohibiting the transfer of the information.

Subdivisions (f)(9) and (10) are new. They reflect the 2005 amendments to §§342(d) and 704(b) of the Code. Section 342(d) requires the clerk to give notice to creditors shortly after the commencement of the case as to whether a presumption of abuse exists. Subdivision (f)(9) adds this notice to the list of notices that the clerk must give. Subdivision (f)(10) implements the amendment to §704(b), which requires the court to provide a copy to all creditors of a statement by the United States trustee or bankruptcy administrator as to whether the debtor's case would be presumed to be an abuse under §707(b) not later than five days after receiving it.

Subdivision (f)(11) is also added to provide notice to creditors of the debtor's filing of a statement in a chapter 11, 12, or 13 case that there is no reasonable cause to believe that §522(q) applies in the case. This allows a creditor who disputes that assertion to request a delay of the entry of the discharge in the case.

Subdivision (g)(2) of the rule is amended because the 2005 amendments to §342(f) of the Code permit creditors in chapter 7 and 13 individual debtor cases to file a notice with any bankruptcy court of the address to which the creditor wishes all notices to be sent. The amendment to Rule 2002(g)(2) therefore only limits application of the subdivision when a creditor files a notice under §342(f).

New subdivision (g)(5) implements §342(g)(1) which was added to the Code in 2005. Section 342(g)(1) allows a creditor to treat a notice as not having been brought to the creditor's attention, and so potentially ineffective, until it is received by a person or organizational subdivision that the creditor has designated to receive notices under the Bankruptcy Code. Under that section, the creditor must have established reasonable procedures for such notices to be delivered to the designated person or subdivision. The rule provides that, in order to challenge a notice under §342(g)(1), a creditor must have filed the name and address of the designated notice recipient, as well as a description of the procedures for directing notices to that recipient, prior to the time that the challenged notice was issued. The filing required by the rule may be made as part of a creditor's filing under §342(f), which allows a creditor to file a notice of the address to be used by all bankruptcy courts or by particular bankruptcy courts to provide notice to the creditor in cases under chapters 7 and 13. Filing the name and address of the designated notice recipient and the procedures for directing notices to that recipient will reduce uncertainty as to the proper party for receiving notice and limit factual disputes as to whether a notice recipient has been designated and as to the nature of procedures adopted to direct notices to the recipient.

Subdivision (k) is amended to add notices given under subdivision (q) to the list of notices which must be served on the United States trustee.

Section 1514(d) of the Code, added by the 2005 amendments, requires that such additional time as is reasonable under the circumstances be given to creditors with foreign addresses with respect to notices and the filing of a proof of claim. Thus, subdivision (p)(1) is added to this rule to give the court flexibility to direct that notice by other means shall supplement notice by mail, or to enlarge the notice period, for creditors with foreign addresses. If cause exists, such as likely delays in the delivery of mailed notices in particular locations, the court may order that notice also be given by email, facsimile, or private courier. Alternatively, the court may enlarge the notice period for a creditor with a foreign address. It is expected that in most situations involving foreign creditors, fairness will not require any additional notice or extension of the notice period. This rule recognizes that the court has discretion to establish procedures to determine, on its own initiative, whether relief under subdivision (p) is appropriate, but that the court is not required to establish such procedures and may decide to act only on request of a party in interest.

Subdivision (p)(2) is added to the rule to grant creditors with a foreign address to which notices are mailed at least 30 days' notice of the time within which to file proofs of claims if notice is mailed to the foreign address, unless the court orders otherwise. If cause exists, such as likely delays in the delivery of notices in particular locations, the court may extend the notice period for creditors with foreign addresses. The court may also shorten the additional notice time if circumstances so warrant. For example, if the court in a chapter 11 case determines that supplementing the notice to a foreign creditor with notice by electronic means, such as email or facsimile, would give the creditor reasonable notice, the court may order that the creditor be given only 20 days' notice in accordance with Rule 2002(a)(7).

Subdivision (p)(3) is added to provide that the court may, for cause, override a creditor's designation of a foreign address under Rule 2002(g). For example, if a party in interest believes that a creditor has wrongfully designated a foreign address to obtain additional time when it has a significant presence in the United States, the party can ask the court to order that notices to that creditor be sent to an address other than the one designated by the foreign creditor.

Subdivision (q) is added to require that notice of the hearing on the petition for recognition of a foreign proceeding be given to the debtor, all administrators in foreign proceedings of the debtor, entities against whom provisional relief is sought, and entities with whom the debtor is engaged in litigation at the time of the commencement of the case. There is no need at this stage of the proceedings to provide notice to all creditors. If the foreign representative should take action to commence a case under another chapter of the Code, the rules governing those proceedings will operate to provide that notice is given to all creditors.

The rule also requires notice of the court's intention to communicate with a foreign court or foreign representative.

Changes Made After Publication. Subdivision (g)(2) was amended to provide that the designated address of a governmental unit under Rule 5003(e) establishes an exception to the rule that a creditor's address is to be taken from the debtor's schedules. The fifth and sixth paragraphs of the Committee Note were amended to explain that change.

Subdivision (p)(3) was added to the rule to provide that the court may override a creditor's designation of a foreign mailing address under Rule 2002(g). This will permit a party in interest to seek court relief if a creditor has improperly designated a foreign address.

Subdivision (q)(1) and (2) were amended by adopting language from §101(24) to identify foreign representatives as "all persons or bodies authorized to administer foreign proceedings of the debtor" rather than as "all administrators in foreign proceedings of the debtor." References to Rule 5012 in subdivision (q)(2) and in the Committee Note were deleted.

COMMITTEE NOTES ON RULES—2009 AMENDMENT

The rule is amended to implement changes in connection with the amendment to Rule 9006(a) and the manner by which time is computed under the rules. The deadlines in the rule are amended to substitute a deadline that is a multiple of seven days. Throughout the rules, deadlines are amended in the following manner:

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

COMMITTEE NOTES ON RULES—2016 AMENDMENT

Subdivision (q) is amended to clarify the procedures for giving notice in cross-border proceedings. The amended rule provides, in keeping with Code §1517(c), for the court to schedule a hearing to be held promptly on the petition for recognition of a foreign proceeding. The amended rule contemplates that a hearing on a request for provisional relief may sometimes overlap substantially with the merits of the petition for recognition. In that case, the court may choose to consolidate the hearing on the request for provisional relief with the hearing on the petition for recognition, see Rules 1018 and 7065, and accordingly shorten the usual 21-day notice period.

COMMITTEE NOTES ON RULES—2017 AMENDMENT

Subdivisions (a) and (b) are amended and reorganized to alter the provisions governing notice under this rule in chapter 13 cases. Subdivision (a)(9) is added to require at least 21 days' notice of the time for filing objections to confirmation of a chapter 13 plan. Subdivision (b)(3) is added to provide separately for 28 days'

notice of the date of the confirmation hearing in a chapter 13 case. These amendments conform to amended Rule 3015, which governs the time for presenting objections to confirmation of a chapter 13 plan. Other changes are stylistic.

COMMITTEE NOTES ON RULES—2020 AMENDMENT

Subdivision (f) is amended to add cases under chapter 13 of the Bankruptcy Code to paragraph (7).

Subdivision (h) is amended to add cases under chapters 12 and 13 of the Bankruptcy Code and to conform the time periods in the subdivision to the respective deadlines for filing proofs of claim under Rule 3002(c).

Subdivision (k) is amended to add a reference to subdivision (a)(9) of this rule. This change corresponds to the relocation of the deadline for objecting to confirmation of a chapter 13 plan from subdivision (b) to subdivision (a)(9). The rule thereby continues to require transmittal of notice of that deadline to the United States trustee.

COMMITTEE NOTES ON RULES—2024 AMENDMENT

The language of most provisions in Rule 2002 have been amended as part of the general restyling of the Bankruptcy Rules to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only. In (f)[,] the phrase "or some other person as the court may direct" has not been restyled because it was enacted by Congress, P.L. 98–91, 97 Stat. 607, §2 (1983). [Phrase enacted by Pub. L. 98–91 contained the word "Court" rather than "court".] Rule 2002(n) has not been restyled because it was also enacted by Congress, P.L. 98–353, 98 Stat. 357, §114 [§321] (1984). That subsection was erroneously redesignated as subdivision (o) in 2008 [1991], and amended to modify its time period from 20 to 21 days in 2009. Because the Bankruptcy Rules Enabling Act, 28 U.S.C. §2075, provides no authority to modify statutory language, the subdivision is now returned to the language used by Congress.

REFERENCES IN TEXT

The Securities Investor Protection Act, referred to in subd. (k)(3), probably means the Securities Investor Protection Act of 1970, Pub. L. 91–598, Dec. 30, 1970, 84 Stat. 1636, which is classified generally to chapter 2B–1 (§78aaa et seq.) of Title 15, Commerce and Trade. For complete classification of this Act to the Code, see section 78aaa of Title 15 and Tables.

AMENDMENT BY PUBLIC LAW

1984—Subd. (n). Pub. L. 98–353 added subd. (n).

1983—Subd. (f). Pub. L. 98–91 inserted ", or some other person as the Court may direct," after "clerk".

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98–353 effective with respect to cases filed 90 days after July 10, 1984, see section 552(a) of Pub. L. 98–353, set out as a note under section 101 of this title.

EFFECTIVE DATE OF 1983 AMENDMENT

Pub. L. 98–91, §1, Aug. 30, 1983, 97 Stat. 607, provided: "That rule 2002(f) of the Bankruptcy Rules, as proposed by the United States Supreme Court in the order of April 25, 1983, of the Court, shall take effect on August 1, 1983, except as otherwise provided in section 2 [amending subd. (f) of this rule and enacting a provision set out as a note below]."

Pub. L. 98–91, §2(b), Aug. 30, 1983, 97 Stat. 607, provided that: "The amendment made by subsection (a) [amending subd. (f) of this rule] shall take effect on August 1, 1983."

[1] Amendment by Pub. L. 98–91 enacted the word "Court".

[2] So in original. Probably should be capitalized.

Rule 2003. Meeting of Creditors or Equity Security Holders

(a) DATE AND PLACE OF THE MEETING.

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

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

for relief;

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

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

(2) *Effect of a Motion or an Appeal*. The United States trustee may set a later date for the meeting if there is a motion to vacate the order for relief, an appeal from such an order, or a motion to dismiss the case.

(3) *Place; Possible Change in the Meeting Date*. The meeting may be held at a regular place for holding court. Or the United States trustee may designate any other place in the district that is convenient for the parties in interest. If the designated meeting place is not regularly staffed by the United States trustee or an assistant who may preside, the meeting may be held no more than 60 days after the order for relief.

(b) CONDUCTING THE MEETING; AGENDA; WHO MAY VOTE.

(1) *At a Meeting of Creditors.*

(A) *Generally*. The United States trustee must preside at the meeting of creditors. The meeting must include an examination of the debtor under oath. The presiding officer has the authority to administer oaths.

(B) *Chapter 7 Cases*. In a Chapter 7 case, the meeting may include the election of a creditors' committee; and if the case is not under Subchapter V, the meeting may include electing a trustee.

(2) *At a Meeting of Equity Security Holders*. If the United States trustee convenes a meeting of equity security holders under §341(b), the United States trustee must set a date for the meeting and preside over it.

(3) *Who Has a Right to Vote; Objecting to the Right to Vote.*

(A) *In a Chapter 7 Case*. A creditor in a Chapter 7 case may vote if, at or before the meeting:

(i) the creditor has filed a proof of claim or a writing setting forth facts evidencing a right to vote under §702(a);

(ii) the proof of claim is not insufficient on its face; and

(iii) no objection is made to the claim.

(B) *In a Partnership Case*. A creditor in a partnership case may file a proof of claim or a writing evidencing a right to vote for a trustee for the general partner's estate even if a trustee for the partnership's estate has previously qualified.

(C) *Objecting to the Amount or Allowability of a Claim for Voting Purposes*. Unless the court orders otherwise, if there is an objection to the amount or allowability of a claim for voting purposes, the United States trustee must tabulate the votes for each alternative presented by the dispute. If resolving the dispute is necessary to determine the election's result, the United States trustee must report to the court the tabulations for each alternative.

(c) RECORDING THE PROCEEDINGS. At the meeting of creditors under §341(a), the United States trustee must:

(1) record verbatim—using electronic sound-recording equipment or other means of recording—all examinations under oath;

(2) preserve the recording and make it available for public access for 2 years after the meeting concludes; and

(3) upon request, certify and provide a copy or transcript of the recording to any entity at that entity's expense.

(d) REPORTING ELECTION RESULTS IN A CHAPTER 7 CASE.

(1) *Undisputed Election*. In a Chapter 7 case, if the election of a trustee or a member of a creditors' committee is undisputed, the United States trustee must promptly file a report of the election. The report must include the name and address of the person or entity elected and a statement that the election was undisputed.

(2) *Disputed Election.*

(A) *United States Trustee's Report*. If the election is disputed, the United States trustee must:

(i) promptly file a report informing the court of the nature of the dispute and listing the name and address of any candidate elected under any alternative presented by the dispute; and

(ii) no later than the date on which the report is filed, mail a copy to any party in interest that has requested one.

(B) *Interim Trustee*. Until the court resolves the dispute, the interim trustee continues in office. Unless a motion to resolve the dispute is filed within 14 days after the report is filed, the interim trustee serves as trustee in the case.

(e) ADJOURNMENT. The presiding official may adjourn the meeting from time to time by announcing at the meeting the date and time to reconvene. The presiding official must promptly file a statement showing the adjournment and the date and time to reconvene.

(f) SPECIAL MEETINGS OF CREDITORS. The United States trustee may call a special meeting of creditors or may do so on request of a party in interest.

(g) FINAL MEETING OF CREDITORS. If the United States trustee calls a final meeting of creditors in a case in which the net proceeds realized exceed $1,500, the clerk must give notice of the meeting to the creditors. The notice must include a summary of the trustee's final account and a statement of the amount of the claims allowed. The trustee must attend the meeting and, if requested, report on the estate's administration.

(As amended Mar. 30, 1987, eff. Aug. 1, 1987; Apr. 30, 1991, eff. Aug. 1, 1991; Apr. 22, 1993, eff. Aug. 1, 1993; Apr. 26, 1999, eff. Dec. 1, 1999; Mar. 27, 2003, eff. Dec. 1, 2003; Apr. 23, 2008, eff. Dec. 1, 2008; Mar. 26, 2009, eff. Dec. 1, 2009; Apr. 26, 2011, eff. Dec. 1, 2011; Apr. 2, 2024, eff. Dec. 1, 2024.)

NOTES OF ADVISORY COMMITTEE ON RULES—1983

Section 341(a) of the Code requires a meeting of creditors in a chapter 7, 11 or 13 case, and §341(b) permits the court to order a meeting of equity security holders. A major change from prior law, however, prohibits the judge from attending or presiding over the meeting. Section 341(c).

This rule does not apply either in a case for the reorganization of a railroad or for the adjustment of debts of a municipality. Sections 1161 and 901 render §§341 and 343 inapplicable in these types of cases. Section 341 sets the requirement for a meeting of creditors and §343 provides for the examination of the debtor.

Subdivision (a). The meeting is to be held between 20 and 40 days after the date of the order for relief. In a voluntary case, the date of the order for relief is the date of the filing of the petition (§301 of the Code); in an involuntary case, it is the date of an actual order (§303(i) of the Code).

Subdivision (b) provides flexibility as to who will preside at the meeting of creditors. The court may designate a person to serve as presiding officer, such as the interim trustee appointed under §701 of the Code. If the court does not designate anyone, the clerk will preside. In either case, creditors may elect a person of their own choosing. In any event, the clerk may remain to record the proceedings and take appearances. Use of the clerk is not contrary to the legislative policy of §341(c). The judge remains insulated from any information coming forth at the meeting and any information obtained by the clerk must not be relayed to the judge.

Although the clerk may preside at the meeting, the clerk is not performing any kind of judicial role, nor should the clerk give any semblance of performing such a role. It would be pretentious for the clerk to ascend the bench, don a robe or be addressed as "your honor". The clerk should not appear to parties or others as any type of judicial officer.

In a chapter 11 case, if a committee of unsecured creditors has been appointed pursuant to §1102(a)(1) of the Code and a chairman has been selected, the chairman will preside or a person, such as the attorney for the committee, may be designated to preside by the chairman.

Since the judge must fix the bond of the trustee but cannot be present at the meeting, the rule allows the creditors to recommend the amount of the bond. They should be able to obtain relevant information concerning the extent of assets of the debtor at the meeting.

Paragraph (1) authorizes the presiding officer to administer oaths. This is important because the debtor's examination must be under oath.

Paragraph (3) of subdivision (b) has application only in a chapter 7 case. That is the only type of case under the Code that permits election of a trustee or committee. In all other cases, no vote is taken at the meeting of creditors. If it is necessary for the court to make a determination with respect to a claim, the meeting may be adjourned until the objection or dispute is resolved.

The second sentence recognizes that partnership creditors may vote for a trustee of a partner's estate along with the separate creditors of the partner. Although §723(c) gives the trustee of a partnership a claim against a partner's estate for the full amount of partnership creditors' claims allowed, the purpose and function of this provision are to simplify distribution and prevent double proof, not to disfranchise partnership creditors in electing a trustee of an estate against which they hold allowable claims.

Subdivision (c) requires minutes and a record of the meeting to be maintained by the presiding officer. A verbatim record must be made of the debtor's examination but the rule is flexible as to the means used to record the examination.

Subdivision (d) recognizes that the court must be informed immediately about the election or nonelection of a trustee in a chapter 7 case. Pursuant to Rule 2008, the clerk officially informs the trustee of his election or appointment and how he is to qualify. The presiding person has no authority to resolve a disputed election.

For purposes of expediency, the results of the election should be obtained for each alternative presented by the dispute and immediately reported to the court. Thus, when an interested party presents the dispute to the court, its prompt resolution by the court will determine the dispute and a new or adjourned meeting to conduct the election may be avoided. The clerk is not an interested party.

A creditors' committee may be elected only in a chapter 7 case. In chapter 11 cases, a creditors' committee is appointed pursuant to §1102.

While a final meeting is not required, Rule 2002(f)(10) provides for the trustee's final account to be sent to creditors.

NOTES OF ADVISORY COMMITTEE ON RULES—1987 AMENDMENT

Subdivision (a). Many courts schedule meetings of creditors at various locations in the district. Because the clerk must schedule meetings at those locations, an additional 20 days for scheduling the meetings is provided under the amended rule.

NOTES OF ADVISORY COMMITTEE ON RULES—1991 AMENDMENT

The amendment to subdivision (a) relating to the calling of the meeting of creditors in a chapter 12 case is consistent with the expedited procedures of chapter 12. Subdivision (a) is also amended to clarify that the United States trustee does not call a meeting of creditors in a chapter 9 case. Pursuant to §901(a) of the Code, §341 is inapplicable in chapter 9 cases. The other amendments to subdivisions (a), (b)(1), and (b)(2) and the additions of subdivisions (f) and (g) are derived from Rule X–1006 and conform to the 1986 amendments to §341 of the Code. The second sentence of subdivision (b)(3) is amended because Rule 2009(e) is abrogated. Although the United States trustee fixes the date for the meeting, the clerk of the bankruptcy court transmits the notice of the meeting unless the court orders otherwise, as prescribed in Rule 2002(a)(1).

Pursuant to §702 and §705 of the Code, creditors may elect a trustee and a committee in a chapter 7 case. Subdivision (b) of this rule provides that the United States trustee shall preside over any election that is held under those sections. The deletion of the last sentence of subdivision (b)(1) does not preclude creditors from recommending to the United States trustee the amount of the trustee's bond when a trustee is elected. Trustees and committees are not elected in chapter 11, 12, and 13 cases.

If an election is disputed, the United States trustee shall not resolve the dispute. For purposes of expediency, the United States trustee shall tabulate the results of the election for each alternative presented by the dispute. However, if the court finds that such tabulation is not feasible under the circumstances, the United States trustee need not tabulate the votes. If such tabulation is feasible and if the disputed vote or votes would affect the result of the election, the tabulations of votes for each alternative presented by the dispute shall be reported to the court. If a motion is made for resolution of the dispute in accordance with subdivision (d) of this rule, the court will determine the issue and another meeting to conduct the election may not be necessary.

Subdivisions (f) and (g) are derived from Rule X–1006(d) and (e), except that the amount is increased to $1,500 to conform to the amendment to Rule 2002(f).

NOTES OF ADVISORY COMMITTEE ON RULES—1993 AMENDMENT

Subdivision (a) is amended to extend by ten days the time for holding the meeting of creditors in a chapter 13 case. This extension will provide more flexibility for scheduling the meeting of creditors. Other amendments are stylistic and make no substantive change.

COMMITTEE NOTES ON RULES—1999 AMENDMENT

Subdivision (d) is amended to require the United States trustee to mail a copy of a report of a disputed election to any party in interest that has requested a copy of it. Also, if the election is for a trustee, the rule as amended will give a party in interest ten days from the filing of the report, rather than from the date of the meeting of creditors, to file a motion to resolve the dispute.

The substitution of "United States trustee" for "presiding officer" is stylistic. Section 341(a) of the Code provides that the United States trustee shall preside at the meeting of creditors. Other amendments are designed to conform to the style of Rule 2007.1(b)(3) regarding the election of a trustee in a chapter 11 case.

GAP Report on Rule 2003. No changes since publication.

COMMITTEE NOTES ON RULES—2003 AMENDMENT

The rule is amended to reflect the enactment of subchapter V of chapter 7 of the Code governing multilateral clearing organization liquidations. Section 782 of the Code provides that the designation of a trustee or alternative trustee for the case is made by the Federal Reserve Board. Therefore, the meeting of creditors in those cases cannot include the election of a trustee.

Changes Made After Publication and Comments. No changes since publication.

COMMITTEE NOTES ON RULES—2008 AMENDMENT

If the debtor has solicited acceptances to a plan before commencement of the case, §341(e), which was added to the Code by the 2005 amendments, authorizes the court, on request of a party in interest and after notice and a hearing, to order that a meeting of creditors not be convened. The rule is amended to recognize that a meeting of creditors might not be held in those cases.

Changes Made After Publication. No changes were made after publication.

COMMITTEE NOTES ON RULES—2009 AMENDMENT

The rule is amended to implement changes in connection with the amendment to Rule 9006(a) and the manner by which time is computed under the rules. The deadlines in the rule are amended to substitute a deadline that is a multiple of seven days. Throughout the rules, deadlines are amended in the following manner:

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

COMMITTEE NOTES ON RULES—2011 AMENDMENT

Subdivision (e). Subdivision (e) is amended to require the presiding official to file a statement after the adjournment of a meeting of creditors or equity security holders designating the period of the adjournment. The presiding official is the United States trustee or the United States trustee's designee. This requirement will provide notice to parties in interest not present at the initial meeting of the date and time to which the meeting has been continued. An adjourned meeting is "held open" as permitted by §1308(b)(1) of the Code. The filing of this statement will also discourage premature motions to dismiss or convert the case under §1307(e).

Changes Made After Publication. No changes were made to the language of the rule following publication. The Committee Note was revised to state more explicitly that adjournment of a meeting of creditors to a specific date constitutes holding it open for purposes of §1308(b) of the Bankruptcy Code.

COMMITTEE NOTES ON RULES—2024 AMENDMENT

The language of Rule 2003 has been amended as part of the general restyling of the Bankruptcy Rules to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only.

Rule 2004. Examinations

(a) IN GENERAL. On a party in interest's motion, the court may order the examination of any

entity.

(b) SCOPE OF THE EXAMINATION.

(1) *In General*. The examination of an entity under this Rule 2004, or of a debtor under §343, may relate only to:

(A) the debtor's acts, conduct, or property;

(B) the debtor's liabilities and financial condition;

(C) any matter that may affect the administration of the debtor's estate; or

(D) the debtor's right to a discharge.

(2) *Other Topics in Certain Cases*. In a Chapter 12 or 13 case, or in a Chapter 11 case that is not a railroad reorganization, the examination may also relate to:

(A) the operation of any business and the desirability of its continuing;

(B) the source of any money or property the debtor acquired or will acquire for the purpose of consummating a plan and the consideration given or offered; and

(C) any other matter relevant to the case or to formulating a plan.

(c) COMPELLING ATTENDANCE AND THE PRODUCTION OF DOCUMENTS OR ELECTRONICALLY STORED INFORMATION. Regardless of the district where the examination will be conducted, an entity may be compelled under Rule 9016 to attend and produce documents or electronically stored information. An attorney may issue and sign a subpoena on behalf of the court where the case is pending if the attorney is admitted to practice in that court.

(d) TIME AND PLACE TO EXAMINE THE DEBTOR. The court may, for cause and on terms it may impose, order the debtor to be examined under this Rule 2004 at any designated time and place, in or outside the district.

(e) WITNESS FEES AND MILEAGE.

(1) *For a Nondebtor Witness*. An entity, except the debtor, may be required to attend as a witness only if the lawful mileage and witness fee for 1 day's attendance are first tendered.

(2) *For a Debtor Witness*. A debtor who is required to appear for examination more than 100 miles from the debtor's residence must be tendered a mileage fee. The fee need cover only the distance exceeding 100 miles from the nearer of where the debtor resides:

(A) when the first petition was filed; or

(B) when the examination takes place.

(As amended Mar. 30, 1987, eff. Aug. 1, 1987; Apr. 30, 1991, eff. Aug. 1, 1991; Apr. 29, 2002, eff. Dec. 1, 2002; Apr. 27, 2020, eff. Dec. 1, 2020; Apr. 2, 2024, eff. Dec. 1, 2024.)

NOTES OF ADVISORY COMMITTEE ON RULES—1983

Subdivision (a) of this rule is derived from former Bankruptcy Rule 205(a). See generally 2 Collier, *Bankruptcy* 343.02, 343.08, 343.13 (15th ed. 1981). It specifies the manner of moving for an examination. The motion may be heard *ex parte* or it may be heard on notice.

Subdivision (b) is derived from former Bankruptcy Rules 205(d) and 11–26.

Subdivision (c) specifies the mode of compelling attendance of a witness or party for an examination and for the production of evidence under this rule. The subdivision is substantially declaratory of the practice that had developed under §21a of the Act. See 2 Collier, *supra* 343.11.

This subdivision will be applicable for the most part to the examination of a person other than the debtor. The debtor is required to appear at the meeting of creditors for examination. The word "person" includes the debtor and this subdivision may be used if necessary to obtain the debtor's attendance for examination.

Subdivision (d) is derived from former Bankruptcy Rule 205(f) and is not a limitation on subdivision (c). Any person, including the debtor, served with a subpoena within the range of a subpoena must attend for examination pursuant to subdivision (c). Subdivision (d) applies only to the debtor and a subpoena need not be issued. There are no territorial limits on the service of an order on the debtor. See, *e.g., In re Totem Lodge & Country Club, Inc*., 134 F. Supp. 158 (S.D.N.Y. 1955).

Subdivision (e) is derived from former Bankruptcy Rule 205(g). The lawful mileage and fee for attendance at a United States court as a witness are prescribed by 28 U.S.C. §1821.

Definition of debtor. The word "debtor" as used in this rule includes the persons specified in the definition in Rule 9001(5).

Spousal privilege. The limitation on the spousal privilege formerly contained in §21a of the Act is not carried over in the Code. For privileges generally, see Rule 501 of the Federal Rules of Evidence made applicable in cases under the Code by Rule 1101 thereof.

NOTES OF ADVISORY COMMITTEE ON RULES—1991 AMENDMENT

This rule is amended to allow the examination in a chapter 12 case to cover the same matters that may be covered in an examination in a chapter 11 or 13 case.

COMMITTEE NOTES ON RULES—2002 AMENDMENT

Subdivision (c) is amended to clarify that an examination ordered under Rule 2004(a) may be held outside the district in which the case is pending if the subpoena is issued by the court for the district in which the examination is to be held and is served in the manner provided in Rule 45 F. R. Civ. P., made applicable by Rule 9016.

The subdivision is amended further to clarify that, in addition to the procedures for the issuance of a subpoena set forth in Rule 45 F. R. Civ. P., an attorney may issue and sign a subpoena on behalf of the court for the district in which a Rule 2004 examination is to be held if the attorney is authorized to practice, even if admitted pro hac vice, either in the court in which the case is pending or in the court for the district in which the examination is to be held. This provision supplements the procedures for the issuance of a subpoena set forth in Rule 45(a)(3)(A) and (B) F. R. Civ. P. and is consistent with one of the purposes of the 1991 amendments to Rule 45, to ease the burdens of interdistrict law practice.

Changes Made After Publication and Comments. The typographical error was corrected, but no other changes were made.

COMMITTEE NOTES ON RULES—2020 AMENDMENT

Subdivision (c) is amended in two respects. First, the provision now refers expressly to the production of electronically stored information, in addition to the production of documents. This change is an acknowledgment of the form in which information now commonly exists and the type of production that is frequently sought in connection with an examination under Rule 2004.

Second, subdivision (c) is amended to bring its subpoena provision into conformity with the current version of F.R.Civ.P. 45, which Rule 9016 makes applicable in bankruptcy cases. Under Rule 45, a subpoena always issues from the court where the action is pending, even for a deposition in another district, and an attorney admitted to practice in the issuing court may issue and sign it. In light of this procedure, a subpoena for a Rule 2004 examination is now properly issued from the court where the bankruptcy case is pending and by an attorney authorized to practice in that court, even if the examination is to occur in another district.

COMMITTEE NOTES ON RULES—2024 AMENDMENT

The language of Rule 2004 has been amended as part of the general restyling of the Bankruptcy Rules to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only.

Rule 2005. Apprehending and Removing a Debtor for Examination

(a) COMPELLING THE DEBTOR'S ATTENDANCE.

(1) *Order to Apprehend the Debtor*. On a party in interest's motion supported by an affidavit, the court may order a marshal, or other official authorized by law, to bring the debtor before the court without unnecessary delay. The affidavit must allege that:

(A) the examination is necessary to properly administer the estate, and there is reasonable cause to believe that the debtor is about to leave or has left the debtor's residence or principal place of business to avoid the examination;

(B) the debtor has evaded service of a subpoena or an order to attend the examination; or

(C) the debtor has willfully disobeyed a duly served subpoena or order to attend the examination.

(2) *Ordering an Immediate Examination*. If, after hearing, the court finds the allegations to be true, it must:

(A) order the immediate examination of the debtor; and

(B) if necessary, set conditions for further examination and for the debtor's obedience to any

further order regarding it.

(b) REMOVING A DEBTOR TO ANOTHER DISTRICT FOR EXAMINATION.

(1) *In General*. When an order is issued under (a)(1) and the debtor is found in another district, the debtor may be taken into custody and removed as provided in (2) and (3).

(2) *Within 100 Miles*. A debtor who is taken into custody less than 100 miles from where the order was issued must be brought promptly before the court that issued the order.

(3) *At 100 Miles or More*. A debtor who is taken into custody 100 miles or more from where the order was issued must be brought without unnecessary delay for a hearing before the nearest available United States magistrate judge, bankruptcy judge, or district judge. If, after hearing, the judge finds that the person in custody is the debtor and is subject to an order under (a)(1), or if the person waives a hearing, the judge must order removal, and must release the person in custody on conditions ensuring prompt appearance before the court that issued the order compelling attendance.

(4) *Conditions of Release*. The relevant provisions and policies of 18 U.S.C. §3142 govern the court's determination of what conditions will reasonably assure attendance and obedience under this Rule 2005.

(As amended Mar. 30, 1987, eff. Aug. 1, 1987; Apr. 22, 1993, eff. Aug. 1, 1993; Apr. 14, 2021, eff. Dec. 1, 2021; Apr. 2, 2024, eff. Dec. 1, 2024.)

NOTES OF ADVISORY COMMITTEE ON RULES—1983

This rule is derived from former Bankruptcy Rule 206. The rule requires the debtor to be examined as soon as possible if allegations of the movant for compulsory examination under this rule are found to be true after a hearing. Subdivision (b) includes in paragraphs (1) and (2) provisions adapted from subdivisions (a) and (b) of Rule 40 of the Federal Rules of Criminal Procedure, which governs the handling of a person arrested in one district on a warrant issued in another. Subdivision (c) incorporates by reference the features of subdivisions (a) and (b) of [former] 18 U.S.C. §3146, which prescribe standards, procedures and factors to be considered in determining conditions of release of accused persons in noncapital cases prior to trial. The word "debtor" as used in this rule includes the persons named in Rule 9001(5).

The affidavit required to be submitted in support of the motion may be subscribed by the unsworn declaration provided for in 28 U.S.C. §1746.

NOTES OF ADVISORY COMMITTEE ON RULES—1993 AMENDMENT

Subdivision (b)(2) is amended to conform to §321 of the Judicial Improvements Act of 1990, Pub. L. No. 101–650, which changed the title of "United States magistrate" to "United States magistrate judge." Other amendments are stylistic and make no substantive change.

COMMITTEE NOTES ON RULES—2021 AMENDMENT

The rule is amended to replace the reference to 18 U.S.C. §3146(a) and (b) with a reference to 18 U.S.C. §3142. Sections 3141 through 3151 of Title 18 were repealed by the Bail Reform Act of 1984, Pub. L. No. 98–473, Title II, §203(a), 98 Stat. 1976 (1984), and replaced by new provisions dealing with bail. The current version of 18 U.S.C. §3146 deals not with conditions to assure attendance or appearance, but with penalties for failure to appear. The topic of conditions is in 18 U.S.C. §3142. Because 18 U.S.C. §3142 contains provisions bearing on topics not included in former 18 U.S.C. §3146(a) and (b), the rule is also amended to limit the reference to the "relevant" provisions and policies of §3142.

COMMITTEE NOTES ON RULES—2024 AMENDMENT

The language of Rule 2005 has been amended as part of the general restyling of the Bankruptcy Rules to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only.

Rule 2006. Soliciting and Voting Proxies in a Chapter 7 Case

(a) APPLICABILITY. This Rule 2006 applies only in a Chapter 7 case.

(b) DEFINITIONS.

(1) *Proxy*. A "proxy" is a written power of attorney that authorizes an entity to vote the claim or

otherwise act as the holder's attorney-in-fact in connection with the administration of the estate.

(2) *Soliciting a Proxy*. "Soliciting a proxy" means any communication by which a creditor is asked, directly or indirectly, to give a proxy after or in contemplation of a Chapter 7 petition filed by or against the debtor. But such a communication is not considered soliciting a proxy if it comes from an attorney to a claim owner who is a regular client or who has requested the attorney's representation.

(c) WHO MAY SOLICIT A PROXY. A proxy may be solicited only in writing and only by:

(1) a creditor that, on the date the petition was filed, held an allowable unsecured claim against the estate;

(2) a committee elected under §705;

(3) a committee elected by creditors that hold a majority of claims in number and in total amount and that:

(A) have claims that are not contingent or unliquidated;

(B) are not disqualified from voting under §702(a); and

(C) were present or represented at a creditors' meeting where:

(i) all creditors with claims over $500—or the 100 creditors with the largest claims—had at least 7 days' written notice; and

(ii) written minutes are available that report the voting creditors' names and the amounts of their claims; or

(4) a bona fide trade or credit association, which may solicit only creditors who, on the petition date:

(A) were its members or subscribers in good standing; and

(B) held allowable unsecured claims.

(d) WHEN SOLICITING A PROXY IS NOT PERMITTED. This Rule 2006 does not permit soliciting a proxy:

(1) for any interest except that of a general creditor;

(2) by the interim trustee; or

(3) by or on behalf of:

(A) a custodian;

(B) any entity not qualified to vote under §702(a);

(C) an attorney-at-law; or

(D) a transferee holding a claim for collection purposes only.

(e) DUTIES OF HOLDERS OF MULTIPLE PROXIES. Before voting begins at any meeting of creditors under §341(a)—or at any other time the court orders—a holder of 2 or more proxies must file and send to the United States trustee a verified list of the proxies to be voted and a verified statement of the pertinent facts and circumstances regarding each proxy's execution and delivery. The statement must include:

(1) a copy of the solicitation;

(2) an identification of the solicitor, the forwarder (if the forwarder is neither the solicitor nor the claim owner), and the proxyholder—including their connections with the debtor and with each other—together with:

(A) if the solicitor, forwarder, or proxyholder is an association, a statement that the creditors whose claims have been solicited and the creditors whose claims are to be voted were, on the petition date, members or subscribers in good standing with allowable unsecured claims; and

(B) if the solicitor, forwarder, or proxyholder is a committee of creditors, a list stating:

(i) the date and place the committee was organized;

(ii) that the committee was organized under (c)(2) or (c)(3);

(iii) the committee's members;

(iv) the amounts of their claims;

(v) when the claims were acquired;
(vi) the amounts paid for the claims; and
(vii) the extent to which the committee members' claims are secured or entitled to priority;

(3) a statement that the proxyholder has neither paid nor promised any consideration for the proxy;
(4) a statement addressing whether there is any agreement—and, if so, giving its particulars—between the proxyholder and any other entity to:
(A) pay any consideration related to voting the proxy; or
(B) share with any entity (except a member or regular associate of the proxyholder's law firm) compensation that may be allowed to:
(i) the trustee or any entity for services rendered in the case; or
(ii) any person employed by the estate;

(5) if the proxy was solicited by an entity other than the proxyholder—or forwarded to the holder by an entity who is neither a solicitor of the proxy nor the claim owner—a statement signed and verified by the solicitor or forwarder:
(A) confirming that no consideration has been paid or promised for the proxy;
(B) addressing whether there is any agreement—and, if so, giving its particulars—between the solicitor or forwarder and any other entity to pay any consideration related to voting the proxy or to share with any entity (except a member or regular associate of the solicitor's or forwarder's law firm) compensation that may be allowed to:
(i) the trustee or any entity for services rendered in the case; or
(ii) any person employed by the estate; and

(6) if the solicitor, forwarder, or proxyholder is a committee, a statement signed and verified by each member disclosing the amount and source of any consideration paid or to be paid to the member in connection with the case, except a dividend on the member's claim.

(f) ENFORCING RESTRICTIONS ON SOLICITING PROXIES. On a party in interest's motion or on its own, the court may determine whether there has been a failure to comply with this Rule 2006 or any other impropriety related to soliciting or voting a proxy. After notice and a hearing, the court may:
(1) reject a proxy for cause;
(2) vacate an order entered because a proxy was voted that should have been rejected; or
(3) take other appropriate action.

(As amended Mar. 30, 1987, eff. Aug. 1, 1987; Apr. 30, 1991, eff. Aug. 1, 1991; Mar. 26, 2009, eff. Dec. 1, 2009; Apr. 2, 2024, eff. Dec. 1, 2024.)

NOTES OF ADVISORY COMMITTEE ON RULES—1983

This rule is a comprehensive regulation of solicitation and voting of proxies in liquidation cases. It is derived from former Bankruptcy Rule 208. The rule applies only in chapter 7 cases because no voting occurs, other than on a plan, in a chapter 11 case. Former Bankruptcy Rule 208 did not apply to solicitations of acceptances of plans.

Creditor control was a basic feature of the Act and is continued, in part, by the Code. Creditor democracy is perverted and the congressional objective frustrated, however, if control of administration falls into the hands of persons whose principal interest is not in what the estate can be made to yield to the unsecured creditors but in what it can yield to those involved in its administration or in other ulterior objectives.

Subdivision (b). The definition of proxy in the first paragraph of subdivision (b) is derived from former Bankruptcy Rule 208.

Subdivision (c). The purpose of the rule is to protect creditors against loss of control of administration of their debtors' estates to holders of proxies having interests that differ from those of the creditors. The rule does not prohibit solicitation but restricts it to those who were creditors at the commencement of the case or their freely and fairly selected representatives. The special role occupied by credit and trade associations is recognized in the last clause of subdivision (c)(1). On the assumption that members or subscribers may have

affiliated with an association in part for the purpose of obtaining its services as a representative in liquidation proceedings, an established association is authorized to solicit its own members, or its regular customers or clients, who were creditors on the date of the filing of the petition. Although the association may not solicit nonmembers or nonsubscribers for proxies, it may sponsor a meeting of creditors at which a committee entitled to solicit proxies may be selected in accordance with clause (C) of subdivision (c)(1).

Under certain circumstances, the relationship of a creditor, creditors' committee, or association to the estate or the case may be such as to warrant rejection of any proxy solicited by such a person or group. Thus a person who is forbidden by the Code to vote his own claim should be equally disabled to solicit proxies from creditors. Solicitation by or on behalf of the debtor has been uniformly condemned, *e.g.*, *In re White*, 15 F.2d 371 (9th Cir. 1926), as has solicitation on behalf of a preferred creditor, *Matter of Law*, 13 Am.B.R. 650 (S.D. Ill. 1905). The prohibition on solicitation by a receiver or his attorney made explicit by General Order 39 has been collaterally supported by rulings rejecting proxies solicited by a receiver in equity, *In re Western States Bldg.-Loan Ass'n*, 54 F.2d 415 (S.D. Cal. 1931), and by an assignee for the benefit of creditors, *Lines v. Falstaff Brewing Co*., 233 F.2d 927 (9th Cir. 1956).

Subdivision (d) prohibits solicitation by any person or group having a relationship described in the preceding paragraph. It also makes no exception for attorneys or transferees of claims for collection. The rule does not undertake to regulate communications between an attorney and his regular client or between an attorney and a creditor who has asked the attorney to represent him in a proceeding under the Code, but any other communication by an attorney or any other person or group requesting a proxy from the owner of a claim constitutes a regulated solicitation. Solicitation by an attorney of a proxy from a creditor who was not a client prior to the solicitation is objectionable not only as unethical conduct as recognized by such cases as *In the Matter of Darland Company*, 184 F. Supp. 760 (S.D. Iowa 1960) but also and more importantly because the practice carries a substantial risk that administration will fall into the hands of those whose interest is in obtaining fees from the estate rather than securing dividends for creditors. The same risk attaches to solicitation by the holder of a claim for collection only.

Subdivision (e). The regulation of solicitation and voting of proxies is achieved by the rule principally through the imposition of requirements of disclosure on the holders of two or more proxies. The disclosures must be made to the clerk before the meeting at which the proxies are to be voted to afford the clerk or a party in interest an opportunity to examine the circumstances accompanying the acquisition of the proxies in advance of any exercise of the proxies. In the light of the examination the clerk or a party in interest should bring to the attention of the judge any question that arises and the judge may permit the proxies that comply with the rule to be voted and reject those that do not unless the holders can effect or establish compliance in such manner as the court shall prescribe. The holders of single proxies are excused from the disclosure requirements because of the insubstantiality of the risk that such proxies have been solicited, or will be voted, in an interest other than that of general creditors.

Every holder of two or more proxies must include in the submission a verified statement that no consideration has been paid or promised for the proxy, either by the proxyholder or the solicitor or any forwarder of the proxy. Any payment or promise of consideration for a proxy would be conclusive evidence of a purpose to acquire control of the administration of an estate for an ulterior purpose. The holder of multiple proxies must also include in the submission a verified statement as to whether there is any agreement by the holder, the solicitor, or any forwarder of the proxy for the employment of any person in the administration of an estate or for the sharing of any compensation allowed in connection with the administration of the estate. The provisions requiring these statements implement the policy of the Code expressed in §504 as well as the policy of this rule to deter the acquisition of proxies for the purpose of obtaining a share in the outlays for administration. Finally the facts as to any consideration moving or promised to any member of a committee which functions as a solicitor, forwarder, or proxyholder must be disclosed by the proxyholder. Such information would be of significance to the court in evaluating the purpose of the committee in obtaining, transmitting, or voting proxies.

Subdivision (f) has counterparts in the local rules referred to in the Advisory Committee's Note to former Bankruptcy Rule 208. Courts have been accorded a wide range of discretion in the handling of disputes involving proxies. Thus the referee was allowed to reject proxies and to proceed forthwith to hold a scheduled election at the same meeting. *E.g.*, *In re Portage Wholesale Co*., 183 F.2d 959 (7th Cir. 1950); *In re McGill*, 106 Fed. 57 (6th Cir. 1901); *In re Deena Woolen Mills, Inc*., 114 F. Supp. 260, 273 (D. Me. 1953); *In re Finlay*, 3 Am.B.R. 738 (S.D.N.Y. 1900). The bankruptcy judge may postpone an election to permit a determination of issues presented by a dispute as to proxies and to afford those creditors whose proxies are rejected an opportunity to give new proxies or to attend an adjourned meeting to vote their own claims. *Cf. In*

the Matter of Lenrick Sales, Inc., 369 F.2d 439, 442–43 (3d Cir.), cert. denied, 389 U.S. 822 (1967); *In the Matter of Construction Supply Corp*. 221 F. Supp. 124, 128 (E.D. Va. 1963). This rule is not intended to restrict the scope of the court's discretion in the handling of disputes as to proxies.

NOTES OF ADVISORY COMMITTEE ON RULES—1991 AMENDMENT

This rule is amended to give the United States trustee information in connection with proxies so that the United States trustee may perform responsibilities as presiding officer at the §341 meeting of creditors. See Rule 2003.

The words "with the clerk" are deleted as unnecessary. See Rules 5005(a) and 9001(3).

COMMITTEE NOTES ON RULES—2009 AMENDMENT

The rule is amended to implement changes in connection with the amendment to Rule 9006(a) and the manner by which time is computed under the rules. The deadline in the rule is amended to substitute a deadline that is a multiple of seven days. Throughout the rules, deadlines are amended in the following manner:

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

COMMITTEE NOTES ON RULES—2024 AMENDMENT

The language of Rule 2006 has been amended as part of the general restyling of the Bankruptcy Rules to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only.

Rule 2007. Reviewing the Appointment of a Creditors' Committee Organized Before a Chapter 9 or 11 Case Is Commenced

(a) MOTION TO REVIEW THE APPOINTMENT. If, in a Chapter 9 or 11 case, a committee appointed by the United States trustee under §1102(a) consists of the members of a committee organized by creditors before the case commenced, the court may determine whether the committee's appointment satisfies the requirements of §1102(b)(1). The court may do so on a party in interest's motion and after a hearing on notice to the United States trustee and other entities as the court orders.

(b) DETERMINING WHETHER THE COMMITTEE WAS FAIRLY CHOSEN. The court may find that the committee was fairly chosen if:

(1) it was selected by a majority in number and amount of claims of unsecured creditors who are entitled to vote under §702(a) and who were present or represented at a meeting where:

(A) all creditors with unsecured claims of over $1,000—or the 100 unsecured creditors with the largest claims—had at least 7 days' written notice; and

(B) written minutes reporting the voting creditors' names and the amounts of their claims are available for inspection;

(2) all proxies voted at the meeting were solicited under Rule 2006;

(3) the lists and statements required by Rule 2006(e) have been sent to the United States trustee; and

(4) the committee's organization was in all other respects fair and proper.

(c) FAILURE TO COMPLY WITH APPOINTMENT REQUIREMENTS. If, after a hearing on notice under (a), the court finds that a committee appointment fails to satisfy the requirements of §1102(b)(1), it:

(1) must order the United States trustee to vacate the appointment; and

(2) may order other appropriate action.

(As amended Mar. 30, 1987, eff. Aug. 1, 1987; Apr. 30, 1991, eff. Aug. 1, 1991; Mar. 26, 2009, eff. Dec. 1, 2009; Apr. 2, 2024, eff. Dec. 1, 2024.)

NOTES OF ADVISORY COMMITTEE ON RULES—1983

Section 1102(b)(1) of the Code permits the court to appoint as the unsecured creditors' committee, the committee that was selected by creditors before the order for relief. This provision recognizes the propriety of continuing a "prepetition" committee in an official capacity. Such a committee, however, must be found to have been fairly chosen and representative of the different kinds of claims to be represented.

Subdivision (a) does not necessarily require a hearing but does require a party in interest to bring to the court's attention the fact that a prepetition committee had been organized and should be appointed. An application would suffice for this purpose. Party in interest would include the committee, any member of the committee, or any of its agents acting for the committee. Whether or not notice of the application should be given to any other party is left to the discretion of the court.

Subdivision (b) implements §1102(b)(1). The Code provision allows the court to appoint, as the official §1102(a) committee, a "prepetition" committee if its members were fairly chosen and the committee is representative of the different kinds of claims. This subdivision of the rule indicates some of the factors the court may consider in determining whether the requirements of §1102(b)(1) have been satisfied. In effect, the subdivision provides various factors which are similar to those set forth in Rule 2006 with respect to the solicitation and voting of proxies in a chapter 7 liquidation case.

NOTES OF ADVISORY COMMITTEE ON RULES—1987 AMENDMENT

The rule is amended to conform to the 1984 amendments to §1102(b)(1) of the Code.

NOTES OF ADVISORY COMMITTEE ON RULES—1991 AMENDMENT

This rule is amended to conform to the 1986 amendments to §1102(a). The United States trustee appoints committees pursuant to §1102 in chapter 11 cases. Section 1102 is applicable in chapter 9 cases pursuant to §901(a).

Although §1102(b)(1) of the Code permits the United States trustee to appoint a prepetition committee as the statutory committee if its members were fairly chosen and it is representative of the different kinds of claims to be represented, the amendment to this rule provides a procedure for judicial review of the appointment. The factors that may be considered by the court in determining whether the committee was fairly chosen are not new. A finding that a prepetition committee has not been fairly chosen does not prohibit the appointment of some or all of its members to the creditors' committee. Although this rule deals only with judicial review of the appointment of prepetition committees, it does not preclude judicial review under Rule 2020 regarding the appointment of other committees.

COMMITTEE NOTES ON RULES—2009 AMENDMENT

The rule is amended to implement changes in connection with the amendment to Rule 9006(a) and the manner by which time is computed under the rules. The deadline in the rule is amended to substitute a deadline that is a multiple of seven days. Throughout the rules, deadlines are amended in the following manner:

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

COMMITTEE NOTES ON RULES—2024 AMENDMENT

The language of Rule 2007 has been amended as part of the general restyling of the Bankruptcy Rules to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only.

Rule 2007.1. Appointing a Trustee or Examiner in a Chapter 11 Case

(a) IN GENERAL. In a Chapter 11 case, a motion to appoint a trustee or examiner under §1104(a) or (c) must be made in accordance with Rule 9014.

(b) REQUESTING THE UNITED STATES TRUSTEE TO CONVENE A MEETING OF CREDITORS TO ELECT A TRUSTEE.

(1) *In General*. A request to the United States trustee to convene a meeting of creditors to elect a trustee must be filed and sent to the United States trustee in accordance with Rule 5005 and

within the time prescribed by §1104(b). Pending court approval of the person elected, any person appointed by the United States trustee under §1104(d) and approved under (c) below must serve as trustee.

(2) *Notice and Manner of Conducting the Election*. A trustee's election under §1104(b) must be conducted as Rules 2003(b)(3) and 2006 provide, and notice of the meeting of creditors must be given as Rule 2002 provides. The United States trustee must preside at the meeting. A proxy to vote in the election may be solicited only by a creditors' committee appointed under §1102 or by another party entitled to solicit a proxy under Rule 2006.

(3) *Reporting Election Results; Resolving Disputes.*

(A) *Undisputed Election*. If the election is undisputed, the United States trustee must promptly file a report certifying the election, including the name and address of the person elected and a statement that the election is undisputed. The report must be accompanied by a verified statement of the person elected setting forth that person's connections with:

- the debtor;
- creditors;
- any other party in interest;
- their respective attorneys and accountants;
- the United States trustee; or
- any person employed in the United States trustee's office.

(B) *Disputed Election*. If the election is disputed, the United States trustee must promptly file a report stating that the election is disputed, informing the court of the nature of the dispute and listing the name and address of any candidate elected under any alternative presented by the dispute. The report must be accompanied by a verified statement by each candidate, setting forth the candidate's connections with any entity listed in (A)(i)–(vi).[1] No later than the date on which the report is filed, the United States trustee must mail a copy and each verified statement to:

(i) any party in interest that has made a request to convene a meeting under §1104(b) or to receive a copy of the report; and

(ii) any committee appointed under §1102.

(c) APPROVING AN APPOINTMENT. On application of the United States trustee, the court may approve a trustee's or examiner's appointment under §1104(d). The application must:

(1) name the person appointed and state, to the best of the applicant's knowledge, all that person's connections with any entity listed in (b)(3)(A)(i)–(vi); [1]

(2) state the names of the parties in interest with whom the United States trustee consulted about the appointment; and

(3) be accompanied by a verified statement of the person appointed setting forth that person's connections with any entity listed in (b)(3)(A)(i)–(vi).[1]

(Added Apr. 30, 1991, eff. Aug. 1, 1991; amended Apr. 11, 1997, eff. Dec. 1, 1997; Apr. 23, 2008, eff. Dec. 1, 2008; Apr. 2, 2024, eff. Dec. 1, 2024.)

NOTES OF ADVISORY COMMITTEE ON RULES—1991

This rule is added to implement the 1986 amendments to §1104 of the Code regarding the appointment of a trustee or examiner in a chapter 11 case. A motion for an order to appoint a trustee or examiner is a contested matter. Although the court decides whether the appointment is warranted under the particular facts of the case, it is the United States trustee who makes the appointment pursuant to §1104(c) [now 1104(d)] of the Code. The appointment is subject to approval of the court, however, which may be obtained by application of the United States trustee. Section 1104(c) [now 1104(d)] of the Code requires that the appointment be made after consultation with parties in interest and that the person appointed be disinterested.

The requirement that connections with the United States trustee or persons employed in the United States trustee's office be revealed is not intended to enlarge the definition of "disinterested person" in §101(13) [now 101(14)] of the Code, to supersede executive regulations or other laws relating to appointments by United States trustees, or to otherwise restrict the United States trustee's discretion in making appointments. This

information is required, however, in the interest of full disclosure and confidence in the appointment process and to give the court all information that may be relevant to the exercise of judicial discretion in approving the appointment of a trustee or examiner in a chapter 11 case.

NOTES OF ADVISORY COMMITTEE ON RULES—1997 AMENDMENT

This rule is amended to implement the 1994 amendments to §1104 of the Code regarding the election of a trustee in a chapter 11 case.

Eligibility for voting in an election for a chapter 11 trustee is determined in accordance with Rule 2003(b)(3). Creditors whose claims are deemed filed under §1111(a) are treated for voting purposes as creditors who have filed proofs of claim.

Proxies for the purpose of voting in the election may be solicited only by a creditors' committee appointed under §1102 or by any other party entitled to solicit proxies pursuant to Rule 2006. Therefore, a trustee or examiner who has served in the case, or a committee of equity security holders appointed under §1102, may not solicit proxies.

The procedures for reporting disputes to the court derive from similar provisions in Rule 2003(d) applicable to chapter 7 cases. An election may be disputed by a party in interest or by the United States trustee. For example, if the United States trustee believes that the person elected is ineligible to serve as trustee because the person is not "disinterested," the United States trustee should file a report disputing the election.

The word "only" is deleted from subdivision (b), redesignated as subdivision (c), to avoid any negative inference with respect to the availability of procedures for obtaining review of the United States trustee's acts or failure to act pursuant to Rule 2020.

GAP Report on Rule 2017.1. The published draft of proposed new subdivision (b)(3) of Rule 2017.1 [2007.1], and the Committee Note, was substantially revised to implement Mr. Patchan's recommendations (described above), to clarify how a disputed election will be reported, and to make stylistic improvements.

COMMITTEE NOTES ON RULES—2008 AMENDMENT

Under §1104(b)(2) of the Code, as amended in 2005, if an eligible, disinterested person is elected to serve as trustee in a chapter 11 case, the United States trustee is directed to file a report certifying the election. The person elected does not have to be appointed to the position. Rather, the filing of the report certifying the election itself constitutes the appointment. The section further provides that in the event of a dispute in the election of a trustee, the court must resolve the matter. The rule is amended to be consistent with §1104(b)(2).

When the United States trustee files a report certifying the election of a trustee, the person elected must provide a verified statement, similar to the statement required of professional persons under Rule 2014, disclosing connections with parties in interest and certain other persons connected with the case. Although court approval of the person elected is not required, the disclosure of the person's connections will enable parties in interest to determine whether the person is disinterested.

Changes Made After Publication. No changes were made after publication.

COMMITTEE NOTES ON RULES—2024 AMENDMENT

The language of Rule 2007.1 has been amended as part of the general restyling of the Bankruptcy Rules to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only.

[1] *So in House Document 118–124. Subd. (b)(3)(A) does not contain numbered clauses.*

Rule 2007.2. Appointing a Patient-Care Ombudsman in a Health Care Business Case

(a) IN GENERAL. In a Chapter 7, 9, or 11 case in which the debtor is a health care business, the court must order the appointment of a patient-care ombudsman under §333—unless the court, on motion of the United States trustee or a party in interest, finds that appointing one is not necessary to protect patients. The motion must be filed within 21 days after the case was commenced or at another time set by the court.

(b) DEFERRING THE APPOINTMENT. If the court has found that appointing an ombudsman is unnecessary, or has terminated the appointment, the court may, on motion of the United States trustee or a party in interest, order an appointment later if it finds that an appointment has become

necessary to protect patients.

(c) GIVING NOTICE. When a patient-care ombudsman is appointed under §333, the United States trustee must promptly file a notice of the appointment, including the name and address of the person appointed. Unless that person is a State Long-Term-Care Ombudsman, the notice must be accompanied by a verified statement of the person appointed setting forth that person's connections with:

(1) the debtor;
(2) creditors;
(3) patients;
(4) any other party in interest;
(5) the attorneys and accountants of those in (1)–(4);
(6) the United States trustee; or
(7) any person employed in the United States trustee's office.

(d) TERMINATING AN APPOINTMENT. On motion of the United States trustee or a party in interest, the court may terminate a patient-care ombudsman's appointment that it finds to be unnecessary to protect patients.

(e) PROCEDURE. Rule 9014 governs any motion under this Rule 2007.2. The motion must be sent to the United States trustee and served on:

- the debtor;
- the trustee;
- any committee elected under §705 or appointed under §1102, or its authorized agent; and
- any other entity as the court orders.

In a Chapter 9 or 11 case, if no committee of unsecured creditors has been appointed under §1102, the motion must also be served on the creditors included on the list filed under Rule 1007(d).

(Added Apr. 23, 2008, eff. Dec. 1, 2008; amended Mar. 26, 2009, eff. Dec. 1, 2009; Apr. 2, 2024, eff. Dec. 1, 2024.)

COMMITTEE NOTES ON RULES—2008

Section 333 of the Code, added by the 2005 amendments, requires the court to order the appointment of a health care ombudsman within the first 30 days of a health care business case, unless the court finds that the appointment is not necessary for the protection of patients. The rule recognizes this requirement and provides a procedure by which a party may obtain a court order finding that the appointment of a patient care ombudsman is unnecessary. In the absence of a timely motion under subdivision (a) of this rule, the court will enter an order directing the United States trustee to appoint the ombudsman.

Subdivision (b) recognizes that, despite a previous order finding that a patient care ombudsman is not necessary, circumstances of the case may change or newly discovered evidence may demonstrate the necessity of an ombudsman to protect the interests of patients. In that event, a party may move the court for an order directing the appointment of an ombudsman.

When the appointment of a patient care ombudsman is ordered, the United States trustee is required to appoint a disinterested person to serve in that capacity. Court approval of the appointment is not required, but subdivision (c) requires the person appointed, if not a State Long-Term Care Ombudsman, to file a verified statement similar to the statement filed by professional persons under Rule 2014 so that parties in interest will have information relevant to disinterestedness. If a party believes that the person appointed is not disinterested, it may file a motion asking the court to find that the person is not eligible to serve.

Subdivision (d) permits parties in interest to move for the termination of the appointment of a patient care ombudsman. If the movant can show that there no longer is any need for the ombudsman, the court may order the termination of the appointment.

Changes Made After Publication. No changes were made after publication.

COMMITTEE NOTES ON RULES—2009 AMENDMENT

The rule is amended to implement changes in connection with the amendment to Rule 9006(a) and the manner by which time is computed under the rules. The deadline in the rule is amended to substitute a deadline that is a multiple of seven days. Throughout the rules, deadlines are amended in the following manner:

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

COMMITTEE NOTES ON RULES—2024 AMENDMENT

The language of Rule 2007.2 has been amended as part of the general restyling of the Bankruptcy Rules to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only.

Rule 2008. Notice to the Person Selected as Trustee

(a) GIVING NOTICE. The United States trustee must immediately notify the person selected as trustee how to qualify and, if applicable, the amount of the trustee's bond.

(b) ACCEPTING THE POSITION OF TRUSTEE.

(1) *Trustee Who Has Filed a Blanket Bond*. A trustee selected in a Chapter 7, 12, or 13 case who has filed a blanket bond under Rule 2010 may reject the office by notifying the court and the United States trustee in writing within 7 days after receiving notice of selection. Otherwise, the trustee will be considered to have accepted the office.

(2) *Other Trustees*. Any other person selected as trustee may accept the office by notifying the court and the United States trustee in writing within 7 days after receiving notice of selection. Otherwise, the person will be considered to have rejected the office.

(As amended Mar. 30, 1987, eff. Aug. 1, 1987; Apr. 30, 1991, eff. Aug. 1, 1991; Mar. 26, 2009, eff. Dec. 1, 2009; Apr. 2, 2024, eff. Dec. 1, 2024.)

NOTES OF ADVISORY COMMITTEE ON RULES—1983

This rule is adapted from former Bankruptcy Rule 209(c). The remainder of that rule is inapplicable because its provisions are covered by §§701–703, 321 of the Code.

If the person selected as trustee accepts the office, he must qualify within five days after his selection, as required by §322(a) of the Code.

In districts having a standing trustee for chapter 13 cases, a blanket acceptance of the appointment would be sufficient for compliance by the standing trustee with this rule.

NOTES OF ADVISORY COMMITTEE ON RULES—1987 AMENDMENT

The rule is amended to eliminate the need for a standing chapter 13 trustee or member of the panel of chapter 7 trustees to accept or reject an appointment.

NOTES OF ADVISORY COMMITTEE ON RULES—1991 AMENDMENT

The amendments to this rule relating to the United States trustee are derived from Rule X–1004(a) and conform to the 1986 amendments to the Code and 28 U.S.C. §586 which provide that the United States trustee appoints and supervises trustees, and in a chapter 7 case presides over any election of a trustee. This rule applies when a trustee is either appointed or elected. This rule is also amended to provide for chapter 12 cases.

COMMITTEE NOTES ON RULES—2009 AMENDMENT

The rule is amended to implement changes in connection with the amendment to Rule 9006(a) and the manner by which time is computed under the rules. The deadline in the rule is amended to substitute a deadline that is a multiple of seven days. Throughout the rules, deadlines are amended in the following manner:

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

COMMITTEE NOTES ON RULES—2024 AMENDMENT

The language of Rule 2008 has been amended as part of the general restyling of the Bankruptcy Rules to

make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only.

Rule 2009. Trustees for Jointly Administered Estates

(a) CREDITORS' RIGHT TO ELECT A SINGLE TRUSTEE. Except in a case under Subchapter V of Chapter 7 or Subchapter V of Chapter 11, if the court orders that 2 or more estates be jointly administered under Rule 1015(b), the creditors may elect a single trustee for those estates.

(b) CREDITORS' RIGHT TO ELECT A SEPARATE TRUSTEE. Except in a case under Subchapter V of Chapter 7 or Subchapter V of Chapter 11, any debtor's creditors may elect a separate trustee for the debtor's estate under §702—even if the court orders joint administration under Rule 1015(b).

(c) UNITED STATES TRUSTEE'S RIGHT TO APPOINT INTERIM TRUSTEES IN CASES WITH JOINTLY ADMINISTERED ESTATES.

(1) *Chapter 7*. Except in a case under Subchapter V of Chapter 7, the United States trustee may appoint one or more interim trustees for estates being jointly administered in Chapter 7.

(2) *Chapter 11*. If the court orders or the Code requires the appointment of a trustee, the United States trustee may appoint one or more trustees for estates being jointly administered in Chapter 11.

(3) *Chapter 12 or 13*. The United States trustee may appoint one or more trustees for estates being jointly administered in Chapter 12 or 13.

(d) CONFLICTS OF INTEREST. On a showing that a common trustee's conflicts of interest will prejudice creditors or equity security holders of jointly administered estates, the court must order the selection of separate trustees for the estates.

(e) KEEPING SEPARATE ACCOUNTS. A trustee of jointly administered estates must keep separate accounts of each estate's property and distribution.

(As amended Mar. 30, 1987, eff. Aug. 1, 1987; Apr. 30, 1991, eff. Aug. 1, 1991; Mar. 27, 2003, eff. Dec. 1, 2003; Apr. 11, 2022, eff. Dec. 1, 2022; Apr. 2, 2024, eff. Dec. 1, 2024.)

NOTES OF ADVISORY COMMITTEE ON RULES—1983

This rule is applicable in chapter 7 cases and, in part, in chapter 11 and 13 cases. The provisions in subdivisions (a) and (b) concerning creditor election of a trustee apply only in a chapter 7 case because it is only pursuant to §702 of the Code that creditors may elect a trustee. Subdivision (c) of the rule applies in chapter 11 and 13 as well as chapter 7 cases; pursuant to §1104 of the Code, the court may order the appointment of a trustee on application of a party in interest and, pursuant to §1163 of the Code, the court must appoint a trustee in a railroad reorganization case. Subdivision (c) should not be taken as an indication that more than one trustee may be appointed for a single debtor. Section 1104(c) [now 1104(d)] permits only one trustee for each estate. In a chapter 13 case, if there is no standing trustee, the court is to appoint a person to serve as trustee pursuant to §1302 of the Code. There is no provision for a trustee in a chapter 9 case, except for a very limited purpose; see §926 of the Code.

This rule recognizes that economical and expeditious administration of two or more estates may be facilitated not only by the selection of a single trustee for a partnership and its partners, but by such selection whenever estates are being jointly administered pursuant to Rule 1015. See *In the Matter of International Oil Co.*, 427 F.2d 186, 187 (2d Cir. 1970). The rule is derived from former §5c of the Act and former Bankruptcy Rule 210. The premise of §5c of the Act was that notwithstanding the potentiality of conflict between the interests of the creditors of the partners and those of the creditors of the partnership, the conflict is not sufficiently serious or frequent in most cases to warrant the selection of separate trustees for the firm and the several partners. Even before the proviso was added to §5c of the Act in 1938 to permit the creditors of a general partner to elect their separate trustee for his estate, it was held that the court had discretion to permit such an election or to make a separate appointment when a conflict of interest was recognized. *In re Wood*, 248 Fed. 246, 249–50 (6th Cir.), cert. denied, 247 U.S. 512 (1918); 4 Collier, *Bankruptcy* 723.04 (15th ed. 1980). The rule retains in subdivision (e) the features of the practice respecting the selection of a trustee that was developed under §5 of the Act. Subdivisions (a) and (c) permit the court to authorize election of a single trustee or to make a single appointment when joint administration of estates of other kinds of debtors is

ordered, but subdivision (d) requires the court to make a preliminary evaluation of the risks of conflict of interest. If after the election or appointment of a common trustee a conflict of interest materializes, the court must take appropriate action to deal with it.

Subdivision (f) is derived from §5e of the Act and former Bankruptcy Rule 210(f) and requires that the common trustee keep a separate account for each estate in all cases that are jointly administered.

NOTES OF ADVISORY COMMITTEE ON RULES—1991 AMENDMENT

One or more trustees may be appointed for estates being jointly administered in chapter 12 cases.

The amendments to this rule are derived from Rule X–1005 and are necessary because the United States trustee, rather than the court, has responsibility for appointing trustees pursuant to §§701, 1104, 1202, and 1302 of the Code.

If separate trustees are ordered for chapter 7 estates pursuant to subdivision (d), separate and successor trustees should be chosen as prescribed in §703 of the Code. If the occasion for another election arises, the United States trustee should call a meeting of creditors for this purpose. An order to select separate trustees does not disqualify an appointed or elected trustee from serving for one of the estates.

Subdivision (e) is abrogated because the exercise of discretion by the United States trustee, who is in the Executive Branch, is not subject to advance restriction by rule of court. United States v. Cox, 342 F.2d 167 (5th Cir. 1965), *cert. denied*, 365 U.S. 863 (1965); United States v. Frumento, 409 F.Supp. 136, 141 (E.D.Pa.), *aff'd*, 563 F.2d 1083 (3d Cir. 1977), *cert. denied*, 434 U.S. 1072 (1977); see, Smith v. United States, 375 F.2d 243 (5th Cir. 1967); House Report No. 95–595, 95th Cong., 1st Sess. 110 (1977). However, a trustee appointed by the United States trustee may be removed by the court for cause. See §324 of the Code. Subdivision (d) of this rule, as amended, is consistent with §324. Subdivision (f) is redesignated as subdivision (e).

COMMITTEE NOTES ON RULES—2003 AMENDMENT

The rule is amended to reflect the enactment of subchapter V of chapter 7 of the Code governing multilateral clearing organization liquidations. Section 782 of the Code provides that the designation of a trustee or alternative trustee for the case is made by the Federal Reserve Board. Therefore, neither the United States trustee nor the creditors can appoint or elect a trustee in these cases.

Other amendments are stylistic.

Changes Made After Publication and Comments. No changes since publication.

COMMITTEE NOTES ON RULES—2022 AMENDMENT

The rule is amended in response to the enactment of the Small Business Reorganization Act of 2019, Pub. L. No. 116–54, 133 Stat. 1079. That law gives a small business debtor the option of electing to be a debtor under subchapter V of chapter 11. In a case under that subchapter, §1183 of the Code requires the United States trustee to appoint a trustee, so there will be no election. Accordingly, subdivisions (a) and (b) of the rule are amended to except cases under subchapter V from their coverage. Subdivision (c)(2), which addresses the appointment of trustees in jointly administered chapter 11 cases, is amended to make it applicable to cases under subchapter V.

COMMITTEE NOTES ON RULES—2024 AMENDMENT

The language of Rule 2009 has been amended as part of the general restyling of the Bankruptcy Rules to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only.

Rule 2010. Blanket Bond; Proceedings on the Bond

(a) AUTHORIZING A BLANKET BOND. The United States trustee may authorize a blanket bond in the United States' favor—conditioned on the faithful performance of a trustee's official duties—to cover:

(1) a person who qualifies as trustee in multiple cases; or

(2) multiple trustees who qualify in a different case.

(b) PROCEEDINGS ON THE BOND. A party in interest may bring a proceeding in the United States' name on a trustee's bond for the use of the entity injured by the trustee's breach of the condition.

(As amended Mar. 30, 1987, eff. Aug. 1, 1987; Apr. 30, 1991, eff. Aug. 1, 1991; Apr. 2, 2024, eff. Dec. 1, 2024.)

NOTES OF ADVISORY COMMITTEE ON RULES—1983

Subdivisions (a) and (b). Subdivision (a) gives authority for approval by the court of a single bond to cover (1) a person who qualifies as trustee in a number of cases, and (2) a number of trustees each of whom qualifies in a different case. The cases need not be related in any way. Substantial economies can be effected if a single bond covering a number of different cases can be issued and approved at one time. When a blanket bond is filed, the trustee qualifies under subdivision (b) of the rule by filing an acceptance of the office.

Subdivision (c) prescribes the evidentiary effect of a certified copy of an order approving the trustee's bond given by a trustee under this rule or, when a blanket bond has been authorized, of a certified copy of acceptance. This rule supplements the Federal Rules of Evidence, which apply in bankruptcy cases. See Rule 1101 of the Federal Rules of Evidence. The order of approval should conform to Official Form No. 25. See, however, §549(c) of the Code which provides only for the filing of the petition in the real estate records to serve as constructive notice of the pendency of the case. See also Rule 2011 which prescribes the evidentiary effect of a certificate that the debtor is a debtor in possession.

Subdivision (d) is derived from former Bankruptcy Rule 212(f). Reference should be made to §322(a) and (d) of the Code which requires the bond to be filed with the bankruptcy court and places a two year limitation for the commencement of a proceeding on the bond. A bond filed under this rule should conform to Official Form No. 25. A proceeding on the bond of a trustee is governed by the rules in Part VII. See the Note accompanying Rule 7001. See also Rule 9025.

NOTES OF ADVISORY COMMITTEE ON RULES—1987 AMENDMENT

Subdivision (b) is deleted because of the amendment to Rule 2008.

NOTES OF ADVISORY COMMITTEE ON RULES—1991 AMENDMENT

This rule is amended to conform to the 1986 amendment of §322 of the Code. The United States trustee determines the amount and sufficiency of the trustee's bond. The amendment to subdivision (a) is derived from Rule X–1004(b).

Subdivision (b) is abrogated because an order approving a bond is no longer necessary in view of the 1986 amendments to §322 of the Code. Subdivision (c) is redesignated as subdivision (b).

COMMITTEE NOTES ON RULES—2024 AMENDMENT

The language of Rule 2010 has been amended as part of the general restyling of the Bankruptcy Rules to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only.

Rule 2011. Evidence That a Debtor Is a Debtor in Possession or That a Trustee Has Qualified

(a) THE CLERK'S CERTIFICATION. Whenever evidence is required to prove that a debtor is a debtor in possession or that a trustee has qualified, the clerk may so certify. The certification constitutes conclusive evidence of that fact.

(b) TRUSTEE'S FAILURE TO QUALIFY. If a person elected or appointed as trustee does not qualify within the time prescribed by §322(a), the clerk must so notify the court and the United States trustee.

(As amended Apr. 30, 1991, eff. Aug. 1, 1991; Apr. 2, 2024, eff. Dec. 1, 2024.)

NOTES OF ADVISORY COMMITTEE ON RULES—1983

This rule prescribes the evidentiary effect of a certificate issued by the clerk that the debtor is a debtor in possession. See Official Form No. 26. Only chapter 11 of the Code provides for a debtor in possession. See §1107(a) of the Code. If, however, a trustee is appointed in the chapter 11 case, there will not be a debtor in possession. See §§1101(1), 1105 of the Code.

NOTES OF ADVISORY COMMITTEE ON RULES—1991 AMENDMENT

This rule is amended to provide a procedure for proving that a trustee has qualified in accordance with §322 of the Code. *Subdivision (b)* is added so that the court and the United States trustee will be informed if the

person selected as trustee pursuant to §§701, 702, 1104, 1202, 1302, or 1163 fails to qualify within the time prescribed in §322(a).

COMMITTEE NOTES ON RULES—2024 AMENDMENT

The language of Rule 2011 has been amended as part of the general restyling of the Bankruptcy Rules to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only.

Rule 2012. Substituting a Trustee in a Chapter 11 or 12 Case; Successor Trustee in a Pending Proceeding

(a) SUBSTITUTING A TRUSTEE. The trustee is automatically substituted for the debtor in possession as a party in any pending action, proceeding, or matter if:

(1) the trustee is appointed in a Chapter 11 case (other than under Subchapter V); or

(2) the debtor is removed as debtor in possession in a Chapter 12 case or in a case under Subchapter V of Chapter 11.

(b) SUCCESSOR TRUSTEE. If a trustee dies, resigns, is removed, or otherwise ceases to hold office while a bankruptcy case is pending, the successor trustee is automatically substituted as a party in any pending action, proceeding, or matter. The successor trustee must prepare, file, and send to the United States trustee an accounting of the estate's prior administration.

(As amended Mar. 30, 1987, eff. Aug. 1, 1987; Apr. 30, 1991, eff. Aug. 1, 1991; Apr. 11, 2022, eff. Dec. 1, 2022; Apr. 2, 2024, eff. Dec. 1, 2024.)

NOTES OF ADVISORY COMMITTEE ON RULES—1983

Paragraph (1) of this rule implements §325 of the Code. It provides that a pending action or proceeding continues without abatement and that the trustee's successor is automatically substituted as a party whether it be another trustee or the debtor returned to possession, as such party.

Paragraph (2) places it within the responsibility of a successor trustee to file an accounting of the prior administration of the estate. If an accounting is impossible to obtain from the prior trustee because of death or lack of cooperation, prior reports submitted in the earlier administration may be updated.

NOTES OF ADVISORY COMMITTEE ON RULES—1987 AMENDMENT

Subdivision (a) is new. The subdivision provides for the substitution of a trustee appointed in a chapter 11 case for the debtor in possession in any pending litigation.

The original provisions of the rule are now in subdivision (b).

NOTES OF ADVISORY COMMITTEE ON RULES—1991 AMENDMENT

Subdivision (a) is amended to include any chapter 12 case in which the debtor is removed as debtor in possession pursuant to §1204(a) of the Code.

Subdivision (b) is amended to require that the accounting of the prior administration which must be filed with the court is also transmitted to the United States trustee who is responsible for supervising the administration of cases and trustees. See 28 U.S.C. §586(a)(3). Because a court order is not required for the appointment of a successor trustee, requiring the court to fix a time for filing the accounting is inefficient and unnecessary. The United States trustee has supervisory powers over trustees and may require the successor trustee to file the accounting within a certain time period. If the successor trustee fails to file the accounting within a reasonable time, the United States trustee or a party in interest may take appropriate steps including a request for an appropriate court order. See 28 U.S.C. §586(a)(3)(G). The words "with the court" are deleted in subdivision (b)(2) as unnecessary. See Rules 5005(a) and 9001(3).

COMMITTEE NOTES ON RULES—2022 AMENDMENT

The rule is amended in response to the enactment of the Small Business Reorganization Act of 2019, Pub. L. No. 116–54, 133 Stat. 1079. That law gives a small business debtor the option of electing to be a debtor under subchapter V of chapter 11. Subdivision (a) of the rule is amended to include any case under that subchapter in which the debtor is removed as debtor in possession under §1185 of the Code.

COMMITTEE NOTES ON RULES—2024 AMENDMENT

The language of Rule 2012 has been amended as part of the general restyling of the Bankruptcy Rules to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only.

Rule 2013. Keeping a Public Record of Compensation Awarded by the Court to Examiners, Trustees, and Professionals

(a) IN GENERAL.

(1) *Required Items*. The clerk must keep a public record of fees the court awards to examiners and trustees, and to attorneys, accountants, appraisers, auctioneers, and other professionals that trustees employ. The record must:

(A) include the case name and number, the name of the individual or firm receiving the fee, and the amount awarded;

(B) be maintained chronologically; and

(C) be kept current and open for public examination without charge.

(2) *Meaning of "Trustee."* As used in this rule, "trustee" does not include a debtor in possession.

(b) ANNUAL SUMMARY OF THE RECORD. At the end of each year, the clerk must prepare a summary of the public record, by individual or firm name, showing the total fees awarded during the year. The summary must be open for public examination without charge. The clerk must send a copy of the summary to the United States trustee.

(As amended Mar. 30, 1987, eff. Aug. 1, 1987; Apr. 30, 1991, eff. Aug. 1, 1991; Apr. 2, 2024, eff. Dec. 1, 2024.)

NOTES OF ADVISORY COMMITTEE ON RULES—1983

This rule is adapted from former Rule 213. The first sentence of that rule is omitted because of the provisions in 28 U.S.C. §§586 and [former] 604(f) creating panels of private trustees.

The rule is not applicable to standing trustees serving in chapter 13 cases. See §1302 of the Code.

A basic purpose of the rule is to prevent what Congress has defined as "cronyism." Appointment or employment, whether in a chapter 7 or 11 case, should not center among a small select group of individuals unless the circumstances are such that it would be warranted. The public record of appointments to be kept by the clerk will provide a means for monitoring the appointment process.

Subdivision (b) provides a convenient source for public review of fees paid from debtors' estates in the bankruptcy courts. Thus, public recognition of appointments, fairly distributed and based on professional qualifications and expertise, will be promoted and notions of improper favor dispelled. This rule is in keeping with the findings of the Congressional subcommittees as set forth in the House Report of the Committee on the Judiciary, No. 95–595, 95th Cong., 1st Sess. 89–99 (1977). These findings included the observations that there were frequent appointments of the same person, contacts developed between the bankruptcy bar and the courts, and an unusually close relationship between the bar and the judges developed over the years. A major purpose of the new statute is to dilute these practices and instill greater public confidence in the system. Rule 2013 implements that laudatory purpose.

NOTES OF ADVISORY COMMITTEE ON RULES—1987 AMENDMENT

In subdivisions (b) and (c) the word awarded is substituted for the word paid. While clerks do not know if fees are paid, they can determine what fees are awarded by the court.

NOTES OF ADVISORY COMMITTEE ON RULES—1991 AMENDMENT

Subdivision (a) is deleted. The matter contained in this subdivision is more properly left for regulation by the United States trustee. When appointing trustees and examiners and when monitoring applications for employment of auctioneers, appraisers and other professionals, the United States trustee should be sensitive to disproportionate or excessive fees received by any person.

Subdivision (b), redesignated as subdivision (a), is amended to reflect the fact that the United States trustee appoints examiners subject to court approval.

Subdivision (c), redesignated as subdivision (b), is amended to furnish the United States trustee with a copy of the annual summary which may assist that office in the performance of its responsibilities under 28 U.S.C.

§586 and the Code.

The rule is not applicable to standing trustees serving in chapter 12 cases. See §1202 of the Code.

COMMITTEE NOTES ON RULES—2024 AMENDMENT

The language of Rule 2013 has been amended as part of the general restyling of the Bankruptcy Rules to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only.

Rule 2014. Employing Professionals

(a) ORDER APPROVING EMPLOYMENT; APPLICATION FOR EMPLOYMENT.

(1) *Order Approving Employment*. The court may approve the employment of an attorney, accountant, appraiser, auctioneer, agent, or other professional under §327, §1103, or §1114 only on the trustee's or committee's application.

(2) *Application for Employment*. The applicant must file the application and, except in a Chapter 9 case, must send a copy to the United States trustee. The application must state specific facts showing:

(A) the need for the employment;
(B) the name of the person to be employed;
(C) the reasons for the selection;
(D) the professional services to be rendered;
(E) any proposed arrangement for compensation; and
(F) to the best of the applicant's knowledge, all the person's connections with:
- the debtor;
- creditors;
- any other party in interest;
- their respective attorneys and accountants;
- the United States trustee; and
- any person employed in the United States trustee's office.

(3) *Verified Statement of the Person to be Employed*. The application must be accompanied by a verified statement of the person to be employed, setting forth that person's connections with any entity listed in (2)(F).

(b) SERVICES RENDERED BY A MEMBER OR ASSOCIATE OF A LAW OR ACCOUNTING FIRM. If a law partnership or corporation is employed as an attorney, or an accounting partnership or corporation is employed as an accountant—or if a named attorney or accountant is employed—then any partner, member, or regular associate may act as so employed, without further court order.

(As amended Mar. 30, 1987, eff. Aug. 1, 1987; Apr. 30, 1991, eff. Aug. 1, 1991; Apr. 2, 2024, eff. Dec. 1, 2024.)

NOTES OF ADVISORY COMMITTEE ON RULES—1983

Subdivision (a) is adapted from the second sentence of former Bankruptcy Rule 215(a). The remainder of that rule is covered by §327 of the Code.

Subdivision (b) is derived from former Bankruptcy Rule 215(f). The compensation provisions are set forth in §504 of the Code.

NOTES OF ADVISORY COMMITTEE ON RULES—1991 AMENDMENT

This rule is amended to include retention of professionals by committees of retired employees pursuant to §1114 of the Code.

The United States trustee monitors applications filed under §327 of the Code and may file with the court comments with respect to the approval of such applications. See 28 U.S.C. §586(a)(3)(H) [now 586(a)(3)(I)].

The United States trustee also monitors creditors' committees in accordance with 28 U.S.C. §586(a)(3)(E). The addition of the second sentence of subdivision (a) is designed to enable the United States trustee to perform these duties.

Subdivision (a) is also amended to require disclosure of the professional's connections with the United States trustee or persons employed in the United States trustee's office. This requirement is not intended to prohibit the employment of such persons in all cases or to enlarge the definition of "disinterested person" in §101(13) [now 101(14)] of the Code. However, the court may consider a connection with the United States trustee's office as a factor when exercising its discretion. Also, this information should be revealed in the interest of full disclosure and confidence in the bankruptcy system, especially since the United States trustee monitors and may be heard on applications for compensation and reimbursement of professionals employed under this rule.

The United States trustee appoints committees pursuant to §1102 of the Code which is applicable in chapter 9 cases under §901. In the interest of full disclosure and confidence in the bankruptcy system, a connection between the United States trustee and a professional employed by the committee should be revealed in every case, including a chapter 9 case. However, since the United States trustee does not have any role in the employment of professionals in chapter 9 cases, it is not necessary in such cases to transmit to the United States trustee a copy of the application under subdivision (a) of this rule. See 28 U.S.C. §586(a)(3)(H) [now 586(a)(3)(I)].

COMMITTEE NOTES ON RULES—2024 AMENDMENT

The language of Rule 2014 has been amended as part of the general restyling of the Bankruptcy Rules to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only.

Rule 2015. Duty to Keep Records, Make Reports, and Give Notices

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

(1) in a Chapter 7 case and, if the court so orders, in a Chapter 11 case (other than under Subchapter V), file and send to the United States trustee a complete inventory of the debtor's property within 30 days after qualifying as a trustee or debtor in possession, unless such an inventory has already been filed;

(2) keep a record of receipts and the disposition of money and property received;

(3) file:

(A) the reports and summaries required by §704(a)(8); and

(B) if payments are made to employees, a statement of the amounts of deductions for all taxes required to be withheld or paid on the employees' behalf and the place where these funds are deposited;

(4) give notice of the case, as soon as possible after it commences, to the following entities, except those who know or have previously been notified of it:

(A) every entity known to be holding money or property subject to the debtor's withdrawal or order, including every bank, savings- or building-and-loan association, public utility company, and landlord with whom the debtor has a deposit; and

(B) every insurance company that has issued a policy with a cash-surrender value payable to the debtor;

(5) in a Chapter 11 case (other than under Subchapter V), on or before the last day of the month after each calendar quarter during which fees must be paid under 28 U.S.C. §1930(a)(6), file and send to the United States trustee a statement of those fees and any disbursements made during that quarter; and

(6) in a Chapter 11 small business case, unless the court, for cause, sets a different schedule, file and send to the United States trustee a report under §308, using Form 425C, for each calendar month after the order for relief—with the following adjustments:

• if the order for relief is within the first 15 days of a calendar month, the report must be filed

for the rest of that month; or

• if the order for relief is after the 15th, the information for the rest of that month must be included in the report for the next calendar month.

Each report must be filed within 21 days after the last day of the month following the month that the report covers. The obligation to file reports ends on the date that the plan becomes effective or the case is converted or dismissed.

(b) TRUSTEE, DEBTOR IN POSSESSION, AND DEBTOR IN A CASE UNDER SUBCHAPTER V OF CHAPTER 11. In a case under Subchapter V of Chapter 11, the debtor in possession must perform the duties prescribed in (a)(2)–(4) and, if the court orders, must file and send to the United States trustee a complete inventory of the debtor's property within the time the court sets. If the debtor is removed as debtor in possession, the trustee must perform these duties. The debtor must perform the duties prescribed in (a)(6).

(c) DUTIES OF A CHAPTER 12 TRUSTEE OR DEBTOR IN POSSESSION. In a Chapter 12 case, the debtor in possession must perform the duties prescribed in (a)(2)–(4) and, if the court orders, file and send to the United States trustee a complete inventory of the debtor's property within the time the court sets. If the debtor is removed as debtor in possession, the trustee must perform these duties.

(d) DUTIES OF A CHAPTER 13 TRUSTEE AND DEBTOR.

(1) *Chapter 13 Business Case*. In a Chapter 13 case, a debtor engaged in business must:

(A) perform the duties prescribed by (a)(2)–(4); and

(B) if the court so orders, file and send to the United States trustee a complete inventory of the debtor's property within the time the court sets.

(2) *Other Chapter 13 Case*. In a Chapter 13 case in which the debtor is not engaged in business, the trustee must perform the duties prescribed by (a)(2).

(e) DUTIES OF A CHAPTER 15 FOREIGN REPRESENTATIVE. In a Chapter 15 case in which the court has granted recognition of a foreign proceeding, the foreign representative must file any notice required under §1518 within 14 days after becoming aware of the later information.

(f) MAKING REPORTS AVAILABLE IN A CHAPTER 11 CASE. In a Chapter 11 case, the court may order that copies or summaries of annual reports and other reports be mailed to creditors, equity security holders, and indenture trustees. The court may also order that summaries of these reports be published. A copy of every such report or summary, whether mailed or published, must be sent to the United States trustee.

(As amended Mar. 30, 1987, eff. Aug. 1, 1987; Apr. 30, 1991, eff. Aug. 1, 1991; Apr. 23, 1996, eff. Dec. 1, 1996; Apr. 29, 2002, eff. Dec. 1, 2002; Apr. 23, 2008, eff. Dec. 1, 2008; Mar. 26, 2009, eff. Dec. 1, 2009; Apr. 23, 2012, eff. Dec. 1, 2012; Apr. 11, 2022, eff. Dec. 1, 2022; Apr. 2, 2024, eff. Dec. 1, 2024.)

NOTES OF ADVISORY COMMITTEE ON RULES—1983

This rule combines the provisions found in former Rules 218, 10–208, 11–30 and 13–208 of the Rules of Bankruptcy Procedure. It specifies various duties which are in addition to those required by §§704, 1106, 1302 and 1304 of the Code.

In *subdivision (a)* the times permitted to be fixed by the court in clause (3) for the filing of reports and summaries may be fixed by local rule or order.

Subdivision (b). This subdivision prescribes duties on either the debtor or trustee in chapter 13 cases, depending on whether or not the debtor is engaged in business (§1304 of the Code). The duty of giving notice prescribed by subdivision (a)(4) is not included in a nonbusiness case because of its impracticability.

Subdivision (c) is derived from former Chapter X Rule 10–208(c) which, in turn, was derived from §190 of the Act. The equity security holders to whom the reports should be sent are those of record at the time of transmittal of such reports.

NOTES OF ADVISORY COMMITTEE ON RULES—1987 AMENDMENT

Subdivision (a) is amended to add as a duty of the trustee or debtor in possession the filing of a notice of or a copy of the petition. The filing of such notice or a copy of the petition is essential to the protection of the estate from unauthorized post-petition conveyances of real property. Section 549(c) of the Code protects the title of a good faith purchaser for fair equivalent value unless the notice or copy of the petition is filed.

NOTES OF ADVISORY COMMITTEE ON RULES—1991 AMENDMENT

This rule is amended to provide the United States trustee with information needed to perform supervisory responsibilities in accordance with 28 U.S.C. §586(a)(3) and to exercise the right to raise, appear and be heard on issues pursuant to §307 of the Code.

Subdivision (a)(3) is amended to conform to the 1986 amendments to §704(8) of the Code and the United States trustee system. It may not be necessary for the court to fix a time to file reports if the United States trustee requests that they be filed within a specified time and there is no dispute regarding such time.

Subdivision (a)(5) is deleted because the filing of a notice of or copy of the petition to protect real property against unauthorized postpetition transfers in a particular case is within the discretion of the trustee.

The new subdivision (a)(5) was added to enable the United States trustee, parties in interest, and the court to determine the appropriate quarterly fee required by 28 U.S.C. §1930(a)(6). The requirements of subdivision (a)(5) should be satisfied whenever possible by including this information in other reports filed by the trustee or debtor in possession. Nonpayment of the fee may result in dismissal or conversion of the case pursuant to §1112(b) of the Code.

Rule X–1007(b), which provides that the trustee or debtor in possession shall cooperate with the United States trustee by furnishing information that the United States trustee reasonably requires, is deleted as unnecessary. The deletion of Rule X–1007(b) should not be construed as a limitation of the powers of the United States trustee or of the duty of the trustee or debtor in possession to cooperate with the United States trustee in the performance of the statutory responsibilities of that office.

Subdivision (a)(6) is abrogated as unnecessary. See §1106(a)(7) of the Code.

Subdivision (a)(7) is abrogated. The closing of a chapter 11 case is governed by Rule 3022.

New *subdivision (b)*, which prescribes the duties of the debtor in possession and trustee in a chapter 12 case, does not prohibit additional reporting requirements pursuant to local rule or court order.

NOTES OF ADVISORY COMMITTEE ON RULES—1996 AMENDMENT

Subdivision (a)(1) provides that the trustee in a chapter 7 case and, if the court directs, the trustee or debtor in possession in a chapter 11 case, is required to file and transmit to the United States trustee a complete inventory of the debtor's property within 30 days after qualifying as trustee or debtor in possession, unless such an inventory has already been filed. Subdivisions (b) and (c) are amended to clarify that a debtor in possession and trustee in a chapter 12 case, and a debtor in a chapter 13 case where the debtor is engaged in business, are not required to file and transmit to the United States trustee a complete inventory of the property of the debtor unless the court so directs. If the court so directs, the court also fixes the time limit for filing and transmitting the inventory.

GAP Report on Rule 2015. No changes since publication, except for a stylistic change in the first sentence of the committee note.

COMMITTEE NOTES ON RULES—2002 AMENDMENT

Subdivision (a)(5) is amended to provide that the duty to file quarterly disbursement reports continues only so long as there is an obligation to make quarterly payments to the United States trustee under 28 U.S.C. §1930(a)(6).

Other amendments are stylistic.

Changes Made After Publication and Comments. No changes were made.

COMMITTEE NOTES ON RULES—2008 AMENDMENT

Subparagraph (a)(6) implements §308 of the Code, added by the 2005 amendments. That section requires small business chapter 11 debtors to file periodic financial and operating reports, and the rule sets the time for filing those reports and requires the use of an Official Form for the report. The obligation to file reports under this rule does not relieve the trustee or debtor of any other obligations to provide information or documents to the United States trustee.

The rule also is amended to fix the time for the filing of notices under §1518, added to the Code in 2005. Former subdivision (d) is renumbered as subdivision (e).

Other changes are stylistic.

Changes Made After Publication. No changes were made after publication.

COMMITTEE NOTES ON RULES—2009 AMENDMENT

The rule is amended to implement changes in connection with the amendment to Rule 9006(a) and the manner by which time is computed under the rules. The deadlines in the rule are amended to substitute a deadline that is a multiple of seven days. Throughout the rules, deadlines are amended in the following manner:

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

COMMITTEE NOTES ON RULES—2012 AMENDMENT

Subdivision (a)(3). 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.

COMMITTEE NOTES ON RULES—2022 AMENDMENT

The rule is amended in response to the enactment of the Small Business Reorganization Act of 2019, Pub. L. No. 116–54, 133 Stat. 1079. That law gives a small business debtor the option of electing to be a debtor under subchapter V of chapter 11. Subdivision (b) is amended to prescribe the duties of a debtor in possession, trustee, and debtor in a subchapter V case. Those cases are excepted from subdivision (a) because, unlike other chapter 11 cases, there will generally be both a trustee and a debtor in possession. Subdivision (b) also reflects that §1187 of the Code prescribes reporting duties for the debtor in a subchapter V case.

Former subdivisions (b), (c), (d), and (e) are redesignated (c), (d), (e), and (f)[,] respectively.

COMMITTEE NOTES ON RULES—2024 AMENDMENT

The language of Rule 2015 has been amended as part of the general restyling of the Bankruptcy Rules to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only.

Rule 2015.1. Patient-Care Ombudsman

(a) NOTICE OF THE REPORT. Unless the court orders otherwise, a patient-care ombudsman must give at least 14 days' notice before making a report under §333(b)(2).

(1) *Recipients of the Notice*. The notice must be sent to the United States trustee, posted conspicuously at the health-care facility that is the report's subject, and served on:

- the debtor;
- the trustee;
- all patients;
- any committee elected under §705 or appointed under §1102 or its authorized agent;
- in a Chapter 9 or 11 case, the creditors on the list filed under Rule 1007(d) if no committee of unsecured creditors has been appointed under §1102; and
- any other entity as the court orders.

(2) *Content of the Notice*. The notice must state:

(A) the date and time when the report will be made;

(B) the manner in which it will be made; and

(C) if it will be in writing, the name, address, telephone number, email address, and any website of the person from whom a copy may be obtained at the debtor's expense.

(b) AUTHORIZATION TO REVIEW CONFIDENTIAL PATIENT RECORDS.

(1) *Motion to Review; Service*. Rule 9014 governs a patient-care ombudsman's motion under §333(c) to review confidential patient records. The motion must:

(A) be served on the patient;

(B) be served on any family member or other contact person whose name and address have

been given to the trustee or the debtor in order to provide information about the patient's health care; and

(C) be sent to the United States trustee, subject to applicable nonbankruptcy law concerning patient privacy.

(2) *Time for a Hearing*. Unless the court orders otherwise, a hearing on the motion may not commence earlier than 14 days after the motion is served.

(Added Apr. 23, 2008, eff. Dec. 1, 2008; amended Mar. 26, 2009, eff. Dec. 1, 2009; Apr. 2, 2024, eff. Dec. 1, 2024.)

COMMITTEE NOTES ON RULES—2008

This rule is new and implements §333 of the Code, added by the 2005 amendments. Subdivision (a) is designed to give parties in interest, including patients or their representatives, sufficient notice so that they will be able to review written reports or attend hearings at which reports are made. The rule permits a notice to relate to a single report or to periodic reports to be given during the case. For example, the ombudsman may give notice that reports will be made at specified intervals or dates during the case.

Subdivision (a) of the rule also requires that the notice be posted conspicuously at the health care facility in a place where it will be seen by patients and their families or others visiting the patients. This may require posting in common areas and patient rooms within the facility. Because health care facilities and the patients they serve can vary greatly, the locations of the posted notice should be tailored to the specific facility that is the subject of the report.

Subdivision (b) requires the ombudsman to notify the patient and the United States trustee that the ombudsman is seeking access to confidential patient records so that they will be able to appear and be heard on the matter. This procedure should assist the court in reaching its decision both as to access to the records and appropriate restrictions on that access to ensure continued confidentiality. Notices given under this rule are subject to the provisions of applicable federal and state law that relate to the protection of patients' privacy, such as the Health Insurance Portability and Accountability Act of 1996, Pub. L. No. 104–191 (HIPAA).

Changes Made After Publication. Two stylistic changes were made to the rule. The reference to the court's authority to order otherwise was moved from the beginning to the end of the first sentence of subdivision (a). On line 19, the word "patient" was substituted for "health" to be consistent with the Code.

COMMITTEE NOTES ON RULES—2009 AMENDMENT

The rule is amended to implement changes in connection with the amendment to Rule 9006(a) and the manner by which time is computed under the rules. The deadlines in the rule are amended to substitute a deadline that is a multiple of seven days. Throughout the rules, deadlines are amended in the following manner:

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

COMMITTEE NOTES ON RULES—2024 AMENDMENT

The language of Rule 2015.1 has been amended as part of the general restyling of the Bankruptcy Rules to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only.

Rule 2015.2. Transferring a Patient in a Health Care Business Case

Unless the court orders otherwise, if the debtor is a health care business, the trustee may transfer a patient to another health care business under §704(a)(12) only if the trustee gives at least 14 days' notice of the transfer to:

- any patient-care ombudsman;
- the patient; and
- any family member or other contact person whose name and address have been given to the trustee or the debtor in order to provide information about the patient's health care.

The notice is subject to applicable nonbankruptcy law concerning patient privacy.

(Added Apr. 23, 2008, eff. Dec. 1, 2008; amended Mar. 26, 2009, eff. Dec. 1, 2009; Apr. 2, 2024, eff. Dec. 1, 2024.)

COMMITTEE NOTES ON RULES—2008

This rule is new. Section 704(a)(12), added to the Code by the 2005 amendments, authorizes the trustee to relocate patients when a health care business debtor's facility is in the process of being closed. The Code permits the trustee to take this action without the need for any court order, but the notice required by this rule will enable a patient care ombudsman appointed under §333, or a patient who contends that the trustee's actions violate §704(a)(12), to have those issues resolved before the patient is transferred.

This rule also permits the court to enter an order dispensing with or altering the notice requirement in proper circumstances. For example, a facility could be closed immediately, or very quickly, such that 10 days' notice would not be possible in some instances. In that event, the court may shorten the time required for notice.

Notices given under this rule are subject to the provisions of applicable federal and state law that relate to the protection of patients' privacy, such as the Health Insurance Portability and Accountability Act of 1996, Pub. L. No. 104–191 (HIPAA).

Changes Made After Publication. No changes were made after publication.

COMMITTEE NOTES ON RULES—2009 AMENDMENT

The rule is amended to implement changes in connection with the amendment to Rule 9006(a) and the manner by which time is computed under the rules. The deadline in the rule is amended to substitute a deadline that is a multiple of seven days. Throughout the rules, deadlines are amended in the following manner:

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

COMMITTEE NOTES ON RULES—2024 AMENDMENT

The language of Rule 2015.2 has been amended as part of the general restyling of the Bankruptcy Rules to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only.

Rule 2015.3. Reporting Financial Information About Entities in Which a Chapter 11 Estate Holds a Substantial or Controlling Interest

(a) REPORTING REQUIREMENT; CONTENT OF THE REPORT. In a Chapter 11 case, the trustee or debtor in possession must file periodic financial reports of the value, operations, and profitability of each entity in which the estate holds a substantial or controlling interest—unless the entity is a publicly traded corporation or a debtor in a bankruptcy case. The reports must be prepared as prescribed by Form 426 and be based on the most recent information reasonably available to the filer.

(b) TIME TO FILE; SERVICE. The first report must be filed at least 7 days before the first date set for the meeting of creditors under §341. Later reports must be filed at least every 6 months, until the date a plan becomes effective or the case is converted or dismissed. A copy of each report must be served on:

- the United States trustee;
- any committee appointed under §1102; and
- any other party in interest that has filed a request for it.

(c) PRESUMPTION OF A SUBSTANTIAL OR CONTROLLING INTEREST.

(1) *When a Presumption Applies*. Under this Rule 2015.3, the estate is presumed to have a

substantial or controlling interest in an entity of which it controls or owns at least a 20% interest. Otherwise, the estate is presumed not to have a substantial or controlling interest.

(2) *Rebutting the Presumption*. The entity, any holder of an interest in it, the United States trustee, or any other party in interest may move to rebut either presumption. After notice and a hearing, the court must determine whether the estate's interest in the entity is substantial or controlling.

(d) MODIFYING THE REPORTING REQUIREMENT. After notice and a hearing, the court may vary the reporting requirements of (a) for cause, including that:

(1) the trustee or debtor in possession is not able, after a good-faith effort, to comply with them; or

(2) the required information is publicly available.

(e) NOTICE TO ENTITIES IN WHICH THE ESTATE HAS A SUBSTANTIAL OR CONTROLLING INTEREST; PROTECTIVE ORDER. At least 14 days before filing the first report under (a), the trustee or debtor in possession must send notice to every entity in which the estate has a substantial or controlling interest—and all known holders of an interest in the entity—that the trustee or debtor in possession expects to file and serve financial information about the entity in accordance with this Rule 2015.3. Any such entity, or person holding an interest in it, may request that the information be protected under §107.

(f) EFFECT OF A REQUEST. Unless the court orders otherwise, a pending request under (c), (d), or (e) does not alter or stay the requirements of (a).

(Added Apr. 23, 2008, eff. Dec. 1, 2008; amended Mar. 26, 2009, eff. Dec. 1, 2009; Apr. 2, 2024, eff. Dec. 1, 2024.)

COMMITTEE NOTES ON RULES—2008

This rule implements §419 of the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005 ("BAPCPA"). Reports are to be made on the appropriate Official Form. While §419 of BAPCPA places the obligation to report upon the "debtor," this rule extends the obligation to include cases in which a trustee has been appointed. The court can order that the reports not be filed in appropriate circumstances, such as when the information that would be included in these reports is already available to interested parties.

Changes After Publication. In subdivision (e), the 20 day period was changed to 14 days. This better reconciles the timing of the notice and the scheduling of the §341 meeting of creditors, and it is also consistent with the upcoming time computation amendments.

COMMITTEE NOTES ON RULES—2009 AMENDMENT

The rule is amended to implement changes in connection with the amendment to Rule 9006(a) and the manner by which time is computed under the rules. The deadline in the rule is amended to substitute a deadline that is a multiple of seven days. Throughout the rules, deadlines are amended in the following manner:

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

COMMITTEE NOTES ON RULES—2024 AMENDMENT

The language of Rule 2015.3 has been amended as part of the general restyling of the Bankruptcy Rules to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only.

Rule 2016. Compensation for Services Rendered; Reimbursing Expenses

(a) IN GENERAL.

(1) *Application*. If an entity seeks from the estate interim or final compensation for services or

reimbursement of necessary expenses, the entity must file an application showing:

(A) in detail the amounts requested and the services rendered, time spent, and expenses incurred;

(B) all payments previously made or promised for services rendered or to be rendered in connection with the case;

(C) the source of the paid or promised compensation;

(D) whether any previous compensation has been shared;

(E) whether an agreement or understanding exists between the applicant and any other entity for sharing compensation for services rendered or to be rendered in connection with the case; and

(F) the particulars of any compensation sharing or agreement or understanding to share, except with a member or regular associate of a law or accounting firm.

(2) *Application for Services Rendered or to be Rendered by an Attorney or Accountant*. The requirements of (a) apply to an application for compensation for services rendered by an attorney or accountant, even though a creditor or other entity files the application.

(3) *Copy to the United States Trustee*. Except in a Chapter 9 case, the applicant must send a copy of the application to the United States trustee.

(b) DISCLOSING COMPENSATION PAID OR PROMISED TO THE DEBTOR'S ATTORNEY.

(1) *Basic Requirements*. Within 14 days after the order for relief—or at another time as the court orders—every debtor's attorney (whether or not applying for compensation) must file and send to the United States trustee the statement required by §329. The statement must:

(A) show whether the attorney has shared or agreed to share compensation with any other entity; and

(B) if so, the particulars of any sharing or agreement to share, except with a member or regular associate of the attorney's law firm.

(2) *Supplemental Statement*. Within 14 days after any payment or agreement to pay not previously disclosed, the attorney must file and send to the United States trustee a supplemental statement.

(c) DISCLOSING COMPENSATION PAID OR PROMISED TO A BANKRUPTCY-PETITION PREPARER.

(1) *Basic Requirements*. Before a petition is filed, every bankruptcy-petition preparer for a debtor must deliver to the debtor the declaration under penalty of perjury required by §110(h)(2). The declaration must:

(A) disclose any fee, and its source, received from or on behalf of the debtor within 12 months before the petition's filing, together with all unpaid fees charged to the debtor;

(B) describe the services performed and the documents prepared or caused to be prepared by the bankruptcy-petition preparer; and

(C) be filed with the petition.

(2) *Supplemental Statement*. Within 14 days after any later payment or agreement to pay not previously disclosed, the bankruptcy-petition preparer must file a supplemental statement.

(As amended Mar. 30, 1987, eff. Aug. 1, 1987; Apr. 30, 1991, eff. Aug. 1, 1991; Mar. 27, 2003, eff. Dec. 1, 2003; Mar. 26, 2009, eff. Dec. 1, 2009; Apr. 2, 2024, eff. Dec. 1, 2024.)

NOTES OF ADVISORY COMMITTEE ON RULES—1983

This rule is derived from former Rule 219. Many of the former rule's requirements are, however, set forth in the Code. Section 329 requires disclosure by an attorney of transactions with the debtor, §330 sets forth the bases for allowing compensation, and §504 prohibits sharing of compensation. This rule implements those various provisions.

Subdivision (a) includes within its provisions a committee, member thereof, agent, attorney or accountant for the committee when compensation or reimbursement of expenses is sought from the estate.

Regular associate of a law firm is defined in Rule 9001(9) to include any attorney regularly employed by, associated with, or counsel to that law firm. Firm is defined in Rule 9001(6) to include a partnership or professional corporation.

NOTES OF ADVISORY COMMITTEE ON RULES—1987 AMENDMENT

Subdivision (a) is amended to change "person" to "entity". There are occasions in which a governmental unit may be entitled to file an application under this rule. The requirement that the application contain a "detailed statement of services rendered, time expended and expenses incurred" gives to the court authority to ensure that the application is both comprehensive and detailed. No amendments are made to delineate further the requirements of the application because the amount of detail to be furnished is a function of the nature of the services rendered and the complexity of the case.

Subdivision (b) is amended to require that the attorney for the debtor file the §329 statement before the meeting of creditors. This will assist the parties in conducting the examination of the debtor. In addition, the amended rule requires the attorney to supplement the §329 statement if an undisclosed payment is made to the attorney or a new or amended agreement is entered into by the debtor and the attorney.

NOTES OF ADVISORY COMMITTEE ON RULES—1991 AMENDMENT

Subdivision (a) is amended to enable the United States trustee to perform the duty to monitor applications for compensation and reimbursement filed under §330 of the Code. See 28 U.S.C. §586(a)(3)(A).

Subdivision (b) is amended to give the United States trustee the information needed to determine whether to request appropriate relief based on excessive fees under §329(b) of the Code. See Rule 2017.

The words "with the court" are deleted in subdivisions (a) and (b) as unnecessary. See Rules 5005(a) and 9001(3).

COMMITTEE NOTES ON RULES—2003 AMENDMENT

This rule is amended by adding subdivision (c) to implement §110(h)(1) [now 110(h)(2)] of the Code.

Changes Made After Publication and Comments. No changes since publication.

COMMITTEE NOTES ON RULES—2009 AMENDMENT

The rule is amended to implement changes in connection with the amendment to Rule 9006(a) and the manner by which time is computed under the rules. The deadline in the rule is amended to substitute a deadline that is a multiple of seven days. Throughout the rules, deadlines are amended in the following manner:

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

Subdivision (c) is amended to reflect the 2005 amendment to §110(h)(1) of the Bankruptcy Code which now requires that the declaration be filed with the petition. The statute previously required that the petition preparer file the declaration within 10 days after the filing of the petition. The amendment to the rule also corrects the cross reference to §110(h)(1), which was redesignated as subparagraph (h)(2) of §110 by the 2005 amendment to the Code.

Other changes are stylistic.

COMMITTEE NOTES ON RULES—2024 AMENDMENT

The language of Rule 2016 has been amended as part of the general restyling of the Bankruptcy Rules to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only.

Rule 2017. Examining Transactions Between a Debtor and the Debtor's Attorney

(a) PAYMENTS OR TRANSFERS TO AN ATTORNEY MADE IN CONTEMPLATION OF FILING A PETITION OR BEFORE THE ORDER FOR RELIEF. On a party in interest's motion, or

on its own, the court may, after notice and a hearing, determine whether a debtor's direct or indirect payment of money or transfer of property to an attorney for services rendered or to be rendered was excessive if it was made:

(1) in contemplation of the filing of a bankruptcy petition by or against the debtor; or

(2) before the order for relief is entered in an involuntary case.

(b) PAYMENTS OR TRANSFERS TO AN ATTORNEY MADE AFTER THE ORDER FOR RELIEF IS ENTERED. On motion of the debtor or the United States trustee, or on its own, the court may, after notice and a hearing, determine whether a debtor's payment of money or transfer of property—or agreement to pay money or transfer property—to an attorney after an order for relief is entered is excessive. It does not matter whether the payment or transfer is made, or to be made, directly or indirectly, if the payment, transfer, or agreement is for services related to the case.

(As amended Mar. 30, 1987, eff. Aug. 1, 1987; Apr. 30, 1991, eff. Aug. 1, 1991; Apr. 2, 2024, eff. Dec. 1, 2024.)

NOTES OF ADVISORY COMMITTEE ON RULES—1983

This rule is derived from §60d of the Act and former Bankruptcy Rule 220 and implements §329 of the Code. Information required to be disclosed by the attorney for a debtor by §329 of the Code and by the debtor in his Statement of Financial Affairs (Item #15 of Form No. 7, Item #20 of Form No. 8) will assist the court in determining whether to proceed under this rule. Section 60d was enacted in recognition of "the temptation of a failing debtor to deal too liberally with his property in employing counsel to protect him in view of financial reverses and probable failure." *In re Wood & Henderson*, 210 U.S. 246, 253 (1908). This rule, like §60d of the Act and §329 of the Code, is premised on the need for and appropriateness of judicial scrutiny of arrangements between a debtor and his attorney to protect the creditors of the estate and the debtor against overreaching by an officer of the court who is in a peculiarly advantageous position to impose on both the creditors and his client. 2 Collier, *Bankruptcy* 329.02 (15th ed. 1980); MacLachlan, *Bankruptcy* 318 (1956). Rule 9014 applies to any contested matter arising under this rule.

This rule is not to be construed to permit post-petition payments or transfers which may be avoided under other provisions of the Code.

NOTES OF ADVISORY COMMITTEE ON RULES—1991 AMENDMENT

This rule is amended to include within subdivision (a) a payment or transfer of property by the debtor to an attorney after the filing of an involuntary petition but before the order for relief. Any party in interest should be able to make a motion for a determination of whether such payment or transfer is excessive because the funds or property transferred may be property of the estate.

The United States trustee supervises and monitors the administration of bankruptcy cases other than chapter 9 cases and pursuant to §307 of the Code may raise, appear and be heard on issues relating to fees paid to the debtor's attorney. It is consistent with that role to expect the United States trustee to review statements filed under Rule 2016(b) and to file motions relating to excessive fees pursuant to §329 of the Code.

COMMITTEE NOTES ON RULES—2024 AMENDMENT

The language of Rule 2017 has been amended as part of the general restyling of the Bankruptcy Rules to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only.

Rule 2018. Intervention by an Interested Entity; Right to Be Heard

(a) IN GENERAL. After hearing on such notice as the court orders and for cause, the court may permit an interested entity to intervene generally or in any specified matter.

(b) INTERVENTION BY A STATE ATTORNEY GENERAL. In a Chapter 7, 11, 12, or 13 case, a state attorney general may appear and be heard on behalf of consumer creditors if the court determines that the appearance is in the public interest. But the state attorney general may not appeal from any judgment, order, or decree entered in the case.

(c) INTERVENTION BY THE UNITED STATES SECRETARY OF THE TREASURY OR A STATE REPRESENTATIVE. In a Chapter 9 case:

(1) the United States Secretary of the Treasury may—and if requested by the court must—intervene; and

(2) a representative of the state where the debtor is located may intervene in any matter the court specifies.

(d) INTERVENTION BY A LABOR UNION OR AN ASSOCIATION REPRESENTING THE DEBTOR'S EMPLOYEES. In a Chapter 9, 11, or 12 case, a labor union or an association representing the debtor's employees has the right to be heard on the economic soundness of a plan affecting the employees' interests. Unless otherwise permitted by law, the labor union or employees' association exercising that right may not appeal any judgment, order, or decree related to the plan.

(e) SERVING ENTITIES COVERED BY THIS RULE. The court may issue orders governing the service of notice and documents on entities permitted to intervene or be heard under this Rule 2018.

(As amended Mar. 30, 1987, eff. Aug. 1, 1987; Apr. 30, 1991, eff. Aug. 1, 1991; Apr. 2, 2024, eff. Dec. 1, 2024.)

NOTES OF ADVISORY COMMITTEE ON RULES—1983

This rule is derived from former Rules 8–210, 9–15 and 10–210 and it implements §§1109 and 1164 of the Code.

Pursuant to §1109 of the Code, parties in interest have a right to be heard and the Securities and Exchange Commission may raise and be heard on any issue but it may not take an appeal. That section is applicable in chapter 9 cases (§901 of the Code) and in chapter 11 cases, including cases under subchapter IV thereof for the reorganization of a railroad.

In a railroad reorganization case under subchapter IV of chapter 11, §1164 also gives the right to be heard to the Interstate Commerce Commission, the Department of Transportation and any state or local regulatory commission with jurisdiction over the debtor, but these entities may not appeal.

This rule does not apply in adversary proceedings. For intervention in adversary proceedings, see Rule 7024. The rules do not provide any right of compensation to or reimbursement of expenses for intervenors or others covered by this rule. Section 503(b)(3)(D) and (4) is not applicable to the entities covered by this rule.

Subdivision (a) is derived from former Chapter VIII Rule 8–210 and former Chapter X Rule 10–210. It permits intervention of an entity (see §101(14), (21) [now 101(15), (27)] of the Code) not otherwise entitled to do so under the Code or this rule. Such a party seeking to intervene must show cause therefor.

Subdivision (b) specifically grants the appropriate state's Attorney General the right to appear and be heard on behalf of consumer creditors when it is in the public interest. See House Rep. No. 95–595, 95th Cong., 1st Sess. (1977) 189. While "consumer creditor" is not defined in the Code or elsewhere, it would include the type of individual entitled to priority under §507(a)(5) [now 507(a)(7)] of the Code, that is, an individual who has deposited money for the purchase, lease or rental of property or the purchase of services for the personal, family, or household use of the individual. It would also include individuals who purchased or leased property for such purposes in connection with which there may exist claims for breach of warranty.

This subdivision does not grant the Attorney General the status of party in interest. In other contexts, the Attorney General will, of course, be a party in interest as for example, in representing a state in connection with a tax claim.

Subdivision (c) recognizes the possible interests of the Secretary of the Treasury or of the state of the debtor's locale when a municipality is the debtor. It is derived from former Chapter IX Rule 9–15 and §85(d) of the Act.

Subdivision (d) is derived from former Chapter X Rule 10–210 which, in turn, was derived from §206 of the Act. Section 206 has no counterpart in the Code.

Subdivision (e) is derived from former Chapter VIII Rule 8–210(d). It gives the court flexibility in directing the type of future notices to be given intervenors.

NOTES OF ADVISORY COMMITTEE ON RULES—1987 AMENDMENT

Subdivision (d) is amended to make it clear that the prohibition against appeals by labor unions is limited only to their participation in connection with the hearings on the plan as provided in subdivision (d). If a labor union would otherwise have the right to file an appeal or to be a party to an appeal, this rule does not preclude the labor union from exercising that right.

NOTES OF ADVISORY COMMITTEE ON RULES—1991 AMENDMENT

Subdivisions (b) and (d) are amended to include chapter 12.

COMMITTEE NOTES ON RULES—2024 AMENDMENT

The language of Rule 2018 has been amended as part of the general restyling of the Bankruptcy Rules to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only.

Rule 2019. Disclosures by Groups, Committees, and Other Entities in a Chapter 9 or 11 Case

(a) DEFINITIONS. In this Rule 2019:

(1) "disclosable economic interest" means any claim, interest, pledge, lien, option, participation, derivative instrument, or other right or derivative right granting the holder an economic interest that is affected by the value, acquisition, or disposition of a claim or interest; and

(2) "represent" or "represents" means to take a position before the court or to solicit votes regarding a plan's confirmation on another's behalf.

(b) WHO MUST DISCLOSE.

(1) *In General*. In a Chapter 9 or 11 case, a verified statement containing the information listed in (c) must be filed by every group or committee consisting of or representing—and every entity representing—multiple creditors or equity security holders that are:

(A) acting in concert to advance their common interests; and

(B) not composed entirely of affiliates or insiders of one another.

(2) *When a Disclosure Statement Is Not Required*. Unless the court orders otherwise, an entity need not file the statement described in (1) solely because it is:

(A) an indenture trustee;

(B) an agent for one or more other entities under an agreement to extend credit;

(C) a class-action representative; or

(D) a governmental unit that is not a person.

(c) REQUIRED INFORMATION. The verified statement must include:

(1) the pertinent facts and circumstances concerning:

(A) for a group or committee (except a committee appointed under §1102 or §1114), its formation, including the name of each entity at whose instance it was formed or for whom it has agreed to act; or

(B) for an entity, the entity's employment, including the name of each creditor or equity security holder at whose instance the employment was arranged;

(2) if not disclosed under (1), for each member of a group or committee and for an entity:

(A) name and address;

(B) the nature and amount of each disclosable economic interest held in relation to the debtor when the group or committee was formed or the entity was employed; and

(C) for each member of a group or committee claiming to represent any entity in addition to its own members (except a committee appointed under §1102 or §1114), the quarter and year in which each disclosable economic interest was acquired—unless it was acquired more than 1 year before the petition was filed;

(3) if not disclosed under (1) or (2), for each creditor or equity security holder represented by an entity, group, or committee (except a committee appointed under §1102 or §1114):

(A) name and address; and

(B) the nature and amount of each disclosable economic interest held in relation to the debtor on the statement's date; and

(4) a copy of any instrument authorizing the group, committee, or entity to act on behalf of

creditors or equity security holders.

(d) SUPPLEMENTAL STATEMENT. If a fact disclosed in its most recent statement has changed materially, a group, committee, or entity must file a verified supplemental statement whenever it takes a position before the court or solicits votes on a plan's confirmation. The supplemental statement must set forth any material changes in the information specified in (c).

(e) FAILURE TO COMPLY; SANCTIONS.

(1) *Failure to Comply*. On a party in interest's motion, or on its own, the court may determine whether there has been a failure to comply with this Rule 2019.

(2) *Sanctions*. If the court finds a failure to comply, it may:

(A) refuse to permit the group, committee, or entity to be heard or to intervene in the case;

(B) hold invalid any authority, acceptance, rejection, or objection that the group, committee, or entity has given, procured, or received; or

(C) grant other appropriate relief.

(As amended Mar. 30, 1987, eff. Aug. 1, 1987; Apr. 30, 1991, eff. Aug. 1, 1991; Apr. 26, 2011, eff. Dec. 1, 2011; Apr. 2, 2024, eff. Dec. 1, 2024.)

NOTES OF ADVISORY COMMITTEE ON RULES—1983

This rule is a comprehensive regulation of representation in chapter 9 municipality and in chapter 11 reorganization cases. It is derived from §§209–213 of the Act and former Chapter X Rule 10–211.

Subdivision (b) is derived from §§212, 213 of the Act. As used in clause (2), "other authorization" would include a power or warrant of attorney which are specifically mentioned in §212 of the Act. This rule deals with representation provisions in mortgages, trust deeds, etc. to protect the beneficiaries from unfair practices and the like. It does not deal with the validation or invalidation of security interests generally. If immediate compliance is not possible, the court may permit a representative to be heard on a specific matter, but there is no implicit waiver of compliance on a permanent basis.

NOTES OF ADVISORY COMMITTEE ON RULES—1991 AMENDMENT

Subdivision (a) is amended to exclude from the requirements of this rule committees of retired employees appointed pursuant to §1114 of the Code. The words "with the clerk" are deleted as unnecessary. See Rules 5005(a) and 9001(3).

COMMITTEE NOTES ON RULES—2011 AMENDMENT

The rule is substantially amended to expand the scope of its coverage and the content of its disclosure requirements. Stylistic and organizational changes are also made in order to provide greater clarity. Because the rule no longer applies only to representatives of creditors and equity security holders, the title of the rule has been changed to reflect its broadened focus on disclosure of financial information in chapter 9 and chapter 11 cases.

Subdivision (a). The content of subdivision (a) is new. It sets forth two definitions. The first is the definition of the term "disclosable economic interest," which is used in subdivisions (c)(2) and (c)(3). The definition of the term is intended to be sufficiently broad to cover any economic interest that could affect the legal and strategic positions a stakeholder takes in a chapter 9 or chapter 11 case. A disclosable economic interest extends beyond claims and interests owned by a stakeholder and includes, among other types of holdings, short positions, credit default swaps, and total return swaps.

The second definition is of "represent" or "represents." The definition provides that representation requires active participation in the case or in a proceeding on behalf of another entity—either by taking a position on a matter before the court or by soliciting votes on the confirmation of a plan. Thus, for example, an attorney who is retained and consulted by a creditor or equity security holder to monitor the case, but who does not advocate any position before the court or engage in solicitation activities on behalf of that client, does not represent the creditor or equity security holder for purposes of this rule.

Subdivision (b). Subdivision (b)(1) specifies who is covered by the rule's disclosure requirements. In addition to an entity, group, or committee that *represents* more than one creditor or equity security holder, the amendment extends the rule's coverage to groups or committees that *consist of* more than one creditor or equity security holder. The rule no longer excludes official committees, except as specifically indicated. The rule applies to a group of creditors or equity security holders that act in concert to advance common interests (except when the group consists exclusively of affiliates or insiders of one another), even if the group does not call itself a committee.

Subdivision (b)(2) excludes certain entities from the rule's coverage. Even though these entities may represent multiple creditors or equity security holders, they do so under formal legal arrangements of trust or contract law that preclude them from acting on the basis of conflicting economic interests. For example, an indenture trustee's responsibilities are defined by the indenture, and individual interests of bondholders would not affect the trustee's representation.

Subdivision (c). Subdivision (c) sets forth the information that must be included in a verified statement required to be filed under this rule. Subdivision (c)(1) continues to require disclosure concerning the formation of a committee or group, other than an official committee, and the employment of an entity.

Subdivision (c)(2) specifies information that must be disclosed with respect to the entity and each member of the committee and group filing the statement. In the case of a committee or group, the information about the nature and amount of a disclosable economic interest must be specifically provided on a member-by-member basis, and not in the aggregate. The quarter and year in which each disclosable economic interest was acquired by each member of a committee or group (other than an official committee) that claims to represent others must also be specifically provided, except for a disclosable economic interest acquired more than a year before the filing of the petition. Although the rule no longer requires the disclosure of the precise date of acquisition or the amount paid for disclosable economic interests, nothing in this rule precludes either the discovery of that information or its disclosure when ordered by the court pursuant to authority outside this rule.

Subdivision (c)(3) specifies information that must be disclosed with respect to creditors or equity security holders that are represented by an entity, group, or committee. This provision does not apply with respect to those represented by official committees. The information required to be disclosed under subdivision (c)(3) parallels that required to be disclosed under subdivision (c)(2)(A) and (B). The amendment also clarifies that under (c)(3) the nature and amount of each disclosable economic interest of represented creditors and shareholders must be stated as of the date of the verified statement.

Subdivision (c)(4) requires the attachment of any instrument authorizing the filer of the verified statement to act on behalf of creditors or equity security holders.

Subdivision (d). Subdivision (d) requires the filing of a supplemental statement at the time an entity, group, or committee takes a position before the court or solicits votes on a plan if there has been a material change in any of the information contained in its last filed statement. The supplemental verified statement must set forth the material changes that have occurred regarding the information required to be disclosed by subdivision (c) of this rule.

Subdivision (e). Subdivision (e) addresses the court's authority to determine whether there has been a violation of this rule and to impose a sanction for any violation. It no longer addresses the court's authority to determine violations of other applicable laws regulating the activities and personnel of an entity, group, or committee.

Changes Made After Publication.

Subdivision (a). A definition of "represent" or "represents" was added, and the subdivision was divided into paragraphs (1) and (2).

Subdivision (b). The provision authorizing the court to require disclosure by an entity that seeks or opposes the granting of relief was deleted.

In the paragraph now designated as (1), language was added providing that groups, committees, and entities are covered by the rule only if they consist of or represent multiple creditors or equity security holders "that are (A) acting in concert to advance their common interests, and (B) not composed entirely of affiliates or insiders of one another." The phrase "and, unless the court directs otherwise, every indenture trustee," was deleted.

Subdivision (b)(2) was added to specify entities that are not required to file a verified statement merely because they act in one of the designated capacities.

Subdivision (c). The authorization in subdivision (c)(2)(B) and (c)(3)(B) for the court to require the disclosure of the amount paid for a disclosable economic interest was deleted.

The requirement in subdivision (c)(2)(C) and (c)(3)(C) for disclosure of the acquisition date of each disclosable economic interest was modified. The requirement was made applicable only to members of an unofficial group or committee that claims to represent any entity in addition to the members of the group or committee, and the date that must be disclosed was limited to the quarter and year of acquisition.

Subdivision (d). The requirement of monthly supplementation of a verified statement was modified to require supplementation whenever a covered group, committee, or entity takes a position before the court or solicits votes on the confirmation of a plan and there has been a material change in any fact disclosed in its most recently filed statement.

Subdivision (e). The provisions published as subdivision (e)(1)(B) and (C), which authorized the court to

determine failures to comply with legal requirements other than those imposed by Rule 2019, were deleted.

Subdivision (e)(2), which enumerated the materials the court could examine in making a determination of noncompliance, was deleted.

Committee Note. In the discussion of the definition of "disclosable economic interest," the specific examples of "short positions, credit default swaps, and total return swaps" were added to illustrate the breadth of the definition. A sentence was added to the discussion of subdivision (c)(2) that states that the rule does not affect the right of a party to obtain information by means of discovery or as ordered by the court under any authority outside the rule.

Other changes. Stylistic and organizational changes were made throughout the rule and Committee Note to reduce the length and clarify the meaning of the published proposal.

COMMITTEE NOTES ON RULES—2024 AMENDMENT

The language of Rule 2019 has been amended as part of the general restyling of the Bankruptcy Rules to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only.

Rule 2020. Reviewing an Act by a United States Trustee

A proceeding to contest any act or failure to act by a United States trustee is governed by Rule 9014.

(Added Apr. 30, 1991, eff. Aug. 1, 1991; amended Apr. 2, 2024, eff. Dec. 1, 2024.)

NOTES OF ADVISORY COMMITTEE ON RULES—1991

The United States trustee performs administrative functions, such as the convening of the meeting of creditors and the appointment of trustees and committees. Most of the acts of the United States trustee are not controversial and will go unchallenged. However, the United States trustee is not a judicial officer and does not resolve disputes regarding the propriety of its own actions. This rule, which is new, provides a procedure for judicial review of the United States trustee's acts or failure to act in connection with the administration of the case. For example, if the United States trustee schedules a §341 meeting to be held 90 days after the petition is filed, and a party in interest wishes to challenge the propriety of that act in view of §341(a) of the Code and Rule 2003 which requires that the meeting be held not more than 40 days after the order for relief, this rule permits the party to do so by motion.

This rule provides for review of acts already committed by the United States trustee, but does not provide for advisory opinions in advance of the act. This rule is not intended to limit the discretion of the United States trustee, provided that the United States trustee's act is authorized by, and in compliance with, the Code, title 28, these rules, and other applicable law.

COMMITTEE NOTES ON RULES—2024 AMENDMENT

The language of Rule 2020 has been amended as part of the general restyling of the Bankruptcy Rules to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only.

PART III—CLAIMS; PLANS; DISTRIBUTIONS TO CREDITORS AND EQUITY SECURITY HOLDERS

Rule 3001. Proof of Claim

(a) DEFINITION AND FORM. A proof of claim is a written statement of a creditor's claim. It must substantially conform to Form 410.

(b) WHO MAY SIGN A PROOF OF CLAIM. Only a creditor or the creditor's agent may sign a proof of claim—except as provided in Rules 3004 and 3005.

(c) REQUIRED SUPPORTING INFORMATION.

(1) *Claim or Interest Based on a Writing*. If a claim or an interest in the debtor's property

securing the claim is based on a writing, the creditor must file a copy with the proof of claim—except for a claim based on a consumer-credit agreement under (4). If the writing has been lost or destroyed, a statement explaining the loss or destruction must be filed with the claim.

(2) *Additional Information in an Individual Debtor's Case*. If the debtor is an individual, the creditor must file with the proof of claim:

(A) an itemized statement of the principal amount and any interest, fees, expenses, or other charges incurred before the petition was filed;

(B) for any claimed security interest in the debtor's property, the amount needed to cure any default as of the date the petition was filed; and

(C) for any claimed security interest in the debtor's principal residence:

(i) Form 410A; and

(ii) if there is an escrow account connected with the claim, an escrow-account statement, prepared as of the date the petition was filed, that is consistent in form with applicable nonbankruptcy law.

(3) *Sanctions in an Individual-Debtor Case*. If the debtor is an individual and a claim holder fails to provide any information required by (1) or (2), the court may, after notice and a hearing, take one or both of these actions:

(A) preclude the holder from presenting the information in any form as evidence in any contested matter or adversary proceeding in the case—unless the court determines that the failure is substantially justified or is harmless; and

(B) award other appropriate relief, including reasonable expenses and attorney's fees caused by the failure.

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

(A) *Required Statement*. Except when the claim is secured by an interest in the debtor's real property, a proof of claim for a claim based on an open-end or revolving consumer-credit agreement must be accompanied by a statement that shows the following information about the credit 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 that last transaction;

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

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

(B) *Copy to a Party in Interest*. On a party in interest's written request, the creditor must send a copy of the writing described in (1) to that party within 30 days after the request is sent.

(d) CLAIM BASED ON A SECURITY INTEREST IN THE DEBTOR'S PROPERTY. If a creditor claims a security interest in the debtor's property, the proof of claim must be accompanied by evidence that the security interest has been perfected.

(e) TRANSFERRED CLAIM.

(1) *Claim Transferred Before a Proof of Claim Is Filed*. Unless the transfer was made for security, if a claim was transferred before a proof of claim is filed, only the transferee or an indenture trustee may file a proof of claim.

(2) *Claim Transferred After a Proof of Claim Was Filed.*

(A) *Filing Evidence of the Transfer*. Unless the transfer was made for security, the transferee of a claim that was transferred after a proof of claim is filed must file evidence of the transfer—except for a claim based on a publicly traded note, bond, or debenture.

(B) *Notice of the Filing and the Time for Objecting*. The clerk must immediately notify the alleged transferor, by mail, that evidence of the transfer has been filed and that the alleged transferor has 21 days after the notice is mailed to file an objection. The court may extend the

time to file it.

(C) *Hearing on an Objection; Substituting the Transferee*. If, on timely objection by the alleged transferor and after notice and a hearing, the court finds that the claim was transferred other than for security, the court must substitute the transferee for the transferor. If the alleged transferor does not file a timely objection, the transferee must be substituted for the transferor.

(3) *Claim Transferred for Security Before a Proof of Claim Is Filed.*

(A) *Right to File a Proof of Claim*. If a claim (except one based on a publicly traded note, bond, or debenture) was transferred for security before the proof of claim is filed, either the transferor or transferee (or both) may file a proof of claim for the full amount. The proof of claim must include a statement setting forth the terms of the transfer.

(B) *Notice of a Right to Join in a Proof of Claim; Consolidating Proofs*. If either the transferor or transferee files a proof of claim, the clerk must, by mail, immediately notify the other of the right to join in the claim. If both file proofs of the same claim, the claims must be consolidated.

(C) *Failure to File an Agreement About the Rights of the Transferor and Transferee*. On a party in interest's motion and after notice and a hearing, the court must issue appropriate orders regarding the rights of the transferor and transferee if either one fails to file an agreement on voting the claim, receiving dividends on it, or participating in the estate's administration.

(4) *Claim Transferred for Security After a Proof of Claim Was Filed.*

(A) *Filing Evidence of the Transfer*. If a claim (except one based on a publicly traded note, bond, or debenture) was transferred for security after a proof of claim was filed, the transferee must file a statement setting forth the terms of the transfer.

(B) *Notice of the Filing and the Time for Objecting*. The clerk must immediately notify the alleged transferor, by mail, that evidence of the transfer has been filed and that the alleged transferor has 21 days after the notice is mailed to file an objection. The court may extend the time to file it.

(C) *Hearing on an Objection*. If the alleged transferor files a timely objection, the court must, after notice and a hearing, determine whether the transfer was for security.

(D) *Failure to File an Agreement About the Rights of the Transferor and Transferee*. On a party in interest's motion and after notice and a hearing, the court must issue appropriate orders regarding the rights of the transferor and transferee if either one fails to file an agreement on voting the claim, receiving dividends on it, or participating in the estate's administration.

(5) *Serving an Objection or Motion; Notice of a Hearing*. At least 30 days before a hearing, a copy of any objection filed under (2) or (4) or any motion filed under (3) or (4) must be mailed or delivered to either the transferor or transferee as appropriate, together with notice of the hearing.

(f) PROOF OF CLAIM AS PRIMA FACIE EVIDENCE OF A CLAIM AND ITS AMOUNT. A proof of claim signed and filed in accordance with these rules is prima facie evidence of the claim's validity and amount.

(g) PROVING THE OWNERSHIP AND QUANTITY OF GRAIN. To the extent not inconsistent with the United States Warehouse Act or applicable State law, a warehouse receipt, scale ticket, or similar document of the type routinely issued as evidence of title by a grain storage facility, as defined in section 557 of title 11, shall constitute prima facie evidence of the validity and amount of a claim of ownership of a quantity of grain.

(As amended Pub. L. 98–353, title III, §354, July 10, 1984, 98 Stat. 361; Apr. 30, 1991, eff. Aug. 1, 1991; Mar. 26, 2009, eff. Dec. 1, 2009; Apr. 26, 2011, eff. Dec. 1, 2011; Apr. 23, 2012, eff. Dec. 1, 2012; Apr. 2, 2024, eff. Dec. 1, 2024.)

NOTES OF ADVISORY COMMITTEE ON RULES—1983

This rule is adapted from former Bankruptcy Rules 301 and 302. The Federal Rules of Evidence, made

applicable to cases under the Code by Rule 1101, do not prescribe the evidentiary effect to be accorded particular documents. Subdivision (f) of this rule supplements the Federal Rules of Evidence as they apply to cases under the Code.

Subdivision (c). This subdivision is similar to former Bankruptcy Rule 302(c) and continues the requirement for the filing of any written security agreement and provides that the filing of a duplicate of a writing underlying a claim authenticates the claim with the same effect as the filing of the original writing. *Cf.* Rules 1001(4) and 1003 of F.R. of Evid. Subdivision (d) together with the requirement in the first sentence of subdivision (c) for the filing of any written security agreement, is designed to facilitate the determination whether the claim is secured and properly perfected so as to be valid against the trustee.

Subdivision (d). "Satisfactory evidence" of perfection, which is to accompany the proof of claim, would include a duplicate of an instrument filed or recorded, a duplicate of a certificate of title when a security interest is perfected by notation on such a certificate, a statement that pledged property has been in possession of the secured party since a specified date, or a statement of the reasons why no action was necessary for perfection. The secured creditor may not be required to file a proof of claim under this rule if he is not seeking allowance of a claim for a deficiency. But see §506(d) of the Code.

Subdivision (e). The rule recognizes the differences between an unconditional transfer of a claim and a transfer for the purpose of security and prescribes a procedure for dealing with the rights of the transferor and transferee when the transfer is for security. The rule clarifies the procedure to be followed when a transfer precedes or follows the filing of the petition. The interests of sound administration are served by requiring the post-petition transferee to file with the proof of claim a statement of the transferor acknowledging the transfer and the consideration for the transfer. Such a disclosure will assist the court in dealing with evils that may arise out of post-bankruptcy traffic in claims against an estate. *Monroe v. Scofield*, 135 F.2d 725 (10th Cir. 1943); *In re Philadelphia & Western Ry*., 64 F. Supp. 738 (E.D. Pa. 1946); *cf. In re Latham Lithographic Corp*., 107 F.2d 749 (2d Cir. 1939). Both paragraphs (1) and (3) of this subdivision, which deal with a transfer before the filing of a proof of claim, recognize that the transferee may be unable to obtain the required statement from the transferor, but in that event a sound reason for such inability must accompany the proof of claim filed by the transferee.

Paragraphs (3) and (4) clarify the status of a claim transferred for the purpose of security. An assignee for security has been recognized as a rightful claimant in bankruptcy. *Feder v. John Engelhorn & Sons*, 202 F.2d 411 (2d Cir. 1953). An assignor's right to file a claim notwithstanding the assignment was sustained in *In re R & L Engineering Co*., 182 F. Supp. 317 (S.D. Cal. 1960). Facilitation of the filing of proofs by both claimants as holders of interests in a single claim is consonant with equitable treatment of the parties and sound administration. See *In re Latham Lithographic Corp*., 107 F.2d 749 (2d Cir. 1939).

Paragraphs (2) and (4) of subdivision (e) deal with the transfer of a claim after proof has been filed. Evidence of the terms of the transfer required to be disclosed to the court will facilitate the court's determination of the appropriate order to be entered because of the transfer.

Paragraph (5) describes the procedure to be followed when an objection is made by the transferor to the transferee's filed evidence of transfer.

NOTES OF ADVISORY COMMITTEE ON RULES—1987

Subdivision (g) was added by §354 of the 1984 amendments.

NOTES OF ADVISORY COMMITTEE ON RULES—1991 AMENDMENT

Subdivision (a) is amended in anticipation of future revision and renumbering of the Official Forms.

Subdivision (e) is amended to limit the court's role to the adjudication of disputes regarding transfers of claims. If a claim has been transferred prior to the filing of a proof of claim, there is no need to state the consideration for the transfer or to submit other evidence of the transfer. If a claim has been transferred other than for security after a proof of claim has been filed, the transferee is substituted for the transferor in the absence of a timely objection by the alleged transferor. In that event, the clerk should note the transfer without the need for court approval. If a timely objection is filed, the court's role is to determine whether a transfer has been made that is enforceable under nonbankruptcy law. This rule is not intended either to encourage or discourage postpetition transfers of claims or to affect any remedies otherwise available under nonbankruptcy law to a transferor or transferee such as for misrepresentation in connection with the transfer of a claim. "After notice and a hearing" as used in subdivision (e) shall be construed in accordance with paragraph (5).

The words "with the clerk" in subdivision (e)(2) and (e)(4) are deleted as unnecessary. See Rules 5005(a) and 9001(3).

COMMITTEE NOTES ON RULES—2009 AMENDMENT

The rule is amended to implement changes in connection with the amendment to Rule 9006(a) and the

manner by which time is computed under the rules. The deadlines in the rule are amended to substitute a deadline that is a multiple of seven days. Throughout the rules, deadlines are amended in the following manner:

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

COMMITTEE NOTES ON RULES—2011 AMENDMENT

Subdivision (c). Subdivision (c) is amended to prescribe with greater specificity the supporting information required to accompany certain proofs of claim and, in cases in which the debtor is an individual, the consequences of failing to provide the required information.

Existing subdivision (c) is redesignated as (c)(1).

Subdivision (c)(2) is added to require additional information to accompany proofs of claim filed in cases in which the debtor is an individual. When the holder of a claim seeks to recover—in addition to the principal amount of a debt—interest, fees, expenses, or other charges, the proof of claim must be accompanied by a statement itemizing these additional amounts with sufficient specificity to make clear the basis for the claimed amount.

If a claim is secured by a security interest in the property of the debtor and the debtor defaulted on the claim prior to the filing of the petition, the proof of claim must be accompanied by a statement of the amount required to cure the prepetition default.

If the claim is secured by a security interest in the debtor's principal residence, the proof of claim must be accompanied by the attachment prescribed by the appropriate Official Form. In that attachment, the holder of the claim must provide the information required by subparagraphs (A) and (B) of this paragraph (2). In addition, if an escrow account has been established in connection with the claim, an escrow account statement showing the account balance, and any amount owed, as of the date the petition was filed must be submitted in accordance with subparagraph (C). The statement must be prepared in a form consistent with the requirements of nonbankruptcy law. *See, e.g.*, 12 U.S.C. §2601 *et seq.* (Real Estate Settlement Procedure Act). Thus the holder of the claim may provide the escrow account statement using the same form it uses outside of bankruptcy for this purpose.

Subparagraph (D) of subdivision (c)(2) sets forth sanctions that the court may impose on a creditor in an individual debtor case that fails to provide information required by subdivision (c). Failure to provide the required information does not itself constitute a ground for disallowance of a claim. *See* §502(b) of the Code. But when an objection to the allowance of a claim is made or other litigation arises concerning the status or treatment of a claim, if the holder of that claim has not complied with the requirements of this subdivision, the court may preclude it from presenting as evidence any of the omitted information, unless the failure to comply with this subdivision was substantially justified or harmless. The court retains discretion to allow an amendment to a proof of claim under appropriate circumstances or to impose a sanction different from or in addition to the preclusion of the introduction of evidence.

Changes Made After Publication.

Subdivision (c)(1). The requirement that the last account statement sent to the debtor be filed with the proof of claim was deleted.

Subdivision (c)(2). In subparagraph (C), a provision was added requiring the use of the appropriate Official Form for the attachment filed by a holder of a claim secured by a security interest in a debtor's principal residence.

In subdivision (c)(2)(D), the clause "the holder shall be precluded" was deleted, and the provision was revised to state that "the court may, after notice and hearing, take either or both" of the specified actions.

Committee Note. In the discussion of subdivision (c)(2), the term "security interest" was added to the sentence that discusses the required filing of a statement of the amount necessary to cure a prepetition default.

The discussion of subdivision (c)(2)(D) was expanded to clarify that failure to provide required documentation, by itself, is not a ground for disallowance of a claim and that the court has several options in responding to a creditor's failure to provide information required by subdivision (c).

Other changes. Stylistic changes were made to the rule and the Committee Note.

COMMITTEE NOTES ON RULES—2012 AMENDMENT

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.

COMMITTEE NOTES ON RULES—2024 AMENDMENT

The language of most provisions in Rule 3001 have been amended as part of the general restyling of the Bankruptcy Rules to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only. Rule 3001(g) has not been restyled (except to add a title) because it was enacted by Congress, P.L. 98–353, 98 Stat. 361, Sec. 354 (1984). The Bankruptcy Rules Enabling Act, 28 U.S.C. §2075, provides no authority to modify statutory language.

REFERENCES IN TEXT

The United States Warehouse Act, referred to in subd. (g), is Part C of act Aug. 11, 1916, ch. 313, 39 Stat. 486, which is classified generally to chapter 10 (§241 et seq.) of Title 7, Agriculture. For complete classification of this Act to the Code, see Short Title note set out under section 241 of Title 7 and Tables.

AMENDMENT BY PUBLIC LAW

1984—Subd. (g). Pub. L. 98–353 added subd. (g).

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98–353 effective with respect to cases filed 90 days after July 10, 1984, see section 552(a) of Pub. L. 98–353, set out as a note under section 101 of this title.

Rule 3002. Filing a Proof of Claim or Interest

(a) NEED TO FILE. Unless Rule 1019(c), 3003, 3004, or 3005 provides otherwise, every creditor must file a proof of claim—and an equity security holder must file a proof of interest—for the claim or interest to be allowed. A lien that secures a claim is not void solely because an entity failed to file a proof of claim.

(b) WHERE TO FILE. The proof of claim or interest must be filed in the district where the case is pending and in accordance with Rule 5005.

(c) TIME TO FILE. In a voluntary Chapter 7 case or in a Chapter 12 or 13 case, the proof of claim

is timely if filed within 70 days after the order for relief or entry of an order converting the case to Chapter 12 or 13. In an involuntary Chapter 7 case, a proof of claim is timely if filed within 90 days after the order for relief is entered. These exceptions apply in all cases:

(1) *Governmental Unit*. A governmental unit's proof of claim is timely if filed within 180 days after the order for relief. But a proof of claim resulting from a tax return filed under §1308 is timely if filed within 180 days after the order for relief or within 60 days after the tax return is filed. On motion filed by a governmental unit before the time expires and for cause, the court may extend the time to file a proof of claim.

(2) *Infant or Incompetent Person*. In the interests of justice, the court may extend the time for an infant or incompetent person—or a representative of either—to file a proof of claim, but only if the extension will not unduly delay case administration.

(3) *Unsecured Claim That Arises from a Judgment*. This paragraph (3) applies if an unsecured claim arises in favor of an entity or becomes allowable because of a judgment to recover money or property from that entity or a judgment that denies or avoids the entity's interest in property. The claim may be filed within 30 days after the judgment becomes final. But the claim must not be allowed if the judgment imposes a liability that is not satisfied—or a duty that is not performed—within the 30 days or any additional time set by the court.

(4) *Claim Arising from a Rejected Executory Contract or Unexpired Lease*. A proof of claim for a claim that arises from a rejected executory contract or an unexpired lease may be filed within the time set by the court.

(5) *Notice That Assets May Be Available to Pay a Dividend*. The clerk must, by mail, give at least 90 days' notice to creditors that a dividend payment appears possible and that proofs of claim must be filed by the date set forth in the notice if:

(A) a notice of insufficient assets to pay a dividend had been given under Rule 2002(e); and

(B) the trustee later notifies the court that a dividend appears possible.

(6) *Claim Secured by a Security Interest in the Debtor's Principal Residence*. A proof of a claim secured by a security interest in the debtor's principal residence is timely filed if:

(A) the proof of claim and attachments required by Rule 3001(c)(2)(C) are filed within 70 days after the order for relief; and

(B) the attachments required by Rule 3001(c)(1) and (d) are filed as a supplement to the holder's claim within 120 days after the order for relief.

(7) *Extending the Time to File*. On a creditor's motion filed before or after the time to file a proof of claim has expired, the court may extend the time to file by no more than 60 days from the date of its order. The motion may be granted if the court finds that the notice was insufficient to give the creditor a reasonable time to file.

(As amended Mar. 30, 1987, eff. Aug. 1, 1987; Apr. 30, 1991, eff. Aug. 1, 1991; Apr. 23, 1996, eff. Dec. 1, 1996; Apr. 23, 2008, eff. Dec. 1, 2008; Apr. 27, 2017, eff. Dec. 1, 2017; Apr. 11, 2022, eff. Dec. 1, 2022; Apr. 2, 2024, eff. Dec. 1, 2024.)

NOTES OF ADVISORY COMMITTEE ON RULES—1983

Subdivision (a) of this rule is substantially a restatement of the general requirement that claims be proved and filed. The exceptions refer to Rule 3003 providing for the filing of claims in chapter 9 and 11 cases, and to Rules 3004 and 3005 authorizing claims to be filed by the debtor or trustee and the filing of a claim by a contingent creditor of the debtor.

A secured claim need not be filed or allowed under §502 or §506(d) unless a party in interest has requested a determination and allowance or disallowance under §502.

Subdivision (c) is adapted from former Bankruptcy Rule 302(e) but changes the time limits on the filing of claims in chapter 7 and 13 cases from six months to 90 days after the first date set for the meeting of creditors. The special rule for early filing by a secured creditor in a chapter 13 case, in former Rule 13–302(e)(1) is not continued.

Although the claim of a secured creditor may have arisen before the petition, a judgment avoiding the security interest may not have been entered until after the time for filing claims has expired. Under Rule

3002(c)(3) the creditor who did not file a secured claim may nevertheless file an unsecured claim within the time prescribed. A judgment does not become final for the purpose of starting the 30 day period provided for by paragraph (3) until the time for appeal has expired or, if an appeal is taken, until the appeal has been disposed of. *In re Tapp*, 61 F. Supp. 594 (W.D. Ky. 1945).

Paragraph (1) is derived from former Bankruptcy Rule 302(e). The governmental unit may move for an extension of the 90 day period. Pursuant to §501(c) of the Code, if the government does not file its claim within the proper time period, the debtor or trustee may file on its behalf. An extension is not needed by the debtor or trustee because the right to file does not arise until the government's time has expired.

Paragraph (4) is derived from former chapter rules. (See, *e.g.*, Rule 11–33(a)(2)(B). In light of the reduced time it is necessary that a party with a claim arising from the rejection of an executory contract have sufficient time to file that claim. This clause allows the court to fix an appropriate time.

Paragraph (5) of subdivision (c) is correlated with the provision in Rule 2002(e) authorizing notification to creditors of estates from which no dividends are anticipated. The clause permits creditors who have refrained from filing claims after receiving notification to be given an opportunity to file when subsequent developments indicate the possibility of a dividend. The notice required by this clause must be given in the manner provided in Rule 2002. The information relating to the discovery of assets will usually be obtained by the clerk from the trustee's interim reports or special notification by the trustee.

Provision is made in Rule 2002(a) and (h) for notifying all creditors of the fixing of a time for filing claims against a surplus under paragraph (6). This paragraph does not deal with the distribution of the surplus. Reference must also be made to §726(a)(2)(C) and (3) which permits distribution on late filed claims.

Paragraph (6) is only operative in a chapter 7 case. In chapter 13 cases, the plan itself provides the distribution to creditors which is not necessarily dependent on the size of the estate.

NOTES OF ADVISORY COMMITTEE ON RULES—1987 AMENDMENT

Subdivision (a) is amended by adding a reference to Rule 1019(4). Rule 1019(4) provides that claims actually filed by a creditor in a chapter 11 or 13 case shall be treated as filed in a superseding chapter 7 case. Claims deemed filed in a chapter 11 case pursuant to §1111(a) of the Code are not considered as filed in a superseding chapter 7 case. The creditor must file a claim in the superseding chapter 7 case.

NOTES OF ADVISORY COMMITTEE ON RULES—1991 AMENDMENT

Subdivision (a) is amended to conform to the renumbering of subdivisions of Rule 1019. Subdivision (c) is amended to include chapter 12 cases. Subdivision (c)(4) is amended to clarify that it includes a claim arising from the rejection of an unexpired lease.

NOTES OF ADVISORY COMMITTEE ON RULES—1996 AMENDMENT

The amendments are designed to conform to §§502(b)(9) and 726(a) of the Code as amended by the Bankruptcy Reform Act of 1994.

The Reform Act amended §726(a)(1) and added §502(b)(9) to the Code to govern the effects of a tardily filed claim. Under §502(b)(9), a tardily filed claim must be disallowed if an objection to the proof of claim is filed, except to the extent that a holder of a tardily filed claim is entitled to distribution under §726(a)(1), (2), or (3).

The phrase "in accordance with this rule" is deleted from Rule 3002(a) to clarify that the effect of filing a proof of claim after the expiration of the time prescribed in Rule 3002(c) is governed by §502(b)(9) of the Code, rather than by this rule.

Section 502(b)(9) of the Code provides that a claim of a governmental unit shall be timely filed if it is filed "before 180 days after the date of the order for relief" or such later time as the Bankruptcy Rules provide. To avoid any confusion as to whether a governmental unit's proof of claim is timely filed under §502(b)(9) if it is filed on the 180th day after the order for relief, paragraph (1) of subdivision (c) provides that a governmental unit's claim is timely if it is filed not later than 180 days after the order for relief.

References to "the United States, a state, or subdivision thereof" in paragraph (1) of subdivision (c) are changed to "governmental unit" to avoid different treatment among foreign and domestic governments.

GAP Report on Rule 3002. After publication of the proposed amendments, the Bankruptcy Reform Act of 1994 amended sections 726 and 502(b) of the Code to clarify the rights of creditors who tardily file a proof of claim. In view of the Reform Act, proposed new subdivision (d) of Rule 3002 has been deleted from the proposed amendments because it is no longer necessary. In addition, subdivisions (a) and (c) have been changed after publication to clarify that the effect of tardily filing a proof of claim is governed by §502(b)(9) of the Code, rather than by this rule.

The amendments to §502(b) also provide that a governmental unit's proof of claim is timely filed if it is filed before 180 days after the order for relief. Proposed amendments to Rule 3002(c)(1) were added to the

published amendments to conform to this statutory change and to avoid any confusion as to whether a claim by a governmental unit is timely if it is filed on the 180th day.

The committee note has been re-written to explain the rule changes designed to conform to the Reform Act.

COMMITTEE NOTES ON RULES—2008 AMENDMENT

Subdivision (c)(1) is amended to reflect the addition of §1308 to the Bankruptcy Code in 2005. This provision requires that chapter 13 debtors file tax returns during the pendency of the case, and imposes bankruptcy-related consequences if debtors fail to do so. Subdivision (c)(1) provides additional time for governmental units to file a proof of claim for tax obligations with respect to tax returns filed during the pendency of a chapter 13 case. The amendment also allows the governmental unit to move for additional time to file a proof of claim prior to expiration of the applicable filing period.

Subdivision (c)(5) of the rule is amended to set a new period for providing notice to creditors that they may file a proof of claim in a case in which they were previously informed that there was no need to file a claim. Under Rule 2002(e), if it appears that there will be no distribution to creditors, the creditors are notified of this fact and are informed that if assets are later discovered and a distribution is likely that a new notice will be given to the creditors. This second notice is prescribed by Rule 3002(c)(5). The rule is amended to direct the clerk to give at least 90 days' notice of the time within which creditors may file a proof of claim. Setting the deadline in this manner allows the notices being sent to creditors to be more accurate regarding the deadline than was possible under the prior rule. The rule previously began the 90 day notice period from the time of the mailing of the notice, a date that could vary and generally would not even be known to the creditor. Under the amended rule, the notice will identify a specific bar date for filing proofs of claim thereby being more helpful to the creditors.

Subdivision (c)(6) is added to give the court discretion to extend the time for filing a proof of claim for a creditor who received notice of the time to file the claim at a foreign address, if the court finds that the notice was not sufficient, under the particular circumstances, to give the foreign creditor a reasonable time to file a proof of claim. This amendment is designed to comply with §1514(d), added to the Code by the 2005 amendments, and requires that the rules and orders of the court provide such additional time as is reasonable under the circumstances for foreign creditors to file claims in cases under all chapters of the Code.

Other changes are stylistic.

Changes Made After Publication. Subdivision (c)(1) was amended to allow governmental units to move for an enlargement of the time to file a proof of claim. The Committee Note was amended to describe this addition to the rule.

COMMITTEE NOTES ON RULES—2017 AMENDMENT

Subdivision (a) is amended to clarify that a creditor, including a secured creditor, must file a proof of claim in order to have an allowed claim. The amendment also clarifies, in accordance with §506(d), that the failure of a secured creditor to file a proof of claim does not render the creditor's lien void. The inclusion of language from §506(d) is not intended to effect any change of law with respect to claims subject to setoff under §553. The amendment preserves the existing exceptions to this rule under Rules 1019(3), 3003, 3004, and 3005. Under Rule 1019(3), a creditor does not need to file another proof of claim after conversion of a case to chapter 7. Rule 3003 governs the filing of a proof of claim in chapter 9 and chapter 11 cases. Rules 3004 and 3005 govern the filing of a proof of claim by the debtor, trustee, or another entity if a creditor does not do so in a timely manner.

Subdivision (c) is amended to alter the calculation of the bar date for proofs of claim in chapter 7, chapter 12, and chapter 13 cases. The amendment changes the time for filing a proof of claim in a voluntary chapter 7 case, a chapter 12 case, or a chapter 13 case from 90 days after the §341 meeting of creditors to 70 days after the petition date. If a case is converted to chapter 12 or chapter 13, the 70-day time for filing runs from the order of conversion. If a case is converted to chapter 7, Rule 1019(2) provides that a new time period for filing a claim commences under Rule 3002. In an involuntary chapter 7 case, a 90-day time for filing applies and runs from the entry of the order for relief.

Subdivision (c)(6) is amended to expand the exception to the bar date for cases in which a creditor received insufficient notice of the time to file a proof of claim. The amendment provides that the court may extend the time to file a proof of claim if the debtor fails to file a timely list of names and addresses of creditors as required by Rule 1007(a). The amendment also clarifies that if a court grants a creditor's motion under this rule to extend the time to file a proof of claim, the extension runs from the date of the court's decision on the motion.

Subdivision (c)(7) is added to provide a two-stage deadline for filing mortgage proofs of claim secured by an interest in the debtor's principal residence. Those proofs of claim must be filed with the appropriate Official Form mortgage attachment within 70 days of the order for relief. The claim will be timely if any additional

documents evidencing the claim, as required by Rule 3001(c)(1) and (d), are filed within 120 days of the order for relief. The order for relief is the commencement of the case upon filing a petition, except in an involuntary case. See §301 and §303(h). The confirmation of a plan within the 120-day period set forth in subdivision (c)(7)(B) does not prohibit an objection to any proof of claim.

COMMITTEE NOTES ON RULES—2022 AMENDMENT

Rule 3002(c)(6) is amended to provide a single standard for granting motions for an extension of time to file a proof of claim, whether the creditor has a domestic address or a foreign address. If the notice to such creditor was "insufficient under the circumstances to give the creditor a reasonable time to file a proof of claim," the court may grant an extension.

COMMITTEE NOTES ON RULES—2024 AMENDMENT

The language of Rule 3002 has been amended as part of the general restyling of the Bankruptcy Rules to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only.

Rule 3002.1. Chapter 13—Claim Secured by a Security Interest in the Debtor's Principal Residence

(a) IN GENERAL. This rule applies in a Chapter 13 case to a claim that is secured by a security interest in the debtor's principal residence and for which the plan provides for the trustee or debtor to make payment on the debt. Unless the court orders otherwise, the requirements of this rule cease when an order terminating or annulling the automatic stay related to that residence becomes effective.

(b) NOTICE OF A PAYMENT CHANGE; HOME-EQUITY LINE OF CREDIT; EFFECT OF AN UNTIMELY NOTICE; OBJECTION.

(1) *Notice by the Claim Holder—In General*. The claim holder must file a notice of any change in the payment amount, including one resulting from an interest-rate or escrow-account adjustment. The notice must be served on:

- the debtor;
- the debtor's attorney; and
- the trustee.

Except as provided in (b)(2), it must be filed and served at least 21 days before the new payment is due.

(2) *Notice of a Change in a Home-Equity Line of Credit.*

(A) *Deadline for the Initial Filing; Later Annual Filing*. If the claim arises from a home-equity line of credit, the notice of a payment change must be filed and served either as provided in (b)(1) or within one year after the bankruptcy-petition filing, and then at least annually.

(B) *Content of the Annual Notice*. The annual notice must:

(i) state the payment amount due for the month when the notice is filed; and

(ii) include a reconciliation amount to account for any overpayment or underpayment during the prior year.

(C) *Amount of the Next Payment*. The first payment due at least 21 days after the annual notice is filed and served must be increased or decreased by the reconciliation amount.

(D) *Effective Date*. The new payment amount stated in the annual notice (disregarding the reconciliation amount) is effective on the first payment due date after the payment under (C) has been made and remains effective until a new notice becomes effective.

(E) *Payment Changes Greater Than $10*. If the claim holder chooses to give annual notices under (b)(2) and the monthly payment increases or decreases by more than $10 in any month, the holder must file and serve (in addition to the annual notice) a notice under (b)(1) for that month.

(3) *Effect of an Untimely Notice*. If the claim holder does not timely file and serve the notice required by (b)(1) or (b)(2), the effective date of the new payment amount is as follows:

(A) when the notice concerns a payment increase, on the first payment due date that is at least 21 days after the untimely notice was filed and served; or

(B) when the notice concerns a payment decrease, on the actual payment due date, even if it is prior to the notice.

(4) *Party in Interest's Objection*. A party in interest who objects to a payment change noticed under (b)(1) or (b)(2) may file and serve a motion to determine the change's validity. Unless the court orders otherwise, if no motion is filed before the day the new payment is due, the change goes into effect on that date.

(c) FEES, EXPENSES, AND CHARGES INCURRED AFTER THE CASE WAS FILED; NOTICE BY THE CLAIM HOLDER. The claim holder must file a notice itemizing all fees, expenses, and charges incurred after the case was filed that the holder asserts are recoverable against the debtor or the debtor's principal residence. Within 180 days after the fees, expenses, or charges are incurred, the notice must be filed and served on the individuals listed in (b)(1).

(d) FILING NOTICE AS A SUPPLEMENT TO A PROOF OF CLAIM. A notice under (b) or (c) must be filed as a supplement to a proof of claim using Form 410S-1 or 410S-2, respectively. The notice is not subject to Rule 3001(f).

(e) DETERMINING FEES, EXPENSES, OR CHARGES. On a party in interest's motion, the court must, after notice and a hearing, determine whether paying any claimed fee, expense, or charge is required by the underlying agreement and applicable nonbankruptcy law. The motion must be filed within one year after the notice under (c) was served, unless a party in interest requests and the court orders a shorter period.

(f) MOTION TO DETERMINE STATUS; RESPONSE; COURT DETERMINATION.

(1) *Timing; Content and Service*. At any time after the date of the order for relief under Chapter 13 and until the trustee files the notice under (g)(1), the trustee or debtor may file a motion to determine the status of any claim described in (a). The motion must be prepared using Form 410C13-M1 and be served on:

- the debtor and the debtor's attorney, if the trustee is the movant;
- the trustee, if the debtor is the movant; and
- the claim holder.

(2) *Response; Content and Service*. If the claim holder disagrees with facts set forth in the motion, it must file a response within 28 days after the motion is served. The response must be prepared using Form 410C13-M1R and be served on the individuals listed in (b)(1).

(3) *Court Determination*. If the claim holder's response asserts a disagreement with facts set forth in the motion, the court must, after notice and a hearing, determine the status of the claim and enter an appropriate order. If the claim holder does not respond to the motion or files a response agreeing with the facts set forth in it, the court may grant the motion based on those facts and enter an appropriate order.

(g) TRUSTEE'S END-OF-CASE NOTICE OF DISBURSEMENTS MADE; RESPONSE; COURT DETERMINATION.

(1) *Timing and Content*. Within 45 days after the debtor completes all payments due to the trustee under a Chapter 13 plan, the trustee must file a notice:

(A) stating what amount the trustee disbursed to the claim holder to cure any default and whether it has been cured;

(B) stating what amount the trustee disbursed to the claim holder for payments that came due during the pendency of the case and whether such payments are current as of the date of the notice; and

(C) informing the claim holder of its obligation to respond under (g)(3).

(2) *Service*. The notice must be prepared using Form 410C13-N and be served on:
- the claim holder;
- the debtor; and
- the debtor's attorney.

(3) *Response*. The claim holder must file a response to the notice within 28 days after its service. The response, which is not subject to Rule 3001(f), must be filed as a supplement to the claim holder's proof of claim. The response must be prepared using Form 410C13-NR and be served on the individuals listed in (b)(1).

(4) *Court Determination of a Final Cure and Payment.*

(A) *Motion*. Within 45 days after service of the response under (g)(3) or after service of the trustee's notice under (g)(1) if no response is filed by the claim holder, the debtor or trustee may file a motion to determine whether the debtor has cured all defaults and paid all required postpetition amounts on a claim described in (a). The motion must be prepared using Form 410C13-M2 and be served on the entities listed in (f)(1).

(B) *Response*. If the claim holder disagrees with the facts set forth in the motion, it must file a response within 28 days after the motion is served. The response must be prepared using Form 410C13-M2R and be served on the individuals listed in (b)(1).

(C) *Court Determination*. After notice and a hearing, the court must determine whether the debtor has cured all defaults and paid all required postpetition amounts. If the claim holder does not respond to the motion or files a response agreeing with the facts set forth in it, the court may enter an appropriate order based on those facts.

(h) CLAIM HOLDER'S FAILURE TO GIVE NOTICE OR RESPOND. If the claim holder fails to provide any information as required by this rule, the court may, after notice and a hearing, do one or more of the following:

(1) preclude the holder from presenting the omitted information in any form as evidence in a contested matter or adversary proceeding in the case—unless the court determines that the failure was substantially justified or is harmless;

(2) award other appropriate relief, including reasonable expenses and attorney's fees caused by the failure; and

(3) take any other action authorized by this rule.

(Added Apr. 26, 2011, eff. Dec. 1, 2011; amended Apr. 28, 2016, eff. Dec. 1, 2016; Apr. 26, 2018, eff. Dec. 1, 2018; Apr. 2, 2024, eff. Dec. 1, 2024; Apr. 23, 2025, eff. Dec. 1, 2025.)

COMMITTEE NOTES ON RULES—2011

This rule is new. It is added to aid in the implementation of §1322(b)(5), which permits a chapter 13 debtor to cure a default and maintain payments on a home mortgage over the course of the debtor's plan. It applies regardless of whether the trustee or the debtor is the disbursing agent for postpetition mortgage payments.

In order to be able to fulfill the obligations of §l322(b)(5), a debtor and the trustee have to be informed of the exact amount needed to cure any prepetition arrearage, *see* Rule 3001(c)(2), and the amount of the postpetition payment obligations. If the latter amount changes over time, due to the adjustment of the interest rate, escrow account adjustments, or the assessment of fees, expenses, or other charges, notice of any change in payment amount needs to be conveyed to the debtor and trustee. Timely notice of these changes will permit the debtor or trustee to challenge the validity of any such charges, if appropriate, and to adjust postpetition mortgage payments to cover any undisputed claimed adjustment. Compliance with the notice provision of the rule should also eliminate any concern on the part of the holder of the claim that informing a debtor of a change in postpetition payment obligations might violate the automatic stay.

Subdivision (a). Subdivision (a) specifies that this rule applies only in a chapter 13 case to claims secured by a security interest in the debtor's principal residence.

Subdivision (b). Subdivision (b) requires the holder of a claim to notify the debtor, debtor's counsel, and the trustee of any postpetition change in the mortgage payment amount at least 21 days before the new payment amount is due.

Subdivision (c). Subdivision (c) requires an itemized notice to be given, within 180 days of incurrence, of any postpetition fees, expenses, or charges that the holder of the claim asserts are recoverable from the debtor or against the debtor's principal residence. This might include, for example, inspection fees, late charges, or attorney's fees.

Subdivision (d). Subdivision (d) provides the method of giving the notice under subdivisions (b) and (c). In both instances, the holder of the claim must give notice of the change as prescribed by the appropriate Official Form. In addition to serving the debtor, debtor's counsel, and the trustee, the holder of the claim must also file the notice on the claims register in the case as a supplement to its proof of claim. Rule 3001(f) does not apply to any notice given under subdivision (b) or (c), and therefore the notice will not constitute prima facie evidence of the validity and amount of the payment change or of the fee, expense, or charge.

Subdivision (e). Subdivision (e) permits the debtor or trustee, within a year after service of a notice under subdivision (c), to seek a determination by the court as to whether the fees, expenses, or charges set forth in the notice are required by the underlying agreement or applicable nonbankruptcy law to cure a default or maintain payments.

Subdivision (f). Subdivision (f) requires the trustee to issue a notice to the holder of the claim, the debtor, and the debtor's attorney within 30 days after completion of payments under the plan. The notice must (1) indicate that all amounts required to cure a default on a claim secured by the debtor's principal residence have been paid, and (2) direct the holder to comply with subdivision (g). If the trustee fails to file this notice within the required time, this subdivision also permits the debtor to file and serve the notice on the trustee and the holder of the claim.

Subdivision (g). Subdivision (g) governs the response of the holder of the claim to the trustee's or debtor's notice under subdivision (f). Within 21 days after service of notice of the final cure payment, the holder of the claim must file and serve a statement indicating whether the prepetition default has been fully cured and also whether the debtor is current on all payments in accordance with §1322(b)(5) of the Code. If the holder of the claim contends that all cure payments have not been made or that the debtor is not current on other payments required by §1322(b)(5), the response must itemize all amounts, other than regular future installment payments, that the holder contends are due.

Subdivision (h). Subdivision (h) provides a procedure for the judicial resolution of any disputes that may arise about payment of a claim secured by the debtor's principal residence. Within 21 days after the service of the statement under (g), the trustee or debtor may move for a determination by the court of whether any default has been cured and whether any other non-current obligations remain outstanding.

Subdivision (i). Subdivision (i) specifies sanctions that may be imposed if the holder of a claim fails to provide any of the information as required by subdivisions (b), (c), or (g).

If, after the chapter 13 debtor has completed payments under the plan and the case has been closed, the holder of a claim secured by the debtor's principal residence seeks to recover amounts that should have been but were not disclosed under this rule, the debtor may move to have the case reopened in order to seek sanctions against the holder of the claim under subdivision (i).

Changes Made After Publication.

Subdivision (a). As part of organizational changes intended to make the rule shorter and clearer, a new subdivision (a) was inserted that specifies the applicability of the rule. Other subdivision designations were changed accordingly.

Subdivision (b). The timing of the notice of payment change, addressed in subdivision (a) of the published rule, was changed from 30 to 21 days before payment must be made in the new amount.

Subdivision (d). The provisions of the published rule prescribing the procedure for providing notice of payment changes and of fees, expenses, and charges were moved to subdivision (d).

Subdivision (e). As part of the organizational revision of the rule, the provision governing the resolution of disputes over claimed fees, expenses, or charges was moved to this subdivision.

Subdivision (f). The triggering event for the filing of the notice of final cure payment was changed to the debtor's completion of all payments required under the plan. A sentence was added requiring the notice to inform the holder of the mortgage claim of its obligation to file and serve a response under subdivision (g).

Subdivision (h). The caption of this subdivision (which was subdivision (f) as published), was changed to describe its content more precisely.

Subdivision (i). The clause "the holder shall be precluded" was deleted, and the provision was revised to state that "the court may, after notice and hearing, take either or both" of the specified actions.

Committee Note. A sentence was added to the first paragraph to clarify that the rule applies regardless of whether ongoing mortgage payments are made directly by the debtor or disbursed through the chapter 13 trustee. Other changes were made to the Committee Note to reflect the changes made to the rule.

Other changes. Stylistic changes were made throughout the rule and Committee Note.

COMMITTEE NOTES ON RULES—2016 AMENDMENT

Subdivision (a) is amended to clarify the applicability of the rule. Its provisions apply whenever a chapter 13 plan provides that contractual payments on the debtor's home mortgage will be maintained, whether they will be paid by the trustee or directly by the debtor. The reference to §1322(b)(5) of the Code is deleted to make clear that the rule applies even if there is no prepetition arrearage to be cured. So long as a creditor has a claim that is secured by a security interest in the debtor's principal residence and the plan provides that contractual payments on the claim will be maintained, the rule applies.

Subdivision (a) is further amended to provide that, unless the court orders otherwise, the notice obligations imposed by this rule cease on the effective date of an order granting relief from the automatic stay with regard to the debtor's principal residence. Debtors and trustees typically do not make payments on mortgages after the stay relief is granted, so there is generally no need for the holder of the claim to continue providing the notices required by this rule. Sometimes, however, there may be reasons for the debtor to continue receiving mortgage information after stay relief. For example, the debtor may intend to seek a mortgage modification or to cure the default. When the court determines that the debtor has a need for the information required by this rule, the court is authorized to order that the notice obligations remain in effect or be reinstated after the relief from the stay is granted.

COMMITTEE NOTES ON RULES—2018 AMENDMENT

Subdivision (b) is subdivided and amended in two respects. First, it is amended in what is now subdivision (b)(1) to authorize courts to modify its requirements for claims arising from home equity lines of credit (HELOCs). Because payments on HELOCs may adjust frequently and in small amounts, the rule provides flexibility for courts to specify alternative procedures for keeping the person who is maintaining payments on the loan apprised of the current payment amount. Courts may specify alternative requirements for providing notice of changes in HELOC payment amounts by local rules or orders in individual cases.

Second, what is now subdivision (b)(2) is amended to acknowledge the right of the trustee, debtor, or other party in interest, such as the United States trustee, to object to a change in a home-mortgage payment amount after receiving notice of the change under subdivision (b)(1). The amended rule does not set a deadline for filing a motion for a determination of the validity of the payment change, but it provides as a general matter—subject to a contrary court order—that if no motion has been filed on or before the day before the change is to take effect, the announced change goes into effect. If there is a later motion and a determination that the payment change was not required to maintain payments under §1322(b)(5), appropriate adjustments will have to be made to reflect any overpayments. If, however, a motion is made during the time specified in subdivision (b)(2), leading to a suspension of the payment change, a determination that the payment change was valid will require the debtor to cure the resulting default in order to be current on the mortgage at the end of the bankruptcy case.

Subdivision (e) is amended to allow parties in interest in addition to the debtor or trustee, such as the United States trustee, to seek a determination regarding the validity of any claimed fee, expense, or charge.

COMMITTEE NOTES ON RULES—2024 AMENDMENT

The language of Rule 3002.1 has been amended as part of the general restyling of the Bankruptcy Rules to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only.

COMMITTEE NOTES ON RULES—2025 AMENDMENT

The rule is amended to encourage a greater degree of compliance with its provisions and to allow assessments of a mortgage claim's status while a chapter 13 case is pending in order to give the debtor an opportunity to cure any postpetition defaults that may have occurred. Stylistic changes are made throughout the rule, and its title and subdivision headings have been changed to reflect the amended content.

Subdivision (a), which describes the rule's applicability, is amended to delete the words "contractual" and "installment" in the phrase "contractual installment payments" in order to clarify and broaden the rule's applicability. The deletion of "contractual" is intended to make the rule applicable to home mortgages that may be modified and are being paid according to the terms of the plan rather than strictly according to the contract, including mortgages being paid in full during the term of the plan. The word "installment" is deleted to clarify the rule's applicability to reverse mortgages. They are not paid in installments, but a debtor may be curing a default on a reverse mortgage under the plan. If so, the rule applies.

In addition to stylistic changes, subdivision (b) is amended to provide more detailed provisions about notice of payment changes for home-equity lines of credit ("HELOCs") and to add provisions about the effective date of late payment change notices. The treatment of HELOCs presents a special issue under this rule because the amount owed changes frequently, often in small amounts. Requiring a notice for each change can

be overly burdensome. Under new subdivision (b)(2), a HELOC claimant may choose to file only annual payment change notices—including a reconciliation figure (net overpayment or underpayment for the past year)—unless the payment change in a single month is for more than $10. This provision also ensures at least 21 days' notice before a payment increase takes effect.

As a sanction for noncompliance, subdivision (b)(3) now provides that late notices of a payment increase do not go into effect until the first payment due date after the required notice period (at least 21 days) expires. The claim holder will not be permitted to collect the increase for the interim period. There is no delay, however, in the effective date of an untimely notice of a payment decrease. It may even take effect retroactively, if the actual due date of the decreased payment occurred before the claim holder gave notice of the change.

The changes made to subdivisions (c) and (d) are largely stylistic. Stylistic changes are also made to subdivision (e). In addition, the court is given authority, upon motion of a party in interest, to shorten the time for seeking a determination of the fees, expenses, or charges owed. Such a shortening, for example, might be appropriate in the later stages of a chapter 13 case.

Subdivision (f) is new. It provides a procedure for assessing the status of the mortgage at any point before the trustee files the notice under (g)(1). This optional procedure, which should be used only when necessary and appropriate for carrying out the plan, allows the debtor and the trustee to be informed of any deficiencies in payment and to reconcile records with the claim holder in time to become current before the case is closed. The procedure is initiated by motion of the trustee or debtor. An Official Form has been adopted for this purpose. The claim holder then must respond if it disagrees with facts stated in the motion, again using an Official Form to provide the required information. If the claim holder's response asserts such a disagreement, the court, after notice and a hearing, will determine the status of the mortgage claim. If the claim holder fails to respond or does not dispute the facts set forth in the motion, the court may enter an order favorable to the moving party based on those facts.

Under subdivision (g), within 45 days after the last plan payment is made to the trustee, the trustee must file an End-of-Case Notice of Disbursements Made. An Official Form has been adopted for this purpose. The notice will state the amount that the trustee has paid to cure any default on the claim and whether the default has been cured. It will also state the amount that the trustee has disbursed on obligations that came due during the case and whether those payments are current as of the date of the notice. If the trustee has disbursed no amounts to the claim holder under either or both categories, the notice should be filed stating $0 for the amount disbursed. The claim holder then must respond within 28 days after service of the notice, again using an Official Form to provide the required information.

Either the trustee or the debtor may file a motion for a determination of final cure and payment. The motion, using the appropriate Official Form, may be filed within 45 days after the claim holder responds to the trustee's notice under (g)(1), or, if the claim holder fails to respond to the notice, within 45 days after the notice was served. If the claim holder disagrees with any facts in the motion, it must respond within 28 days after the motion is served, using the appropriate Official Form. The court will then determine the status of the mortgage. A Director's Form provides guidance on the type of information that should be included in the order.

Subdivision (h) was previously subdivision (i). It has been amended to clarify that the listed sanctions are authorized in addition to any other actions that the rule authorizes the court to take if the claim holder fails to provide notice or respond as required by the rule. Stylistic changes have also been made to the subdivision.

Rule 3003. Chapter 9 or 11—Filing a Proof of Claim or Equity Interest

(a) SCOPE. This rule applies only in a Chapter 9 or 11 case.

(b) SCHEDULED LIABILITIES AND LISTED EQUITY SECURITY HOLDERS AS PRIMA FACIE EVIDENCE OF VALIDITY AND AMOUNT.

(1) *Creditor's Claim*. An entry on the schedule of liabilities filed under §521(a)(1)(B)(i) is prima facie evidence of the validity and the amount of a creditor's claim—except for a claim scheduled as disputed, contingent, or unliquidated. Filing a proof of claim is unnecessary except as provided in (c)(2).

(2) *Interest of an Equity Security Holder*. An entry on the list of equity security holders filed under Rule 1007(a)(3) is prima facie evidence of the validity and the amount of the equity interest. Filing a proof of the interest is unnecessary except as provided in (c)(2).

(c) FILING A PROOF OF CLAIM.

(1) *Who May File a Proof of Claim*. A creditor or indenture trustee may file a proof of claim.

(2) *Who Must File a Proof of Claim or Interest*. A creditor or equity security holder whose claim or interest is not scheduled—or is scheduled as disputed, contingent, or unliquidated—must file a proof of claim or interest. A creditor who fails to do so will not be treated as a creditor for that claim for voting and distribution.

(3) *Time to File*. The court must set the time to file a proof of claim or interest and may, for cause, extend the time. If the time has expired, the proof of claim or interest may be filed to the extent and under the conditions stated in Rule 3002(c)(2), (3), (4), and (7).

(4) *Proof of Claim by an Indenture Trustee*. An indenture trustee may file a proof of claim on behalf of all known or unknown holders of securities issued under the trust instrument under which it is trustee.

(5) *Effect of Filing a Proof of Claim or Interest*. A proof of claim or interest signed and filed under (c) supersedes any scheduling of the claim or interest under §521(a)(1).

(d) TREATING A NONRECORD HOLDER OF A SECURITY AS THE RECORD HOLDER. For the purpose of Rules 3017, 3018, and 3021 and receiving notices, an entity that is not a record holder of a security may file a statement setting forth facts that entitle the entity to be treated as the record holder. A party in interest may file an objection to the statement.

(As amended Mar. 30, 1987, eff. Aug. 1, 1987; Apr. 30, 1991, eff. Aug. 1, 1991; Apr. 23, 2008, eff. Dec. 1, 2008; Apr. 2, 2024, eff. Dec. 1, 2024.)

NOTES OF ADVISORY COMMITTEE ON RULES—1983

Subdivision (a). This rule applies only in chapter 9 and chapter 11 cases. It is adapted from former Chapter X Rule 10–401 and provides an exception to the requirement for filing proofs of claim and interest as expressed in §§925 and 1111(a) of the Code.

Subdivision (b). This general statement implements §§925 and 1111(a) of the Code.

Subdivision (c). This subdivision permits, in paragraph (1), the filing of a proof of claim but does not make it mandatory. Paragraph (2) requires, as does the Code, filing when a claim is scheduled as disputed, contingent, or unliquidated as to amount. It is the creditor's responsibility to determine if the claim is accurately listed. Notice of the provision of this rule is provided for in Official Form No. 16, the order for the meeting of creditors. In an appropriate case the court may order creditors whose claims are scheduled as disputed, contingent, or unliquidated be notified of that fact but the procedure is left to the discretion of the court.

Subdivision (d) is derived from former Chapter X Rule 10–401(f).

Except with respect to the need and time for filing claims, the other aspects concerning claims covered by Rules 3001 and 3002 are applicable in chapter 9 and 11 cases.

Holders of equity security interests need not file proofs of interest. Voting and distribution participation is dependent on ownership as disclosed by the appropriate records of a transfer agent or the corporate or other business records at the time prescribed in Rules 3017 and 3021.

NOTES OF ADVISORY COMMITTEE ON RULES—1991 AMENDMENT

Paragraph (3) of subdivision (c) is amended to permit the late filing of claims by infants or incompetent persons under the same circumstances that permit late filings in cases under chapter 7, 12, or 13. The amendment also provides sufficient time in which to file a claim that arises from a postpetition judgment against the claimant for the recovery of money or property or the avoidance of a lien. It also provides for purposes of clarification that upon rejection of an executory contract or unexpired lease, the court shall set a time for filing a claim arising therefrom despite prior expiration of the time set for filing proofs of claim.

The caption of paragraph (4) of subdivision (c) is amended to indicate that it applies to a proof of claim.

COMMITTEE NOTES ON RULES—2008 AMENDMENT

Subdivision (c)(3) is amended to implement §1514(d) of the Code, which was added by the 2005 amendments. It makes the new Rule 3002(c)(6) applicable in chapter 9 and chapter 11 cases. This change was necessary so that creditors with foreign addresses be provided such additional time as is reasonable under the circumstances to file proofs of claims.

Changes Made After Publication. No changes were made after publication.

COMMITTEE NOTES ON RULES—2024 AMENDMENT

The language of Rule 3003 has been amended as part of the general restyling of the Bankruptcy Rules to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only.

Rule 3004. Proof of Claim Filed by the Debtor or Trustee for a Creditor

(a) FILING BY THE DEBTOR OR TRUSTEE. If a creditor does not file a proof of claim within the time prescribed by Rule 3002(c) or Rule 3003(c), the debtor or trustee may do so within 30 days after the creditor's time to file expires.

(b) NOTICE BY THE CLERK. The clerk must promptly give notice of the filing to:

- the creditor;
- the debtor; and
- the trustee.

(As amended Mar. 30, 1987, eff. Aug. 1, 1987; Apr. 25, 2005, eff. Dec. 1, 2005; Apr. 2, 2024, eff. Dec. 1, 2024.)

NOTES OF ADVISORY COMMITTEE ON RULES—1983

This rule is adapted from former Bankruptcy Rule 303 but conforms with the changes made by §501(c) of the Code. Rule 303 permitted only the filing of tax and wage claims by the debtor. Section 501(c) of the Code, however, permits the filing by the debtor or trustee on behalf of any creditor.

It is the policy of the Code that debtors' estates should be administered for the benefit of creditors without regard to the dischargeability of their claims. After their estates have been closed, however, discharged debtors may find themselves saddled with liabilities, particularly for taxes, which remain unpaid because of the failure of creditors holding nondischargeable claims to file proofs of claim and receive distributions thereon. The result is that the debtor is deprived of an important benefit of the Code without any fault or omission on the debtor's part and without any objective of the Code being served thereby.

Section 501(c) of the Code authorizes a debtor or trustee to file a proof of claim for any holder of a claim. Although all claims may not be nondischargeable, it may be difficult to determine, in particular, whether tax claims survive discharge. See Plumb, *Federal Tax Liens and Priorities in Bankruptcy*, 43 Ref. J. 37, 43–44 (1969); 1 Collier, *Bankruptcy* 17.14 (14th ed. 1967); 3 *id*. 523.06 (15th ed. 1979). To eliminate the necessity of the resolution of this troublesome issue, the option accorded the debtor by the Code does not depend on the nondischargeability of the claim. No serious administrative problems and no unfairness to creditors seemed to develop from adoption of Rule 303, the forerunner to §501(c). The authority to file is conditioned on the creditor's failure to file the proof of claim on or before the first date set for the meeting of creditors, which is the date a claim must ordinarily be filed in order to be voted in a chapter 7 case. Notice to the creditor is provided to enable him to file a proof of claim pursuant to Rule 3002, which proof, when filed, would supersede the proof filed by the debtor or trustee. Notice to the trustee would serve to alert the trustee to the special character of the proof and the possible need for supplementary evidence of the validity and amount of the claim. If the trustee does not qualify until after a proof of claim is filed by the debtor pursuant to this rule, he should be notified as soon as practicable thereafter.

To the extent the claim is allowed and dividends paid thereon, it will be reduced or perhaps paid in full. If the claim is also filed pursuant to Rule 3005, only one distribution thereon may be made. As expressly required by Rule 3005 and by the purpose of this rule such distribution must diminish the claim.

NOTES OF ADVISORY COMMITTEE ON RULES—1987 AMENDMENT

Under the rule as amended, the debtor or trustee in a chapter 7 or 13 case has 120 days from the first date set for the meeting of creditors to file a claim for the creditor. During the first 90 days of that period the creditor in a chapter 7 or 13 case may file a claim as provided by Rule 3002(c). If the creditor fails to file a claim, the debtor or trustee shall have an additional 30 days thereafter to file the claim. A proof of claim filed by a creditor supersedes a claim filed by the debtor or trustee only if it is timely filed within the 90 days allowed under Rule 3002(c).

COMMITTEE NOTES ON RULES—2005 AMENDMENT

The rule is amended to conform to §501(c) of the Code. Under that provision, the debtor or trustee may file proof of a claim if the creditor fails to do so in a timely fashion. The rule previously authorized the debtor and the trustee to file a claim as early as the day after the first date set for the meeting of creditors under §341(a).

Under the amended rule, the debtor and trustee must wait until the creditor's opportunity to file a claim has expired. Providing the debtor and the trustee with the opportunity to file a claim ensures that the claim will participate in any distribution in the case. This is particularly important for claims that are nondischargeable.

Since the debtor and trustee cannot file a proof of claim until after the creditor's time to file has expired, the rule no longer permits the creditor to file a proof of claim that will supersede the claim filed by the debtor or trustee. The rule leaves to the courts the issue of whether to permit subsequent amendment of such proof of claim.

Other changes are stylistic.

Changes Made After Publication and Comment. No changes were made after publication. The Advisory Committee concluded that Mr. Van Allsburg's suggestion goes beyond the scope of the published proposal. Consequently, the Committee declined to adopt the suggestion but may consider it in greater detail at a future meeting.

COMMITTEE NOTES ON RULES—2024 AMENDMENT

The language of Rule 3004 has been amended as part of the general restyling of the Bankruptcy Rules to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only.

Rule 3005. Filing a Proof of Claim or Accepting or Rejecting a Plan by a Surety, Endorser, Guarantor, or Other Codebtor

(a) IN GENERAL. If a creditor fails to file a proof of claim within the time prescribed by Rule 3002(c) or Rule 3003(c), it may be filed by an entity that, along with the debtor, is or may be liable to the creditor or has given security for the creditor's debt. The entity must do so within 30 days after the creditor's time to file expires. A distribution on such a claim may be made only on satisfactory proof that the distribution will diminish the original debt.

(b) ACCEPTING OR REJECTING A PLAN IN A CREDITOR'S NAME. An entity that has filed a proof of claim on a creditor's behalf under (a) may accept or reject a plan in the creditor's name. If the creditor's name is unknown, the entity may do so in its own name. But the creditor must be substituted for the entity on that claim if the creditor:

(1) files a proof of claim within the time permitted by Rule 3003(c); or

(2) files notice, before the plan is confirmed, of an intent to act on the creditor's own behalf.

(As amended Mar. 30, 1987, eff. Aug. 1, 1987; Apr. 30, 1991, eff. Aug. 1, 1991; Apr. 25, 2005, eff. Dec. 1, 2005; Apr. 2, 2024, eff. Dec. 1, 2024.)

NOTES OF ADVISORY COMMITTEE ON RULES—1983

This rule is adapted from former Rules 304 and 10–402. Together with §501(b) of the Code, the rule makes clear that anyone who may be liable on a debt of the debtor, including a surety, guarantor, indorser, or other codebtor, is authorized to file in the name of the creditor of the debtor.

Subdivision (a). Rule 3002(c) provides the time period for filing proofs of claim in chapter 7 and 13 cases; Rule 3003(c) provides the time, when necessary, for filing claims in a chapter 9 or 11 case.

Subdivision (b). This subdivision applies in chapter 9 and 11 cases as distinguished from chapter 7 cases. It permits voting for or against a plan by an obligor who files a claim in place of the creditor.

NOTES OF ADVISORY COMMITTEE ON RULES—1991 AMENDMENT

The words "with the court" in subdivision (b) are deleted as unnecessary. See Rules 5005(a) and 9001(3).

COMMITTEE NOTES ON RULES—2005 AMENDMENT

The rule is amended to delete the last sentence of subdivision (a). The sentence is unnecessary because if a creditor has filed a timely claim under Rule 3002 or 3003(c), the codebtor cannot file a proof of such claim. The codebtor, consistent with §501(b) of the Code, may file a proof of such claim only after the creditor's time to file has expired. Therefore, the rule no longer permits the creditor to file a superseding claim. The rule leaves to the courts the issue of whether to permit subsequent amendment of the proof of claim.

The amendment conforms the rule to §501(b) by deleting language providing that the codebtor files proof of the claim in the name of the creditor.

Other amendments are stylistic.

Changes Made After Publication and Comment:

(a) The reference on line 2 of Rule 3005 to "Rule 3002 or 3003(c)" was changed to read "Rule 3002(c) or 3003(c)" to make it parallel to the language in Rule 3004.

(b) The phrase "file a proof of the claim" from line 7 of the proposed rule was moved up to line 4 of the proposed amendment immediately after the word "may". This makes the structure of Rules 3004 and 3005 more consistent.

COMMITTEE NOTES ON RULES—2024 AMENDMENT

The language of Rule 3005 has been amended as part of the general restyling of the Bankruptcy Rules to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only.

Rule 3006. Withdrawing a Proof of Claim; Effect on a Plan

(a) NOTICE OF WITHDRAWAL; LIMITATIONS. A creditor may withdraw a proof of claim by filing a notice of withdrawal. But unless the court orders otherwise after notice and a hearing, a creditor may not withdraw a proof of claim if:

(1) an objection to it has been filed;

(2) a complaint has been filed against the creditor in an adversary proceeding; or

(3) the creditor has accepted or rejected the plan or has participated significantly in the case.

(b) NOTICE OF THE HEARING; ORDER PERMITTING WITHDRAWAL. Notice of the hearing must be served on:

- the trustee or debtor in possession; and
- any creditors' committee elected under §705(a) or appointed under §1102.

The court's order permitting a creditor to withdraw a proof of claim may contain any terms and conditions the court considers proper.

(c) EFFECT OF WITHDRAWING A PROOF OF CLAIM. Unless the court orders otherwise, an authorized withdrawal constitutes withdrawal of any related acceptance or rejection of a plan.

(As amended Apr. 30, 1991, eff. Aug. 1, 1991; Apr. 2, 2024, eff. Dec. 1, 2024.)

NOTES OF ADVISORY COMMITTEE ON RULES—1983

This rule is derived from former Rules 305 and 10–404.

Since 1938 it has generally been held that Rule 41 F.R.Civ.P. governs the withdrawal of a proof of claim. *In re Empire Coal Sales Corp.*, 45 F. Supp. 974, 976 (S.D.N.Y.), aff'd sub nom. *Kleid v. Ruthbell Coal Co.*, 131 F.2d 372, 373 (2d Cir. 1942); *Kelso v. MacLaren*, 122 F.2d 867, 870 (8th Cir. 1941); *In re Hills*, 35 F. Supp. 532, 533 (W.D. Wash. 1940). Accordingly, the cited cases held that after an objection has been filed a proof of claim may be withdrawn only subject to approval by the court. This constitutes a restriction of the right of withdrawal as recognized by some though by no means all of the cases antedating the promulgation of the Federal Rules of Civil Procedure. See 3 Collier *Bankruptcy*, 57.12 (14th ed. 1961); Note, 20 Bost. U. L. Rev. 121 (1940).

The filing of a claim does not commence an adversary proceeding but the filing of an objection to the claim initiates a contest that must be disposed of by the court. This rule recognizes the applicability of the considerations underlying Rule 41(a) F.R.Civ.P. to the withdrawal of a claim after it has been put in issue by an objection. Rule 41(a)(2) F.R.Civ.P. requires leave of court to obtain dismissal over the objection of a defendant who has pleaded a counterclaim prior to the service of the plaintiff's motion to dismiss. Although the applicability of this provision to the withdrawal of a claim was assumed in *Conway v. Union Bank of Switzerland*, 204 F.2d 603, 608 (2d Cir. 1953), *Kleid v. Ruthbell Coal Co., supra, Kelso v. MacLaren, supra*, and *In re Hills, supra*, this rule vests discretion in the court to grant, deny, or condition the request of a creditor to withdraw, without regard to whether the trustee has filed a merely defensive objection or a complaint seeking an affirmative recovery of money or property from the creditor.

A number of pre-1938 cases sustained denial of a creditor's request to withdraw proof of claim on the ground of estoppel or election of remedies. 2 Remington, *Bankruptcy* 186 (Henderson ed. 1956); *cf.* 3 Collier, *supra* 57.12, at 201 (1964). Voting a claim for a trustee was an important factor in the denial of a request to withdraw in *Standard Varnish Works v. Haydock*, 143 Fed. 318, 319–20 (6th Cir. 1906), and *In re Cann*, 47

F.2d 661, 662 (W.D. Pa. 1931). And it has frequently been recognized that a creditor should not be allowed to withdraw a claim after accepting a dividend. *In re Friedmann*, 1 Am. B. R. 510, 512 (Ref., S.D.N.Y. 1899); 3 Collier 205 (1964); *cf. In re O'Gara Coal Co*., 12 F.2d 426, 429 (7th Cir.), cert. denied, 271 U.S. 683 (1926). It was held in *Industrial Credit Co. v. Hazen*, 222 F.2d 225 (8th Cir. 1955), however, that although a claimant had participated in the first meeting of creditors and in the examination of witnesses, the creditor was entitled under Rule 41(a)(1) F.R.Civ.P. to withdraw the claim as of right by filing a notice of withdrawal before the trustee filed an objection under §57g of the Act. While this rule incorporates the post-1938 case law referred to in the first paragraph of this note, it rejects the inference drawn in the *Hazen* case that Rule 41(a) F.R.Civ.P. supersedes the pre-1938 case law that vests discretion in the court to deny or restrict withdrawal of a claim by a creditor on the ground of estoppel or election of remedies. While purely formal or technical participation in a case by a creditor who has filed a claim should not deprive the creditor of the right to withdraw the claim, a creditor who has accepted a dividend or who has voted in the election of a trustee or otherwise participated actively in proceedings in a case should be permitted to withdraw only with the approval of the court on terms it deems appropriate after notice to the trustee. 3 Collier 205–06 (1964).

NOTES OF ADVISORY COMMITTEE ON RULES—1991 AMENDMENT

This amendment is stylistic. Notice of the hearing need not be given to committees of equity security holders appointed pursuant to §1102 or committees of retired employees appointed pursuant to §1114 of the Code.

COMMITTEE NOTES ON RULES—2024 AMENDMENT

The language of Rule 3006 has been amended as part of the general restyling of the Bankruptcy Rules to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only.

Rule 3007. Objecting to a Claim

(a) TIME AND MANNER OF SERVING THE OBJECTION.

(1) *Time to Serve*. An objection to a claim and a notice of the objection must be filed and served at least 30 days before a scheduled hearing on the objection or any deadline for the claim holder to request a hearing.

(2) *Whom to Serve; Manner of Service.*

(A) *Serving the Claim Holder*. The notice—substantially conforming to Form 420B—and objection must be served by mail on the person the claim holder most recently designated to receive notices on the claim holder's original or latest amended proof of claim, at the address so indicated. If the objection is to a claim of:

(i) the United States or one of its officers or agencies, service must also be made as if it were a summons and complaint under Rule 7004(b)(4) or (5); or

(ii) an insured depository institution as defined in section 3 of the Federal Deposit Insurance Act, service must also be made under Rule 7004(h).

(B) *Serving Others*. The notice and objection must also be served, by mail (or other permitted means), on:

- the debtor or debtor in possession;
- the trustee; and
- if applicable, the entity that filed the proof of claim under Rule 3005.

(b) DEMANDING RELIEF THAT REQUIRES AN ADVERSARY PROCEEDING NOT PERMITTED. In objecting to a claim, a party in interest must not include a demand for a type of relief specified in Rule 7001 but may include the objection in an adversary proceeding.

(c) LIMIT ON OMNIBUS OBJECTIONS. Unless the court orders otherwise or (d) permits, objections to more than one claim may not be joined in a single objection.

(d) OMNIBUS OBJECTION. Subject to (e), objections to more than one claim may be joined in a single objection if:

(1) all the claims were filed by the same entity; or

(2) the objections are based solely on grounds that the claims should be disallowed, in whole or in part, because they:

(A) duplicate other claims;

(B) were filed in the wrong case;

(C) have been amended by later proofs of claim;

(D) were not timely filed;

(E) have been satisfied or released during the case in accordance with the Code, applicable rules, or a court order;

(F) were presented in a form that does not comply with applicable rules and the objection states that the objector is therefore unable to determine a claim's validity;

(G) are interests, not claims; or

(H) assert a priority in an amount that exceeds the maximum amount allowable under §507.

(e) REQUIRED CONTENT OF AN OMNIBUS OBJECTION. An omnibus objection must:

(1) state in a conspicuous place that claim holders can find their names and claims in the objection;

(2) list the claim holders alphabetically, provide a cross-reference to claim numbers, and, if appropriate, list claim holders by category of claims;

(3) state for each claim the grounds for the objection and provide a cross-reference to the pages where pertinent information about the grounds appears;

(4) state in the title the objector's identity and the grounds for the objections;

(5) be numbered consecutively with other omnibus objections filed by the same objector; and

(6) contain objections to no more than 100 claims.

(f) FINALITY OF AN ORDER WHEN OBJECTIONS ARE JOINED. When objections are joined, the finality of an order regarding any claim must be determined as though the claim had been subject to an individual objection.

(As amended Apr. 30, 1991, eff. Aug. 1, 1991; Apr. 30, 2007, eff. Dec. 1, 2007; Apr. 27, 2017, eff. Dec. 1, 2017; Apr. 14, 2021, eff. Dec. 1, 2021; Apr. 2, 2024, eff. Dec. 1, 2024.)

NOTES OF ADVISORY COMMITTEE ON RULES—1983

This rule is derived from §47a(8) of the Act and former Bankruptcy Rule 306. It prescribes the manner in which an objection to a claim shall be made and notice of the hearing thereon given to the claimant. The requirement of a writing does not apply to an objection to the allowance of a claim for the purpose of voting for a trustee or creditors' committee in a chapter 7 case. See Rule 2003.

The contested matter initiated by an objection to a claim is governed by rule 9014, unless a counterclaim by the trustee is joined with the objection to the claim. The filing of a counterclaim ordinarily commences an adversary proceeding subject to the rules in Part VII.

While the debtor's other creditors may make objections to the allowance of a claim, the demands of orderly and expeditious administration have led to a recognition that the right to object is generally exercised by the trustee. Pursuant to §502(a) of the Code, however, any party in interest may object to a claim. But under §704 the trustee, if any purpose would be served thereby, has the duty to examine proofs of claim and object to improper claims.

By virtue of the automatic allowance of a claim not objected to, a dividend may be paid on a claim which may thereafter be disallowed on objection made pursuant to this rule. The amount of the dividend paid before the disallowance in such event would be recoverable by the trustee in an adversary proceeding.

NOTES OF ADVISORY COMMITTEE ON RULES—1991 AMENDMENT

The words "with the court" are deleted as unnecessary. See Rules 5005(a) and 9001(3).

COMMITTEE NOTES ON RULES—2007 AMENDMENT

The rule is amended in a number of ways. First, the amendment prohibits a party in interest from including in a claim objection a request for relief that requires an adversary proceeding. A party in interest may, however, include an objection to the allowance of a claim in an adversary proceeding. Unlike a contested matter, an adversary proceeding requires the service of a summons and complaint, which puts the defendant on notice of the potential for an affirmative recovery. Permitting the plaintiff in the adversary proceeding to

include an objection to a claim would not unfairly surprise the defendant as might be the case if the action were brought as a contested matter that included an action to obtain relief of a kind specified in Rule 7001.

The rule as amended does not require that a party include an objection to the allowance of a claim in an adversary proceeding. If a claim objection is filed separately from a related adversary proceeding, the court may consolidate the objection with the adversary proceeding under Rule 7042.

The rule also is amended to authorize the filing of a pleading that joins objections to more than one claim. Such filings present a significant opportunity for the efficient administration of large cases, but the rule includes restrictions on the use of these omnibus objections to ensure the protection of the due process rights of the claimants.

Unless the court orders otherwise, objections to more than one claim may be joined in a single pleading only if all of the claims were filed by the same entity, or if the objections are based solely on the grounds set out in subdivision (d) of the rule. Objections of the type listed in subdivision (d) often can be resolved without material factual or legal disputes. Objections to multiple claims permitted under the rule must comply with the procedural requirements set forth in subdivision (e). Among those requirements is the requirement in subdivision (e)(5) that these omnibus objections be consecutively numbered. Since these objections may not join more than 100 objections in any one omnibus objection, there may be a need for several omnibus objections to be filed in a particular case. Consecutive numbering of each omnibus objection and the identification of the objector in the title of the objection is essential to keep track of the objections on the court's docket. For example, the objections could be titled Debtor in Possession's First Omnibus Objection to Claims, Debtor in Possession's Second Omnibus Objection to Claims, Creditors' Committee's First Omnibus Objection to Claims, and so on. Titling the objections in this manner should avoid confusion and aid in tracking the objections on the docket.

Subdivision (f) provides that an order resolving an objection to any particular claim is treated, for purposes of finality, as if the claim had been the subject of an individual objection. A party seeking to appeal any such order is neither required, nor permitted, to await the court's resolution of all other joined objections. The rule permits the joinder of objections for convenience, and that convenience should not impede timely review of a court's decision with respect to each claim. Whether the court's action as to a particular objection is final, and the consequences of that finality, are not addressed by this amendment. Moreover, use of an omnibus objection generally does not preclude the objecting party from raising a subsequent objection to the claim on other grounds. See Restatement (Second) of Judgments §26(1)(d) (1982) (generally applicable rule barring multiple actions based on same transaction or series of transactions is overridden when a statutory scheme permits splitting of claims).

Changes Made After Publication. There were several changes made to the rule after its publication. The Advisory Committee declined to follow Mr. Sabino's suggestion, concluding that the rule as proposed includes sufficient flexibility, and that expanding the flexibility might lead to excessive deviation from the appropriate format for omnibus claims objections. The Advisory Committee also declined to follow Mr. Horsley's suggestion because the deadline for filing a proof of claim varies based on the nature of the creditor (governmental units have different deadlines from other creditors) as well as on the chapter under which the case is pending. The Advisory Committee rejected Judge Grant's suggestion that a party proposing an omnibus claims objection be required to demonstrate some special cause to allow the joinder of the objections. The Advisory Committee concluded that the rule includes sufficient protections for claimants such that omnibus objections should be allowed without the need for a special showing by the claims objector that joinder is proper.

The Advisory Committee did accept several of Judge Grant's suggestions, and the rule was amended by deleting the grounds for objection to claims based on the filing of a superceding proof of claim under proposed subdivision (d)(3) and the transfer of claims under proposed subdivision (d)(4). Subdivision (d)(3) now permits objections to claims that have been amended by a subsequently filed proof of claim and the paragraphs within subdivision (d) have been renumbered to reflect the deletion. The Committee Note also no longer includes any reliance on §502(j) for the statement indicating that a subsequent claim objection can be filed to a claim that was previously included in an omnibus claim objection.

COMMITTEE NOTES ON RULES—2017 AMENDMENT

Subdivision (a) is amended to specify the manner in which an objection to a claim and notice of the objection must be served. It clarifies that Rule 7004 does not apply to the service of most claim objections. Instead, a claimant must be served by first-class mail addressed to the person whom the claimant most recently designated on its proof of claim to receive notices, at the address so indicated. If, however, the claimant is the United States, an officer or agency of the United States, or an insured depository institution, service must also be made according to the method prescribed by the appropriate provision of Rule 7004. The

service methods for the depository institutions are statutorily mandated, and the size and dispersal of the decision-making and litigation authority of the federal government necessitate service on the appropriate United States attorney's office and the Attorney General, as well as the person designated on the proof of claim.

As amended, subdivision (a) no longer requires that a hearing be scheduled or held on every objection. The rule requires the objecting party to provide notice and an opportunity for a hearing on the objection, but, by deleting from the subdivision references to "the hearing," it permits local practices that require a claimant to timely request a hearing or file a response in order to obtain a hearing. The official notice form served with a copy of the objection will inform the claimant of any actions it must take. However, while a local rule may require the claimant to respond to the objection to a proof of claim, the court will still need to determine if the claim is valid, even if the claimant does not file a response to a claim objection or request a hearing.

COMMITTEE NOTES ON RULES—2021 AMENDMENT

Subdivision (a)(2)(A)(ii) is amended to clarify that the special service method required by Rule 7004(h) must be used for service of objections to claims only on insured depository institutions as defined in section 3 of the Federal Deposit Insurance Act, 12 U.S.C. §1813. Rule 7004(h) was enacted by Congress as part of the Bankruptcy Reform Act of 1994. It applies only to insured depository institutions that are insured by the Federal Deposit Insurance Corporation and does not include credit unions, which are instead insured by the National Credit Union Administration. A credit union, therefore, may be served with an objection to a claim according to Rule 3007(a)(2)(A)—by first-class mail sent to the person designated for receipt of notice on the credit union's proof of claim.

COMMITTEE NOTES ON RULES—2024 AMENDMENT

The language of Rule 3007 has been amended as part of the general restyling of the Bankruptcy Rules to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only.

REFERENCES IN TEXT

Section 3 of the Federal Deposit Insurance Act, referred to in subd. (a)(2)(A)(ii), is classified to section 1813 of Title 12, Banks and Banking.

Rule 3008. Reconsidering an Order Allowing or Disallowing a Claim

A party in interest may move to reconsider an order allowing or disallowing a claim. After notice and a hearing, the court must issue an appropriate order.

(As amended Apr. 2, 2024, eff. Dec. 1, 2024.)

NOTES OF ADVISORY COMMITTEE ON RULES—1983

Section 502(j) of the Code deals only with the reconsideration of allowed claims as did former §57k of the Act and General Order 21(b). It had sometimes been held that a referee had no jurisdiction to reconsider a disallowed claim, or the amount or priority of an allowed claim, at the instance of the claimant. See, *e.g.*, *In re Gouse*, 7 F. Supp. 106 (M.D. Pa. 1934); *In re Tomlinson & Dye, Inc*., 3 F. Supp. 800 (N.D. Okla. 1933). This view disregarded §2a(2) of the Act and the "ancient and elementary power" of a referee as a court to reconsider orders. *In re Pottasch Brow. Co., Inc*., 79 F.2d 613, 616 (2d Cir. 1935); *Castaner v. Mora*, 234 F.2d 710 (1st Cir. 1956). This rule recognizes, as did former Bankruptcy Rule 307, the power of the court to reconsider an order of disallowance on appropriate motion.

Reconsideration of a claim that has been previously allowed or disallowed after objection is discretionary with the court. The right to seek reconsideration of an allowed claim, like the right to object to its allowance, is generally exercised by the trustee if one has qualified and is performing the duties of that office with reasonable diligence and fidelity. A request for reconsideration of a disallowance would, on the other hand, ordinarily come from the claimant.

A proof of claim executed and filed in accordance with the rules in this Part III is prima facie evidence of the validity and the amount of the claim notwithstanding a motion for reconsideration of an order of allowance. Failure to respond does not constitute an admission, though it may be deemed a consent to a reconsideration. *In re Goble Boat Co*., 190 Fed. 92 (N.D.N.Y. 1911). The court may decline to reconsider an order of allowance or disallowance without notice to any adverse party and without affording any hearing to the movant. If a motion to reconsider is granted, notice and hearing must be afforded to parties in interest

before the previous action in the claim taken in respect to the claim may be vacated or modified. After reconsideration, the court may allow or disallow the claim, increase or decrease the amount of a prior allowance, accord the claim a priority different from that originally assigned it, or enter any other appropriate order.

The rule expands §502(j) which provides for reconsideration of an allowance only before the case is closed. Authorities have disagreed as to whether reconsideration may be had after a case has been reopened. Compare 3 Collier *Bankruptcy* 57.23[4] (14th ed. 1964), see generally 3 *id*. 502.10 (15th ed. 1979), with 2 Remington, *Bankruptcy* 498 (Henderson ed. 1956). If a case is reopened as provided in §350(b) of the Code, reconsideration of the allowance or disallowance of a claim may be sought and granted in accordance with this rule.

COMMITTEE NOTES ON RULES—2024 AMENDMENT

The language of Rule 3008 has been amended as part of the general restyling of the Bankruptcy Rules to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only.

Rule 3009. Chapter 7—Paying Dividends

In a Chapter 7 case, dividends to creditors on claims that have been allowed must be paid as soon as practicable. A dividend check must be made payable to and mailed to the creditor. But if a power of attorney authorizing another entity to receive payment has been filed under Rule 9010, the check must be:

(a) made payable to both the creditor and the other entity; and

(b) mailed to the other entity.

(As amended Mar. 30, 1987, eff. Aug. 1, 1987; Apr. 22, 1993, eff. Aug. 1, 1993; Apr. 2, 2024, eff. Dec. 1, 2024.)

NOTES OF ADVISORY COMMITTEE ON RULES—1983

This rule is derived from former Rules 308 and 11–35(a). The preparation of records showing dividends declared and to whom payable is subject to prescription by the Director of the Administrative Office pursuant to Rule 5003(e). The rule governs distributions to creditors having priority as well as to general unsecured creditors. Notwithstanding the detailed statutory provisions regulating the declaration of dividends, a necessarily wide discretion over this matter has been recognized to reside in the court. See 3A Collier, *Bankruptcy* 65.03 (14th ed. 1975): 1 *Proceedings of Seminar for Newly Appointed Referees in Bankruptcy* 173 (1964). Although the rule leaves to the discretion of the court the amount and the times of dividend payments, it recognizes the creditors' right to as prompt payment as practicable.

The second and third sentences of the rule make explicit the method of payment of dividends and afford protection of the interests of the creditor and the holder of a power of attorney authorized to receive payment.

The rule does not permit variance at local option. This represents a marked change from former Bankruptcy Rule 308.

NOTES OF ADVISORY COMMITTEE ON RULES—1993 AMENDMENT

This rule is amended to delete the requirement that the court approve the amounts and times of distributions in chapter 7 cases. This change recognizes the role of the United States trustee in supervising trustees. Other amendments are stylistic and make no substantive change.

COMMITTEE NOTES ON RULES—2024 AMENDMENT

The language of Rule 3009 has been amended as part of the general restyling of the Bankruptcy Rules to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only.

Rule 3010. Chapter 7, Subchapter V of Chapter 11, Chapter 12, and Chapter 13— Limits on Small Dividends and Payments

(a) CHAPTER 7. In a Chapter 7 case, the trustee must not distribute to a creditor any dividend less than $5 unless authorized to do so by local rule or court order. A dividend not distributed must be

treated in the same manner as unclaimed funds under §347.

(b) SUBCHAPTER V OF CHAPTER 11, CHAPTER 12, AND CHAPTER 13. In a case under Subchapter V of Chapter 11, or under Chapter 12 or 13, the trustee must not distribute to a creditor any payment less than $15 unless authorized to do so by local rule or court order. Distribution must be made when accumulated funds total $15 or more. Any remaining funds must be distributed with the final payment.

(As amended Mar. 30, 1987, eff. Aug. 1, 1987; Apr. 30, 1991, eff. Aug. 1, 1991; Apr. 11, 2022, eff. Dec. 1, 2022; Apr. 2, 2024, eff. Dec. 1, 2024.)

NOTES OF ADVISORY COMMITTEE ON RULES—1983

This rule permits a court to eliminate the disproportionate expense and inconvenience incurred by the issuance of a dividend check of less than $5 (or $15 in a chapter 13 case). Creditors are more irritated than pleased to receive such small dividends, but the money is held subject to their specific request as are unclaimed dividends under §347(a) of the Code. When the trustee deposits undistributed dividends pursuant to a direction in accordance with this rule the trustee should file with the clerk a list of the names and addresses, so far as known, of the persons entitled to the money so deposited and the respective amounts payable to them pursuant to Rule 3011. In a chapter 13 case, the small dividend will accumulate and will be payable at the latest, with the final dividend. Local rule or order may change the practice permitted in this rule and, in that connection, the order may be incorporated in the order confirming a chapter 13 plan.

NOTES OF ADVISORY COMMITTEE ON RULES—1991 AMENDMENT

Subdivision (b) is amended to include chapter 12 cases.

COMMITTEE NOTES ON RULES—2022 AMENDMENT

The rule is amended in response to the enactment of the Small Business Reorganization Act of 2019, Pub. L. No. 116–54, 133 Stat. 1079. That law gives a small business debtor the option of electing to be a debtor under subchapter V of chapter 11. To avoid the undue cost and inconvenience of distributing small payments, the title and subdivision (b) are amended to include subchapter V cases.

COMMITTEE NOTES ON RULES—2024 AMENDMENT

The language of Rule 3010 has been amended as part of the general restyling of the Bankruptcy Rules to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only.

Rule 3011. Chapter 7, Subchapter V of Chapter 11, Chapter 12, and Chapter 13—Listing Unclaimed Funds

(a) FILING THE LIST. The trustee must:

(1) file a list of the known names and addresses of entities entitled to payment from any remaining property of the estate that is paid into court under §347(a); and

(2) include the amount due each entity.

(b) MAKING THE INFORMATION SEARCHABLE. On the court's website, the clerk must provide searchable access to information about funds deposited under §347(a). The court may, for cause, limit access to that information in a specific case.

(As amended Mar. 30, 1987, eff. Aug. 1, 1987; Apr. 30, 1991, eff. Aug. 1, 1991; Apr. 11, 2022, eff. Dec. 1, 2022; Apr. 24, 2023, eff. Dec. 1, 2023; Apr. 2, 2024, eff. Dec. 1, 2024.)

NOTES OF ADVISORY COMMITTEE ON RULES—1983

This rule is derived from former Bankruptcy Rule 310. The operative provisions of that rule, however, are contained in §347(a) of the Code, requiring the trustee to stop payment of checks remaining unpaid 90 days after distribution. The rule adds the requirement of filing a list of the names and addresses of the persons entitled to these dividends. This rule applies in a chapter 7 or 13 case but not in a chapter 9 or 11 case. The latter cases are governed by §347(b) of the Code which provides for unclaimed distributions to be returned to the debtor or other entity acquiring the assets of the debtor.

NOTES OF ADVISORY COMMITTEE ON RULES—1991 AMENDMENT

The title of this rule is amended to include chapter 12 cases. The words "with the clerk" are deleted as unnecessary. See Rules 5005(a) and 9001(3).

COMMITTEE NOTES ON RULES—2022 AMENDMENT

The rule is amended in response to the enactment of the Small Business Reorganization Act of 2019, Pub. L. No. 116–54, 133 Stat. 1079. That law gives a small business debtor the option of electing to be a debtor under subchapter V of chapter 11. The rule is amended to include such cases because §347(a) of the Code applies to them.

COMMITTEE NOTES ON RULES—2023 AMENDMENT

Rule 3011 is amended to require the clerk to provide searchable access (as by providing a link to the U.S. Bankruptcy Unclaimed Funds Locator) on the court's website to information about unclaimed funds deposited pursuant to §347(a). The court may limit access to information about such funds in a specific case for cause, including, for example, if such access risks disclosing the identity of claimants whose privacy should be protected, or if the information about the unclaimed funds is so old as to be unreliable.

COMMITTEE NOTES ON RULES—2024 AMENDMENT

The language of Rule 3011 has been amended as part of the general restyling of the Bankruptcy Rules to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only.

Rule 3012. Determining the Amount of a Secured or Priority Claim

(a) IN GENERAL. On a party in interest's request, after notice and a hearing, the court may determine the amount of a secured claim under §506(a) or the amount of a priority claim under §507. The notice must be served on:

- the claim holder; and
- any other entity the court designates.

(b) DETERMINING THE AMOUNT OF A CLAIM.

(1) *Secured Claim*. Except as provided in (c), a request to determine the amount of a secured claim may be made by motion, in an objection to a claim, or in a plan filed in a Chapter 12 or 13 case. If the request is included in a plan, a copy of the plan must be served on the claim holder and any other entity the court designates as if it were a summons and complaint under Rule 7004.

(2) *Priority Claim*. A request to determine the amount of a priority claim may be made only by motion after the claim is filed or in an objection to the claim.

(c) GOVERNMENTAL UNIT'S SECURED CLAIM. A request to determine the amount of a governmental unit's secured claim may be made only by motion—or in an objection to a claim—filed after:

(1) the governmental unit has filed the proof of claim; or

(2) the time to file it under Rule 3002(c)(1) has expired.

(As amended Mar. 30, 1987, eff. Aug. 1, 1987; Apr. 27, 2017, eff. Dec. 1, 2017; Apr. 2, 2024, eff. Dec. 1, 2024.)

NOTES OF ADVISORY COMMITTEE ON RULES—1983

Pursuant to §506(a) of the Code, secured claims are to be valued and allowed as secured to the extent of the value of the collateral and unsecured, to the extent it is enforceable, for the excess over such value. The valuation of secured claims may become important in different contexts *e.g.*, to determine the issue of adequate protection under §361, impairment under §1124, or treatment of the claim in a plan pursuant to §1129(b) of the Code. This rule permits the issue to be raised on motion by a party in interest. The secured creditor is entitled to notice of the hearing on the motion and the court may direct that others in the case also receive such notice.

An adversary proceeding is commenced when the validity, priority, or extent of a lien is at issue as prescribed by Rule 7001. That proceeding is relevant to the basis of the lien itself while valuation under Rule

3012 would be for the purposes indicated above.

COMMITTEE NOTES ON RULES—2017 AMENDMENT

This rule is amended and reorganized.

Subdivision (a) provides, in keeping with the former version of this rule, that a party in interest may seek a determination of the amount of a secured claim. The amended rule provides that the amount of a claim entitled to priority may also be determined by the court.

Subdivision (b) is added to provide that a request to determine the amount of a secured claim may be made in a chapter 12 or chapter 13 plan, as well as by a motion or a claim objection. When the request is made in a plan, the plan must be served on the holder of the claim and any other entities the court designates according to Rule 7004. Secured claims of governmental units are not included in this subdivision and are governed by subdivision (c). The amount of a claim entitled to priority may be determined through a motion or a claim objection.

Subdivision (c) clarifies that a determination under this rule with respect to a secured claim of a governmental unit may be made only by motion or in a claim objection, but not until the governmental unit has filed a proof of claim or its time for filing a proof of claim has expired.

COMMITTEE NOTES ON RULES—2024 AMENDMENT

The language of Rule 3012 has been amended as part of the general restyling of the Bankruptcy Rules to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only.

Rule 3013. Determining Classes of Creditors and Equity Security Holders

For purposes of a plan and its acceptance, the court may—on motion after hearing on notice as the court orders—determine classes of creditors and equity security holders under §§1122, 1222(b)(1), and 1322(b)(1).

(As amended Apr. 30, 1991, eff. Aug. 1, 1991; Apr. 2, 2024, eff. Dec. 1, 2024.)

NOTES OF ADVISORY COMMITTEE ON RULES—1983

Sections 1122 and 1322(b)(1) set the standards for classifying claims and interests but provide that such classification is accomplished in the plan. This rule does not change the standards; rather it recognizes that it may be desirable or necessary to establish proper classification before a plan can be formulated. It provides for a court hearing on such notice as the court may direct.

NOTES OF ADVISORY COMMITTEE ON RULES—1991 AMENDMENT

This rule is amended to include chapter 12 cases.

COMMITTEE NOTES ON RULES—2024 AMENDMENT

The language of Rule 3013 has been amended as part of the general restyling of the Bankruptcy Rules to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only.

Rule 3014. Chapter 9 or 11—Secured Creditors' Election to Apply §1111(b)

(a) TIME FOR AN ELECTION.

(1) *Chapter 9 or 11*. In a Chapter 9 or 11 case, before a hearing on the disclosure statement concludes, a class of secured creditors may elect to apply §1111(b)(2). If the disclosure statement is conditionally approved under Rule 3017.1 and a final hearing on it is not held, the election must be made within the time provided in Rule 3017.1(a)(2). In either situation, the court may set another time for the election.

(2) *Subchapter V of Chapter 11*. In a case under Subchapter V of Chapter 11 in which §1125 does not apply, the election may be made no later than a date the court sets.

(b) SIGNED WRITING; BINDING EFFECT. The election must be made in writing and signed, unless made at the hearing on the disclosure statement. An election made by the majorities required

by §1111(b)(1)(A)(i) is binding on all members of the class.

(As amended Apr. 11, 1997, eff. Dec. 1, 1997; Apr. 11, 2022, eff. Dec. 1, 2022; Apr. 2, 2024, eff. Dec. 1, 2024.)

NOTES OF ADVISORY COMMITTEE ON RULES—1983

Pursuant to §1111(b)(1) of the Code, a nonrecourse secured loan is converted, automatically, into a recourse loan thereby entitling the creditor to an unsecured deficiency claim if the value of the collateral is less than the debt. The class, however, may retain the loan as a nonrecourse loan by electing application of §1111(b)(2) by the majorities stated in §1111(b)(1)(A)(i). That section does not specify any time periods for making the election.

Rule 3014 provides that if no agreement is negotiated, the election of §1111(b)(2) of the Code may be made at any time prior to conclusion of the hearing on the disclosure statement. Once the hearing has been concluded, it would be too late for a secured creditor class to demand different treatment unless the court has fixed a later time. This would be the case if, for example, a public class of secured creditors should have an approved disclosure statement prior to electing under §1111(b).

Generally it is important that the proponent of a plan ascertain the position of the secured creditor class before a plan is proposed. The secured creditor class must know the prospects of its treatment under the plan before it can intelligently determine its rights under §1111(b). The rule recognizes that there may be negotiations between the proponent of the plan and the secured creditor leading to a representation of desired treatment under §1111(b). If that treatment is approved by the requisite majorities of the class and culminates in a written, signed statement filed with the court, that statement becomes binding and the class may not thereafter demand different treatment under §1111(b) with respect to that plan. The proponent of the plan is thus enabled to seek approval of the disclosure statement and transmit the plan for voting in anticipation of confirmation. Only if that plan is not confirmed may the class of secured creditors thereafter change its prior election.

While this rule and the Code refer to a class of secured creditors it should be noted that ordinarily each secured creditor is in a separate and distinct class. In that event, the secured creditor has the sole power to determine application of §1111(b) with respect to that claim.

NOTES OF ADVISORY COMMITTEE ON RULES—1997 AMENDMENT

This amendment provides a deadline for electing application of §1111(b)(2) in a small business case in which a conditionally approved disclosure statement is finally approved without a hearing.

GAP Report on Rule 3014. No changes to the published draft.

COMMITTEE NOTES ON RULES—2022 AMENDMENT

The rule is amended in response to the enactment of the Small Business Reorganization Act of 2019, Pub. L. No. 116–54, 133 Stat. 1079. That law gives a small business debtor the option of electing to be a debtor under subchapter V of chapter 11. Because there generally will not be a disclosure statement in a subchapter V case, *see* §1181(b) of the Code, the rule is amended to provide a deadline for making an election under §1111(b) in such cases that is set by the court.

COMMITTEE NOTES ON RULES—2024 AMENDMENT

The language of Rule 3014 has been amended as part of the general restyling of the Bankruptcy Rules to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only.

Rule 3015. Chapter 12 or 13—Time to File a Plan; Nonstandard Provisions; Objection to Confirmation; Effect of Confirmation; Modifying a Plan

(a) TIME TO FILE A CHAPTER 12 PLAN. The debtor must file a Chapter 12 plan:

(1) with the petition; or

(2) within the time prescribed by §1221.

(b) TIME TO FILE A CHAPTER 13 PLAN.

(1) *In General*. The debtor must file a Chapter 13 plan with the petition or within 14 days after the petition is filed. The time to file must not be extended except for cause and on notice as the

court orders.

(2) *Case Converted to Chapter 13*. If a case is converted to Chapter 13, the plan must be filed within 14 days after conversion. The time must not be extended except for cause and on notice as the court orders.

(c) FORM OF A CHAPTER 13 PLAN.

(1) *In General*. In filing a Chapter 13 plan, the debtor must use Form 113, unless the court has adopted a local form under Rule 3015.1.

(2) *Nonstandard Provision*. With either form, a nonstandard provision is effective only if it is included in the section of the form that is designated for nonstandard provisions and is identified in accordance with any other requirements of the form. A nonstandard provision is one that is not included in the form or deviates from it.

(d) SERVING A COPY OF THE PLAN. If the plan was not included with the notice of a confirmation hearing mailed under Rule 2002, the debtor must serve the plan on the trustee and creditors when it is filed.

(e) COPY TO THE UNITED STATES TRUSTEE. The clerk must promptly send to the United States trustee a copy of any plan filed under (a) or (b) or any modification of it.

(f) OBJECTION TO CONFIRMATION; DETERMINING GOOD FAITH WHEN NO OBJECTION IS FILED.

(1) *Serving an Objection*. An entity that objects to a plan's confirmation must file and serve the objection on the debtor, trustee, and any other entity the court designates, and must send a copy to the United States trustee. Unless the court orders otherwise, the objection must be filed, served, and sent at least 7 days before the date set for the confirmation hearing. The objection is governed by Rule 9014.

(2) *When No Objection Is Filed*. If no objection is timely filed, the court may, without receiving evidence, determine that the plan has been proposed in good faith and not by any means forbidden by law.

(g) EFFECT OF CONFIRMATION OF A CHAPTER 12 OR 13 PLAN ON THE AMOUNT OF A SECURED CLAIM; TERMINATING THE STAY.

(1) *Secured Claim*. When a plan is confirmed, the amount of a secured claim—determined in the plan under Rule 3012—becomes binding on the claim holder. That is the effect even if the holder files a contrary proof of claim, the debtor schedules that claim, or an objection to the claim is filed.

(2) *Terminating the Stay*. When a plan is confirmed, a request in the plan to terminate the stay imposed under §362(a), §1201(a), or §1301(a) is granted.

(h) MODIFYING A PLAN AFTER IT IS CONFIRMED.

(1) *Request to Modify a Plan After It Is Confirmed*. A request to modify a confirmed plan under §1229 or §1329 must identify the proponent and include the proposed modification. Unless the court orders otherwise for creditors not affected by the modification, the clerk or the court's designee must:

(A) give the debtor, trustee, and creditors at least 21 days' notice, by mail, of the time to file objections and the date of any hearing;

(B) send a copy of the notice to the United States trustee; and

(C) include a copy or summary of the modification.

(2) *Objecting to a Modification*. Rule 9014 governs an objection to a proposed modification. An objection must be filed and served on:

- the debtor;
- the trustee; and
- any other entity the court designates.

A copy must also be sent to the United States trustee.

(As amended Apr. 30, 1991, eff. Aug. 1, 1991; Apr. 22, 1993, eff. Aug. 1, 1993; Mar. 26, 2009, eff. Dec. 1, 2009; Apr. 27, 2017, eff. Dec. 1, 2017; Apr. 2, 2024, eff. Dec. 1, 2024.)

NOTES OF ADVISORY COMMITTEE ON RULES—1983

Section 1321 provides only that the "debtor shall file a plan." No time periods are specified, nor is any other detail provided. The rule requires a chapter 13 plan to be filed either with the petition or within 15 days thereafter. The court may, for cause, extend the time. The rule permits a summary of the plan to be transmitted with the notice of the hearing on confirmation. The court may, however, require the plan itself to be transmitted and the debtor to supply enough copies for this purpose. In the former rules under Chapter XIII the plan would accompany the notice of the first meeting of creditors. It is more important for the plan or a summary of its terms to be sent with the notice of the confirmation hearing. At that hearing objections to the plan will be heard by the court.

NOTES OF ADVISORY COMMITTEE ON RULES—1991 AMENDMENT

This rule is amended to include chapter 12 plans. Section 1221 of the Code requires the debtor to file a chapter 12 plan not later than 90 days after the order for relief, except that the court may extend the period if an extension is "substantially justified."

Subdivision (e) enables the United States trustee to monitor chapter 12 and chapter 13 plans pursuant to 28 U.S.C. §586(a)(3)(C).

NOTES OF ADVISORY COMMITTEE ON RULES—1993 AMENDMENT

Subdivision (b) is amended to provide a time limit for filing a plan after a case has been converted to chapter 13. The substitution of "may" for "shall" is stylistic and makes no substantive change.

Subdivision (d) is amended to clarify that the plan or a summary of the plan must be included with each notice of the confirmation hearing in a chapter 12 case pursuant to Rule 2002(a).

Subdivision (f) is added to expand the scope of the rule to govern objections to confirmation in chapter 12 and chapter 13 cases. The subdivision also is amended to include a provision that permits the court, in the absence of an objection, to determine that the plan has been proposed in good faith and not by any means forbidden by law without the need to receive evidence on these issues. These matters are now governed by Rule 3020.

Subdivision (g) is added to provide a procedure for post-confirmation modification of chapter 12 and chapter 13 plans. These procedures are designed to be similar to the procedures for confirmation of plans. However, if no objection is filed with respect to a proposed modification of a plan after confirmation, the court is not required to hold a hearing. See §1229(b)(2) and §1329(b)(2) which provide that the plan as modified becomes the plan unless, after notice and a hearing, such modification is disapproved. See §102(1). The notice of the time fixed for filing objections to the proposed modification should set a date for a hearing to be held in the event that an objection is filed.

Amendments to the title of this rule are stylistic and make no substantive change.

COMMITTEE NOTES ON RULES—2009 AMENDMENT

The rule is amended to implement changes in connection with the amendment to Rule 9006(a) and the manner by which time is computed under the rules. The deadlines in the rule are amended to substitute a deadline that is a multiple of seven days. Throughout the rules, deadlines are amended in the following manner:

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

COMMITTEE NOTES ON RULES—2017 AMENDMENT

This rule is amended and reorganized.

Subdivision (c) is amended to require use of an Official Form if one is adopted for chapter 13 plans unless a Local Form has been adopted consistent with Rule 3015.1. Subdivision (c) also provides that nonstandard provisions in a chapter 13 plan must be set out in the section of the Official or Local Form specifically designated for such provisions and must be identified in the manner required by the Official or Local Form.

Subdivision (d) is amended to ensure that the trustee and creditors are served with the plan before confirmation. Service may be made either at the time the plan is filed or with the notice under Rule 2002 of the hearing to consider confirmation of the plan.

Subdivision (f) is amended to require service of an objection to confirmation at least seven days before the hearing to consider confirmation of a plan, unless the court orders otherwise.

Subdivision (g) is amended to set out two effects of confirmation. Subdivision (g)(1) provides that the amount of a secured claim under §506(a) may be determined through a chapter 12 or chapter 13 plan in accordance with Rule 3012. That determination, unlike the amount of any current installment payments or arrearages, controls over a contrary proof of claim, without the need for a claim objection under Rule 3007, and over the schedule submitted by the debtor under §521(a). The amount of a secured claim of a governmental unit, however, may not be determined through a chapter 12 or chapter 13 plan under Rule 3012. Subdivision (g)(2) provides for termination of the automatic stay under §§362, 1201, and 1301 as requested in the plan.

Subdivision (h) was formerly subdivision (g). It is redesignated and is amended to reflect that often the party proposing a plan modification is responsible for serving the proposed modification on other parties. The option to serve a summary of the proposed modification has been retained. Unless required by another rule, service under this subdivision does not need to be made in the manner provided for service of a summons and complaint by Rule 7004.

COMMITTEE NOTES ON RULES—2024 AMENDMENT

The language of Rule 3015 has been amended as part of the general restyling of the Bankruptcy Rules to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only.

Rule 3015.1.[1] Requirements for a Local Form for a Chapter 13 Plan

As an exception to Rule 9029(a)(1), a district may require that a single local form be used for a Chapter 13 plan instead of Form 113 if it:

(a) is adopted for the district after public notice and an opportunity for comment;

(b) numbers and labels each paragraph in boldface type with a heading that states its general subject matter;

(c) includes an opening paragraph for the debtor to indicate that the plan does or does not:

(1) contain a nonstandard provision;

(2) limit the amount of a secured claim based on a valuation of the collateral; or

(3) avoid a security interest or lien;

(d) contains separate paragraphs relating to:

(1) curing any default and maintaining payments on a claim secured by the debtor's principal residence;

(2) paying a domestic support obligation;

(3) paying a claim described in the final paragraph of §1325(a); and

(4) surrendering property that secures a claim and requesting that the stay under §362(a) or 1301(a) related to the property be terminated; and

(e) contains a final paragraph providing a place for:

(1) nonstandard provisions as defined in Rule 3015(c), with a warning that any nonstandard provision placed elsewhere is void; and

(2) a certification by the debtor's attorney, or by an unrepresented debtor, that the plan does not contain any nonstandard provision except as set out in the final paragraph.

(Added Apr. 27, 2017, eff. Dec. 1, 2017; amended Apr. 2, 2024, eff. Dec. 1, 2024.)

COMMITTEE NOTES ON RULES—2017

This rule is new. It sets out features required for all Local Forms for plans in chapter 13 cases. If a Local Form does not comply with this rule, it may not be used in lieu of the Official Chapter 13 Plan Form. See Rule 3015(c).

Under the rule only one Local Form may be adopted in a district. The rule does not specify the method of adoption, but it does require that adoption of a Local Form be preceded by a public notice and comment period.

To promote consistency among Local Forms and clarity of content of chapter 13 plans, the rule prescribes several formatting and disclosure requirements. Paragraphs in such a form must be numbered and labeled in bold type, and the form must contain separate paragraphs for the cure and maintenance of home mortgages, payment of domestic support obligations, treatment of secured claims covered by the "hanging paragraph" of §1325(a), and surrender of property securing a claim. Whether those portions of the Local Form are used in a given chapter 13 case will depend on the debtor's individual circumstances.

The rule requires that a Local Form begin with a paragraph for the debtor to call attention to the fact that the plan contains a nonstandard provision; limits the amount of a secured claim based on a valuation of the collateral, as authorized by Rule 3012(b); or avoids a lien, as authorized by Rule 4003(d).

The last paragraph of a Local Form must be for the inclusion of any nonstandard provisions, as defined by Rule 3015(c), and must include a statement that nonstandard provisions placed elsewhere in the plan are void. This part gives the debtor the opportunity to propose provisions that are not otherwise in, or that deviate from, the Local Form. The form must also require a certification by the debtor's attorney or unrepresented debtor that there are no nonstandard provisions other than those placed in the final paragraph.

COMMITTEE NOTES ON RULES—2024 AMENDMENT

The language of Rule 3015.1 has been amended as part of the general restyling of the Bankruptcy Rules to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only.

[1] *Second period editorially added.*

Rule 3016. Chapter 9 or 11—Plan and Disclosure Statement

(a) IN GENERAL. In a Chapter 9 or 11 case, every proposed plan or modification must be dated. In a Chapter 11 case, the plan or modification must also name the entity or entities proposing or filing it.

(b) FILING A DISCLOSURE STATEMENT.

(1) *In General*. In a Chapter 9 or 11 case, unless (2) applies, the disclosure statement, if required by §1125—or evidence showing compliance with §1126(b)—must be filed with the plan or at another time set by the court.

(2) *Providing Information Under §1125(f)(1)*. A plan intended to provide adequate information under §1125(f)(1) must be so designated. Rule 3017.1 then applies as if the plan were a disclosure statement.

(c) INJUNCTION IN A PLAN. If the plan provides for an injunction against conduct not otherwise enjoined by the Code, the plan and disclosure statement must:

(1) describe in specific and conspicuous language (bold, italic, or underlined text) all acts to be enjoined; and

(2) identify the entities that would be subject to the injunction.

(d) FORM OF A DISCLOSURE STATEMENT AND PLAN IN A SMALL BUSINESS CASE OR A CASE UNDER SUBCHAPTER V OF CHAPTER 11. In a small business case or a case under Subchapter V of Chapter 11, the court may approve a disclosure statement that substantially conforms to Form 425B and confirm a plan that substantially conforms to Form 425A—or, in either instance, to a standard form approved by the court.

(As amended Mar. 30, 1987, eff. Aug. 1, 1987; Apr. 30, 1991, eff. Aug. 1, 1991; Apr. 23, 1996, eff. Dec. 1, 1996; Apr. 23, 2001, eff. Dec. 1, 2001; Apr. 23, 2008, eff. Dec. 1, 2008; Apr. 11, 2022, eff. Dec. 1, 2022; Apr. 2, 2024, eff. Dec. 1, 2024.)

NOTES OF ADVISORY COMMITTEE ON RULES—1983

This rule implements the Code provisions concerning the filing of plans in chapters 9 and 11.

Chapter 9 Cases. Section 941 provides that the debtor may file a plan with the petition or thereafter but within a time fixed by the court. A rule, therefore, is unnecessary to specify the time for filing chapter 9 plans.

Chapter 11 Nonrailroad Cases. Section 1121 contains detailed provisions with respect to who may file a chapter 11 plan and, in part, the time period. Section 1121(a) permits a debtor to file a plan with the petition or at any time during the case. Section 1121(b) and (c) grants exclusive periods of 120 days and 180 days for the debtor to file and obtain acceptance of a plan. Failure to take advantage of these periods or the appointment of a trustee would permit other parties in interest to file a plan. These statutory provisions are not repeated in the rules.

Chapter 11 Railroad Cases. Pursuant to subchapter IV of chapter 11, §1121 of the Code is applicable in railroad cases; see §§1161, 103(g) [now 103(h)]. A trustee, however, is to be appointed in every case; thus, pursuant to §1121(c), any party in interest may file a plan. See discussion of subdivision (a) of this rule, *infra*.

Subdivision (a). Section 1121(c), while permitting parties in interest a limited right to file plans, does not provide any time limitation. This subdivision sets as the deadline, the conclusion of the hearing on the disclosure statement. The court may, however, grant additional time. It is derived from former Chapter X Rule 10–301(c)(2) which used, as the cut-off time, the conclusion of the hearing on approval of a plan. As indicated, *supra*, §1121(a) permits a debtor to file a plan at any time during the chapter 11 case. Under §1121(c), parties other than a debtor may file a plan only after a trustee is appointed or the debtor's exclusive time expires.

Subdivision (b) requires plans to be properly identified.

Subdivision (c). This provision is new. In chapter 9 and 11 cases (including railroad reorganization cases) postpetition solicitation of votes on a plan requires transmittal of a disclosure statement, the contents of which have been approved by the court. See §1125 of the Code. A prepetition solicitation must either have been in conformity with applicable nonbankruptcy law or, if none, the disclosure must have been of adequate information as set forth in §1125 of the Code. See §1126(b). Subdivision (c) of this rule provides the time for filing the disclosure statement or evidence of compliance with §1126(b) which ordinarily will be with the plan but the court may allow a later time or the court may, pursuant to the last sentence, fix a time certain. Rule 3017 deals with the hearing on the disclosure statement. The disclosure statement, pursuant to §1125 is to contain adequate information. "Adequate information" is defined in §1125(a) as information that would permit a reasonable creditor or equity security holder to make an informed judgment on the plan.

NOTES OF ADVISORY COMMITTEE ON RULES—1991 AMENDMENT

Subdivision (a) is amended to enlarge the time for filing competing plans. A party in interest may not file a plan without leave of court only if an order approving a disclosure statement relating to another plan has been entered and a decision on confirmation of the plan has not been entered. This subdivision does not fix a deadline beyond which a debtor may not file a plan.

NOTES OF ADVISORY COMMITTEE ON RULES—1996 AMENDMENT

Section 1121(c) gives a party in interest the right to file a chapter 11 plan after expiration of the period when only the debtor may file a plan. Under §1121(d), the exclusive period in which only the debtor may file a plan may be extended, but only if a party in interest so requests and the court, after notice and a hearing, finds cause for an extension. Subdivision (a) is abrogated because it could have the effect of extending the debtor's exclusive period for filing a plan without satisfying the requirements of §1121(d). The abrogation of subdivision (a) does not affect the court's discretion with respect to the scheduling of hearings on the approval of disclosure statements when more than one plan has been filed.

The amendment to subdivision (c), redesignated as subdivision (b), is stylistic.

GAP Report on Rule 3016. No changes since publication, except for a stylistic change.

COMMITTEE NOTES ON RULES—2001 AMENDMENT

Subdivision (c) is added to assure that entities whose conduct would be enjoined under a plan, rather than by operation of the Code, are given adequate notice of the proposed injunction. The validity and effect of any injunction are substantive law matters that are beyond the scope of these rules.

Specific and conspicuous language is not necessary if the injunction contained in the plan is substantially the same as an injunction provided under the Code. For example, if a plan contains an injunction against acts to collect a discharged debt from the debtor, Rule 3016(c) would not apply because that conduct would be enjoined nonetheless under §524(a)(2). But if a plan provides that creditors will be permanently enjoined from asserting claims against persons who are not debtors in the case, the plan and disclosure statement must highlight the injunctive language and comply with the requirements of Rule 3016(c). *See* §524(e).

The requirement in this rule that the plan and disclosure statement identify the entities that would be subject

to the injunction requires reasonable identification under the circumstances. If the entities that would be subject to the injunction cannot be identified by name, the plan and disclosure statement may describe them by class or category. For example, it may be sufficient to identify the subjects of the injunction as "all creditors of the debtor."

Changes Made After Publication and Comments. The word "highlighted" in the parenthesis was replaced with "underlined" because highlighted documents are difficult to scan electronically for inclusion in the clerks' files. The Committee Note was revised to put in a more prominent position the statement that the validity and effect of any injunction provided for in a plan are substantive matters beyond the scope of the rules. Other stylistic changes were made to the Committee Note.

COMMITTEE NOTES ON RULES—2008 AMENDMENT

Subdivision (b) is amended to recognize that, in 2005, §1125(f)(1) was added to the Code to provide that the plan proponent in a small business case need not file a disclosure statement if the plan itself includes adequate information and the court finds that a separate disclosure statement is unnecessary. If the plan is intended to provide adequate information in a small business case, it may be conditionally approved as a disclosure statement under Rule 3017.1 and is subject to all other rules applicable to disclosure statements in small business cases.

Subdivision (d) is added to the rule to implement §433 of the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005 which requires the promulgation of Official Forms for plans and disclosure statements in small business cases. Section 1125(f)(2) of the Code provides that the court may approve a disclosure statement submitted on the appropriate Official Form or on a standard form approved by the court. The rule takes no position on whether a court may require a local standard form disclosure statement or plan of reorganization in lieu of the Official Forms.

Other amendments are stylistic.

Changes Made After Publication. No changes were made after publication.

COMMITTEE NOTES ON RULES—2022 AMENDMENT

The rule is amended in response to the enactment of the Small Business Reorganization Act of 2019, Pub. L. No. 116–54, 133 Stat. 1079. That law gives a small business debtor the option of electing to be a debtor under subchapter V of chapter 11. Subdivision (b) of the rule is amended to reflect that under §1181(b) of the Code, §1125 does not apply to subchapter V cases (and thus a disclosure statement is not required) unless the court for cause orders otherwise. Subdivision (d) is amended to include subchapter V cases as ones in which Official Forms are available for a reorganization plan and, when required, a disclosure statement.

COMMITTEE NOTES ON RULES—2024 AMENDMENT

The language of Rule 3016 has been amended as part of the general restyling of the Bankruptcy Rules to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only.

Rule 3017. Chapter 9 or 11—Hearing on a Disclosure Statement and Plan

(a) HEARING ON A DISCLOSURE STATEMENT; OBJECTIONS.

(1) *Notice and Hearing.*

(A) *Notice*. Except as provided in Rule 3017.1 for a small business case, the court must hold a hearing on a disclosure statement filed under Rule 3016(b) and any objection or modification to it. The hearing must be held on at least 28 days' notice under Rule 2002(b) to:

- the debtor;
- creditors;
- equity security holders; and
- other parties in interest.

(B) *Limit on Sending the Plan and Disclosure Statement*. A copy of the plan and disclosure statement must be mailed with the notice of a hearing to:

- the debtor;
- any trustee or appointed committee;
- the Securities and Exchange Commission; and

• any party in interest that, in writing, requests a copy of the disclosure statement or plan.

(2) *Objecting to a Disclosure Statement*. An objection to a disclosure statement must be filed and served before the disclosure statement is approved or by an earlier date the court sets. The objection must be served on:

• the debtor;
• the trustee;
• any appointed committee; and
• any other entity the court designates.

(3) *Chapter 11—Copies to the United States Trustee*. In a Chapter 11 case, a copy of every item required to be served or mailed under this Rule 3017(a) must also be sent to the United States trustee within the prescribed time.

(b) COURT RULING ON THE DISCLOSURE STATEMENT. After the hearing, the court must determine whether the disclosure statement should be approved.

(c) TIME TO ACCEPT OR REJECT A PLAN AND FOR THE CONFIRMATION HEARING. At the time or before the disclosure statement is approved, the court:

(1) must set a deadline for the holders of claims and interests to accept or reject the plan; and

(2) may set a date for a confirmation hearing.

(d) HEARING ON CONFIRMATION.

(1) *Sending the Plan and Related Documents.*

(A) *In General*. After the disclosure statement has been approved, the court must order the debtor in possession, the trustee, the plan proponent, or the clerk to mail the following items to creditors and equity security holders and, in a Chapter 11 case, to send a copy of each to the United States trustee:

(i) the court-approved disclosure statement;

(ii) the plan or a court-approved summary of it;

(iii) a notice of the time to file acceptances and rejections of the plan; and

(iv) any other information as the court orders—including any opinion approving the disclosure statement or a court-approved summary of the opinion.

(B) *Exception*. The court may vary the requirements for an unimpaired class of creditors or equity security holders.

(2) *Time to Object to a Plan; Notice of the Confirmation Hearing*. Notice of the time to file an objection to a plan's confirmation and the date of the hearing on confirmation must be mailed to creditors and equity security holders in accordance with Rule 2002(b). A ballot that conforms to Form 314 must also be mailed to creditors and equity security holders who are entitled to vote on the plan. If the court's opinion is not sent (or only a summary of the plan was sent), a party in interest may request a copy of the opinion or plan, which must be provided at the plan proponent's expense.

(3) *Notice to Unimpaired Classes*. If the court orders that the disclosure statement and plan (or the plan summary) not be mailed to an unimpaired class, a notice that the class has been designated as unimpaired must be mailed to the class members. The notice must show:

(A) the name and address of the person from whom the plan (or summary) and the disclosure statement may be obtained at the plan proponent's expense;

(B) the time to file an objection to the plan's confirmation; and

(C) the date of the confirmation hearing.

(4) *Definition of "Creditors" and "Equity Security Holders."* In this Rule 3017(d), "creditors" and "equity security holders" include record holders of stock, bonds, debentures, notes, and other

securities on the date the order approving the disclosure statement is entered—or another date the court sets for cause and after notice and a hearing.

(e) PROCEDURE FOR SENDING INFORMATION TO BENEFICIAL HOLDERS OF SECURITIES. At the hearing under (a), the court must:

(1) determine the adequacy of the procedures for sending the documents and information listed in (d)(1) to beneficial holders of stock, bonds, debentures, notes, and other securities; and

(2) issue any appropriate orders.

(f) SENDING INFORMATION TO ENTITIES SUBJECT TO AN INJUNCTION.

(1) *Timing of the Notice*. This Rule 3017(f) applies if, under a plan, an entity that is not a creditor or equity security holder is subject to an injunction against conduct not otherwise enjoined by the Code. At the hearing under (a), the court must consider procedures to provide the entity with at least 28 days' notice of:

(A) the time to file an objection; and

(B) the date of the confirmation hearing.

(2) *Content of the Notice*. The notice must:

(A) provide the information required by Rule 2002(c)(3); and

(B) if feasible, include a copy of the plan and disclosure statement.

(As amended Mar. 30, 1987, eff. Aug. 1, 1987; Apr. 30, 1991, eff. Aug. 1, 1991; Apr. 11, 1997, eff. Dec. 1, 1997; Apr. 23, 2001, eff. Dec. 1, 2001; Mar. 26, 2009, eff. Dec. 1, 2009; Apr. 2, 2024, eff. Dec. 1, 2024.)

NOTES OF ADVISORY COMMITTEE ON RULES—1983

This rule is adapted from former Rule 10–303 which dealt with the approval of a Chapter X plan by the court. There is no requirement for plan approval in a chapter 9 or 11 case under the Code but there is the requirement that a disclosure statement containing adequate financial information be approved by the court after notice and a hearing before votes on a plan are solicited. Section 1125(b) of the Code is made applicable in chapter 9 cases by §901(a). It is also applicable in railroad reorganization cases under subchapter IV of chapter 11; see §1161 of the Code.

Subdivision (a) of this rule provides for the hearing on the disclosure statement. Thus, a hearing would be required in all cases; whether it may be ex parte would depend on the circumstances of the case, but a mere absence of objections would not eliminate the need for a hearing; see §102(1) of the Code.

No provision similar to former Rule 10–303(f) is included. That subdivision together with former Rule 10–304 prohibited solicitation of votes until after entry of an order approving the plan. Section 1125(b) of the Code explicitly provides that votes on a plan may not be solicited until a disclosure statement approved by the court is transmitted. Pursuant to the change in rulemaking power, a comparable provision in this rule is unnecessary. 28 U.S.C. §2075.

Copies of the disclosure statement and plan need not be mailed with the notice of the hearing or otherwise transmitted prior to the hearing except with respect to the parties explicitly set forth in the subdivision.

It should be noted that, by construction, the singular includes the plural. Therefore, the phrase "plan or plans" or "disclosure statement or statements" has not been used although the possibility of multiple plans and statements is recognized.

Subdivision (d) permits the court to require a party other than the clerk of the bankruptcy court to bear the responsibility for transmitting the notices and documents specified in the rule when votes on the plan are solicited. Ordinarily the person responsible for such mailing will be the proponent of the plan. In rare cases the clerk may be directed to mail these documents, particularly when the trustee would have the responsibility but there is insufficient money in the estate to enable the trustee to perform this task.

NOTES OF ADVISORY COMMITTEE ON RULES—1987 AMENDMENT

Subdivision (d). Section 1125(c) of the Code requires that the entire approved disclosure statement be provided in connection with voting on a plan. The court is authorized by §1125(c) to approve different disclosure statements for different classes. Although the rule does not permit the mailing of a summary of the disclosure statement in place of the approved disclosure statement, the court may approve a summary of the disclosure statement to be mailed with the complete disclosure statement to those voting on the plan.

NOTES OF ADVISORY COMMITTEE ON RULES—1991 AMENDMENT

This rule is amended to enable the United States trustee to monitor and comment with regard to chapter 11 disclosure statements and plans. The United States trustee does not perform these functions in a chapter 9 municipal debt adjustment case. See 28 U.S.C. §586(a)(3)(B).

Subdivision (d) is amended to give the court the discretion to direct that one or more unimpaired classes shall not receive disclosure statements, plans, or summaries of plans. Members of unimpaired classes are not entitled to vote on the plan. Although disclosure statements enable members of unimpaired classes to make informed judgments as to whether to object to confirmation because of lack of feasibility or other grounds, in an unusual case the court may direct that disclosure statements shall not be sent to such classes if to do so would not be feasible considering the size of the unimpaired classes and the expense of printing and mailing. In any event, all creditors are entitled to notice of the time fixed for filing objections and notice of the hearing to consider confirmation of the plan pursuant to Rule 2002(b) and the requirement of such notice may not be excused with respect to unimpaired classes. The amendment to subdivision (d) also ensures that the members of unimpaired classes who do not receive such documents will have sufficient information so that they may request these documents in advance of the hearing on confirmation. The amendment to subdivision (d) is not intended to give the court the discretion to dispense with the mailing of the plan and disclosure statement to governmental units holding claims entitled to priority under §507(a)(7) because they may not be classified. See §1123(a)(1).

The words "with the court" in subdivision (a) are deleted as unnecessary. See Rules 5005(a) and 9001(3). Reference to the Official Form number in subdivision (d) is deleted in anticipation of future revision and renumbering of the Official Forms.

Subdivision (e) is designed to ensure that appropriate measures are taken for the plan, disclosure statement, ballot and other materials which are required to be transmitted to creditors and equity security holders under this rule to reach the beneficial holders of securities held in nominee name. Such measures may include orders directing the trustee or debtor in possession to reimburse the nominees out of the funds of the estate for the expenses incurred by them in distributing materials to beneficial holders. In most cases, the plan proponent will not know the identities of the beneficial holders and therefore it will be necessary to rely on the nominal holders of the securities to distribute the plan materials to the beneficial owners.

NOTES OF ADVISORY COMMITTEE ON RULES—1997 AMENDMENT

Subdivision (a) is amended to provide that it does not apply to the extent provided in new Rule 3017.1, which applies in small business cases.

Subdivision (d) is amended to provide flexibility in fixing the record date for the purpose of determining the holders of securities who are entitled to receive documents pursuant to this subdivision. For example, if there may be a delay between the oral announcement of the judge's order approving the disclosure statement and entry of the order on the court docket, the court may fix the date on which the judge orally approves the disclosure statement as the record date so that the parties may expedite preparation of the lists necessary to facilitate the distribution of the plan, disclosure statement, ballots, and other related documents.

The court may set a record date pursuant to subdivision (d) only after notice and a hearing as provided in §102(1) of the Code. Notice of a request for an order fixing the record date may be included in the notice of the hearing to consider approval of the disclosure statement mailed pursuant to Rule 2002(b).

If the court fixes a record date pursuant to subdivision (d) with respect to the holders of securities, and the holders are impaired by the plan, the judge also should order that the same record date applies for the purpose of determining eligibility for voting pursuant to Rule 3018(a).

Other amendments to this rule are stylistic.

GAP Report on Rule 3017. No changes to the published draft.

COMMITTEE NOTES ON RULES—2001 AMENDMENT

Subdivision (f) is added to assure that entities whose conduct would be enjoined under a plan, rather than by operation of the Code, and who will not receive the documents listed in subdivision (d) because they are neither creditors nor equity security holders, are provided with adequate notice of the proposed injunction. It does not address any substantive law issues relating to the validity or effect of any injunction provided under a plan, or any due process or other constitutional issues relating to notice. These issues are beyond the scope of these rules and are left for judicial determination.

This rule recognizes the need for adequate notice to subjects of an injunction, but that reasonable flexibility under the circumstances may be required. If a known and identifiable entity would be subject to the injunction, and the notice, plan, and disclosure statement could be mailed to that entity, the court should require that they be mailed at the same time that the plan, disclosure statement and related documents are

mailed to creditors under Rule 3017(d). If mailing notices and other documents is not feasible because the entities subject to the injunction are described in the plan and disclosure statement by class or category and they cannot be identified individually by name and address, the court may require that notice under Rule 3017(f)(1) be published.

Changes Made After Publication and Comments. No changes were made in the text of the proposed amendments since publication. The Committee Note was revised to put in a more prominent position the statement that the rule does not address related substantive law issues which are beyond the scope of the rules.

COMMITTEE NOTES ON RULES—2009 AMENDMENT

The rule is amended to implement changes in connection with the amendment to Rule 9006(a) and the manner by which time is computed under the rules. The deadlines in the rule are amended to substitute a deadline that is a multiple of seven days. Throughout the rules, deadlines are amended in the following manner:

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

COMMITTEE NOTES ON RULES—2024 AMENDMENT

The language of Rule 3017 has been amended as part of the general restyling of the Bankruptcy Rules to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only.

Rule 3017.1. Disclosure Statement in a Small Business Case or a Case Under Subchapter V of Chapter 11

(a) CONDITIONALLY APPROVING A DISCLOSURE STATEMENT. This section (a) [1] applies in a small business case or in a case under Subchapter V of Chapter 11 in which the court has ordered that §1125 applies. The court may, on motion of the plan proponent or on its own, conditionally approve a disclosure statement filed under Rule 3016. On or before doing so, the court must:

(1) set the time within which the claim holders and interest holders may accept or reject the plan;

(2) set the time to file an objection to the disclosure statement;

(3) if a timely objection is filed, set the date to hold the hearing on final approval of the disclosure statement; and

(4) set a date for the confirmation hearing.

(b) EFFECT OF A CONDITIONAL APPROVAL. Rule 3017(a)–(c) and (e) do not apply to a conditionally approved disclosure statement. But conditional approval is considered approval in applying Rule 3017(d).

(c) TIME TO FILE AN OBJECTION; DATE OF A HEARING.

(1) *Notice*. Notice must be given under Rule 2002(b) of the time to file an objection and the date of a hearing to consider final approval of the disclosure statement. The notice may be combined with notice of the confirmation hearing.

(2) *Time to File an Objection to the Disclosure Statement*. An objection to the disclosure statement must be filed before it is finally approved or by an earlier date set by the court. The objection must be served on:

- the debtor;
- the trustee;
- any appointed committee; and
- any other entity the court designates.

A copy must also be sent to the United States trustee.

(3) *Hearing on an Objection to the Disclosure Statement*. If a timely objection to the disclosure statement is filed, the court must hold a hearing on final approval either before or combined with the confirmation hearing.

(Added Apr. 11, 1997, eff. Dec. 1, 1997; amended Apr. 23, 2008, eff. Dec. 1, 2008; Apr. 11, 2022, eff. Dec. 1, 2022; Apr. 2, 2024, eff. Dec. 1, 2024.)

NOTES OF ADVISORY COMMITTEE ON RULES—1997

This rule is added to implement §1125(f) that was added to the Code by the Bankruptcy Reform Act of 1994.

The procedures for electing to be considered a small business are set forth in Rule 1020. If the debtor is a small business and has elected to be considered a small business, §1125(f) permits the court to conditionally approve a disclosure statement subject to final approval after notice and a hearing. If a disclosure statement is conditionally approved, and no timely objection to the disclosure statement is filed, it is not necessary for the court to hold a hearing on final approval.

GAP Report on Rule 3017.1. No change to the published draft.

COMMITTEE NOTES ON RULES—2008 AMENDMENT

Section 101 of the Code, as amended in 2005, defines a "small business case" and "small business debtor," and eliminates any need to elect that status. Therefore, the reference in the rule to an election is deleted.

As provided in the amendment to Rule 3016(b), a plan intended to provide adequate information in a small business case under §1125(f)(1) may be conditionally approved and is otherwise treated as a disclosure statement under this rule.

Changes Made After Publication. No changes were made after publication.

COMMITTEE NOTES ON RULES—2022 AMENDMENT

The rule is amended in response to the enactment of the Small Business Reorganization Act of 2019, Pub. L. No. 116–54, 133 Stat. 1079. That law gives a small business debtor the option of electing to be a debtor under subchapter V of chapter 11. The title and subdivision (a) of the rule are amended to cover such cases when the court orders that §1125 of the Code applies.

COMMITTEE NOTES ON RULES—2024 AMENDMENT

The language of Rule 3017.1 has been amended as part of the general restyling of the Bankruptcy Rules to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only.

[1] *So in original. Probably should be "This subdivision (a)".*

Rule 3017.2. Setting Dates in a Case Under Subchapter V of Chapter 11 in Which There Is No Disclosure Statement

In a case under Subchapter V of Chapter 11 in which §1125 does not apply, the court must set:

(a) a time within which the holders of claims and interests may accept or reject the plan;

(b) a date on which an equity security holder or a creditor whose claim is based on a security must be the record holder of the security in order to be eligible to accept or reject the plan;

(c) a date for the hearing on confirmation; and

(d) a date for sending the plan, notice of the time within which the holders of claims and interests may accept or reject it, and notice of the date for the hearing on confirmation.

(Added Apr. 11, 2022, eff. Dec. 1, 2022; amended Apr. 2, 2024, eff. Dec. 1, 2024.)

COMMITTEE NOTES ON RULES—2022

The rule is added in response to the enactment of the Small Business Reorganization Act of 2019, Pub. L. No. 116–54, 133 Stat. 1079. That law gives a small business debtor the option of electing to be a debtor under subchapter V of chapter 11. Because there generally will not be a disclosure statement in a subchapter V case, *see* §1181(b) of the Code, the rule is added to authorize the court in such a case to act at a time other than when a disclosure statement is approved to set certain times and dates.

COMMITTEE NOTES ON RULES—2024 AMENDMENT

The language of Rule 3017.2 has been amended as part of the general restyling of the Bankruptcy Rules to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only.

Rule 3018. Chapter 9 or 11—Accepting or Rejecting a Plan

(a) IN GENERAL.

(1) *Who May Accept or Reject a Plan*. Within the time set by the court under Rule 3017, 3017.1, or 3017.2, a claim holder or equity security holder may accept or reject a Chapter 9 or Chapter 11 plan under §1126.

(2) *Claim Based on a Security of Record*. Subject to (b), an equity security holder or creditor whose claim is based on a security of record may accept or reject a plan only if the equity security holder or creditor is the holder of record:

(A) on the date the order approving the disclosure statement is entered; or

(B) on another date the court sets:

(i) under Rule 3017.2; or

(ii) after notice and a hearing and for cause.

(3) *Changing or Withdrawing an Acceptance or Rejection*. After notice and a hearing and for cause, the court may permit a creditor or equity security holder to change or withdraw an acceptance or rejection.

(4) *Temporarily Allowing a Claim or Interest*. Even if an objection to a claim or interest has been filed, the court may, after notice and a hearing, temporarily allow a claim or interest in an amount that the court considers proper for voting to accept or reject a plan.

(b) TREATMENT OF ACCEPTANCES OR REJECTIONS OBTAINED BEFORE THE PETITION WAS FILED.

(1) *Acceptance or Rejection by a Nonholder of Record*. An equity security holder or creditor who accepted or rejected a plan before the petition was filed will not be considered to have accepted or rejected the plan under §1126(b) if the equity security holder or creditor:

(A) has a claim or interest based on a security of record; and

(B) was not the security's holder of record on the date specified in the solicitation of the acceptance or rejection.

(2) *Defective Solicitations*. A holder of a claim or interest who accepted or rejected a plan before the petition was filed will not be considered to have accepted or rejected the plan if the court finds, after notice and a hearing, that:

(A) the plan was not sent to substantially all creditors and equity security holders of the same class;

(B) an unreasonably short time was prescribed for those creditors and equity security holders to accept or reject the plan; or

(C) the solicitation did not comply with §1126(b).

(c) FORM FOR ACCEPTING OR REJECTING A PLAN; PROCEDURE WHEN MORE THAN ONE PLAN IS FILED.

(1) *Form*. An acceptance or rejection of a plan must:

(A) be in writing;

(B) identify the plan or plans;

(C) be signed by the creditor or equity security holder—or an authorized agent; and

(D) conform to Form 314.

(2) *When More Than One Plan Is Distributed*. If more than one plan is sent under Rule 3017, a

creditor or equity security holder may accept or reject one or more plans and may indicate preferences among those accepted.

(d) PARTIALLY SECURED CREDITOR. If a creditor's claim has been allowed in part as a secured claim and in part as an unsecured claim, the creditor may accept or reject a plan in both capacities.

(As amended Mar. 30, 1987, eff. Aug. 1, 1987; Apr. 30, 1991, eff. Aug. 1, 1991; Apr. 22, 1993, eff. Aug. 1, 1993; Apr. 11, 1997, eff. Dec. 1, 1997; Apr. 11, 2022, eff. Dec. 1, 2022; Apr. 2, 2024, eff. Dec. 1, 2024.)

NOTES OF ADVISORY COMMITTEE ON RULES—1983

This rule applies in chapter 9, 11 and 13 cases under the Code. The references in the rule to equity security holders will not, however, be relevant in chapter 9 or 13 cases. The rule will be of little utility in a chapter 13 case because only secured creditors may be requested to vote on a plan; unsecured creditors are not entitled to vote; see §1325(a)(4), (5) of the Code.

Subdivision (a) is derived from former Rule 10–305(a). It substitutes, in a reorganization case, entry of the order approving the disclosure statement for the order approving a plan in conformity with the differences between Chapter X and chapter 11. In keeping with the underlying theory it continues to recognize that the lapse of time between the filing of the petition and entry of such order will normally be significant and, during that interim, bonds and equity interests can change ownership.

Subdivision (b) recognizes the former Chapter XI practice permitting a plan and acceptances to be filed with the petition, as does §1126(b) of the Code. However, because a plan under chapter 11 may affect shareholder interests, there should be reference to a record date of ownership. In this instance the appropriate record date is that used in the prepetition solicitation materials because it is those acceptances or rejections which are being submitted to the court.

While §1126(c), (d), and (e) prohibits use of an acceptance or rejection not procured in good faith, the added provision in subdivision (b) of the rule is somewhat more detailed. It would prohibit use of prepetition acceptances or rejections when some but not all impaired creditors or equity security holders are solicited or when they are not given a reasonable opportunity to submit their acceptances or rejections. This provision together with §1126(e) gives the court the power to nullify abusive solicitation procedures.

Subdivision (c). It is possible that multiple plans may be before the court for confirmation. Pursuant to §1129(c) of the Code, the court may confirm only one plan but is required to consider the preferences expressed by those accepting the plans in determining which one to confirm.

Subdivisions (d) and (e) of former Rule 10–305 are not continued since comparable provisions are contained in the statute; see §1126(c), (d), (e).

It should be noted that while the singular "plan" is used throughout, by construction the plural is included; see §102(7).

NOTES OF ADVISORY COMMITTEE ON RULES—1991 AMENDMENT

Subdivisions (a) and (b) are amended to delete provisions that duplicate §1126 of the Code. An entity who is not a record holder of a security, but who claims that it is entitled to be treated as a record holder, may file a statement pursuant to Rule 3003(d).

Subdivision (a) is amended further to allow the court to permit a creditor or equity security holder to change or withdraw an acceptance or rejection for cause shown whether or not the time fixed for voting has expired.

Subdivision (b) is also amended to give effect to a prepetition acceptance or rejection if solicitation requirements were satisfied with respect to substantially all members of the same class, instead of requiring proper solicitation with respect to substantially all members of all classes.

Subdivision (c) is amended to delete the Official Form number in anticipation of future revision and renumbering of the Official Forms.

NOTES OF ADVISORY COMMITTEE ON RULES—1993 AMENDMENT

The title of this rule is amended to indicate that it applies only in a chapter 9 or a chapter 11 case. The amendment of the word "Plans" to "Plan" is stylistic.

NOTES OF ADVISORY COMMITTEE ON RULES—1997 AMENDMENT

Subdivision (a) is amended to provide flexibility in fixing the record date for the purpose of determining the holders of securities who are entitled to vote on the plan. For example, if there may be a delay between the oral announcement of the judge's decision approving the disclosure statement and entry of the order on the

court docket, the court may fix the date on which the judge orally approves the disclosure statement as the record date for voting purposes so that the parties may expedite preparation of the lists necessary to facilitate the distribution of the plan, disclosure statement, ballots, and other related documents in connection with the solicitation of votes.

The court may set a record date pursuant to subdivision (a) only after notice and a hearing as provided in §102(1) of the Code. Notice of a request for an order fixing the record date may be included in the notice of the hearing to consider approval of the disclosure statement mailed pursuant to Rule 2002(b).

If the court fixes the record date for voting purposes, the judge also should order that the same record date shall apply for the purpose of distributing the documents required to be distributed pursuant to Rule 3017(d).

GAP Report on Rule 3018. No changes to the published draft.

COMMITTEE NOTES ON RULES—2022 AMENDMENT

Subdivision (a) of the rule is amended to take account of the court's authority to set times under Rules 3017.1 and 3017.2 in small business cases and cases under subchapter V of chapter 11.

COMMITTEE NOTES ON RULES—2024 AMENDMENT

The language of Rule 3018 has been amended as part of the general restyling of the Bankruptcy Rules to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only.

Rule 3019. Chapter 9 or 11—Modifying a Plan

(a) MODIFYING A PLAN BEFORE CONFIRMATION. In a Chapter 9 or 11 case, after a plan has been accepted and before confirmation, the plan proponent may file a modification. The modification is considered accepted by any creditor or equity security holder who has accepted it in writing. For others who have not accepted it in writing but have accepted the plan, the modification is considered accepted if, after notice and a hearing, the court finds that it does not adversely change the treatment of their claims or interests. The notice must be served on:

- the trustee;
- any appointed committee; and
- any other entity the court designates.

(b) MODIFYING A PLAN AFTER CONFIRMATION IN AN INDIVIDUAL DEBTOR'S CHAPTER 11 CASE.

(1) *In General*. When a plan in an individual debtor's Chapter 11 case has been confirmed, a request to modify it under §1127(e) is governed by Rule 9014. The request must identify the proponent, and the proposed modification must be filed with it.

(2) *Time to File an Objection; Service.*

(A) *Time*. Unless the court orders otherwise for creditors who are not affected by the proposed modification, the clerk—or the court's designee—must give the debtor, trustee, and creditors at least 21 days' notice, by mail, of:

(i) the time to file an objection; and

(ii) if an objection is filed, the date of a hearing to consider the proposed modification.

(B) *Service*. Any objection must be served on:

- the debtor;
- the entity proposing the modification;
- the trustee; and
- any other entity the court designates.

A copy of the notice, modification, and objection must also be sent to the United States trustee.

(c) MODIFYING A PLAN AFTER CONFIRMATION IN A CASE UNDER SUBCHAPTER V OF CHAPTER 11. In a case under Subchapter V of Chapter 11, Rule 9014 governs a request to modify the plan under §1193(b) or (c), and (b) of this rule applies.

(As amended Mar. 30, 1987, eff. Aug. 1, 1987; Apr. 22, 1993, eff. Aug. 1, 1993; Apr. 23, 2008, eff. Dec. 1, 2008; Mar. 26, 2009, eff. Dec. 1, 2009; Apr. 11, 2022, eff. Dec. 1, 2022; Apr. 2, 2024, eff. Dec. 1, 2024.)

NOTES OF ADVISORY COMMITTEE ON RULES—1983

This rule implements §§942, 1127 and 1323 of the Code. For example, §1127 provides for modification before and after confirmation but does not deal with the minor modifications that do not adversely change any rights. The rule makes clear that a modification may be made, after acceptance of the plan without submission to creditors and equity security holders if their interests are not affected. To come within this rule, the modification should be one that does not change the rights of a creditor or equity security holder as fixed in the plan before modification.

NOTES OF ADVISORY COMMITTEE ON RULES—1993 AMENDMENT

This rule is amended to limit its application to chapter 9 and chapter 11 cases. Modification of plans after confirmation in chapter 12 and chapter 13 cases is governed by Rule 3015. The addition of the comma in the second sentence is stylistic and makes no substantive change.

COMMITTEE NOTES ON RULES—2008 AMENDMENT

The 2005 amendments to §1127 of the Code provide for modification of a confirmed plan in an individual debtor chapter 11 case. Therefore, the rule is amended to establish the procedure for filing and objecting to a proposed modification of a confirmed plan.

Changes Made After Publication. The last sentence of the published rule provided that an objection to modification of a plan is governed by Rule 9014. The sentence is deleted and the reference to Rule 9014 is moved to the first sentence of subdivision (b) of the rule. The Committee Note was revised to make the reference to the 2005 amendments to the Bankruptcy Code consistent with their identification in other Committee Notes.

COMMITTEE NOTES ON RULES—2009 AMENDMENT

The rule is amended to implement changes in connection with the amendment to Rule 9006(a) and the manner by which time is computed under the rules. The deadline in the rule is amended to substitute a deadline that is a multiple of seven days. Throughout the rules, deadlines are amended in the following manner:

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

COMMITTEE NOTES ON RULES—2022 AMENDMENT

The rule is amended in response to the enactment of the Small Business Reorganization Act of 2019, Pub. L. No. 116–54, 133 Stat. 1079. That law gives a small business debtor the option of electing to be a debtor under subchapter V of chapter 11. Subdivision (c) is added to the rule to govern requests to modify a plan after confirmation in such cases under §1193(b) or (c) of the Code.

COMMITTEE NOTES ON RULES—2024 AMENDMENT

The language of Rule 3019 has been amended as part of the general restyling of the Bankruptcy Rules to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only.

Rule 3020. In a Chapter 11 Case, Depositing Funds Before the Plan is Confirmed; Confirmation in a Chapter 9 or 11 Case

(a) CHAPTER 11—DEPOSITING FUNDS BEFORE THE PLAN IS CONFIRMED. Before a plan is confirmed in a Chapter 11 case, the court may order that the consideration required to be distributed upon confirmation be deposited with the trustee or debtor in possession. Any funds deposited must be kept in a special account established for the sole purpose of making the distribution.

(b) CHAPTER 9 OR 11—OBJECTING TO CONFIRMATION; CONFIRMATION HEARING.

(1) *Objecting to Confirmation*. In a Chapter 9 or 11 case, an objection to confirmation is governed by Rule 9014. The objection must be filed and served within the time set by the court and be served on:

- the debtor;
- the trustee;
- the plan proponent;
- any appointed committee; and
- any other entity the court designates.

(2) *Copy to the United States Trustee*. In a Chapter 11 case, the objecting party must send a copy of the objection to the United States trustee within the time set to file an objection.

(3) *Hearing on the Objection; Procedure If No Objection Is Filed*. After notice and a hearing as provided in Rule 2002, the court must rule on confirmation. If no objection is timely filed, the court may, without receiving evidence, determine that the plan was proposed in good faith and not by any means forbidden by law.

(c) CONFIRMATION ORDER.

(1) *Form of the Order; Injunctive Relief*. A confirmation order must conform to Form 315. If the plan provides for an injunction against conduct not otherwise enjoined under the Code, the order must:

(A) describe the acts enjoined in reasonable detail;
(B) be specific in its terms regarding the injunction; and
(C) identify the entities subject to the injunction.

(2) *Notice of Confirmation*. Notice of entry of a confirmation order must be promptly mailed to:

- the debtor;
- the trustee;
- creditors;
- equity security holders;
- other parties in interest; and
- if known, identified entities subject to an injunction described in (1).

(3) *Copy to the United States Trustee*. In a Chapter 11 case, a copy of the order must be sent to the United States trustee under Rule 2002(k).

(d) RETAINED POWER TO ISSUE FUTURE ORDERS RELATING TO ADMINISTRATION. After a plan is confirmed, the court may continue to issue orders needed to administer the estate.

(e) STAYING A CONFIRMATION ORDER. Unless the court orders otherwise, a confirmation order is stayed for 14 days after its entry.

(As amended Mar. 30, 1987, eff. Aug. 1, 1987; Apr. 30, 1991, eff. Aug. 1, 1991; Apr. 22, 1993, eff. Aug. 1, 1993; Apr. 26, 1999, eff. Dec. 1, 1999; Apr. 23, 2001, eff. Dec. 1, 2001; Mar. 26, 2009, eff. Dec. 1, 2009; Apr. 2, 2024, eff. Dec. 1, 2024.)

NOTES OF ADVISORY COMMITTEE ON RULES—1983

This rule is adapted from former Rules 10–307, 11–38, and 13–213. It applies to cases filed under chapters 9, 11 and 13. Certain subdivisions of the earlier rules have not been included, such as, a subdivision revesting title in the debtor because §541 of the Code does not transfer title out of the debtor as did §70a of the Bankruptcy Act; see also §§1141(b), 1327(b). Subdivision (b) of former Rule 13–213 is not included because its provisions are contained in the statute; see §§1322, 1325(b) [now 1325(c)], 105.

Subdivision (a) gives discretion to the court to require in chapter 11 cases the deposit of any consideration to be distributed on confirmation. If money is to be distributed, it is to be deposited in a special account to assure that it will not be used for any other purpose. The Code is silent in chapter 11 with respect to the need to make a deposit or the person with whom any deposit is to be made. Consequently, there is no statutory

authority for any person to act in a capacity similar to the disbursing agent under former Chapter XI practice. This rule provides that only the debtor in possession or trustee should be appointed as the recipient of the deposit. Any consideration other than money, *e.g.*, notes or stock may be given directly to the debtor in possession or trustee and need not be left in any kind of special account. In chapter 9 cases, §944(b) provides for deposit with a disbursing agent appointed by the court of any consideration to be distributed under the plan.

Subdivision (d) clarifies the authority of the court to conclude matters pending before it prior to confirmation and to continue to administer the estate as necessary, *e.g.*, resolving objections to claims.

NOTES OF ADVISORY COMMITTEE ON RULES—1991 AMENDMENT

The United States trustee monitors chapter 11, chapter 12, and chapter 13 plans and has standing to be heard regarding confirmation of a plan. See 28 U.S.C. §586(a)(3). The amendments to subdivisions (b)(1) and (c) of this rule facilitate that role of the United States trustee. Subdivision (b)(1) is also amended to require service on the proponent of the plan of objections to confirmation. The words "with the court" in subdivision (b)(1) are deleted as unnecessary. See Rules 5005(a) and 9001(3).

In a chapter 12 case, the court is required to conduct and conclude the hearing on confirmation of the plan within the time prescribed in §1224 of the Code.

Subdivision (c) is also amended to require that the confirmation order be mailed to the trustee. Reference to the Official Form number is deleted in anticipation of future revision and renumbering of the Official Forms.

NOTES OF ADVISORY COMMITTEE ON RULES—1993 AMENDMENT

This rule is amended to limit its application to chapter 9 and chapter 11 cases. The procedures relating to confirmation of plans in chapter 12 and chapter 13 cases are provided in Rule 3015. Other amendments are stylistic and make no substantive change.

COMMITTEE NOTES ON RULES—1999 AMENDMENT

Subdivision (e) is added to provide sufficient time for a party to request a stay pending appeal of an order confirming a plan under chapter 9 or chapter 11 of the Code before the plan is implemented and an appeal becomes moot. Unless the court orders otherwise, any transfer of assets, issuance of securities, and cash distributions provided for in the plan may not be made before the expiration of the 10-day period. The stay of the confirmation order under subdivision (e) does not affect the time for filing a notice of appeal from the confirmation order in accordance with Rule 8002.

The court may, in its discretion, order that Rule 3020(e) is not applicable so that the plan may be implemented and distributions may be made immediately. Alternatively, the court may order that the stay under Rule 3020(e) is for a fixed period less than 10 days.

GAP Report on Rule 3020. No changes since publication.

COMMITTEE NOTES ON RULES—2001 AMENDMENT

Subdivision (c) is amended to provide notice to an entity subject to an injunction provided for in a plan against conduct not otherwise enjoined by operation of the Code. This requirement is not applicable to an injunction contained in a plan if it is substantially the same as an injunction provided under the Code. The validity and effect of any injunction provided for in a plan are substantive law matters that are beyond the scope of these rules.

The requirement that the order of confirmation identify the entities subject to the injunction requires only reasonable identification under the circumstances. If the entities that would be subject to the injunction cannot be identified by name, the order may describe them by class or category if reasonable under the circumstances. For example, it may be sufficient to identify the entities as "all creditors of the debtor."

Changes Made After Publication and Comments. No changes were made in the text of the proposed amendments. The Committee Note was revised to put in a more prominent position the statement that the validity and effect of injunctions provided for in plans is beyond the scope of the rules.

COMMITTEE NOTES ON RULES—2009 AMENDMENT

The rule is amended to implement changes in connection with the amendment to Rule 9006(a) and the manner by which time is computed under the rules. The deadline in the rule is amended to substitute a deadline that is a multiple of seven days. Throughout the rules, deadlines are amended in the following manner:

- 5-day periods become 7-day periods
- 10-day periods become 14-day periods
- 15-day periods become 14-day periods

- 20-day periods become 21-day periods
- 25-day periods become 28-day periods

COMMITTEE NOTES ON RULES—2024 AMENDMENT

The language of Rule 3020 has been amended as part of the general restyling of the Bankruptcy Rules to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only.

Rule 3021. Distributing Funds Under a Plan

(a) IN GENERAL. After confirmation and when any stay under Rule 3020(e) expires, payments under the plan must be distributed to:

- creditors whose claims have been allowed;
- interest holders whose interests have not been disallowed; and
- indenture trustees whose claims under Rule 3003(c)(5) have been allowed.

(b) DEFINITION OF "CREDITORS" AND "INTEREST HOLDERS." In this Rule 3021:

(1) "creditors" include record holders of bonds, debentures, notes, and other debt securities as of the initial distribution date, unless the plan or confirmation order states a different date; and

(2) "interest holders" include record holders of stock and other equity securities as of the initial distribution date, unless the plan or confirmation order states a different date.

(As amended Apr. 11, 1997, eff. Dec. 1, 1997; Apr. 26, 1999, eff. Dec. 1, 1999; Apr. 2, 2024, eff. Dec. 1, 2024.)

NOTES OF ADVISORY COMMITTEE ON RULES—1983

This rule is derived from former Chapter X Rule 10–405(a). Subdivision (b) of that rule is covered by §1143 of the Code.

NOTES OF ADVISORY COMMITTEE ON RULES—1997 AMENDMENT

This rule is amended to provide flexibility in fixing the record date for the purpose of making distributions to holders of securities of record. In a large case, it may be impractical for the debtor to determine the holders of record with respect to publicly held securities and also to make distributions to those holders at the same time. Under this amendment, the plan or the order confirming the plan may fix a record date for distributions that is earlier than the date on which distributions commence.

This rule also is amended to treat holders of bonds, debentures, notes, and other debt securities the same as any other creditors by providing that they shall receive a distribution only if their claims have been allowed. Finally, the amendments clarify that distributions are to be made to all interest holders—not only those that are within the definition of "equity security holders" under §101 of the Code—whose interests have not been disallowed.

GAP Report on Rule 3021. No changes to the published draft.

COMMITTEE NOTES ON RULES—1999 AMENDMENT

This amendment is to conform to the amendments to Rule 3020 regarding the ten-day stay of an order confirming a plan in a chapter 9 or chapter 11 case. The other amendments are stylistic.

GAP Report on Rule 3021. No changes since publication.

COMMITTEE NOTES ON RULES—2024 AMENDMENT

The language of Rule 3021 has been amended as part of the general restyling of the Bankruptcy Rules to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only.

Rule 3022. Chapter 11—Final Decree

After the estate is fully administered in a Chapter 11 case, the court must, on its own or on a party in interest's motion, enter a final decree closing the case.

(As amended Mar. 30, 1987, eff. Aug. 1, 1987; Apr. 30, 1991, eff. Aug. 1, 1991; Apr. 2, 2024, eff. Dec. 1, 2024.)

NOTES OF ADVISORY COMMITTEE ON RULES—1983

Section 350 of the Code requires the court to close the case after the estate is fully administered and the trustee has been discharged. Section 1143 places a five year limitation on the surrender of securities when required for participation under a plan but this provision should not delay entry of the final decree.

NOTES OF ADVISORY COMMITTEE ON RULES—1991 AMENDMENT

Entry of a final decree closing a chapter 11 case should not be delayed solely because the payments required by the plan have not been completed. Factors that the court should consider in determining whether the estate has been fully administered include (1) whether the order confirming the plan has become final, (2) whether deposits required by the plan have been distributed, (3) whether the property proposed by the plan to be transferred has been transferred, (4) whether the debtor or the successor of the debtor under the plan has assumed the business or the management of the property dealt with by the plan, (5) whether payments under the plan have commenced, and (6) whether all motions, contested matters, and adversary proceedings have been finally resolved.

The court should not keep the case open only because of the possibility that the court's jurisdiction may be invoked in the future. A final decree closing the case after the estate is fully administered does not deprive the court of jurisdiction to enforce or interpret its own orders and does not prevent the court from reopening the case for cause pursuant to §350(b) of the Code. For example, on motion of a party in interest, the court may reopen the case to revoke an order of confirmation procured by fraud under §1144 of the Code. If the plan or confirmation order provides that the case shall remain open until a certain date or event because of the likelihood that the court's jurisdiction may be required for specific purposes prior thereto, the case should remain open until that date or event.

COMMITTEE NOTES ON RULES—2024 AMENDMENT

The language of Rule 3022 has been amended as part of the general restyling of the Bankruptcy Rules to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only.

PART IV—THE DEBTOR'S DUTIES AND BENEFITS

Rule 4001. Relief from the Automatic Stay; Prohibiting or Conditioning the Use, Sale, or Lease of Property; Using Cash Collateral; Obtaining Credit; Various Agreements

(a) RELIEF FROM THE AUTOMATIC STAY; PROHIBITING OR CONDITIONING THE USE, SALE, OR LEASE OF PROPERTY.

(1) *Motion*. A motion under §362(d) for relief from the automatic stay—or a motion under §363(e) to prohibit or condition the use, sale, or lease of property—must comply with Rule 9014. The motion must be served on:

(A) the following, as applicable:

- a committee elected under §705 or appointed under §1102;
- the committee's authorized agent; or
- the creditors included on the list filed under Rule 1007(d) if the case is a Chapter 9 or Chapter 11 case and no committee of unsecured creditors has been appointed under §1102; and

(B) any other entity the court designates.

(2) *Relief Without Notice*. Relief from a stay under §362(a)—or a request under §363(e) to prohibit or condition the use, sale, or lease of property—may be granted without prior notice only

if:

(A) specific facts—shown by either an affidavit or a verified motion—clearly demonstrate that the movant will suffer immediate and irreparable injury, loss, or damage before the adverse party or its attorney can be heard in opposition; and

(B) the movant's attorney certifies to the court in writing what efforts, if any, have been made to give notice and why it should not be required.

(3) *Notice of Relief; Motion for Reinstatement or Reconsideration.*

(A) *Notice of Relief.* A party who obtains relief under (2) and under §362(f) or §363(e) must:

(i) immediately give oral notice both to the debtor and to the trustee or the debtor in possession; and

(ii) promptly send them a copy of the order granting relief.

(B) *Motion for Reinstatement or Reconsideration*. On 2 days' notice to the party who obtained relief under (2)—or on shorter notice as the court may order—the adverse party may move to reinstate the stay or reconsider the order prohibiting or conditioning the use, sale, or lease of property. The court must proceed expeditiously to hear and decide the motion.

(4) *Stay of an Order Granting Relief from the Automatic Stay*. Unless the court orders otherwise, an order granting a motion for relief from the automatic stay under (1) is stayed for 14 days after it is entered.

(b) USING CASH COLLATERAL.

(1) *Motion; Content; Service.*

(A) *Motion*. A motion for authorization to use cash collateral must comply with Rule 9014 and must be accompanied by a proposed form of order.

(B) *Content*. The motion must consist of—or if the motion exceeds five pages, begin with—a concise statement of the relief requested, no longer than five pages. The statement must list or summarize all material provisions (citing their locations in the relevant documents), including:

- the name of each entity with an interest in the cash collateral;
- how it will be used;
- the material terms of its use, including duration; and
- all liens, cash payments, or other adequate protection that will be provided to each entity with an interest in the cash collateral—or if no such protection is proposed, an explanation of how each entity's interest is adequately protected.

(C) *Service*. The motion must be served on:

- each entity with an interest in the cash collateral;
- all those who must be served under (a)(1)(A); and
- any other entity the court designates.

(2) *Hearings; Notice.*

(A) *Preliminary and Final Hearings*. The court may begin a final hearing on the motion no earlier than 14 days after it has been served. If the motion so requests, the court may conduct a preliminary hearing before that 14-day period ends. After a preliminary hearing, the court may authorize using only the cash collateral necessary to avoid immediate and irreparable harm to the estate pending a final hearing.

(B) *Notice*. Notice of a hearing must be given to the parties who must be served with the motion under (1)(C) and to any other entity the court designates.

(c) OBTAINING CREDIT.

(1) *Motion; Content; Service.*

(A) *Motion*. A motion for authorization to obtain credit must comply with Rule 9014 and

must be accompanied by a copy of the credit agreement and a proposed form of order.

(B) *Content*. The motion must consist of—or if the motion exceeds five pages, begin with—a concise statement of the relief requested, no longer than five pages. The statement must list or summarize all material provisions of the credit agreement and form of order (citing their locations in the relevant documents), including interest rates, maturity dates, default provisions, liens, and borrowing limits and conditions. If the credit agreement or form of order includes any of the provisions listed below in (i)–(xi), the concise statement must also list or summarize each one, describe its nature and extent, cite its location in the proposed agreement and form of order, and identify any that would remain effective if interim approval were to be granted but final relief denied under (2). The provisions are:

(i) a grant of priority or a lien on property of the estate under §364(c) or (d);

(ii) the providing of adequate protection or priority for a claim that arose before the case commenced—including a lien on property of the estate, or its use, or of credit obtained under §364 to make cash payments on the claim;

(iii) a determination of the validity, enforceability, priority, or amount of a claim that arose before the case commenced, or of any lien securing the claim;

(iv) a waiver or modification of Code provisions or applicable rules regarding the automatic stay;

(v) a waiver or modification of an entity's right to file a plan, seek to extend the time in which the debtor has the exclusive right to file a plan, request the use of cash collateral under §363(c), or request authorization to obtain credit under §364;

(vi) the establishment of deadlines for filing a plan of reorganization, approving a disclosure statement, holding a hearing on confirmation, or entering a confirmation order;

(vii) a waiver or modification of applicable nonbankruptcy law regarding perfecting or enforcing a lien on property of the estate;

(viii) a release, waiver, or limitation on a claim or other cause of action belonging to the estate or the trustee, including any modification of the statute of limitations or other deadline to commence an action;

(ix) the indemnification of any entity;

(x) a release, waiver, or limitation of any right under §506(c); or

(xi) the granting of a lien on a claim or cause of action arising under §544, 545, 547, 548, 549, 553(b), 723(a), or 724(a).

(C) *Service*. The motion must be served on all those who must be served under (a)(1)(A) and any other entity the court designates.

(2) *Hearings; Notice.*

(A) *Preliminary and Final Hearings*. The court may begin a final hearing on the motion no earlier than 14 days after it has been served. If the motion so requests, the court may conduct a preliminary hearing before that 14-day period ends. After a preliminary hearing, the court may authorize obtaining credit only to the extent necessary to avoid immediate and irreparable harm to the estate pending a final hearing.

(B) *Notice*. Notice of a hearing must be given to the parties who must be served with the motion under (1)(C) and to any other entity the court designates.

(3) *Inapplicability in a Chapter 13 Case*. This subdivision (c) does not apply in a Chapter 13 case.

(d) VARIOUS AGREEMENTS: RELIEF FROM THE AUTOMATIC STAY; PROHIBITING OR CONDITIONING THE USE, SALE, OR LEASE OF PROPERTY; PROVIDING ADEQUATE PROTECTION; USING CASH COLLATERAL; OR OBTAINING CREDIT.

(1) *Motion; Content; Service.*

(A) *Motion*. A motion to approve any of the following must be accompanied by a copy of the

agreement and a proposed form of order:

(i) an agreement to provide adequate protection;

(ii) an agreement to prohibit or condition the use, sale, or lease of property;

(iii) an agreement to modify or terminate the stay provided for in §362;

(iv) an agreement to use cash collateral; or

(v) an agreement between the debtor and an entity that has a lien or interest in property of the estate under which the entity consents to creating a lien that is senior or equal to the entity's lien or interest.

(B) *Content*. The motion must consist of—or if the motion exceeds five pages, begin with—a concise statement of the relief requested, no longer than five pages. The statement must:

(i) list or summarize all the agreement's material provisions (citing their locations in the relevant documents); and

(ii) briefly list or summarize, cite the location of, and describe the nature and extent of each provision in the proposed form of order, agreement, or other document of the type listed in (c)(1)(B).

(C) *Service*. The motion must be served on all those who must be served under (a)(1)(A) and any other entity the court designates.

(2) *Objection*. Notice of the motion must be mailed to the parties on whom service of the motion is required and any other entity the court designates. The notice must include the time within which objections may be filed and served on the debtor in possession or trustee. Unless the court sets a different time, any objections must be filed within 14 days after the notice is mailed.

(3) *Disposition Without a Hearing*. If no objection is filed, the court may enter an order approving or disapproving the agreement without holding a hearing.

(4) *Hearing*. If an objection is filed or if the court decides that a hearing is appropriate, the court must hold one after giving at least 7 days' notice to:

- the objector;
- the movant;
- the parties who must be served with the motion under (1)(C); and
- any other entity the court designates.

(5) *Agreement to Settle a Motion*. The court may decide that a motion made under (a), (b), or (c) was sufficient to give reasonable notice of the agreement's material provisions and an opportunity for a hearing. If so, the court may order that the procedures prescribed in (1)–(4) do not apply and may approve the agreement without further notice.

(As amended Mar. 30, 1987, eff. Aug. 1, 1987; Apr. 30, 1991, eff. Aug. 1, 1991; Apr. 26, 1999, eff. Dec. 1, 1999; Apr. 30, 2007, eff. Dec. 1, 2007; Mar. 26, 2009, eff. Dec. 1, 2009; Apr. 28, 2010, eff. Dec. 1, 2010; Apr. 25, 2019, eff. Dec. 1, 2019; Apr. 2, 2024, eff. Dec. 1, 2024.)

NOTES OF ADVISORY COMMITTEE ON RULES—1983

This rule implements §362 of the Code which set forth provisions regarding the automatic stay that arises on the filing of a petition. That section and this rule are applicable in chapters 7, 9, 11 and 13 cases. It also implements §363(c)(2) concerning use of cash collateral.

Subdivision (a) transforms with respect to the automatic stay what was an adversary proceeding under the former rules to motion practice. The Code provides automatic stays in several sections, *e.g.*, §§362(a), 1301(a), and in §362(d) provides some grounds for relief from the stay. This rule specifies that the pleading seeking relief is by means of a motion. Thus the time period in Rule 7012 to answer a complaint would not be applicable and shorter periods may be fixed. Section 362(e) requires the preliminary hearing to be concluded within 30 days of it inception, rendering ordinary complaint and answer practice inappropriate.

This subdivision also makes clear that a motion under Rule 9014 is the proper procedure for a debtor to seek court permission to use cash collateral. See §363(c)(2). Pursuant to Rule 5005, the motion should be filed in the court in which the case in pending. The court or local rule may specify the persons to be served with the

motion for relief from the stay; see Rule 9013.

Subdivision (b) of the rule fills a procedural void left by §362. Pursuant to §362(e), the automatic stay is terminated 30 days after a motion for relief is made unless the court continues the stay as a result of a final hearing or, pending final hearing, after a preliminary hearing. If a preliminary hearing is held, §362(e) requires the final hearing to be commenced within 30 days after the preliminary hearing. Although the expressed legislative intent is to require expeditious resolution of a secured party's motion for relief, §362 is silent as to the time within which the final hearing must be concluded. Subdivision (b) imposes a 30 day deadline on the court to resolve the dispute.

At the final hearing, the stay is to be terminated, modified, annulled, or conditioned for cause, which includes, *inter alia*, lack of adequate protection; §362(d). The burden of proving adequate protection is on the party opposing relief from the stay; §362(g)(2). Adequate protection is exemplified in §361.

Subdivision (c) implements §362(f) which permits ex parte relief from the stay when there will be irreparable damage. This subdivision sets forth the procedure to be followed when relief is sought under §362(f). It is derived from former Bankruptcy Rule 601(d).

NOTES OF ADVISORY COMMITTEE ON RULES—1987 AMENDMENT

The scope of this rule is expanded and the former subdivisions (a), (b) and (c) are now combined in subdivision (a). The new subdivision (a)(2) is amended to conform to the 1984 amendments to §362(e) of the Code.

Subdivision (b) deals explicitly with the procedures which follow after a motion to use cash collateral is made and served. Filing shall be pursuant to Rule 5005. Service of the motion may be made by any method authorized by Rule 7004 and, if service is by mail, service is complete on mailing. Rule 9006(e). Under subdivision (b)(2), the court may commence a final hearing on the motion within 15 days of service. Rule 9006(f) does not extend this 15 day period when service of the motion is by mail because the party served is not required to act within the 15 day period. In addition to service of the motion, notice of the hearing must be given. Rule 9007 authorizes the court to direct the form and manner of giving notice that is appropriate to the circumstances.

Section 363(c)(3) authorizes the court to conduct a preliminary hearing and to authorize the use of cash collateral "if there is a reasonable likelihood that the trustee will prevail at a final hearing." Subdivision (b)(2) of the rule permits a preliminary hearing to be held earlier than 15 days after service. Any order authorizing the use of cash collateral shall be limited to the amount necessary to protect the estate until a final hearing is held.

The objective of subdivision (b) is to accommodate both the immediate need of the debtor and the interest of the secured creditor in the cash collateral. The time for holding the final hearing may be enlarged beyond the 15 days prescribed when required by the circumstances.

The motion for authority to use cash collateral shall include (1) the amount of cash collateral sought to be used; (2) the name and address of each entity having an interest in the cash collateral; (3) the name and address of the entity in control or having possession of the cash collateral; (4) the facts demonstrating the need to use the cash collateral; and (5) the nature of the protection to be provided those having an interest in the cash collateral. If a preliminary hearing is requested, the motion shall also include the amount of cash collateral sought to be used pending final hearing and the protection to be provided.

Notice of the preliminary and final hearings may be combined. This rule does not limit the authority of the court under §363(c)(2)(B) and §102(1).

Subdivision (c) is new. The service, hearing, and notice requirements are similar to those imposed by subdivision (b). The motion to obtain credit shall include the amount and type of the credit to be extended, the name and address of the lender, the terms of the agreement, the need to obtain the credit, and the efforts made to obtain credit from other sources. If the motion is to obtain credit pursuant to §364(c) or (d), the motion shall describe the collateral, if any, and the protection for any existing interest in the collateral which may be affected by the proposed agreement.

Subdivision (d) is new. In the event the 15 day period for filing objections to the approval of an agreement of the parties described in this subdivision is too long, the parties either may move for a reduction of the period under Rule 9006(c)(1) or proceed under subdivision (b) or (c), if applicable. Rule 9006(c)(1) requires that cause be shown for the reduction of the period in which to object. In applying this criterion the court may consider the option of proceeding under subdivision (b) or (c) and grant a preliminary hearing and relief pending final hearing.

NOTES OF ADVISORY COMMITTEE ON RULES—1991 AMENDMENT

Subdivision (a) is expanded to include a request to prohibit or condition the use, sale, or lease of property as is necessary to provide adequate protection of a property interest pursuant to §363(e) of the Code.

Notice of the motion for relief from the automatic stay or to prohibit or condition the use, sale, or lease of property must be served on the entities entitled to receive notice of a motion to approve an agreement pursuant to subdivision (d). If the movant and the adverse party agree to settle the motion and the terms of the agreement do not materially differ from the terms set forth in the movant's motion papers, the court may approve the agreement without further notice pursuant to subdivision (d)(4).

Subdivision (a)(2) is deleted as unnecessary because of §362(e) of the Code.

Subdivisions (b)(1), (c)(1), and (d)(1) are amended to require service on committees that are elected in chapter 7 cases. Service on committees of retired employees appointed under §1114 of the Code is not required. These subdivisions are amended further to clarify that, in the absence of a creditors' committee, service on the creditors included on the list filed pursuant to Rule 1007(d) is required only in chapter 9 and chapter 11 cases. The other amendments to subdivision (d)(1) are for consistency of style and are not substantive.

Subdivision (d)(4) is added to avoid the necessity of further notice and delay for the approval of an agreement in settlement of a motion for relief from an automatic stay, to prohibit or condition the use, sale, or lease of property, for use of cash collateral, or for authority to obtain credit if the entities entitled to notice have already received sufficient notice of the scope of the proposed agreement in the motion papers and have had an opportunity to be heard. For example, if a trustee makes a motion to use cash collateral and proposes in the original motion papers to provide adequate protection of the interest of the secured party by granting a lien on certain equipment, and the secured creditor subsequently agrees to terms that are within the scope of those proposed in the motion, the court may enter an order approving the agreement without further notice if the entities that received the original motion papers have had a reasonable opportunity to object to the granting of the motion to use cash collateral.

If the motion papers served under subdivision (a), (b), or (c) do not afford notice sufficient to inform the recipients of the material provisions of the proposed agreement and opportunity for a hearing, approval of the settlement agreement may not be obtained unless the procedural requirements of subdivision (d)(1), (d)(2), and (d)(3) are satisfied. If the 15 day period for filing objections to the approval of the settlement agreement is too long under the particular circumstances of the case, the court may shorten the time for cause under Rule 9006(c)(1).

COMMITTEE NOTES ON RULES—1999 AMENDMENT

Paragraph (a)(3) is added to provide sufficient time for a party to request a stay pending appeal of an order granting relief from an automatic stay before the order is enforced or implemented. The stay under paragraph (a)(3) is not applicable to orders granted ex parte in accordance with Rule 4001(a)(2).

The stay of the order does not affect the time for filing a notice of appeal in accordance with Rule 8002. While the enforcement and implementation of an order granting relief from the automatic stay is temporarily stayed under paragraph (a)(3), the automatic stay continues to protect the debtor, and the moving party may not foreclose on collateral or take any other steps that would violate the automatic stay.

The court may, in its discretion, order that Rule 4001(a)(3) is not applicable so that the prevailing party may immediately enforce and implement the order granting relief from the automatic stay. Alternatively, the court may order that the stay under Rule 4001(a)(3) is for a fixed period less than 10 days.

GAP Report on Rule 4001. No changes since publication.

COMMITTEE NOTES ON RULES—2007 AMENDMENT

The rule is amended to require that parties seeking authority to use cash collateral, to obtain credit, and to obtain approval of agreements to provide adequate protection, modify or terminate the stay, or to grant a senior or equal lien on property, submit with those requests a proposed order granting the relief, and that they provide more extensive notice to interested parties of a number of specified terms. The motion must either not exceed five pages in length, or, if it is longer, begin with a concise statement of five pages or less, that summarizes or lists the material provisions and which will assist the court and interested parties in understanding the nature of the relief requested. The concise statement must also set out the location within the documents of the summarized or listed provisions. The parties to agreements and lending offers frequently have concise summaries of their transactions that contain a list of the material provisions of the agreements, even if the agreements themselves are very lengthy. A similar summary should allow the court and interested parties to understand the relief requested.

In addition to the concise statement, the rule requires that motions under subdivisions (c) and (d) state whether the movant is seeking approval of any of the provisions listed in subdivision (c)(1)(B), and where those provisions are located in the documents. The rule is intended to enhance the ability of the court and interested parties to find and evaluate those provisions.

The rule also provides that any motion for authority to obtain credit must identify any provision listed in

subdivision (c)(1)(B)(i)–(xi) that is proposed to remain effective if the court grants the motion on an interim basis under Rule 4001(c)(2), but later denies final relief.

Other amendments are stylistic.

Changes Made After Publication.

1. The introductory language in subdivisions (b)(1)(B), (c)(1)(B), and (d)(1)(B) was revised to clarify that the motions filed under the rule can be either no more than five pages long or begin with a concise statement of that length. This permits the continued use of forms that have been effective in smaller cases. Subdivision (c)(1)(B) also is amended to require that the motion identify any provisionally approved term that would remain in effect even if the court denies the permanent relief requested.

2. A new subparagraph (c)(1)(B)(vi) was inserted into the rule and the remaining subparagraphs were renumbered accordingly. The new subparagraph requires that the motion identify any provisions setting deadlines for filing and confirming reorganization plans and disclosure statements.

3. Subdivisions (c)(1)(C) and (d)(1)(C) of the proposed rule were deleted as unnecessary. The court has whatever authority Rule 9024 provides, and making an explicit reference to that rule in these subdivisions brings unnecessary attention to Rule 9024 and could create a different standard of review under that rule than would apply in other instances. The Advisory Committee did not intend either consequence, so the subdivisions were deleted.

4. Subdivision (d)(1)(A) was restyled to form a vertical list of the motions subject to that provision.

COMMITTEE NOTES ON RULES—2009 AMENDMENT

The rule is amended to implement changes in connection with the amendment to Rule 9006(a) and the manner by which time is computed under the rules. The deadlines in the rule are amended to substitute a deadline that is a multiple of seven days. Throughout the rules, deadlines are amended in the following manner:

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

COMMITTEE NOTES ON RULES—2010 AMENDMENT

Subdivision (d). Subdivision (d) is amended to implement changes in connection with the 2009 amendment to Rule 9006(a) and the manner by which time is computed under the rules. The deadlines in subdivision (d)(2) and (d)(3) are amended to substitute deadlines that are multiples of seven days. Throughout the rules, deadlines have been amended in the following manner:

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

Final approval of the amendments to this rule is sought without publication.

COMMITTEE NOTES ON RULES—2019 AMENDMENT

Subdivision (c) of the rule is amended to exclude chapter 13 cases from that subdivision. This amendment does not speak to the underlying substantive issue of whether the Bankruptcy Code requires or permits a chapter 13 debtor not engaged in business to request approval of postpetition credit.

COMMITTEE NOTES ON RULES—2024 AMENDMENT

The language of Rule 4001 has been amended as part of the general restyling of the Bankruptcy Rules to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only.

Rule 4002. Debtor's Duties

(a) IN GENERAL. In addition to performing other duties that are required by the Code or these rules, the debtor must:

(1) attend and submit to an examination when the court orders;

(2) attend the hearing on a complaint objecting to discharge and, if called, testify as a witness;

(3) if a schedule of property has not yet been filed under Rule 1007, report to the trustee immediately in writing:

(A) the location of any real property in which the debtor has an interest; and

(B) the name and address of every person holding money or property subject to the debtor's withdrawal or order;

(4) cooperate with the trustee in preparing an inventory, examining proofs of claim, and administering the estate; and

(5) file a statement of any change in the debtor's address.

(b) INDIVIDUAL DEBTOR'S DUTY TO PROVIDE DOCUMENTS.

(1) *Personal Identifying Information*. An individual debtor must bring to the §341 meeting of creditors:

(A) a government-issued identification with the debtor's picture, or other personal information that establishes the debtor's identity; and

(B) evidence of any social-security number, or a written statement that no such evidence exists.

(2) *Financial Documents*. An individual debtor must bring the following documents (or copies) to the §341 meeting of creditors and make them available to the trustee—or provide a written statement that they do not exist or are not in the debtor's possession:

(A) evidence of current income, such as the most recent payment advice;

(B) unless the trustee or the United States trustee instructs otherwise, a statement for each depository or investment account—including a checking, savings, or money-market account, mutual fund or brokerage account—for the period that includes the petition's filing date; and

(C) if required by §707(b)(2)(A) or (B), documents showing claimed monthly expenses.

(3) *Tax Return to Be Provided to the Trustee*. At least 7 days before the first date set for the §341 meeting of creditors, the debtor must provide the trustee with:

(A) a copy of the debtor's federal income-tax return, including any attachments to it, for the most recent tax year ending before the case was commenced and for which the debtor filed a return;

(B) a transcript of the return; or

(C) a written statement that the documents do not exist.

(4) *Tax Return to Be Provided to a Creditor*. Upon a creditor's request at least 14 days before the first date set for the §341 meeting of creditors, the debtor must provide the creditor with the documents to be provided to the trustee under (3). The debtor must do so at least 7 days before the meeting.

(5) *Safeguarding Confidential Tax Information*. The debtor's obligation to provide tax returns under (3) and (4) is subject to procedures established by the Director of the Administrative Office of the United States Courts for safeguarding confidential tax information.

(As amended Mar. 30, 1987, eff. Aug. 1, 1987; Apr. 23, 2008, eff. Dec. 1, 2008; Mar. 26, 2009, eff. Dec. 1, 2009; Apr. 2, 2024, eff. Dec. 1, 2024.)

NOTES OF ADVISORY COMMITTEE ON RULES—1983

This rule should be read together with §§343 and 521 of the Code and Rule 1007, all of which impose duties on the debtor. Clause (3) of this rule implements the provisions of Rule 2015(a).

NOTES OF ADVISORY COMMITTEE ON RULES—1987 AMENDMENT

New clause (5) of the rule imposes on the debtor the duty to advise the clerk of any change of the debtor's address.

COMMITTEE NOTES ON RULES—2008 AMENDMENT

This rule is amended to implement §521(a)(1)(B)(iv) and (e)(2), added to the Code by the 2005 amendments. These Code amendments expressly require the debtor to file with the court, or provide to the trustee, specific documents. The amendments to the rule implement these obligations and establish a time frame for creditors to make requests for a copy of the debtor's Federal income tax return. The rule also requires the debtor to provide documentation in support of claimed expenses under §707(b)(2)(A) and (B).

Subdivision (b) of the rule is also amended to require the debtor to cooperate with the trustee by providing materials and documents necessary to assist the trustee in the performance of the trustee's duties. Nothing in the rule, however, is intended to limit or restrict the debtor's duties under §521, or to limit the access of the Attorney General to any information provided by the debtor in the case. Subdivision (b)(2) does not require that the debtor create documents or obtain documents from third parties; rather, the debtor's obligation is to bring to the meeting of creditors under §341 the documents which the debtor possesses. Under subdivision (b)(2)(B), the trustee or the United States trustee can instruct debtors that they need not provide the documents described in that subdivision. Under subdivisions (b)(3) and (b)(4), the debtor must obtain and provide copies of tax returns or tax transcripts to the appropriate person, unless no such documents exist. Any written statement that the debtor provides indicating either that documents do not exist or are not in the debtor's possession must be verified or contain an unsworn declaration as required under Rule 1008.

Because the amendment implements the debtor's duty to cooperate with the trustee, the materials provided to the trustee would not be made available to any other party in interest at the §341 meeting of creditors other than the Attorney General. Some of the documents may contain otherwise private information that should not be disseminated. For example, pay stubs and financial account statements might include the social-security numbers of the debtor and the debtor's spouse and dependents, as well as the names of the debtor's children. The debtor should redact all but the last four digits of all social-security numbers and the names of any minors when they appear in these documents. This type of information would not usually be needed by creditors and others who may be attending the meeting. If a creditor perceives a need to review specific documents or other evidence, the creditor may proceed under Rule 2004.

Tax information produced under this rule is subject to procedures for safeguarding confidentiality established by the Director of the Administrative Office of the United States Courts.

Changes Made After Publication. The second paragraph of the Committee Note was amended to clarify that the debtor's duty to provide copies of tax returns or tax transcripts are governed by a different standard than the debtor's duty to provide other financial information.

COMMITTEE NOTES ON RULES—2009 AMENDMENT

The rule is amended to implement changes in connection with the amendment to Rule 9006(a) and the manner by which time is computed under the rules. The deadline in the rule is amended to substitute a deadline that is a multiple of seven days. Throughout the rules, deadlines are amended in the following manner:

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

COMMITTEE NOTES ON RULES—2024 AMENDMENT

The language of Rule 4002 has been amended as part of the general restyling of the Bankruptcy Rules to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only.

Rule 4003. Exemptions

(a) CLAIMING AN EXEMPTION. A debtor must list the property claimed as exempt under §522 on Form 106C filed under Rule 1007. If the debtor fails to do so within the time specified in Rule 1007(c), a debtor's dependent may file the list within 30 days after the debtor's time to file expires.

(b) OBJECTING TO A CLAIMED EXEMPTION.

(1) *By a Party in Interest*. Except as (2) and (3) provide, a party in interest may file an objection to a claimed exemption within 30 days after the later of:

- the conclusion of the §341 meeting of creditors;
- the filing of an amendment to the list; or

• the filing of a supplemental schedule.

On a party in interest's motion filed before the time to object expires, the court may, for cause, extend the time to file an objection.

(2) *By the Trustee for a Fraudulently Claimed Exemption*. If the debtor has fraudulently claimed an exemption, the trustee may file an objection to it within one year after the case is closed. The trustee must deliver or mail the objection to:

• the debtor;
• the debtor's attorney;
• the person who filed the list of exempt property; and
• that person's attorney.

(3) *Objection Based on §522(q)*. An objection based on §522(q) must be filed:

(A) before the case is closed; or

(B) if an exemption is first claimed after a case has been reopened, before the reopened case is closed.

(4) *Distributing Copies of the Objection*. A copy of any objection, other than one filed by the trustee under (b)(2), must be delivered or mailed to:

• the trustee;
• the debtor;
• the debtor's attorney;
• the person who filed the list of exempt property; and
• that person's attorney.

(c) BURDEN OF PROOF. In a hearing under this Rule 4003, the objecting party has the burden of proving that an exemption was not properly claimed. After notice and a hearing, the court must determine the issues presented.

(d) AVOIDING A LIEN OR OTHER TRANSFER OF EXEMPT PROPERTY.

(1) *Bringing a Proceeding*. A proceeding under §522(f) to avoid a lien or other transfer of exempt property must be commenced by:

(A) filing a motion under Rule 9014; or

(B) serving a Chapter 12 or 13 plan on the affected creditors as Rule 7004 provides for serving a summons and complaint.

(2) *Objecting to a Request Under §522(f)*. As an exception to (b), a creditor may object to a request under §522(f) by challenging the validity of the exemption asserted to be impaired by the lien.

(As amended Mar. 30, 1987, eff. Aug. 1, 1987; Apr. 30, 1991, eff. Aug. 1, 1991; Apr. 17, 2000, eff. Dec. 1, 2000; Apr. 23, 2008, eff. Dec. 1, 2008; Apr. 27, 2017, eff. Dec. 1, 2017; Apr. 2, 2024, eff. Dec. 1, 2024.)

NOTES OF ADVISORY COMMITTEE ON RULES—1983

This rule is derived from §522(l) of the Code and, in part, former Bankruptcy Rule 403. The Code changes the thrust of that rule by making it the burden of the debtor to list his exemptions and the burden of parties in interest to raise objections in the absence of which "the property claimed as exempt on such list is exempt;" §522(l).

Subdivision (a). While §522(l) refers to a list of property claimed as exempt, the rule incorporates such a list as part of Official Form No. 6, the schedule of the debtor's assets, rather than requiring a separate list and filing. Rule 1007, to which subdivision (a) refers, requires that schedule to be filed within 15 days after the order for relief, unless the court extends the time.

Section 522(l) also provides that a dependent of the debtor may file the list if the debtor fails to do so. Subdivision (a) of the rule allows such filing from the expiration of the debtor's time until 30 days thereafter. Dependent is defined in §522(a)(1).

Subdivision (d) provides that a proceeding by the debtor, permitted by §522(f) of the Code, is a contested matter rather than the more formal adversary proceeding. Proceedings within the scope of this subdivision are distinguished from proceedings brought by the trustee to avoid transfers. The latter are classified as adversary proceedings by Rule 7001.

NOTES OF ADVISORY COMMITTEE ON RULES—1991 AMENDMENT

Subdivision (b) is amended to facilitate the filing of objections to exemptions claimed on a supplemental schedule filed under Rule 1007(h).

COMMITTEE NOTES ON RULES—2000 AMENDMENT

This rule is amended to permit the court to grant a timely request for an extension of time to file objections to the list of claimed exemptions, whether the court rules on the request before or after the expiration of the 30-day period. The purpose of this amendment is to avoid the harshness of the present rule which has been construed to deprive a bankruptcy court of jurisdiction to grant a timely request for an extension if it has failed to rule on the request within the 30-day period. See *In re Laurain*, 113 F.3d 595 (6th Cir. 1997), *Matter of Stoulig*, 45 F.3d 957 (5th Cir. 1995), *In re Brayshaw*, 912 F.2d 1255 (10th Cir. 1990). The amendments clarify that the extension may be granted only for cause. The amendments also conform the rule to §522(l) of the Code by recognizing that any party in interest may file an objection or request for an extension of time under this rule. Other amendments are stylistic.

GAP Report on Rule 4003(b). The words "trustee or creditor" were replaced by "party in interest" to conform to §522(l) of the Bankruptcy Code which permits any party in interest to object to claimed exemptions. Style revisions also were made to the published draft.

COMMITTEE NOTES ON RULES—2008 AMENDMENT

Subdivision (b) is rewritten to include four paragraphs.

Subdivision (b)(2) is added to the rule to permit the trustee to object to an exemption at any time up to one year after the closing of the case if the debtor fraudulently claimed the exemption. Extending the deadline for trustees to object to an exemption when the exemption claim has been fraudulently made will permit the court to review and, in proper circumstances, deny improperly claimed exemptions, thereby protecting the legitimate interests of creditors and the bankruptcy estate. However, similar to the deadline set in §727(e) of the Code for revoking a discharge which was fraudulently obtained, an objection to an exemption that was fraudulently claimed must be filed within one year after the closing of the case. Subdivision (b)(2) extends the objection deadline only for trustees.

Subdivision (b)(3) is added to the rule to reflect the addition of subsection (q) to §522 of the Code by the 2005 Act. Section 522(q) imposes a $136,875 limit on a state homestead exemption if the debtor has been convicted of a felony or owes a debt arising from certain causes of action. Other revised provisions of the Code, such as §727(a)(12) and §1328(h), suggest that the court may consider issues relating to §522(q) late in the case, and the 30-day period for objections would not be appropriate for this provision.

Subdivision (d) is amended to clarify that a creditor with a lien on property that the debtor is attempting to avoid on the grounds that the lien impairs an exemption may raise in defense to the lien avoidance action any objection to the debtor's claimed exemption. The right to object is limited to an objection to the exemption of the property subject to the lien and for purposes of the lien avoidance action only. The creditor may not object to other exemption claims made by the debtor. Those objections, if any, are governed by Rule 4003(b).

Other changes are stylistic.

Changes Made After Publication. The deadline for filing objections to exemptions under subdivision (b)(1) was returned to 30 days after the conclusion of the §341 meeting of creditors rather than the 60 day period proposed in the published rule. The second paragraph of the Committee Note which discussed this change was therefore deleted. Subdivisions (b)(2) and (b)(3) were amended to add the debtor and the debtor's attorney to the list of persons to whom objections to exemptions must be delivered.

COMMITTEE NOTES ON RULES—2017 AMENDMENT

Subdivision (d) is amended to provide that a request under §522(f) to avoid a lien or other transfer of exempt property may be made by motion or by a chapter 12 or chapter 13 plan. A plan that proposes lien avoidance in accordance with this rule must be served as provided under Rule 7004 for service of a summons and complaint. Lien avoidance not governed by this rule requires an adversary proceeding.

COMMITTEE NOTES ON RULES—2024 AMENDMENT

The language of Rule 4003 has been amended as part of the general restyling of the Bankruptcy Rules to make them more easily understood and to make style and terminology consistent throughout the rules. These

changes are intended to be stylistic only.

Rule 4004. Granting or Denying a Discharge

(a) TIME TO OBJECT TO A DISCHARGE; NOTICE.

(1) *Chapter 7*. In a Chapter 7 case, a complaint—or a motion under §727(a)(8) or (9)—objecting to a discharge must be filed within 60 days after the first date set for the §341(a) meeting of creditors.

(2) *Chapter 11*. In a Chapter 11 case, a complaint objecting to a discharge must be filed on or before the first date set for the hearing on confirmation.

(3) *Chapter 13*. In a Chapter 13 case, a motion objecting to a discharge under §1328(f) must be filed within 60 days after the first date set for the §341(a) meeting of creditors.

(4) *Notice to the United States Trustee, the Creditors, and the Trustee*. At least 28 days' notice of the time for filing must be given to:

- the United States trustee under Rule 2002(k);
- all creditors under Rule 2002(f);
- the trustee; and
- the trustee's attorney.

(b) EXTENDING THE TIME TO FILE AN OBJECTION.

(1) *Motion Before the Time Expires*. On a party in interest's motion and after notice and a hearing, the court may, for cause, extend the time to object to a discharge. The motion must be filed before the time has expired.

(2) *Motion After the Time Has Expired*. After the time to object has expired and before a discharge is granted, a party in interest may file a motion to extend the time if:

(A) the objection is based on facts that, if learned after the discharge is granted, would provide a basis for revocation under §727(d);

(B) the movant did not know those facts in time to object; and

(C) the movant files the motion promptly after learning about them.

(c) GRANTING A DISCHARGE.

(1) *Chapter 7*. In a Chapter 7 case, when the times to object to discharge and to file a motion to dismiss the case under Rule 1017(e) expire, the court must promptly grant the discharge—except under these circumstances:

(A) the debtor is not an individual;

(B) a complaint—or a motion under §727(a)(8) or (9)—objecting to the discharge is pending;

(C) the debtor has filed a waiver under §727(a)(10);

(D) a motion is pending to dismiss the case under §707;

(E) a motion is pending to extend the time to file a complaint objecting to the discharge;

(F) a motion is pending to extend the time to file a motion to dismiss the case under Rule 1017(e)(1);

(G) the debtor has not fully paid the filing fee required by 28 U.S.C. §1930(a)—together with any other fee prescribed by the Judicial Conference of the United States under 28 U.S.C. §1930(b) that is payable to the clerk upon commencing a case—unless the court has waived the fees under 28 U.S.C. §1930(f);

(H) the debtor has not filed a certificate showing that a course on personal financial management has been completed—if such a certificate is required by Rule 1007(b)(7);

(I) a motion is pending to delay or postpone a discharge under §727(a)(12);

(J) a motion is pending to extend the time to file a reaffirmation agreement under Rule 4008(a);

(K) the court has not concluded a hearing on a presumption—in effect under §524(m)—that a reaffirmation agreement is an undue hardship; or

(L) a motion is pending to delay discharge because the debtor has not filed with the court all

tax documents required to be filed under §521(f).

(2) *Delay in Entering a Discharge in General*. On the debtor's motion, the court may delay entering a discharge for 30 days and, on a motion made within that time, delay entry to a date certain.

(3) *Delaying Entry Because of Rule 1007(b)(8)*. If the debtor is required to file a statement under Rule 1007(b)(8), the court must not grant a discharge until at least 30 days after the statement is filed.

(4) *Individual Chapter 11 or Chapter 13 Case*. In a Chapter 11 case in which the debtor is an individual—or in a Chapter 13 case—the court must not grant a discharge if the debtor has not filed a certificate required by Rule 1007(b)(7).

(d) APPLYING PART VII RULES AND RULE 9014. The Part VII rules govern an objection to a discharge, except that Rule 9014 governs an objection to a discharge under §727(a)(8) or (9) or §1328(f).

(e) FORM OF A DISCHARGE ORDER. A discharge order must conform to the appropriate Official Form.

(f) REGISTERING A DISCHARGE IN ANOTHER DISTRICT. A discharge order that becomes final may be registered in another district by filing a certified copy with the clerk for that district. When registered, the order has the same effect as an order of the court where it is registered.

(g) NOTICE OF A FINAL DISCHARGE ORDER. The clerk must promptly mail a copy of the final discharge order to those entities listed in (a)(4).

(As amended Mar. 30, 1987, eff. Aug. 1, 1987; Apr. 30, 1991, eff. Aug. 1, 1991; Apr. 23, 1996, eff. Dec. 1, 1996; Apr. 26, 1999, eff. Dec. 1, 1999; Apr. 17, 2000, eff. Dec. 1, 2000; Apr. 29, 2002, eff. Dec. 1, 2002; Apr. 23, 2008, eff. Dec. 1, 2008; Mar. 26, 2009, eff. Dec. 1, 2009; Apr. 28, 2010, eff. Dec. 1, 2010; Apr. 26, 2011, eff. Dec. 1, 2011; Apr. 16, 2013, eff. Dec. 1, 2013; Apr. 2, 2024, eff. Dec. 1, 2024.)

NOTES OF ADVISORY COMMITTEE ON RULES—1983

This rule is adapted from former Bankruptcy Rule 404.

Subdivisions (a) and (b) of this rule prescribe the procedure for determining whether a discharge will be granted pursuant to §727 of the Code. The time fixed by subdivision (a) may be enlarged as provided in subdivision (b).

The notice referred to in subdivision (a) is required to be given by mail and addressed to creditors as provided in Rule 2002.

An extension granted on a motion pursuant to subdivision (b) of the rule would ordinarily benefit only the movant, but its scope and effect would depend on the terms of the extension.

Subdivision (c). If a complaint objecting to discharge is filed, the court's grant or denial of the discharge will be entered at the conclusion of the proceeding as a judgment in accordance with Rule 9021. The inclusion of the clause in subdivision (c) qualifying the duty of the court to grant a discharge when a waiver has been filed is in accord with the construction of the Code. 4 Collier, *Bankruptcy* 727.12 (15th ed. 1979).

The last sentence of subdivision (c) takes cognizance of §524(c) of the Code which authorizes a debtor to enter into enforceable reaffirmation agreements only prior to entry of the order of discharge. Immediate entry of that order after expiration of the time fixed for filing complaints objecting to discharge may render it more difficult for a debtor to settle pending litigation to determine the dischargeability of a debt and execute a reaffirmation agreement as part of a settlement.

Subdivision (d). An objection to discharge is required to be made by a complaint, which initiates an adversary proceeding as provided in Rule 7003. Pursuant to Rule 5005, the complaint should be filed in the court in which the case is pending.

Subdivision (e). Official Form No. 27 to which subdivision (e) refers, includes notice of the effects of a discharge specified in §524(a) of the Code.

Subdivision (f). Registration may facilitate the enforcement of the order of discharge in a district other than that in which it was entered. See 2 Moore's *Federal Practice* 1.04[2] (2d ed. 1967). Because of the nationwide service of process authorized by Rule 7004, however, registration of the order of discharge is not necessary under these rules to enable a discharged debtor to obtain relief against a creditor proceeding anywhere in the United States in disregard of the injunctive provisions of the order of discharge.

Subdivision (g). Notice of discharge should be mailed promptly after the order becomes final so that creditors may be informed of entry of the order and of its injunctive provisions. Rule 2002 specifies the manner of the notice and persons to whom the notice is to be given.

NOTES OF ADVISORY COMMITTEE ON RULES—1991 AMENDMENT

This rule is amended to conform to §727(c) which gives the United States trustee the right to object to discharge. This amendment is derived from Rule X–1008(a)(1) and is consistent with Rule 2002. The amendment to subdivision (c) is to prevent a timely motion to dismiss a chapter 7 case for substantial abuse from becoming moot merely because a discharge order has been entered. Reference to the Official Form number in subdivision (e) is deleted in anticipation of future revision and renumbering of the Official Forms.

NOTES OF ADVISORY COMMITTEE ON RULES—1996 AMENDMENT

Subsection (c) is amended to delay entry of the order of discharge if a motion pursuant to Rule 4004(b) to extend the time for filing a complaint objecting to discharge is pending. Also, this subdivision is amended to delay entry of the discharge order if the debtor has not paid in full the filing fee and the administrative fee required to be paid upon the commencement of the case. If the debtor is authorized to pay the fees in installments in accordance with Rule 1006, the discharge order will not be entered until the final installment has been paid.

The other amendments to this rule are stylistic.

GAP Report on Rule 4004. No changes have been made since publication, except for stylistic changes.

COMMITTEE NOTES ON RULES—1999 AMENDMENT

Subdivision (a) is amended to clarify that, in a chapter 7 case, the deadline for filing a complaint objecting to discharge under §727(a) is 60 days after the first date set for the meeting of creditors, whether or not the meeting is held on that date. The time for filing the complaint is not affected by any delay in the commencement or conclusion of the meeting of creditors. This amendment does not affect the right of any party in interest to file a motion for an extension of time to file a complaint objecting to discharge in accordance with Rule 4004(b).

The substitution of the word "filed" for "made" in subdivision (b) is intended to avoid confusion regarding the time when a motion is "made" for the purpose of applying these rules. *See, e.g., In re Coggin*, 30 F.3d 1443 (11th Cir. 1994). As amended, this rule requires that a motion for an extension of time for filing a complaint objecting to discharge be *filed* before the time has expired.

Other amendments to this rule are stylistic.

GAP Report on Rule 4004. No changes since publication.

COMMITTEE NOTES ON RULES—2000 AMENDMENT

Subdivision (c) is amended so that a discharge will not be granted while a motion requesting an extension of time to file a motion to dismiss the case under §707(b) is pending. Other amendments are stylistic.

GAP Report on Rule 4004(c). No changes since publication except for style revisions.

COMMITTEE NOTES ON RULES—2002 AMENDMENT

Subdivision (c)(1)(D) is amended to provide that the filing of a motion to dismiss under §707 of the Bankruptcy Code postpones the entry of the discharge. Under the present version of the rule, only motions to dismiss brought under §707(b) cause the postponement of the discharge. This amendment would change the result in cases such as *In re Tanenbaum*, 210 B.R. 182 (Bankr. D. Colo. 1997).

Changes Made After Publication and Comments. No changes were made.

COMMITTEE NOTES ON RULES—2008 AMENDMENT

Subdivision (c)(1)(G) is amended to reflect the fee waiver provision in 28 U.S.C. §1930, added by the 2005 amendments.

Subdivision (c)(1)(H) is new. It reflects the 2005 addition to the Code of §§727(a)(11) and 1328(g), which require that individual debtors complete a course in personal financial management as a condition to the entry of a discharge. Including this requirement in the rule helps prevent the inadvertent entry of a discharge when the debtor has not complied with this requirement. If a debtor fails to file the required statement regarding a personal financial management course, the clerk will close the bankruptcy case without the entry of a discharge.

Subdivision (c)(1)(I) is new. It reflects the 2005 addition to the Code of §727(a)(12). This provision is linked to §522(q). Section 522(q) limits the availability of the homestead exemption for individuals who have been convicted of a felony or who owe a debt arising from certain causes of action within a particular time

frame. The existence of reasonable cause to believe that §522(q) may be applicable to the debtor constitutes grounds for withholding the discharge.

Subdivision (c)(1)(J) is new. It accommodates the deadline for filing a reaffirmation agreement established by Rule 4008(a).

Subdivision (c)(1)(K) is new. It reflects the 2005 revisions to §524 of the Code that alter the requirements for approval of reaffirmation agreements. Section 524(m) sets forth circumstances under which a reaffirmation agreement is presumed to be an undue hardship. This triggers an obligation to review the presumption and may require notice and a hearing. Subdivision (c)(1)(J) has been added to prevent the discharge from being entered until the court approves or disapproves the reaffirmation agreement in accordance with §524(m).

Subdivision (c)(1)(L) is new. It implements §1228(a) of Public Law Number 109–8, an uncodified provision of the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005, which prohibits entry of a discharge unless required tax documents have been provided to the court.

Subdivision (c)(3) is new. It postpones the entry of the discharge of an individual debtor in a case under chapter 11, 12, or 13 if there is a question as to the applicability of §522(q) of the Code. The postponement provides an opportunity for a creditor to file a motion to limit the debtor's exemption under that provision.

Other changes are stylistic.

Changes Made After Publication. No changes were made after publication.

COMMITTEE NOTES ON RULES—2009 AMENDMENT

The rule is amended to implement changes in connection with the amendment to Rule 9006(a) and the manner by which time is computed under the rules. The deadline in the rule is amended to substitute a deadline that is a multiple of seven days. Throughout the rules, deadlines are amended in the following manner:

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

COMMITTEE NOTES ON RULES—2010 AMENDMENT

Subdivision (a). Subdivision (a) is amended to include a deadline for filing a motion objecting to a debtor's discharge under §§727(a)(8), [sic] (a)(9), or 1328(f) of the Code. These sections establish time limits on the issuance of discharges in successive bankruptcy cases by the same debtor.

Subdivision (c). Subdivision (c)(1) is amended because a corresponding amendment to subdivision (d) directs certain objections to discharge to be brought by motion rather than by complaint. Subparagraph (c)(1)(B) directs the court not to grant a discharge if a motion or complaint objecting to discharge has been filed unless the objection has been decided in the debtor's favor.

Subdivision (c)(4) is new. It directs the court in chapter 11 and 13 cases to withhold the entry of the discharge if an individual debtor has not filed a statement of completion of a course concerning personal financial management as required by Rule 1007(b)(7).

Subdivision (d). Subdivision (d) is amended to direct that objections to discharge under §§727(a)(8), (a)(9), and 1328(f) be commenced by motion rather than by complaint. Objections under the specified provisions are contested matters governed by Rule 9014. The title of the subdivision is also amended to reflect this change.

Changes Made After Publication. Subdivision (d) was amended to provide that objections to discharge under §§727(a)(8), (a)(9), and 1328(f) are commenced by motion rather than by complaint and are governed by Rule 9014. Because of the relocation of this provision from the previously proposed Rule 7001(b), subdivisions (a) and (c)(1) of this rule were revised to change references to "motion under Rule 7001(b)" to "motion under §727(a)(8) or (a)(9)." Other stylistic changes were made to the rule, and the Committee Note was revised to reflect these changes.

COMMITTEE NOTES ON RULES—2011 AMENDMENT

Subdivision (b). Subdivision (b) is amended to allow a party, under certain specified circumstances, to seek an extension of time to object to discharge after the time for filing has expired. This amendment addresses the situation in which there is a gap between the expiration of the time for objecting to discharge and the entry of the discharge order. If, during that period, a party discovers facts that would provide grounds for revocation of discharge, it may not be able to seek revocation under §727(d) of the Code because the facts would have been known prior to the granting of the discharge. Furthermore, during that period the debtor may commit an act that provides a basis for both denial and revocation of the discharge. In those situations, subdivision (b)(2) allows a party to file a motion for an extension of time to object to discharge based on those facts so long as

they were not known to the party before expiration of the deadline for objecting. The motion must be filed promptly after discovery of those facts.

Changes Made After Publication. Following publication minor stylistic changes were made to the language of the rule, and a sentence was added to the Committee Note to clarify that the rule applies whenever the debtor commits an act during the gap period that provides a basis for both denial and revocation of the discharge.

COMMITTEE NOTES ON RULES—2013 AMENDMENT

Subdivision (c)(1) is amended in several respects. The introductory language of paragraph (1) is revised to emphasize that the listed circumstances do not just relieve the court of the obligation to enter the discharge promptly but that they prevent the court from entering a discharge.

Subdivision (c)(1)(H) is amended to reflect the simultaneous amendment of Rule 1007(b)(7). The amendment of the latter rule relieves a debtor of the obligation to file a statement of completion of a course concerning personal financial management if the course provider notifies the court directly that the debtor has completed the course. Subparagraph (H) now requires postponement of the discharge when a debtor fails to file a statement of course completion only if the debtor has an obligation to file the statement.

Subdivision (c)(1)(K) is amended to make clear that the prohibition on entering a discharge due to a presumption of undue hardship under §524(m) of the Code ceases when the presumption expires or the court concludes a hearing on the presumption.

Changes Made After Publication and Comment. Because this amendment is being made to conform to a simultaneous amendment of Rule 1007(b)(7) and is otherwise technical in nature, final approval is sought without publication.

COMMITTEE NOTES ON RULES—2024 AMENDMENT

The language of Rule 4004 has been amended as part of the general restyling of the Bankruptcy Rules to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only.

Additionally, the following substantive changes have been made.

The amendments to Rule 4004(c)(1)(H) and (c)(4) reflect the amendment to Rule 1007(b)(7) that replaces the requirement for submission of a statement showing that the debtor has completed a course on personal financial management with the requirement that the debtor provide the certificate of course completion issued by the approved provider of that course.

Rule 4005. Burden of Proof in Objecting to a Discharge

At a trial on a complaint objecting to a discharge, the plaintiff has the burden of proof.

(As amended Mar. 30, 1987, eff. Aug. 1, 1987; Apr. 2, 2024, eff. Dec. 1, 2024.)

NOTES OF ADVISORY COMMITTEE ON RULES—1983

This rule does not address the burden of going forward with the evidence. Subject to the allocation by the rule of the initial burden of producing evidence and the ultimate burden of persuasion, the rule leaves to the courts the formulation of rules governing the shift of the burden of going forward with the evidence in the light of considerations such as the difficulty of proving the nonexistence of a fact and of establishing a fact as to which the evidence is likely to be more accessible to the debtor than to the objector. *See, e.g., In re Haggerty*, 165 F.2d 977, 979–80 (2d Cir. 1948); *Federal Provision Co. v. Ershowsky*, 94 F.2d 574, 575 (2d Cir. 1938); *In re Riceputo*, 41 F. Supp. 926, 927–28 (E.D.N.Y. 1941).

COMMITTEE NOTES ON RULES—2024 AMENDMENT

The language of Rule 4005 has been amended as part of the general restyling of the Bankruptcy Rules to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only.

Rule 4006. Notice When No Discharge Is Granted

The clerk must promptly notify in the manner provided by Rule 2002(f) all parties in interest of an order:

(a) denying a discharge;
(b) revoking a discharge;
(c) approving a waiver of discharge; or
(d) closing an individual debtor's case without entering a discharge.

(As amended Mar. 30, 1987, eff. Aug. 1, 1987; Apr. 23, 2008, eff. Dec. 1, 2008; Apr. 2, 2024, eff. Dec. 1, 2024.)

NOTES OF ADVISORY COMMITTEE ON RULES—1983

The suspension by §108(c) of the Code of the statute of limitations affecting any debt of a debtor terminates within 30 days after the debtor is denied a discharge or otherwise loses his right to a discharge. If, however, a debtor's failure to receive a discharge does not come to the attention of his creditors until after the statutes of limitations have run, the debtor obtains substantially the same benefits from his bankruptcy as a debtor who is discharged.

This rule requires the clerk to notify creditors if a debtor fails to obtain a discharge because a waiver of discharge was filed under §727(a)(10) or as a result of an order denying or revoking the discharge under §727(a) or (d).

COMMITTEE NOTES ON RULES—2008 AMENDMENT

This amendment was necessary because the 2005 amendments to the Code require that individual debtors in a chapter 7 or 13 case complete a course in personal financial management as a condition to the entry of a discharge. If the debtor fails to complete the course, the case may be closed and no discharge will be entered. Reopening the case is governed by §350 and Rule 5010. The rule is amended to provide notice to parties in interest, including the debtor, that no discharge was entered.

Changes Made After Publication. No changes were made after publication.

COMMITTEE NOTES ON RULES—2024 AMENDMENT

The language of Rule 4006 has been amended as part of the general restyling of the Bankruptcy Rules to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only.

Rule 4007. Determining Whether a Debt Is Dischargeable

(a) WHO MAY FILE A COMPLAINT. A debtor or any creditor may file a complaint to determine whether a debt is dischargeable.

(b) TIME TO FILE; NO FEE FOR A REOPENED CASE. A complaint, except one under §523(c), may be filed at any time. If a case is reopened to permit filing the complaint, no fee for reopening is required.

(c) CHAPTER 7, 11, 12, OR 13—TIME TO FILE A COMPLAINT UNDER §523(c); NOTICE OF TIME; EXTENSION. Except as (d) provides, a complaint to determine whether a debt is dischargeable under §523(c) must be filed within 60 days after the first date set for the §341(a) meeting of creditors. The clerk must give all creditors at least 30 days' notice of the time to file in the manner provided by Rule 2002. On a party in interest's motion filed before the time expires, the court may, after notice and a hearing and for cause, extend the time to file.

(d) CHAPTER 13—TIME TO FILE A COMPLAINT UNDER §523(a)(6); NOTICE OF TIME; EXTENSION. When a debtor files a motion for a discharge under §1328(b), the court must set the time to file a complaint under §523(a)(6) to determine whether a debt is dischargeable. The clerk must give all creditors at least 30 days' notice of the time to file in the manner provided by Rule 2002. On a party in interest's motion filed before the time expires, the court may, after notice and a hearing and for cause, extend the time to file.

(e) APPLYING PART VII RULES. The Part VII rules govern a proceeding on a complaint filed under this Rule 4007.

(As amended Mar. 30, 1987, eff. Aug. 1, 1987; Apr. 30, 1991, eff. Aug. 1, 1991; Apr. 26, 1999, eff. Dec. 1, 1999; Apr. 23, 2008, eff. Dec. 1, 2008; Apr. 2, 2024, eff. Dec. 1, 2024.)

NOTES OF ADVISORY COMMITTEE ON RULES—1983

This rule prescribes the procedure to be followed when a party requests the court to determine dischargeability of a debt pursuant to §523 of the Code.

Although a complaint that comes within §523(c) must ordinarily be filed before determining whether the debtor will be discharged, the court need not determine the issues presented by the complaint filed under this rule until the question of discharge has been determined under Rule 4004. A complaint filed under this rule initiates an adversary proceeding as provided in Rule 7003.

Subdivision (b) does not contain a time limit for filing a complaint to determine the dischargeability of a type of debt listed as nondischargeable under §523(a)(1), (3), (5), (7), (8), or (9). Jurisdiction over this issue on these debts is held concurrently by the bankruptcy court and any appropriate nonbankruptcy forum.

Subdivision (c) differs from subdivision (b) by imposing a deadline for filing complaints to determine the issue of dischargeability of debts set out in §523(a)(2), (4) or (6) of the Code. The bankruptcy court has exclusive jurisdiction to determine dischargeability of these debts. If a complaint is not timely filed, the debt is discharged. See §523(c).

Subdivision (e). The complaint required by this subdivision should be filed in the court in which the case is pending pursuant to Rule 5005.

NOTES OF ADVISORY COMMITTEE ON RULES—1991 AMENDMENT

Subdivision (a) is amended to delete the words "with the court" as unnecessary. See Rules 5005(a) and 9001(3).

Subdivision (c) is amended to apply in chapter 12 cases the same time period that applies in chapter 7 and 11 cases for filing a complaint under §523(c) of the Code to determine dischargeability of certain debts. Under §1228(a) of the Code, a chapter 12 discharge does not discharge the debts specified in §523(a) of the Code.

COMMITTEE NOTES ON RULES—1999 AMENDMENT

Subdivision (c) is amended to clarify that the deadline for filing a complaint to determine the dischargeability of a debt under §523(c) of the Code is 60 days after the first date set for the meeting of creditors, whether or not the meeting is held on that date. The time for filing the complaint is not affected by any delay in the commencement or conclusion of the meeting of creditors. This amendment does not affect the right of any party in interest to file a motion for an extension of time to file a complaint to determine the dischargeability of a debt in accordance with this rule.

The substitution of the word "filed" for "made" in the final sentences of subdivisions (c) and (d) is intended to avoid confusion regarding the time when a motion is "made" for the purpose of applying these rules. *See, e.g., In re Coggin*, 30 F.3d 1443 (11th Cir. 1994). As amended, these subdivisions require that a motion for an extension of time be *filed* before the time has expired.

The other amendments to this rule are stylistic.

GAP Report on Rule 4007. No changes since publication, except for stylistic changes in the heading of Rule 4007(d).

COMMITTEE NOTES ON RULES—2008 AMENDMENT

Subdivision (c) is amended because of the 2005 amendments to §1328(a) of the Code. This revision expands the exceptions to discharge upon completion of a chapter 13 plan. Subdivision (c) extends to chapter 13 the same time limits applicable to other chapters of the Code with respect to the two exceptions to discharge that have been added to §1328(a) and that are within §523(c).

The amendment to subdivision (d) reflects the 2005 amendments to §1328(a) that expands the exceptions to discharge upon completion of a chapter 13 plan, including two out of three of the provisions that fall within §523(c). However, the 2005 revisions to §1328(a) do not include a reference to §523(a)(6), which is the third provision to which §523(c) refers. Thus, subdivision (d) is now limited to that provision.

Changes Made After Publication. No changes were made after publication.

COMMITTEE NOTES ON RULES—2024 AMENDMENT

The language of Rule 4007 has been amended as part of the general restyling of the Bankruptcy Rules to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only.

Rule 4008. Reaffirmation Agreement and Supporting Statement

(a) TIME TO FILE; COVER SHEET. A reaffirmation agreement must be filed within 60 days after the first date set for the §341(a) meeting of creditors. The agreement must have a cover sheet

prepared as prescribed by Form 427. At any time, the court may extend the time to file an agreement.

(b) SUPPORTING STATEMENT. The debtor's supporting statement required by §524(k)(6)(A) must be accompanied by a statement of the total income and expenses as shown on Schedules I and J. If the income and expenses shown on the supporting statement differ from those shown on the schedules, the supporting statement must explain the difference.

(As amended Apr. 30, 1991, eff. Aug. 1, 1991; Apr. 23, 2008, eff. Dec. 1, 2008; Mar. 26, 2009, eff. Dec. 1, 2009; Apr. 2, 2024, eff. Dec. 1, 2024.)

NOTES OF ADVISORY COMMITTEE ON RULES—1983

Section 524(d) of the Code requires the court to hold a hearing to inform an individual debtor concerning the granting or denial of discharge and the law applicable to reaffirmation agreements.

The notice of the §524(d) hearing may be combined with the notice of the meeting of creditors or entered as a separate order.

The expression "not more than" contained in the first sentence of the rule is for the explicit purpose of requiring the hearing to occur within that time period and cannot be extended.

NOTES OF ADVISORY COMMITTEE ON RULES—1991 AMENDMENT

This rule is changed to conform to §524(d) of the Code as amended in 1986. A hearing under §524(d) is not mandatory unless the debtor desires to enter into a reaffirmation agreement.

COMMITTEE NOTES ON RULES—2008 AMENDMENT

This rule is amended to establish a deadline for filing reaffirmation agreements. The Code sets out a number of prerequisites to the enforceability of reaffirmation agreements. Among those requirements, §524(k)(6)(A) provides that each reaffirmation agreement must be accompanied by a statement indicating the debtor's ability to make the payments called for by the agreement. In the event that this statement reflects an insufficient income to allow payment of the reaffirmed debt, §524(m) provides that a presumption of undue hardship arises, allowing the court to disapprove the reaffirmation agreement, but only after a hearing conducted prior to the entry of discharge. Rule 4004(c)(1)(K) accommodates this provision by delaying the entry of discharge where a presumption of undue hardship arises. However, in order for that rule to be effective, the reaffirmation agreement itself must be filed before the entry of discharge. Under Rule 4004(c)(1) discharge is to be entered promptly after the expiration of the time for filing a complaint objecting to discharge, which, under Rule 4004(a), is 60 days after the first date set for the meeting of creditors under §341(a). Accordingly, that date is set as the deadline for filing a reaffirmation agreement.

Any party may file the agreement with the court. Thus, whichever party has a greater incentive to enforce the agreement usually will file it. In the event that the parties are unable to file a reaffirmation agreement in a timely fashion, the rule grants the court broad discretion to permit a late filing. A corresponding change to Rule 4004(c)(1)(J) accommodates such an extension by providing for a delay in the entry of discharge during the pendency of a motion to extend the time for filing a reaffirmation agreement.

Rule 4008 is also amended by deleting provisions regarding the timing of any reaffirmation and discharge hearing. As noted above, §524(m) itself requires that hearings on undue hardship be conducted prior to the entry of discharge. In other respects, including hearings to approve reaffirmation agreements of unrepresented debtors under §524(c)(6), the rule leaves discretion to the court to set the hearing at a time appropriate for the particular circumstances presented in the case and consistent with the scheduling needs of the parties.

Changes Made After Publication. The only change was stylistic. The phrase "of the Code" was added to subdivision (b).

COMMITTEE NOTES ON RULES—2009 AMENDMENT

Subdivision (a) of the rule is amended to require that the entity filing the reaffirmation agreement with the court also include Official Form 27, the Reaffirmation Agreement Cover Sheet. The form includes information necessary for the court to determine whether the proposed reaffirmation agreement is presumed to be an undue hardship for the debtor under §524(m) of the Code.

Changes Made After Publication. No changes since publication.

COMMITTEE NOTES ON RULES—2024 AMENDMENT

The language of Rule 4008 has been amended as part of the general restyling of the Bankruptcy Rules to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only.

PART V—COURTS AND CLERKS

Rule 5001. Court Operations; Clerks' Offices

(a) COURTS ALWAYS OPEN. Bankruptcy courts are considered always open for filing a pleading, motion, or other paper; issuing and returning process; making rules; or entering an order.

(b) LOCATION FOR TRIALS AND HEARINGS; PROCEEDINGS IN CHAMBERS. Every trial or hearing must be held in open court—in a regular courtroom if convenient. Except as provided in 28 U.S.C. §152(c), any other act may be performed—or a proceeding held—in chambers anywhere within or outside the district. But unless it is ex parte, a hearing may be held outside the district only if all affected parties consent.

(c) CLERK'S OFFICE HOURS. A clerk's office—with the clerk or a deputy in attendance—must be open during business hours on all days except Saturdays, Sundays, and the legal holidays listed in Rule 9006(a)(6).

(As amended Mar. 30, 1987, eff. Aug. 1, 1987; Apr. 30, 1991, eff. Aug. 1, 1991; Apr. 23, 2008, eff. Dec. 1, 2008; Apr. 2, 2024, eff. Dec. 1, 2024.)

NOTES OF ADVISORY COMMITTEE ON RULES—1983

This rule is adapted from subdivisions (a), (b) and (c) of Rule 77 F.R.Civ.P.

NOTES OF ADVISORY COMMITTEE ON RULES—1987 AMENDMENT

Rule 9001, as amended, defines court to mean the bankruptcy judge or district judge before whom a case or proceeding is pending. Clerk means the bankruptcy clerk, if one has been appointed for the district; if a bankruptcy clerk has not been appointed, clerk means clerk of the district court.

NOTES OF ADVISORY COMMITTEE ON RULES—1991 AMENDMENT

Subdivision (c) is amended to refer to Rule 9006(a) for a list of legal holidays. Reference to F.R.Civ.P. is not necessary for this purpose.

COMMITTEE NOTES ON RULES—2008 AMENDMENT

The rule is amended to permit bankruptcy judges to hold hearings outside of the district in which the case is pending to the extent that the circumstances lead to the authorization of the court to take such action under the 2005 amendment to 28 U.S.C. §152(c). Under that provision, bankruptcy judges may hold court outside of their districts in emergency situations and when the business of the court otherwise so requires. This amendment to the rule is intended to implement the legislation.

Changes Made After Publication. No changes were made after publication.

COMMITTEE NOTES ON RULES—2024 AMENDMENT

The language of Rule 5001 has been amended as part of the general restyling of the Bankruptcy Rules to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only.

Rule 5002. Restrictions on Approving Court Appointments

(a) APPOINTING OR EMPLOYING RELATIVES.

(1) *Trustee or Examiner*. A bankruptcy judge must not approve appointing an individual as a trustee or examiner under §1104 if the individual is a relative of either the judge or the United States trustee in the region where the case is pending.

(2) *Attorney, Accountant, Appraiser, Auctioneer, or Other Professional Person*. A bankruptcy judge must not approve employing under §327, §1103, or §1114 an individual as an attorney, accountant, appraiser, auctioneer, or other professional person who is a relative of the judge. The court may approve employing a relative of the United States trustee in the region where the case is pending, unless the relationship makes the employment improper.

(3) *Related Entities and Associates*. If an appointment under (1) or an employment under (2) is forbidden, so is appointing or employing:

(A) any entity—including any firm, partnership, or corporation—with which the individual has a business association or relationship; or

(B) a member, associate, or professional employee of such an entity.

(b) OTHER CONSIDERATIONS IN APPROVING APPOINTMENTS OR EMPLOYMENT. A bankruptcy judge must not approve appointing a person as a trustee or examiner—or employing an attorney, accountant, appraiser, auctioneer, or other professional person—if the person is, or has been, so connected with the judge or the United States trustee as to make the appointment or employment improper.

(As amended Apr. 29, 1985, eff. Aug. 1, 1985; Apr. 30, 1991, eff. Aug. 1, 1991; Apr. 2, 2024, eff. Dec. 1, 2024.)

NOTES OF ADVISORY COMMITTEE ON RULES—1983

This rule is adapted from former Bankruptcy Rule 505(a). The scope of the prohibition on appointment or employment is expanded to include an examiner appointed under §1104 of the Code and attorneys and other professional persons whose employment must be approved by the court under §327 or §1103.

The rule supplements two statutory provisions. Under 18 U.S.C. §1910, it is a criminal offense for a judge to appoint a relative as a trustee and, under 28 U.S.C. §458, a person may not be "appointed to or employed in any office or duty in any court" if he is a relative of any judge of that court. The rule prohibits the appointment or employment of a relative of a bankruptcy judge in a case pending before that bankruptcy judge or before other bankruptcy judges sitting within the district.

A relative is defined in §101(34) [now 101(45)] of the Code to be an "individual related by affinity or consanguinity within the third degree as determined by the common law, or individual in a step or adoptive relationship within such third degree." Persons within the third degree under the common law system are as follows: first degree—parents, brothers and sisters, and children; second degree—grandparents, uncles and aunts, first cousins, nephews and nieces, and grandchildren; third degree—great grandparents, great uncles and aunts, first cousins once removed, second cousins, grand nephews and nieces, great grandchildren. Rule 9001 incorporates the definitions of §101 of the Code.

In order for the policy of this rule to be meaningfully implemented, it is necessary to extend the prohibition against appointment or employment to the firm or other business association of the ineligible person and to those affiliated with the firm or business association. "Firm" is defined in Rule 9001 to include a professional partnership or corporation of attorneys or accountants. All other types of business and professional associations and relationships are covered by this rule.

NOTES OF ADVISORY COMMITTEE ON RULES—1985 AMENDMENT

The amended rule is divided into two subdivisions. Subdivision (a) applies to relatives of bankruptcy judges and subdivision (b) applies to persons who are or have been connected with bankruptcy judges. Subdivision (a) permits no judicial discretion; subdivision (b) allows judicial discretion. In both subdivisions of the amended rule "bankruptcy judge" has been substituted for "judge". The amended rule makes clear that it only applies to relatives of, or persons connected with, the bankruptcy judge. See *In re Hilltop Sand and Gravel, Inc*., 35 B.R. 412 (N.D. Ohio 1983).

Subdivision (a). The original rule prohibited all bankruptcy judges in a district from appointing or approving the employment of (i) a relative of any bankruptcy judge serving in the district, (ii) the firm or business association of any ineligible relative and (iii) any member or professional employee of the firm or business association of an ineligible relative. In addition, the definition of relative, the third degree relationship under the common law, is quite broad. The restriction on the employment opportunities of relatives of bankruptcy judges was magnified by the fact that many law and accounting firms have practices and offices spanning the nation.

Relatives are not eligible for appointment or employment when the bankruptcy judge to whom they are related makes the appointment or approves the employment. Canon 3(b)(4) of the Code of Judicial Conduct, which provides that the judge "shall exercise his power of appointment only on the basis of merit, avoiding nepotism and favoritism," should guide a bankruptcy judge when a relative of a judge of the same bankruptcy court is considered for appointment or employment.

Subdivision (b), derived from clause (2) of the original rule, makes a person ineligible for appointment or employment if the person is so connected with a bankruptcy judge making the appointment or approving the

employment as to render the appointment or approval of employment improper. The caption and text of the subdivision emphasize that application of the connection test is committed to the sound discretion of the bankruptcy judge who is to make the appointment or approve the employment. All relevant circumstances are to be taken into account by the court. The most important of those circumstances include: the nature and duration of the connection with the bankruptcy judge; whether the connection still exists, and, if not, when it was terminated; and the type of appointment or employment. These and other considerations must be carefully evaluated by the bankruptcy judge.

The policy underlying subdivision (b) is essentially the same as the policy embodied in the Code of Judicial Conduct. Canon 2 of the Code of Judicial Conduct instructs a judge to avoid impropriety and the appearance of impropriety, and Canon 3(b)(4) provides that the judge "should exercise his power of appointment only on the basis of merit, avoiding nepotism and favoritism." Subdivision (b) alerts the potential appointee or employee and party seeking approval of employment to consider the possible relevance or impact of subdivision (b) and indicates to them that appropriate disclosure must be made to the bankruptcy court before accepting appointment or employment. The information required may be made a part of the application for approval of employment. See Rule 2014(a).

Subdivision (b) departs from the former rule in an important respect: a firm or business association is not prohibited from appointment or employment merely because an individual member or employee of the firm or business association is ineligible under subdivision (b).

The emphasis given to the bankruptcy court's judicial discretion in applying subdivision (b) and the absence of a *per se* extension of ineligibility to the firm or business association or any ineligible individual complement the amendments to subdivision (a). The change is intended to moderate the prior limitation on the employment opportunities of attorneys, accountants and other professional persons who are or who have been connected in some way with the bankruptcy judge. For example, in all but the most unusual situations service as a law clerk to a bankruptcy judge is not the type of connection which alone precludes appointment or employment. Even if a bankruptcy judge determines that it is improper to appoint or approve the employment of a former law clerk in the period immediately after completion of the former law clerk's service with the judge, the firm which employs the former law clerk will, absent other circumstances, be eligible for employment. In each instance all the facts must be considered by the bankruptcy judge.

Subdivision (b) applies to persons connected with a bankruptcy judge. "Person" is defined in §101 of the Bankruptcy Code to include an "individual, partnership and corporation". A partnership or corporation may be appointed or employed to serve in a bankruptcy case. If a bankruptcy judge is connected in some way with a partnership or corporation, it is necessary for the court to determine whether the appointment or employment of that partnership or corporation is proper.

The amended rule does not regulate professional relationships which do not require approval of a bankruptcy judge. Disqualification of the bankruptcy judge pursuant to 28 U.S.C. §455 may, however, be appropriate. Under Rule 5004(a), a bankruptcy judge may find that disqualification from only some aspect of the case, rather than the entire case, is necessary. A situation may also arise in which the disqualifying circumstance only comes to light after services have been performed. Rule 5004(b) provides that if compensation from the estate is sought for these services, the bankruptcy judge is disqualified from awarding compensation.

NOTES OF ADVISORY COMMITTEE ON RULES—1991 AMENDMENT

The 1986 amendments to the Code provide that the United States trustee shall appoint trustees in chapter 7, chapter 12, and chapter 13 cases without the necessity of court approval. This rule is not intended to apply to the appointment of trustees in those cases because it would be inappropriate for a court rule to restrict in advance the exercise of discretion by the executive branch. See Committee Note to Rule 2009.

In chapter 11 cases, a trustee or examiner is appointed by the United States trustee after consultation with parties in interest and subject to court approval. Subdivision (a), as amended, prohibits the approval of the appointment of an individual as a trustee or examiner if the person is a relative of the United States trustee making the appointment or the bankruptcy judge approving the appointment.

The United States trustee neither appoints nor approves the employment of professional persons employed pursuant to §§327, 1103, or 1114 of the Code. Therefore, subdivision (a) is not a prohibition against judicial approval of employment of a professional person who is a relative of the United States trustee. However, the United States trustee monitors applications for compensation and reimbursement of expenses and may raise, appear and be heard on issues in the case. Employment of relatives of the United States trustee may be approved unless the court finds, after considering the relationship and the particular circumstances of the case, that the relationship would cause the employment to be improper. As used in this rule, "improper" includes the appearance of impropriety.

United States trustee is defined to include a designee or assistant United States trustee. See Rule 9001. Therefore, subdivision (a) is applicable if the person appointed as trustee or examiner or the professional to be employed is a relative of a designee of the United States trustee or any assistant United States trustee in the region in which the case is pending.

This rule is not exclusive of other laws or rules regulating ethical conduct. See, e.g., 28 CFR §45.735–5.

COMMITTEE NOTES ON RULES—2024 AMENDMENT

The language of Rule 5002 has been amended as part of the general restyling of the Bankruptcy Rules to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only.

Rule 5003. Records to Be Kept by the Clerk

(a) BANKRUPTCY DOCKET. The clerk must keep a docket in each case and must:

(1) enter on the docket each judgment, order, and activity, as prescribed by the Director of the Administrative Office of the United States Courts; and

(2) show the date of entry for each judgment or order.

(b) CLAIMS REGISTER. When it appears that there will be a distribution to unsecured creditors, the clerk must keep in a claims register a list of the claims filed in the case.

(c) JUDGMENTS AND ORDERS.

(1) *In General*. In the form and manner prescribed by the Director of the Administrative Office of the United States Courts, the clerk must keep a copy of:

(A) every final judgment or order affecting title to, or a lien on, real property;

(B) every final judgment or order for the recovery of money or property; and

(C) any other order the court designates.

(2) *Indexing with the District Court*. On a prevailing party's request, a copy of the following must be kept and indexed with the district court's civil judgments:

(A) every final judgment or order affecting title to, or a lien on, real or personal property; and

(B) every final judgment or order for the recovery of money or property.

(d) INDEX OF CASES; CERTIFICATE OF SEARCH.

(1) *Index of Cases*. The clerk must keep an index of cases and adversary proceedings in the form and manner prescribed by the Director of the Administrative Office of the United States Courts.

(2) *Searching the Index; Certificate of Search*. On request, the clerk must search the index and papers in the clerk's custody and certify whether:

(A) a case or proceeding has been filed in or transferred to the court; or

(B) a discharge has been entered.

(e) REGISTER OF MAILING ADDRESSES OF FEDERAL AND STATE GOVERNMENTAL UNITS AND CERTAIN TAXING AUTHORITIES.

(1) *In General*. The United States—or a state or a territory where the court is located—may file a statement designating its mailing address. A taxing authority (including a local taxing authority) may also file a statement designating an address for serving requests under §505(b). The authority's designation must describe where to find further information about additional requirements for serving a request.

(2) *Register of Mailing Address.*

(A) *In General*. In the form and manner prescribed by the Director of the Administrative Office of the United States Courts, the clerk must keep a register of the mailing addresses of the governmental units listed in the first sentence of (1) and a separate register containing the addresses of taxing authorities for serving requests under §505(b).

(B) *Number of Entries*. The clerk need not include in any register more than one mailing

address for each department, agency, or instrumentality of the United States or the state or territory. But if more than one mailing address is included, the clerk must also include information that would enable a user to determine when each address applies. Mailing to only one applicable address provides effective notice.

(C) *Keeping the Register Current*. The clerk must update the register annually, as of January 2 of each year.

(D) *Mailing Address Presumed to Be Proper*. A mailing address in the register is conclusively presumed to be proper. But a failure to use that address does not invalidate a notice that is otherwise effective under applicable law.

(f) OTHER BOOKS AND RECORDS. The clerk must keep any other books and records required by the Director of the Administrative Office of the United States Courts.

(As amended Mar. 30, 1987, eff. Aug. 1, 1987; Apr. 17, 2000, eff. Dec. 1, 2000; Apr. 23, 2008, eff. Dec. 1, 2008; Apr. 2, 2024, eff. Dec. 1, 2024.)

NOTES OF ADVISORY COMMITTEE ON RULES—1983

This rule consolidates former Bankruptcy Rules 504 and 507. The record-keeping duties of the referee under former Bankruptcy Rule 504 are transferred to the clerk. Subdivisions (a), (c), (d) and (e) are similar to subdivisions (a)–(d) of Rule 79 F.R.Civ.P.

Subdivision (b) requires that filed claims be listed on a claims register only when there may be a distribution to unsecured creditors. Compilation of the list for no asset or nominal asset cases would serve no purpose.

Rule 2013 requires the clerk to maintain a public record of fees paid from the estate and an annual summary thereof.

Former Bankruptcy Rules 507(d) and 508, which made materials in the clerk's office and files available to the public, are not necessary because §107 of the Code guarantees public access to files and dockets of cases under the Code.

NOTES OF ADVISORY COMMITTEE ON RULES—1987 AMENDMENT

Subdivision (a) has been made more specific.

Subdivision (c) is amended to require that on the request of the prevailing party the clerk of the district court shall keep and index bankruptcy judgments and orders affecting title to or lien upon real or personal property or for the recovery of money or property with the civil judgments of the district court. This requirement is derived from former Rule 9021(b). The Director of the Administrative Office will provide guidance to the bankruptcy and district court clerks regarding appropriate paperwork and retention procedures.

COMMITTEE NOTES ON RULES—2000 AMENDMENT

Subdivision (e) is added to provide a source where debtors, their attorneys, and other parties may go to determine whether the United States or the state or territory in which the court is located has filed a statement designating a mailing address for notice purposes. By using the address in the register—which must be available to the public—the sender is assured that the mailing address is proper. But the use of an address that differs from the address included in the register does not invalidate the notice if it is otherwise effective under applicable law.

The register may include a separate mailing address for each department, agency, or instrumentality of the United States or the state or territory. This rule does not require that addresses of municipalities or other local governmental units be included in the register, but the clerk may include them.

Although it is important for the register to be kept current, debtors, their attorneys, and other parties should be able to rely on mailing addresses listed in the register without the need to continuously inquire as to new or amended addresses. Therefore, the clerk must update the register, but only once each year.

To avoid unnecessary cost and burden on the clerk and to keep the register a reasonable length, the clerk is not required to include more than one mailing address for a particular agency, department, or instrumentality of the United States or the state or territory. But if more than one address is included, the clerk is required to include information so that a person using the register could determine when each address should be used. In any event, the inclusion of more than one address for a particular department, agency, or instrumentality does not impose on a person sending a notice the duty to send it to more than one address.

GAP Report on Rule 5003. No changes since publication.

COMMITTEE NOTES ON RULES—2008 AMENDMENT

The rule is amended to implement §505(b)(1) of the Code added by the 2005 amendments, which allows a taxing authority to designate an address to use for the service of requests under that subsection. Under the amendment, the clerk is directed to maintain a separate register for mailing addresses of governmental units solely for the service of requests under §505(b). This register is in addition to the register of addresses of governmental units already maintained by the clerk. The clerk is required to keep only one address for a governmental unit in each register.

Changes Made After Publication. Subdivision (e) was amended to clarify that the clerk must maintain a separate mailing address register that contains the addresses to which notices pertaining to actions under §505 of the Code are to be sent.

COMMITTEE NOTES ON RULES—2024 AMENDMENT

The language of Rule 5003 has been amended as part of the general restyling of the Bankruptcy Rules to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only.

Rule 5004. Disqualifying a Bankruptcy Judge

(a) FROM PRESIDING OVER A PROCEEDING, CONTESTED MATTER, OR CASE. A bankruptcy judge's disqualification is governed by 28 U.S.C. §455. The judge is disqualified from presiding over a proceeding or contested matter in which a disqualifying circumstance arises—and, when appropriate, from presiding over the entire case.

(b) FROM ALLOWING COMPENSATION. The bankruptcy judge is disqualified from allowing compensation to a relative or to a person who is so connected with the judge as to make the judge's allowing it improper.

(As amended Apr. 29, 1985, eff. Aug. 1, 1985; Mar. 30, 1987, eff. Aug. 1, 1987; Apr. 2, 2024, eff. Dec. 1, 2024.)

NOTES OF ADVISORY COMMITTEE ON RULES—1983

Subdivision (a). Disqualification of a bankruptcy judge is governed by 28 U.S.C. §455. That section provides that the judge "shall disqualify himself in any proceeding in which his impartiality might reasonably be questioned" or under certain other circumstances. In a case under the Code it is possible that the disqualifying circumstance will be isolated to an adversary proceeding or contested matter. The rule makes it clear that when the disqualifying circumstance is limited in that way the judge need only disqualify himself from presiding over that adversary proceeding or contested matter.

It is possible, however, that even if the disqualifying circumstance arises in connection with an adversary proceeding, the effect will be so pervasive that disqualification from presiding over the case is appropriate. This distinction is consistent with the definition of "proceeding" in 28 U.S.C. §455(d)(1).

Subdivision (b) precludes a bankruptcy judge from allowing compensation from the estate to a relative or other person closely associated with the judge. The subdivision applies where the judge has not appointed or approved the employment of the person requesting compensation. Perhaps the most frequent application of the subdivision will be in the allowance of administrative expenses under §503(b)(3)–(5) of the Code. For example, if an attorney or accountant is retained by an indenture trustee who thereafter makes a substantial contribution in a chapter 11 case, the attorney or accountant may seek compensation under §503(b)(4). If the attorney or accountant is a relative of or associated with the bankruptcy judge, the judge may not allow compensation to the attorney or accountant. Section 101(34) [now 101(45)] defines relative and Rule 9001 incorporates the definitions of the Code. See the Advisory Committee's Note to Rule 5002.

NOTES OF ADVISORY COMMITTEE ON RULES—1985 AMENDMENT

Subdivision (a) was affected by the Bankruptcy Amendments and Federal Judgeship Act of 1984, P.L. 98–353, 98 Stat. 333. The 1978 Bankruptcy Reform Act, P.L. 95–598, included bankruptcy judges in the definition of United States judges in 28 U.S.C. §451 and they were therefore subject to the provisions of 28 U.S.C. §455. This was to become effective on April 1, 1984, P.L. 95–598, §404(b). Section 113 of P.L. 98–353, however, appears to have rendered the amendment to 28 U.S.C. §451 ineffective. Subdivision (a) of the rule retains the substance and intent of the earlier draft by making bankruptcy judges subject to 28 U.S.C. §455.

The word "associated" in subdivision (b) has been changed to "connected" in order to conform with Rule 5002(b).

NOTES OF ADVISORY COMMITTEE ON RULES—1987 AMENDMENT

The rule is amended to be gender neutral. The bankruptcy judge before whom the matter is pending determines whether disqualification is required.

COMMITTEE NOTES ON RULES—2024 AMENDMENT

The language of Rule 5004 has been amended as part of the general restyling of the Bankruptcy Rules to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only.

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

(a) FILING PAPERS.

(1) *With the Clerk*. Except as provided in 28 U.S.C. §1409, the following papers required to be filed by these rules must be filed with the clerk in the district where the case is pending:

- lists;
- schedules;
- statements;
- proofs of claim or interest;
- complaints;
- motions;
- applications;
- objections; and
- other required papers.

The clerk must not refuse to accept for filing any petition or other paper solely because it is not in the form required by these rules or by any local rule or practice.

(2) *With a Judge of the Court*. A judge may personally accept for filing a paper listed in (1). The judge must note on it the date of filing and promptly send it to the clerk.

(3) *Electronic Filing and Signing.*

(A) *By a Represented Entity—Generally Required; Exceptions*. An entity represented by an attorney must file electronically, unless nonelectronic filing is allowed by the court for cause or is allowed or required by local rule.

(B) *By an Unrepresented Individual—When Allowed or Required*. An individual not represented by an attorney:

(i) may file electronically only if allowed by court order or local rule; and

(ii) may be required to file electronically only by court order, or by a local rule that includes reasonable exceptions.

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

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

(b) SENDING COPIES TO THE UNITED STATES TRUSTEE.

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

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

(c) WHEN A PAPER IS ERRONEOUSLY FILED OR DELIVERED.

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

- the United States trustee;
- the trustee;
- the trustee's attorney;
- a bankruptcy judge;
- a district judge;
- the clerk of the bankruptcy appellate panel; or
- the clerk of the district court.

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

(3) *Applicable Filing Date*. In the interests of justice, the court may order that the original receipt date shown on a paper erroneously delivered under (1) or (2) be deemed the date it was filed with the clerk or sent to the United States trustee.

(As amended Mar. 30, 1987, eff. Aug. 1, 1987; Apr. 30, 1991, eff. Aug. 1, 1991; Apr. 22, 1993, eff. Aug. 1, 1993; Apr. 23, 1996, eff. Dec. 1, 1996; Apr. 12, 2006, eff. Dec. 1, 2006; Apr. 26, 2018, eff. Dec. 1, 2018; Apr. 11, 2022, eff. Dec. 1, 2022; Apr. 2, 2024, eff. Dec. 1, 2024.)

NOTES OF ADVISORY COMMITTEE ON RULES—1983

Subdivision (a) is an adaptation of Rule 5(e) F.R.Civ.P. Sections 301–[former] 304 of the Code and Rules 1002 and 1003 require that cases under the Code be commenced by filing a petition "with the bankruptcy court." Other sections of the Code and other rules refer to or contemplate filing but there is no specific reference to filing with the bankruptcy court. For example, §501 of the Code requires filing of proofs of claim and Rule 3016(c) requires the filing of a disclosure statement. This subdivision applies to all situations in which filing is required. Except when filing in another district is authorized by [former] 28 U.S.C. §1473, all papers, including complaints commencing adversary proceedings, must be filed in the court where the case under the Code is pending.

Subdivision (b) is the same as former Bankruptcy Rule 509(c).

NOTES OF ADVISORY COMMITTEE ON RULES—1987 AMENDMENT

Subdivision (a) is amended to conform with the 1984 amendments.

NOTES OF ADVISORY COMMITTEE ON RULES—1991 AMENDMENT

Subdivision (b)(1) is flexible in that it permits the United States trustee to designate a place or places for receiving papers within the district in which the case is pending. Transmittal of papers to the United States trustee may be accomplished by mail or delivery, including delivery by courier, and the technical requirements for service of process are not applicable. Although papers relating to a proceeding commenced in another district pursuant to 28 U.S.C. §1409 must be filed with the clerk in that district, the papers required to be transmitted to the United States trustee must be mailed or delivered to the United States trustee in the district in which the case under the Code is pending. The United States trustee in the district in which the case is pending monitors the progress of the case and should be informed of all developments in the case wherever the developments take place.

Subdivision (b)(2) requires that proof of transmittal to the United States trustee be filed with the clerk. If papers are served on the United States trustee by mail or otherwise, the filing of proof of service would satisfy the requirements of this subdivision. This requirement enables the court to assure that papers are actually transmitted to the United States trustee in compliance with the rules. When the rules require that a paper be transmitted to the United States trustee and proof of transmittal has not been filed with the clerk, the court should not schedule a hearing or should take other appropriate action to assure that the paper is transmitted to the United States trustee. The filing of the verified statement with the clerk also enables other parties in interest to determine whether a paper has been transmitted to the United States trustee.

Subdivision (b)(3) is designed to relieve the clerk of any obligation under these rules to transmit any paper to the United States trustee if the United States trustee does not wish to receive it.

Subdivision (c) is amended to include the erroneous delivery of papers intended to be transmitted to the United States trustee.

NOTES OF ADVISORY COMMITTEE ON RULES—1993 AMENDMENT

Subdivision (a) is amended to conform to the 1991 amendment to Rule 5(e) F.R.Civ.P. It is not a suitable role for the office of the clerk to refuse to accept for filing papers not conforming to requirements of form imposed by these rules or by local rules or practices. The enforcement of these rules and local rules is a role for a judge. This amendment does not require the clerk to accept for filing papers sent to the clerk's office by facsimile transmission.

NOTES OF ADVISORY COMMITTEE ON RULES—1996 AMENDMENT

The rule is amended to permit, but not require, courts to adopt local rules that allow filing, signing, or verifying of documents by electronic means. However, such local rules must be consistent with technical standards, if any, promulgated by the Judicial Conference of the United States.

An important benefit to be derived by permitting filing by electronic means is that the extensive volume of paper received and maintained as records in the clerk's office will be reduced substantially. With the receipt of electronic data transmissions by computer, the clerk may maintain records electronically without the need to reproduce them in tangible paper form.

Judicial Conference standards governing the technological aspects of electronic filing will result in uniformity among judicial districts to accommodate an increasingly national bar. By delegating to the Judicial Conference the establishment and future amendment of national standards for electronic filing, the Supreme Court and Congress will be relieved of the burden of reviewing and promulgating detailed rules dealing with complex technological standards. Another reason for leaving to the Judicial Conference the formulation of technological standards for electronic filing is that advances in computer technology occur often, and changes in the technological standards may have to be implemented more frequently than would be feasible by rule amendment under the Rules Enabling Act process.

It is anticipated that standards established by the Judicial Conference will govern technical specifications for electronic data transmission, such as requirements relating to the formatting of data, speed of transmission, means to transmit copies of supporting documentation, and security of communication procedures. In addition, before procedures for electronic filing are implemented, standards must be established to assure the proper maintenance and integrity of the record and to provide appropriate access and retrieval mechanisms. These matters will be governed by local rules until system-wide standards are adopted by the Judicial Conference.

Rule 9009 requires that the Official Forms shall be observed and used "with alterations as may be appropriate." Compliance with local rules and any Judicial Conference standards with respect to the formatting or presentation of electronically transmitted data, to the extent that they do not conform to the Official Forms, would be an appropriate alteration within the meaning of Rule 9009.

These rules require that certain documents be in writing. For example, Rule 3001 states that a proof of claim is a "written statement." Similarly, Rule 3007 provides that an objection to a claim "shall be in writing." Pursuant to the new subdivision (a)(2), any requirement under these rules that a paper be written may be satisfied by filing the document by electronic means, notwithstanding the fact that the clerk neither receives nor prints a paper reproduction of the electronic data.

Section 107(a) of the Code provides that a "paper" filed in a case is a public record open to examination by an entity at reasonable times without charge, except as provided in §107(b). The amendment to subdivision (a)(2) provides that an electronically filed document is to be treated as such a public record.

Although under subdivision (a)(2) electronically filed documents may be treated as written papers or as signed or verified writings, it is important to emphasize that such treatment is only for the purpose of applying these rules. In addition, local rules and Judicial Conference standards regarding verification must satisfy the requirements of 28 U.S.C. §1746.

GAP Report on Rule 5005. No changes since publication.

COMMITTEE NOTES ON RULES—2006 AMENDMENT

Subdivision (a). Amended Rule 5005(a)(2) acknowledges that many courts have required electronic filing by means of a standing order, procedures manual, or local rule. These local practices reflect the advantages that courts and most litigants realize from electronic filings. Courts requiring electronic filing must make reasonable exceptions for persons for whom electronic filing of documents constitutes an unreasonable denial of access to the courts. Experience with the rule will facilitate convergence on uniform exceptions in an amended Rule 5005(a)(2).

Subdivision (c). The rule is amended to include the clerk of the bankruptcy appellate panel among the list of

persons required to transmit to the proper person erroneously filed or transmitted papers. The amendment is necessary because the bankruptcy appellate panels were not in existence at the time of the original promulgation of the rule. The amendment also inserts the district judge on the list of persons required to transmit papers intended for the United States trustee but erroneously sent to another person. The district judge is included in the list of persons who must transmit papers to the clerk of the bankruptcy court in the first part of the rule, and there is no reason to exclude the district judge from the list of persons who must transmit erroneously filed papers to the United States trustee.

Changes Made After Publication. The published version of the Rule did not include the sentence set out on lines 7–10 above [sic]. The Advisory Committee concluded, based on the written comments received and additional Advisory Committee consideration, that the text of the rule should include a statement regarding the need for courts to protect access to the courts for those whose status might not allow for electronic participation in cases. The published version had relegated this notion to the Committee Note, but further deliberations led to the conclusion that this matter is too important to leave to the Committee Note and instead should be included in the text of the rule.

COMMITTEE NOTES ON RULES—2018 AMENDMENT

Electronic filing has matured. Most districts have adopted local rules that require electronic filing and allow reasonable exceptions as required by the former rule. The time has come to seize the advantages of electronic filing by making it mandatory in all districts, except for filings made by an individual not represented by an attorney. But exceptions continue to be available. Paper filing must be allowed for good cause. And a local rule may allow or require paper filing for other reasons.

Filings by an individual not represented by an attorney are treated separately. It is not yet possible to rely on an assumption that pro se litigants are generally able to seize the advantages of electronic filing. Encounters with the court's system may prove overwhelming to some. Attempts to work within the system may generate substantial burdens on a pro se party, on other parties, and on the court. Rather than mandate electronic filing, filing by pro se litigants is left for governing by local rules or court order. Efficiently handled electronic filing works to the advantage of all parties and the court. Many courts now allow electronic filing by pro se litigants with the court's permission. Such approaches may expand with growing experience in these and other courts, along with the growing availability of the systems required for electronic filing and the increasing familiarity of most people with electronic communication. Room is also left for a court to require electronic filing by a pro se litigant by court order or by local rule. Care should be taken to ensure that an order to file electronically does not impede access to the court, and reasonable exceptions must be included in a local rule that requires electronic filing by a pro se litigant.

A filing made through a person's electronic-filing account and authorized by that person, together with that person's name on a signature block, constitutes the person's signature. A person's electronic-filing account means an account established by the court for use of the court's electronic-filing system, which account the person accesses with the user name and password (or other credentials) issued to that person by the court.

COMMITTEE NOTES ON RULES—2022 AMENDMENT

Subdivision (b)(1) is amended to authorize the clerk or parties to transmit papers to the United States trustee by electronic means in accordance with Rule 9036, regardless of whether the United States trustee is a registered user with the court's electronic-filing system. Subdivision (b)(2) is amended to recognize that parties meeting transmittal obligations to the United States trustee using the court's electronic-filing system need not file a statement evidencing transmittal under Rule 5005(b)(2). The amendment to subdivision (b)(2) also eliminates the requirement that statements evidencing transmittal filed under Rule 5005(b)(2) be verified.

COMMITTEE NOTES ON RULES—2024 AMENDMENT

The language of Rule 5005 has been amended as part of the general restyling of the Bankruptcy Rules to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only.

REFERENCES IN TEXT

The Federal Rules of Civil Procedure, referred to in subd. (a)(3)(D), are set out in the Appendix to Title 28, Judiciary and Judicial Procedure.

Rule 5006. Providing Certified Copies

Upon payment of the prescribed fee, the clerk must issue a certified copy of the record of any

proceeding or any paper filed with the clerk.

(As amended Apr. 30, 1991, eff. Aug. 1, 1991; Apr. 2, 2024, eff. Dec. 1, 2024.)

NOTES OF ADVISORY COMMITTEE ON RULES—1983

Fees for certification and copying are fixed by the Judicial Conference under 28 U.S.C. §1930(b).

Rule 1101 F. R. Evid. makes the Federal Rules of Evidence applicable to cases under the Code. Rule 1005 F. R. Evid. allows the contents of an official record or of a paper filed with the court to be proved by a duly certified copy. A copy certified and issued in accordance with Rule 5006 is accorded authenticity by Rule 902(4) F. R. Evid.

COMMITTEE NOTES ON RULES—2024 AMENDMENT

The language of Rule 5006 has been amended as part of the general restyling of the Bankruptcy Rules to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only.

Rule 5007. Record of Proceedings; Transcripts

(a) FILING ORIGINAL NOTES, TAPE RECORDINGS, AND OTHER ORIGINAL RECORDS OF A PROCEEDING; TRANSCRIPTS.

(1) *Records*. The reporter or operator of a recording device must certify the original notes of testimony, any tape recordings, and other original records of a proceeding and must promptly file them with the clerk.

(2) *Transcripts*. A person who prepares a transcript must promptly file a certified copy with the clerk.

(b) FEE FOR A TRANSCRIPT. The fee for a copy of a transcript must be charged at the rate prescribed by the Judicial Conference of the United States. No fee may be charged for filing the certified copy.

(c) SOUND RECORDING OR TRANSCRIPT AS PRIMA FACIE EVIDENCE. In any proceeding, a certified sound recording or a transcript of a proceeding is admissible as prima facie evidence of the record.

(As amended Mar. 30, 1987, eff. Aug. 1, 1987; Apr. 30, 1991, eff. Aug. 1, 1991; Apr. 2, 2024, eff. Dec. 1, 2024.)

NOTES OF ADVISORY COMMITTEE ON RULES—1983

This rule supplements [former] 28 U.S.C. §773. A record of proceedings before the bankruptcy judge is to be made whenever practicable. By whatever means the record is made, subdivision (a) requires that the preparer of the record certify and file the original notes, tape recording, or other form of sound recording of the proceedings. Similarly, if a transcript is requested, the preparer is to file a certified copy with the clerk.

Subdivision (b) is derived from 28 U.S.C. §753(f).

Subdivision (c) is derived from former Bankruptcy Rule 511(c). This subdivision extends to a sound recording the same evidentiary status as a transcript under [former] 28 U.S.C. §773(b).

NOTES OF ADVISORY COMMITTEE ON RULES—1991 AMENDMENT

The words "with the clerk" in the final sentence of subdivision (a) are deleted as unnecessary. See Rules 5005(a) and 9001(3).

COMMITTEE NOTES ON RULES—2024 AMENDMENT

The language of Rule 5007 has been amended as part of the general restyling of the Bankruptcy Rules to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only.

Rule 5008. Chapter 7—Notice That a Presumption of Abuse Has Arisen Under §707(b)

(a) NOTICE TO CREDITORS. When a presumption of abuse under §707(b) arises in a Chapter 7 case of an individual debtor with primarily consumer debts, the clerk must, within 10 days after the petition is filed, so notify the creditors in accordance with Rule 2002.

(b) DEBTOR'S STATEMENT. If the debtor does not file a statement indicating whether a presumption has arisen, the clerk must, within 10 days after the petition is filed, so notify creditors and indicate that further notice will be given if a later-filed statement shows that the presumption has arisen. If the debtor later files such a statement, the clerk must promptly notify the creditors.

(Added Apr. 23, 2008, eff. Dec. 1, 2008; amended Apr. 2, 2024, eff. Dec. 1, 2024.)

NOTES OF ADVISORY COMMITTEE ON RULES—1991

This rule [Rule 5008. Funds of the Estate; abrogated Apr. 30, 1991, eff. Aug. 1, 1991] is abrogated in view of the amendments to §345(b) of the Code and the role of the United States trustee in approving bonds and supervising trustees.

COMMITTEE NOTES ON RULES—2008

This rule is new. The 2005 amendments to §342 of the Code require that clerks give written notice to all creditors not later than 10 days after the date of the filing of the petition that a presumption of abuse has arisen under §707(b). A statement filed by the debtor will be the source of the clerk's information about the presumption of abuse. This rule enables the clerk to meet its obligation to send the notice within the statutory time period set forth in §342. In the event that the court receives the debtor's statement after the clerk has sent the first notice, and the debtor's statement indicates a presumption of abuse, the rule requires that the clerk send a second notice.

Changes Made After Publication. No changes were made after publication.

COMMITTEE NOTES ON RULES—2024 AMENDMENT

The language of Rule 5008 has been amended as part of the general restyling of the Bankruptcy Rules to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only.

Rule 5009. Closing a Chapter 7, 12, 13, or 15 Case; Declaring Liens Satisfied

(a) CLOSING A CHAPTER 7, 12, OR 13 CASE. The estate in a Chapter 7, 12, or 13 case is presumed to have been fully administered when:

(1) the trustee has filed a final report and final account and has certified that the estate has been fully administered; and

(2) within 30 days after the filing, no objection to the report has been filed by the United States trustee or a party in interest.

(b) CHAPTER 7 OR 13—NOTICE OF A FAILURE TO FILE A CERTIFICATE OF COMPLETION FOR A COURSE ON PERSONAL FINANCIAL MANAGEMENT. This subdivision (b) applies if an individual debtor in a Chapter 7 or 13 case is required to file a certificate under Rule 1007(b)(7) and fails to do so within 45 days after the first date set for the meeting of creditors under §341(a). The clerk must promptly notify the debtor that the case will be closed without entering a discharge if the certificate is not filed within the time prescribed by Rule 1007(c).

(c) CLOSING A CHAPTER 15 CASE.

(1) *Foreign Representative's Final Report*. In a proceeding recognized under §1517, when the purpose of a foreign representative's appearance is completed, the representative must file a final report describing the nature and results of the representative's activities in the court.

(2) *Giving Notice of the Report*. The representative must send a copy of the report to the United States trustee, give notice of its filing, and file a certificate indicating that the notice has been given to:

(A) the debtor;

(B) all persons or bodies authorized to administer the debtor's foreign proceedings;

(C) all parties to litigation pending in the United States in which the debtor was a party when the petition was filed; and

(D) any other entity the court designates.

(3) *Presumption of Full Administration*. If the United States trustee or a party in interest does not file an objection within 30 days after the certificate is filed, the case is presumed to have been fully administered.

(d) *Order Declaring a Lien Satisfied*.[1] This subdivision (d) applies in a Chapter 12 or 13 case when a claim secured by property of the estate is subject to a lien under applicable nonbankruptcy law. The debtor may move for an order declaring that the secured claim has been satisfied and the lien has been released under the terms of the confirmed plan. The motion must be served—in the manner provided by Rule 7004 for serving a summons and complaint—on the claim holder and any other entity the court designates.

(As amended Apr. 30, 1991, eff. Aug. 1, 1991; Apr. 28, 2010, eff. Dec. 1, 2010; Apr. 16, 2013, eff. Dec. 1, 2013; Apr. 27, 2017, eff. Dec. 1, 2017; Apr. 2, 2024, eff. Dec. 1, 2024.)

NOTES OF ADVISORY COMMITTEE ON RULES—1983

This rule is the same as §350(a) of the Code. An estate may be closed even though the period allowed by Rule 3002(c) for filing claims has not expired. The closing of a case may be expedited when a notice of no dividends is given under Rule 2002(e). Dismissal of a case for want of prosecution or failure to pay filing fees is governed by Rule 1017.

NOTES OF ADVISORY COMMITTEE ON RULES—1991 AMENDMENT

The final report and account of the trustee is required to be filed with the court and the United States trustee under §§704(9) [now 704(a)(9)], 1202(b)(1), and 1302(b)(1) of the Code. This amendment facilitates the United States trustee's performance of statutory duties to supervise trustees and administer cases under chapters 7, 12, and 13 pursuant to 28 U.S.C. §586. In the absence of a timely objection by the United States trustee or a party in interest, the court may discharge the trustee and close the case pursuant to §350(a) without the need to review the final report and account or to determine the merits of the trustee's certification that the estate has been fully administered.

Rule 3022 governs the closing of chapter 11 cases.

COMMITTEE NOTES ON RULES—2010 AMENDMENT

Subdivisions (a) and (b). The rule is amended to redesignate the former rule as subdivision (a) and to add new subdivisions (b) and (c) to the rule. Subdivision (b) requires the clerk to provide notice to an individual debtor in a chapter 7 or 13 case that the case may be closed without the entry of a discharge due to the failure of the debtor to file a timely statement of completion of a personal financial management course. The purpose of the notice is to provide the debtor with an opportunity to complete the course and file the appropriate document prior to the filing deadline. Timely filing of the document avoids the need for a motion to extend the time retroactively. It also avoids the potential for closing the case without discharge, and the possible need to pay an additional fee in connection with reopening. Timely filing also benefits the clerk's office by reducing the number of instances in which cases must be reopened.

Subdivision (c). Subdivision (c) requires a foreign representative in a chapter 15 case to file a final report setting out the foreign representative's actions and results obtained in the United States court. It also requires the foreign representative to give notice of the filing of the report, and provides interested parties with 30 days to object to the report after the foreign representative has certified that notice has been given. In the absence of a timely objection, a presumption arises that the case is fully administered, and the case may be closed.

Changes Made After Publication. No changes since publication.

COMMITTEE NOTES ON RULES—2013 AMENDMENT

Subdivision (b) is amended to conform to the amendment of Rule 1007(b)(7). Rule 1007(b)(7) 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 that the debtor has completed the course. The clerk's duty under subdivision (b) to notify the debtor of the possible closure of the case without discharge if the statement is not timely filed therefore applies only if the course provider has not already notified the court of the debtor's completion of the course.

Changes Made After Publication and Comment. No changes were made after publication and comment.

COMMITTEE NOTES ON RULES—2017 AMENDMENT

Subdivision (d) is added to provide a procedure by which a debtor in a chapter 12 or chapter 13 case may request an order declaring a secured claim satisfied and a lien released under the terms of a confirmed plan. A debtor may need documentation for title purposes of the elimination of a second mortgage or other lien that was secured by property of the estate. Although requests for such orders are likely to be made at the time the case is being closed, the rule does not prohibit a request at another time if the lien has been released and any other requirements for entry of the order have been met.

Other changes to this rule are stylistic.

COMMITTEE NOTES ON RULES—2024 AMENDMENT

The language of Rule 5009 has been amended as part of the general restyling of the Bankruptcy Rules to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only.

Additionally, the following substantive changes have been made.

The amendments to Rule 5009(b) reflect the amendment to Rule 1007(b)(7) that replaces the requirement for submission of a statement showing that the debtor has completed a course on personal financial management with the requirement that the debtor provide the certificate of course completion issued by the approved provider of that course.

[1] *So in original. The heading probably should not be italicized.*

Rule 5010. Reopening a Case

On the debtor's or another party in interest's motion, the court may, under §350(b), reopen a case. In a reopened Chapter 7, 12, or 13 case, the United States trustee must not appoint a trustee unless the court determines that one is needed to protect the interests of the creditors and the debtor, or to ensure that the reopened case is efficiently administered.

(As amended Mar. 30, 1987, eff. Aug. 1, 1987; Apr. 30, 1991, eff. Aug. 1, 1991; Apr. 2, 2024, eff. Dec. 1, 2024.)

NOTES OF ADVISORY COMMITTEE ON RULES—1983

Section 350(b) of the Code provides: "A case may be reopened in the court in which such case was closed to administer assets, to accord relief to the debtor, or for other cause."

Rule 9024, which incorporates Rule 60 F.R.Civ.P., exempts motions to reopen cases under the Code from the one year limitation of Rule 60(b).

Although a case has been closed the court may sometimes act without reopening the case. Under Rule 9024, clerical errors in judgments, orders, or other parts of the record or errors therein caused by oversight or omission may be corrected. A judgment determined to be non-dischargeable pursuant to Rule 4007 may be enforced after a case is closed by a writ of execution obtained pursuant to Rule 7069.

NOTES OF ADVISORY COMMITTEE ON RULES—1987 AMENDMENT

In order to avoid unnecessary cost and delay, the rule is amended to permit reopening of a case without the appointment of a trustee when the services of a trustee are not needed.

NOTES OF ADVISORY COMMITTEE ON RULES—1991 AMENDMENT

This rule is amended to conform to the 1986 amendments to the Code that give the United States trustee the duty to appoint trustees in chapter 7, 12 and 13 cases. See §§701, 702(d), 1202(a), and 1302(a) of the Code. In most reopened cases, a trustee is not needed because there are no assets to be administered. Therefore, in the interest of judicial economy, this rule is amended so that a motion will not be necessary unless the United States trustee or a party in interest seeks the appointment of a trustee in the reopened case.

COMMITTEE NOTES ON RULES—2024 AMENDMENT

The language of Rule 5010 has been amended as part of the general restyling of the Bankruptcy Rules to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only.

Rule 5011. Motion to Withdraw a Case or Proceeding or to Abstain from Hearing a Proceeding; Staying a Proceeding

(a) WITHDRAWING A CASE OR PROCEEDING. A motion to withdraw a case or proceeding under 28 U.S.C. §157(d) must be heard by a district judge.

(b) ABSTAINING FROM HEARING A PROCEEDING. Rule 9014 governs a motion asking the court to abstain from hearing a proceeding under 28 U.S.C. §1334(c). The motion must be served on all parties to the proceeding.

(c) STAYING A PROCEEDING AFTER A MOTION TO WITHDRAW OR ABSTAIN. A motion filed under (a) or (b) does not stay proceedings in a case or affect its administration. But a bankruptcy judge may, on proper terms and conditions, stay a proceeding until the motion is decided.

(d) MOTION TO STAY A PROCEEDING. A motion to stay a proceeding must ordinarily be submitted first to the bankruptcy judge. If it—or a motion for relief from a stay—is filed in the district court, the motion must state why it was not first presented to or obtained from the bankruptcy judge. The district judge may grant relief on proper terms and conditions.

(Added Mar. 30, 1987, eff. Aug. 1, 1987; amended Apr. 30, 1991, eff. Aug. 1, 1991; Apr. 2, 2024, eff. Dec. 1, 2024.)

NOTES OF ADVISORY COMMITTEE ON RULES—1987

Motions for withdrawal pursuant to 28 U.S.C. §157(d) or abstention pursuant to 28 U.S.C. §1334(c), like all other motions, are to be filed with the clerk as required by Rule 5005(a). If a bankruptcy clerk has been appointed for the district, all motions are filed with the bankruptcy clerk. The method for forwarding withdrawal motions to the district court will be established by administrative procedures.

Subdivision (a). Section 157(d) permits the district court to order withdrawal on its own motion or the motion of a party. Subdivision (a) of this rule makes it clear that the bankruptcy judge will not conduct hearings on a withdrawal motion. The withdrawal decision is committed exclusively to the district court.

Subdivision (b). A decision to abstain under 28 U.S.C. §1334(c) is not appealable. The district court is vested originally with jurisdiction and the decision to relinquish that jurisdiction must ultimately be a matter for the district court. The bankruptcy judge ordinarily will be in the best position to evaluate the grounds asserted for abstention. This subdivision (b) provides that the initial hearing on the motion is before the bankruptcy judge. The procedure for review of the report and recommendation are governed by Rule 9033.

This rule does not apply to motions under §305 of the Code for abstention from hearing a case. Judicial decisions will determine the scope of the bankruptcy judge's authority under §305.

Subdivision (c). Unless the court so orders, proceedings are not stayed when motions are filed for withdrawal or for abstention from hearing a proceeding. Because of the district court's authority over cases and proceedings, the subdivision authorizes the district court to order a stay or modify a stay ordered by the bankruptcy judge.

NOTES OF ADVISORY COMMITTEE ON RULES—1991 AMENDMENT

Subdivision (b) is amended to delete the restriction that limits the role of the bankruptcy court to the filing of a report and recommendation for disposition of a motion for abstention under 28 U.S.C. §1334(c)(2). This amendment is consistent with §309(b) of the Judicial Improvements Act of 1990 which amended §1334(c)(2) so that it allows an appeal to the district court of a bankruptcy court's order determining an abstention motion. This subdivision is also amended to clarify that the motion is a contested matter governed by Rule 9014 and that it must be served on all parties to the proceeding which is the subject of the motion.

COMMITTEE NOTES ON RULES—2024 AMENDMENT

The language of Rule 5011 has been amended as part of the general restyling of the Bankruptcy Rules to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only.

Rule 5012. Chapter 15—Agreement to Coordinate Proceedings

An agreement to coordinate proceedings under §1527(4) may be approved on motion with an attached copy of the agreement or protocol. Unless the court orders otherwise, the movant must give at least 30 days' notice of any hearing on the motion by sending a copy to the United States trustee

and serving it on:

- the debtor;
- all persons or bodies authorized to administer the debtor's foreign proceedings;
- all entities against whom provisional relief is sought under §1519;
- all parties to litigation pending in the United States in which the debtor was a party when the petition was filed; and
- any other entity the court designates.

(Added Apr. 28, 2010, eff. Dec. 1, 2010; amended Apr. 2, 2024, eff. Dec. 1, 2024.)

COMMITTEE NOTES ON RULES—2010

This rule is new. In chapter 15 cases, any party in interest may seek approval of an agreement, frequently referred to as a "protocol," that will assist with the conduct of the case. Because the needs of the courts and the parties may vary greatly from case to case, the rule does not attempt to limit the form or scope of a protocol. Rather, the rule simply requires that approval of a particular protocol be sought by motion, and designates the persons entitled to notice of the hearing on the motion. These agreements, or protocols, drafted entirely by parties in interest in the case, are intended to provide valuable assistance to the court in the management of the case. Interested parties may find guidelines published by organizations, such as the American Law Institute and the International Insolvency Institute, helpful in crafting agreements or protocols to apply in a particular case.

Changes Made After Publication. No changes since publication.

COMMITTEE NOTES ON RULES—2024 AMENDMENT

The language of Rule 5012 has been amended as part of the general restyling of the Bankruptcy Rules to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only.

PART VI—COLLECTING AND LIQUIDATING THE ESTATE

Rule 6001. Burden of Proving the Validity of a Postpetition Transfer

An entity that asserts the validity of a postpetition transfer under §549 has the burden of proof.

(As amended Apr. 2, 2024, eff. Dec. 1, 2024.)

NOTES OF ADVISORY COMMITTEE ON RULES—1983

This rule is derived from former Bankruptcy Rule 603. The Act contained, in §70d, a provision placing the burden of proof on the same person as did Rule 603. The Code does not contain any directive with respect to the burden of proof. This omission, in all probability, resulted from the intention to leave matters affecting evidence to these rules. See H. Rep. No. 95–595, 95th Cong. 1st Sess. (1977) 293.

COMMITTEE NOTES ON RULES—2024 AMENDMENT

The language of Rule 6001 has been amended as part of the general restyling of the Bankruptcy Rules to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only.

Rule 6002. Custodian's Report to the United States Trustee

(a) CUSTODIAN'S REPORT AND ACCOUNT. A custodian required by the Code to deliver property to the trustee must promptly file and send to the United States trustee a report and account about the property of the estate and its administration.

(b) EXAMINING THE ADMINISTRATION. After the custodian's report and account has been filed and the superseded administration has been examined, the court must, after notice and a hearing, determine whether the custodian's administration has been proper, including whether disbursements have been reasonable.

(As amended Mar. 30, 1987, eff. Aug. 1, 1987; Apr. 30, 1991, eff. Aug. 1, 1991; Apr. 22, 1993, eff. Aug. 1, 1993; Apr. 2, 2024, eff. Dec. 1, 2024.)

NOTES OF ADVISORY COMMITTEE ON RULES—1983

"Custodian" is defined in §101(10) [now 101(11)] of the Code. The definition includes a trustee or receiver appointed in proceedings not under the Code, as well as an assignee for the benefit of creditors.

This rule prescribes the procedure to be followed by a custodian who under §543 of the Code is required to deliver property to the trustee and to account for its disposition. The examination under subdivision (b) may be initiated (1) on the motion of the custodian required to account under subdivision (a) for an approval of his account and discharge thereon, (2) on the motion of, or the filing of an objection to the custodian's account by, the trustee or any other party in interest, or (3) on the court's own initiative. Rule 9014 applies to any contested matter arising under this rule.

Section 543(d) is similar to an abstention provision. It grants the bankruptcy court discretion to permit the custodian to remain in possession and control of the property. In that event, the custodian is excused from complying with §543(a)–(c) and thus would not be required to turn over the property to the trustee. When there is no duty to turn over to the trustee, Rule 6002 would not be applicable.

NOTES OF ADVISORY COMMITTEE ON RULES—1991 AMENDMENT

This rule is amended to enable the United States trustee to review, object to, or to otherwise be heard regarding the custodian's report and accounting. See §§307 and 543 of the Code.

NOTES OF ADVISORY COMMITTEE ON RULES—1993 AMENDMENT

Subdivision (b) is amended to conform to the language of §102(1) of the Code.

COMMITTEE NOTES ON RULES—2024 AMENDMENT

The language of Rule 6002 has been amended as part of the general restyling of the Bankruptcy Rules to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only.

Rule 6003. Prohibition on Granting Certain Applications and Motions Made Immediately After the Petition Is Filed

(a) IN GENERAL. Unless relief is needed to avoid immediate and irreparable harm, the court must not, within 21 days after the petition is filed, grant an application or motion to:

(1) employ a professional person under Rule 2014;

(2) use, sell, or lease property of the estate, including a motion to pay all or a part of a claim that arose before the petition was filed;

(3) incur any other obligation regarding the property of the estate; or

(4) assume or assign an executory contract or unexpired lease under §365.

(b) EXCEPTION. This rule does not apply to a motion under Rule 4001.

(Added Apr. 30, 2007, eff. Dec. 1, 2007; amended Mar. 26, 2009, eff. Dec. 1, 2009; Apr. 26, 2011, eff. Dec. 1, 2011; Apr. 2, 2024, eff. Dec. 1, 2024.)

NOTES OF ADVISORY COMMITTEE ON RULES—1991

This rule [Former Rule 6003—Disbursement of Money of the Estate (Abrogated Apr. 30, 1991, eff. Aug. 1, 1991)] is abrogated in view of the role of the United States trustee in supervising trustees. Use of estate funds by a trustee or debtor in possession is governed by §363 of the Code.

COMMITTEE NOTES ON RULES—2007

There can be a flurry of activity during the first days of a bankruptcy case. This activity frequently takes place prior to the formation of a creditors' committee, and it also can include substantial amounts of materials for the court and parties in interest to review and evaluate. This rule is intended to alleviate some of the time pressures present at the start of a case so that full and close consideration can be given to matters that may have a fundamental impact on the case.

The rule provides that the court cannot grant relief on applications for the employment of professional

persons, motions for the use, sale, or lease of property of the estate other than such a motion under Rule 4001, and motions to assume or assign executory contracts and unexpired leases for the first 20 days of the case, unless granting relief is necessary to avoid immediate and irreparable harm. This standard is taken from Rule 4001(b)(2) and (c)(2), and decisions under those provisions should provide guidance for the application of this provision.

This rule does not govern motions and applications made more than 20 days after the filing of the petition.

Changes After Publication. Subdivision (c) was amended by deleting the reference to the rejection of executory contracts or unexpired leases. The rule, as revised, now limits only the assumption or assignment of executory contracts or unexpired leases in that subdivision.

COMMITTEE NOTES ON RULES—2009 AMENDMENT

The rule is amended to implement changes in connection with the amendment to Rule 9006(a) and the manner by which time is computed under the rules. The deadline in the rule is amended to substitute a deadline that is a multiple of seven days. Throughout the rules, deadlines are amended in the following manner:

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

COMMITTEE NOTES ON RULES—2011 AMENDMENT

The rule is amended to clarify that it limits the timing of the entry of certain orders, but does not prevent the court from providing an effective date for such an order that may relate back to the time of the filing of the application or motion, or to some other date. For example, while the rule prohibits, absent immediate and irreparable harm, the court from authorizing the employment of counsel during the first 21 days of a case, it does not prevent the court from providing in an order entered after expiration of the 21-day period that the relief requested in the motion or application is effective as of a date earlier than the issuance of the order. Nor does it prohibit the filing of an application or motion for relief prior to expiration of the 21-day period. Nothing in the rule prevents a professional from representing the trustee or a debtor in possession pending the approval of an application for the approval of the employment under Rule 2014.

The amendment also clarifies that the scope of the rule is limited to granting the specifically identified relief set out in the subdivisions of the rule. Deleting "regarding" from the rule clarifies that the rule does not prohibit the court from entering orders in the first 21 days of the case that may relate to the motions and applications set out in (a), (b), and (c); it is only prohibited from granting the relief requested by those motions or applications. For example, in the first 21 days of the case, the court could grant the relief requested in a motion to establish bidding procedures for the sale of property of the estate, but it could not, absent immediate and irreparable harm, grant a motion to approve the sale of property.

Changes Made After Publication. Minor stylistic changes were made to the Committee Note following publication.

COMMITTEE NOTES ON RULES—2024 AMENDMENT

The language of Rule 6003 has been amended as part of the general restyling of the Bankruptcy Rules to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only.

Rule 6004. Use, Sale, or Lease of Property

(a) NOTICE.

(1) *In General*. Notice of a proposed use, sale, or lease of property that is not in the ordinary course of business must be given:

(A) under Rule 2002(a)(2), (c)(1), (i), and (k); and

(B) in accordance with §363(b)(2), if applicable.

(2) *Exceptions*. Notice is not required if (d) applies or the proposal involves cash collateral only.

(b) OBJECTION. Except as provided in (c) and (d), an objection to a proposed use, sale, or lease

of property must be filed and served at least 7 days before the date set for the proposed action or within the time set by the court. Rule 9014 governs the objection.

(c) MOTION TO SELL PROPERTY FREE AND CLEAR OF LIENS AND OTHER INTERESTS; OBJECTION. A motion for authority to sell property free and clear of liens or other interests must be made in accordance with Rule 9014 and served on the parties who have the liens or other interests. The notice required by (a) must include:

(1) the date of the hearing on the motion; and

(2) the time to file and serve an objection on the debtor in possession or trustee.

(d) NOTICE OF AN INTENT TO SELL PROPERTY VALUED AT LESS THAN $2,500; OBJECTION. If all the nonexempt property of the estate—in the aggregate—has a gross value less than $2,500, a notice of an intent to sell the property that is not in the ordinary course of business must be given to:

- all creditors;
- all indenture trustees;
- any committees appointed or elected under the Code;
- the United States trustee; and
- other persons as the court orders.

A party in interest may file and serve an objection within 14 days after the notice is mailed or within the time set by the court. Rule 9014 governs the objection.

(e) NOTICE OF A HEARING ON AN OBJECTION. The date of a hearing on an objection under (b) or (d) may be set in the notice under (a).

(f) CONDUCTING A SALE THAT IS NOT IN THE ORDINARY COURSE OF BUSINESS.

(1) *Public Auction or Private Sale.*

(A) *Itemized Statement Required*. A sale that is not in the ordinary course of business may be made by public auction or private sale. Unless it is impracticable, when the sale is completed, an itemized statement must be filed that shows:

- the property sold;
- the name of each purchaser; and
- the consideration received for each item or lot or, if sold in bulk, for the entire property.

(B) *If by an Auctioneer*. If the property is sold by an auctioneer, the auctioneer must file the itemized statement and send a copy to the United States trustee and to either the trustee, debtor in possession, or Chapter 13 debtor.

(C) *If Not by an Auctioneer*. If the property is not sold by an auctioneer, the trustee, debtor in possession, or Chapter 13 debtor must file the itemized statement and send a copy to the United States trustee.

(2) *Signing the Sale Documents*. When a sale is complete, the debtor, trustee, or debtor in possession must sign any document that is necessary or court-ordered to transfer the property to the purchaser.

(g) SELLING PERSONALLY IDENTIFIABLE INFORMATION.

(1) *Request for a Consumer-Privacy Ombudsman*. A motion for authority to sell or lease personally identifiable information under §363(b)(1)(B) must include a request for an order directing the United States trustee to appoint a consumer-privacy ombudsman under §332. Rule 9014 governs the motion. It must be sent to the United States trustee and served on:

- any committee elected under §705 or appointed under §1102;
- in a Chapter 11 case in which no committee of unsecured creditors has been appointed under §1102, on the creditors included on the list filed under Rule 1007(d); and
- other entities as the court orders.

(2) *Notice That an Ombudsman Has Been Appointed*. If a consumer-privacy ombudsman is appointed, the United States trustee must give notice of the appointment at least 7 days before the hearing on any motion under §363(b)(1)(B). The notice must give the name and address of the person appointed and include the person's verified statement that sets forth any connection with:

- the debtor, creditors, or any other party in interest;
- their respective attorneys and accountants;
- the United States trustee; and
- any person employed in the United States trustee's office.

(h) STAYING AN ORDER AUTHORIZING THE USE, SALE, OR LEASE OF PROPERTY. Unless the court orders otherwise, an order authorizing the use, sale, or lease of property (other than cash collateral) is stayed for 14 days after the order is entered.

(As amended Mar. 30, 1987, eff. Aug. 1, 1987; Apr. 30, 1991, eff. Aug. 1, 1991; Apr. 26, 1999, eff. Dec. 1, 1999; Apr. 23, 2008, eff. Dec. 1, 2008; Mar. 26, 2009, eff. Dec. 1, 2009; Apr. 2, 2024, eff. Dec. 1, 2024.)

NOTES OF ADVISORY COMMITTEE ON RULES—1983

Subdivisions (a) and (b). Pursuant to §363(b) of the Code, a trustee or debtor in possession may use, sell, or lease property other than in the ordinary course of business only after notice and hearing. Rule 2002(a), (c) and (i) specifies the time when notice of sale is to be given, the contents of the notice and the persons to whom notice is to be given of sales of property. Subdivision (a) makes those provisions applicable as well to notices for proposed use and lease of property.

The Code does not provide the time within which parties may file objections to a proposed sale. Subdivision (b) of the rule requires the objection to be in writing and filed not less than five days before the proposed action is to take place. The objection should also be served within that time on the person who is proposing to take the action which would be either the trustee or debtor in possession. This time period is subject to change by the court. In some instances there is a need to conduct a sale in a short period of time and the court is given discretion to tailor the requirements to the circumstances.

Subdivision (c). In some situations a notice of sale for different pieces of property to all persons specified in Rule 2002(a) may be uneconomic and inefficient. This is particularly true in some chapter 7 liquidation cases when there is property of relatively little value which must be sold by the trustee. Subdivision (c) allows a general notice of intent to sell when the aggregate value of the estate's property is less than $2,500. The gross value is the value of the property without regard to the amount of any debt secured by a lien on the property. It is not necessary to give a detailed notice specifying the time and place of a particular sale. Thus, the requirements of Rule 2002(c) need not be met. If this method of providing notice of sales is used, the subdivision specifies that parties in interest may serve and file objections to the proposed sale of any property within the class and the time for service and filing is fixed at not later than 15 days after mailing the notice. The court may fix a different time. Subdivision (c) would have little utility in chapter 11 cases. Pursuant to Rule 2002(i), the court can limit notices of sale to the creditors' committee appointed under §1102 of the Code and the same burdens present in a small chapter 7 case would not exist.

Subdivision (d). If a timely objection is filed, a hearing is required with respect to the use, sale, or lease of property. Subdivision (d) renders the filing of an objection tantamount to requesting a hearing so as to require a hearing pursuant to §§363(b) and 102(l)(B)(i).

Subdivision (e) is derived in part from former Bankruptcy Rule 606(b) but does not carry forward the requirement of that rule that court approval be obtained for sales of property. Pursuant to §363(b) court approval is not required unless timely objection is made to the proposed sale. The itemized statement or information required by the subdivision is not necessary when it would be impracticable to prepare it or set forth the information. For example, a liquidation sale of retail goods although not in the ordinary course of business may be on a daily ongoing basis and only summaries may be available.

The duty imposed by paragraph (2) does not affect the power of the bankruptcy court to order third persons to execute instruments transferring property purchased at a sale under this subdivision. See, *e.g.*, *In re Rosenberg*, 138 F.2d 409 (7th Cir. 1943).

NOTES OF ADVISORY COMMITTEE ON RULES—1987 AMENDMENT

Subdivision (a) is amended to conform to the 1984 amendments to §363(b)(2) of the Code.

Subdivision (b) is amended to provide that an objection to a proposed use, sale, or lease of property creates a contested matter governed by Rule 9014. A similar amendment is made to subdivision (d), which was

formerly subdivision (c).

Subdivision (c) is new. Section 363(f) provides that sales free and clear of liens or other interests are only permitted if one of the five statutory requirements is satisfied. Rule 9013 requires that a motion state with particularity the grounds relied upon by the movant. A motion for approval of a sale free and clear of liens or other interests is subject to Rule 9014, service must be made on the parties holding liens or other interests in the property, and notice of the hearing on the motion and the time for filing objections must be included in the notice given under subdivision (a).

NOTES OF ADVISORY COMMITTEE ON RULES—1991 AMENDMENT

This rule is amended to provide notice to the United States trustee of a proposed use, sale or lease of property not in the ordinary course of business. See Rule 2002(k). Subdivision (f)(1) is amended to enable the United States trustee to monitor the progress of the case in accordance with 28 U.S.C. §586(a)(3)(G).

The words "with the clerk" in subdivision (f)(1) are deleted as unnecessary. See Rules 5005(a) and 9001(3).

COMMITTEE NOTES ON RULES—1999 AMENDMENT

Subdivision (g) is added to provide sufficient time for a party to request a stay pending appeal of an order authorizing the use, sale, or lease of property under §363(b) of the Code before the order is implemented. It does not affect the time for filing a notice of appeal in accordance with Rule 8002.

Rule 6004(g) does not apply to orders regarding the use of cash collateral and does not affect the trustee's right to use, sell, or lease property without a court order to the extent permitted under §363 of the Code.

The court may, in its discretion, order that Rule 6004(g) is not applicable so that the property may be used, sold, or leased immediately in accordance with the order entered by the court. Alternatively, the court may order that the stay under Rule 6004(g) is for a fixed period less than 10 days.

GAP Report on Rule 6004. No changes since publication.

COMMITTEE NOTES ON RULES—2008 AMENDMENT

The rule is amended by inserting a new subdivision (g) to implement §§332 and 363(b)(1)(B) of the Code, added by the 2005 amendments. This rule governs the proposed transfer of personally identifiable information in a manner inconsistent with any policy covering the transfer of the information. Rule 2002(c)(1) requires the seller to state in the notice of the sale or lease whether the transfer is consistent with and policy governing the transfer of the information.

Under §332 of the Code, the consumer privacy ombudsman must be appointed at least five days prior to the hearing on a sale or lease of personally identifiable information. In an appropriate case, the consumer privacy ombudsman may seek a continuance of the hearing on the proposed sale to perform the tasks required of the ombudsman by §332 of the Code.

Former subdivision (g) is redesignated as subdivision (h).

Changes Made After Publication. The Committee Note was amended to highlight the connection between this rule and Rule 2002 with regard to the obligation to provide notice of proposed transactions. It was also amended to recognize the ability of the consumer privacy ombudsman to seek a continuance of a hearing on the proposed sale of personally identifiable information.

COMMITTEE NOTES ON RULES—2009 AMENDMENT

The rule is amended to implement changes in connection with the amendment to Rule 9006(a) and the manner by which time is computed under the rules. The deadlines in the rule are amended to substitute a deadline that is a multiple of seven days. Throughout the rules, deadlines are amended in the following manner:

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

COMMITTEE NOTES ON RULES—2024 AMENDMENT

The language of Rule 6004 has been amended as part of the general restyling of the Bankruptcy Rules to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only.

Rule 6005. Employing an Appraiser or Auctioneer

A court order approving the employment of an appraiser or auctioneer must set the amount or rate of compensation. An officer or employee of the United States judiciary or United States Department of Justice is not eligible to act as an appraiser or auctioneer. No residence or licensing requirement disqualifies a person from being so employed.

(As amended Apr. 30, 1991, eff. Aug. 1, 1991; Apr. 2, 2024, eff. Dec. 1, 2024.)

NOTES OF ADVISORY COMMITTEE ON RULES—1983

This rule is derived from former Bankruptcy Rule 606(c) and implements §327 of the Code. Pursuant to §327, the trustee or debtor in possession may employ one or more appraisers or auctioneers, subject to court approval. This rule requires the court order approving such employment to fix the amount or rate of compensation. The second sentence of the former rule is retained to continue to safeguard against imputations of favoritism which detract from public confidence in bankruptcy administration. The final sentence is to guard against imposition of parochial requirements not warranted by any consideration having to do with sound bankruptcy administration.

Reference should also be made to Rule 2013(a) regarding the limitation on employment of appraisers and auctioneers, and Rule 2014(a) regarding the application for appointment of an appraiser or auctioneer.

COMMITTEE NOTES ON RULES—2024 AMENDMENT

The language of Rule 6005 has been amended as part of the general restyling of the Bankruptcy Rules to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only.

Rule 6006. Assuming, Rejecting, or Assigning an Executory Contract or Unexpired Lease

(a) PROCEDURE IN GENERAL. Rule 9014 governs a proceeding to assume, reject, or assign an executory contract or unexpired lease, other than as part of a plan.

(b) REQUIRING A TRUSTEE, DEBTOR IN POSSESSION, OR DEBTOR TO ASSUME OR REJECT A CONTRACT OR LEASE. In a Chapter 9, 11, 12, or 13 case, Rule 9014 governs a proceeding by a party to an executory contract or unexpired lease to require the trustee, debtor in possession, or debtor to determine whether to assume or reject the contract or lease.

(c) NOTICE OF A MOTION. Notice of a motion under (a) or (b) must be given to:

- the other party to the contract or lease;
- other parties in interest as the court orders; and
- except in a Chapter 9 case, the United States trustee.

(d) STAYING AN ORDER AUTHORIZING AN ASSIGNMENT. Unless the court orders otherwise, an order authorizing the trustee to assign an executory contract or unexpired lease under §365(f) is stayed for 14 days after the order is entered.

(e) COMBINING IN ONE MOTION A REQUEST INVOLVING MULTIPLE CONTRACTS OR LEASES.

(1) *Requests to Assume or Assign*. The trustee must not seek authority to assume or assign multiple executory contracts or unexpired leases in one omnibus motion unless:

(A) they are all between the same parties or are to be assigned to the same assignee;

(B) the trustee seeks to assume—but not assign to more than one assignee—unexpired leases of real property; or

(C) the court allows the motion to be filed.

(2) *Requests to Reject*. Subject to (f), a trustee may join in one omnibus motion requests for authority to reject multiple executory contracts or unexpired leases.

(f) CONTENT OF AN OMNIBUS MOTION. A motion to reject—or, if permitted under (e), a motion to assume or assign—multiple executory contracts or unexpired leases that are not between

the same parties must:

(1) state in a conspicuous place that the parties' names and their contracts or leases are listed in the motion;

(2) list the parties alphabetically and identify the corresponding contract or lease;

(3) specify the terms, including how a default will be cured, for each requested assumption or assignment;

(4) specify the terms, including the assignee's identity and the adequate assurance of future performance by each assignee, for each requested assignment;

(5) be numbered consecutively with other omnibus motions to reject, assume, or assign executory contracts or unexpired leases; and

(6) be limited to no more than 100 executory contracts or unexpired leases.

(g) DETERMINING THE FINALITY OF AN ORDER REGARDING AN OMNIBUS MOTION. The finality of an order regarding any executory contract or unexpired lease included in an omnibus motion must be determined as though the contract or lease were the subject of a separate motion.

(As amended Mar. 30, 1987, eff. Aug. 1, 1987; Apr. 30, 1991, eff. Aug. 1, 1991; Apr. 22, 1993, eff. Aug. 1, 1993; Apr. 26, 1999, eff. Dec. 1, 1999; Apr. 30, 2007, eff. Dec. 1, 2007; Mar. 26, 2009, eff. Dec. 1, 2009; Apr. 2, 2024, eff. Dec. 1, 2024.)

NOTES OF ADVISORY COMMITTEE ON RULES—1983

Section 365(a) of the Code requires court approval for the assumption or rejection of an executory contract by the trustee or debtor in possession. The trustee or debtor in possession may also assign an executory contract, §365(f)(1), but must first assume the contract, §365(f)(2). Rule 6006 provides a procedure for obtaining court approval. It does not apply to the automatic rejection of contracts which are not assumed in chapter 7 liquidation cases within 60 days after the order for relief, or to the assumption or rejection of contracts in a plan pursuant to §1123(b)(2) or §1322(b)(7).

Subdivision (a) by referring to Rule 9014 requires a motion to be brought for the assumption, rejection, or assignment of an executory contract. Normally, the motion will be brought by the trustee, debtor in possession or debtor in a chapter 9 or chapter 13 case. The authorization to assume a contract and to assign it may be sought in a single motion and determined by a single order.

Subdivision (b) makes applicable the same motion procedure when the other party to the contract seeks to require the chapter officer to take some action. Section 365(d)(2) recognizes that this procedure is available to these contractual parties. This provision of the Code and subdivision of the rule apply only in chapter 9, 11 and 13 cases. A motion is not necessary in chapter 7 cases because in those cases a contract is deemed rejected if the trustee does not timely assume it.

Subdivision (c) provides for the court to set a hearing on a motion made under subdivision (a) or (b). The other party to the contract should be given appropriate notice of the hearing and the court may order that other parties in interest, such as a creditors' committee, also be given notice.

NOTES OF ADVISORY COMMITTEE ON RULES—1987 AMENDMENT

Subdivisions (a) and (b) are amended to conform to the 1984 amendment to §365 of the Code, which governs assumption or rejection of time share interests.

Section 1113, governing collective bargaining agreements, was added to the Code in 1984. It sets out requirements that must be met before a collective bargaining agreement may be rejected. The application to reject a collective bargaining agreement referred to in §1113 shall be made by motion. The motion to reject creates a contested matter under Rule 9014, and service is made pursuant to Rule 7004 on the representative of the employees. The time periods set forth in §1113(d) govern the scheduling of the hearing and disposition of a motion to reject the agreement.

NOTES OF ADVISORY COMMITTEE ON RULES—1991 AMENDMENT

References to time share interests are deleted as unnecessary. Time share interests are within the scope of this rule to the extent that they are governed by §365 of the Code.

Subdivision (b) is amended to include chapter 12 cases.

Subdivision (c) is amended to enable the United States trustee to appear and be heard on the issues relating to the assumption or rejection of executory contracts and unexpired leases. See §§307, 365, and 1113 of the Code.

NOTES OF ADVISORY COMMITTEE ON RULES—1993 AMENDMENT

This rule is amended to delete the requirement for an actual hearing when no request for a hearing is made. See Rule 9014.

COMMITTEE NOTES ON RULES—1999 AMENDMENT

Subdivision (d) is added to provide sufficient time for a party to request a stay pending appeal of an order authorizing the assignment of an executory contract or unexpired lease under §365(f) of the Code before the assignment is consummated. The stay under subdivision (d) does not affect the time for filing a notice of appeal in accordance with Rule 8002.

The court may, in its discretion, order that Rule 6006(d) is not applicable so that the executory contract or unexpired lease may be assigned immediately in accordance with the order entered by the court. Alternatively, the court may order that the stay under Rule 6006(d) is for a fixed period less than 10 days.

GAP Report on Rule 6006. No changes since publication.

COMMITTEE NOTES ON RULES—2007 AMENDMENT

The rule is amended to authorize the use of omnibus motions to reject multiple executory contracts and unexpired leases. In some cases there may be numerous executory contracts and unexpired leases, and this rule permits the combining of up to one hundred of these contracts and leases in a single motion to initiate the contested matter.

The rule also is amended to authorize the use of a single motion to assume or assign executory contracts and unexpired leases (i) when such contracts and leases are with a single nondebtor party, (ii) when such contracts and leases are being assigned to the same assignee, (iii) when the trustee proposes to assume, but not assign to more than one assignee, real property leases, or (iv) the court authorizes the filing of a joint motion to assume or to assume and assign executory contracts and unexpired leases under other circumstances that are not specifically recognized in the rule.

An omnibus motion to assume, assign, or reject multiple executory contracts and unexpired leases must comply with the procedural requirements set forth in subdivision (f) of the rule, unless the court orders otherwise. These requirements are intended to ensure that the nondebtor parties to the contracts and leases receive effective notice of the motion. Among those requirements is the requirement in subdivision (f)(5) that these motions be consecutively numbered (*e.g.*, Debtor in Possession's First Omnibus Motion for Authority to Assume Executory Contracts and Unexpired Leases, Debtor in Possession's Second Omnibus Motion for Authority to Assume Executory Contracts and Unexpired Leases, etc.). There may be a need for several of these motions in a particular case. Numbering the motions consecutively is essential to keep track of these motions on the court's docket and should avoid confusion that might otherwise result from similar or identically-titled motions.

Subdivision (g) of the rule provides that the finality of any order respecting an executory contract or unexpired lease included in an omnibus motion shall be determined as though such contract or lease had been the subject of a separate motion. A party seeking to appeal any such order is neither required, nor permitted, to await the court's resolution of all other contracts or leases included in the omnibus motion to obtain appellate review of the order. The rule permits the listing of multiple contracts or leases for convenience, and that convenience should not impede timely review of the court's decision with respect to each contract or lease.

Changes After Publication. Subdivision (e) of the proposed rule was amended as suggested by the NBC to insert a third category of requests that the trustee may make under an omnibus motion. The list of categories was numbered, and the new category is set out in (e)(2).

COMMITTEE NOTES ON RULES—2009 AMENDMENT

The rule is amended to implement changes in connection with the amendment to Rule 9006(a) and the manner by which time is computed under the rules. The deadline in the rule is amended to substitute a deadline that is a multiple of seven days. Throughout the rules, deadlines are amended in the following manner:

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

COMMITTEE NOTES ON RULES—2024 AMENDMENT

The language of Rule 6006 has been amended as part of the general restyling of the Bankruptcy Rules to make them more easily understood and to make style and terminology consistent throughout the rules. These

changes are intended to be stylistic only.

Rule 6007. Abandoning or Disposing of Property

(a) NOTICE BY THE TRUSTEE OR DEBTOR IN POSSESSION.

(1) *In General*. Unless the court orders otherwise, the trustee or debtor in possession must give notice of a proposed abandonment or disposition of property to:

- all creditors;
- all indenture trustees;
- any committees appointed or elected under the Code; and
- the United States trustee.

(2) *Objection*. A party in interest may file and serve an objection within 14 days after the notice is mailed or within the time set by the court. If a timely objection is filed, the court must set a hearing on notice to the United States trustee and other entities as the court orders.

(b) MOTION BY A PARTY IN INTEREST.

(1) *Service*. A party in interest may file and serve a motion to require the trustee or debtor in possession to abandon property of the estate. Unless the court orders otherwise, the motion (and any notice of it) must be served on:

- the trustee or debtor in possession;
- all creditors;
- all indenture trustees;
- any committees appointed or elected under the Code; and
- the United States trustee.

(2) *Objection*. A party in interest may file and serve an objection within 14 days after service or within the time set by the court. If a timely objection is filed, the court must set a hearing on notice to the United States trustee and other entities as the court orders.

(3) *Order*. Unless the court orders otherwise, an order granting the motion to abandon property effects the trustee's or debtor in possession's abandonment without further notice.

(As amended Mar. 30, 1987, eff. Aug. 1, 1987; Apr. 30, 1991, eff. Aug. 1, 1991; Apr. 22, 1993, eff. Aug. 1, 1993; Mar. 26, 2009, eff. Dec. 1, 2009; Apr. 25, 2019, eff. Dec. 1, 2019; Apr. 2, 2024, eff. Dec. 1, 2024.)

NOTES OF ADVISORY COMMITTEE ON RULES—1983

Sections 554 and 725 of the Code permit and require abandonment and disposition of property of the estate. Pursuant to §554, the trustee may abandon property but only after notice and hearing. This section is applicable in chapter 7, 11 and 13 cases. Section 725 requires the trustee to dispose of property in which someone other than the estate has an interest, prior to final distribution. It applies only in chapter 7 cases. Notice and hearing are also required conditions. Section 102(1) provides that "notice and hearing" is construed to mean appropriate notice and an opportunity for a hearing. Neither §554 nor §725 specify to whom the notices are to be sent. This rule does not apply to §554(c). Pursuant to that subsection, property is deemed abandoned if it is not administered. A hearing is not required by the statute.

Subdivision (a) requires the notices to be sent to all creditors, indenture trustees, and committees elected under §705 or appointed under §1102 of the Code. This may appear burdensome, expensive and inefficient but the subdivision is in keeping with the Code's requirement for notice and the Code's intent to remove the bankruptcy judge from undisputed matters. The burden, expense and inefficiency can be alleviated in large measure by incorporating the notice into or together with the notice of the meeting of creditors so that separate notices would not be required.

Subdivision (b) implements §554(b) which specifies that a party in interest may request an order that the trustee abandon property. The rule specifies that the request be by motion and, pursuant to the Code, lists the parties who should receive notice.

Subdivision (c) requires a hearing when an objection under subdivision (a) is filed or a motion under

subdivision (b) is made. Filing of an objection is sufficient to require a hearing; a separate or joined request for a hearing is unnecessary since the objection itself is tantamount to such a request.

NOTES OF ADVISORY COMMITTEE ON RULES—1991 AMENDMENT

This rule is amended to conform to the 1986 amendments to 28 U.S.C. §586(a) and to the Code. The United States trustee monitors the progress of the case and has standing to raise, appear and be heard on the issues relating to the abandonment or other disposition of property. See §§307 and 554 of the Code. Committees of retired employees appointed under §1114 are not entitled to notice under subdivision (a) of this rule.

NOTES OF ADVISORY COMMITTEE ON RULES—1993 AMENDMENT

This rule is amended to clarify that when a motion is made pursuant to subdivision (b), a hearing is not required if a hearing is not requested or if there is no opposition to the motion. See Rule 9014. Other amendments are stylistic and make no substantive change.

COMMITTEE NOTES ON RULES—2009 AMENDMENT

The rule is amended to implement changes in connection with the amendment to Rule 9006(a) and the manner by which time is computed under the rules. The deadline in the rule is amended to substitute a deadline that is a multiple of seven days. Throughout the rules, deadlines are amended in the following manner:

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

COMMITTEE NOTES ON RULES—2019 AMENDMENT

Subdivision (b) of the rule is amended to specify the parties to be served with the motion and any notice of the motion. The rule also establishes an objection deadline. Both of these changes align subdivision (b) more closely with the procedures set forth in subdivision (a). In addition, the rule clarifies that no further action is necessary to notice or effect the abandonment of property ordered by the court in connection with a motion filed under subdivision (b), unless the court directs otherwise.

COMMITTEE NOTES ON RULES—2024 AMENDMENT

The language of Rule 6007 has been amended as part of the general restyling of the Bankruptcy Rules to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only.

Rule 6008. Redeeming Property from a Lien or a Sale to Enforce a Lien

On motion by the debtor, trustee, or debtor in possession and after a hearing on notice as the court may order, the court may authorize property to be redeemed from a lien or from a sale to enforce a lien under applicable law.

(As amended Apr. 2, 2024, eff. Dec. 1, 2024.)

NOTES OF ADVISORY COMMITTEE ON RULES—1983

This rule is derived from former Bankruptcy Rule 609. No provision in the Code addresses the trustee's right of redemption. Ordinarily the secured creditor should be given notice of the trustee's motion so that any objection may be raised to the proposed redemption.

The rule applies also to a debtor exercising a right of redemption pursuant to §722. A proceeding under that section is governed by Rule 9014.

COMMITTEE NOTES ON RULES—2024 AMENDMENT

The language of Rule 6008 has been amended as part of the general restyling of the Bankruptcy Rules to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only.

Rule 6009. Right of the Trustee or Debtor in Possession to Prosecute and Defend Proceedings

With or without court approval, the trustee or debtor in possession may:

(a) prosecute—or appear in and defend—any pending action or proceeding by or against the debtor; or

(b) commence and prosecute in any tribunal an action or proceeding on the estate's behalf.

(As amended Apr. 2, 2024, eff. Dec. 1, 2024.)

NOTES OF ADVISORY COMMITTEE ON RULES—1983

This rule is derived from former Bankruptcy Rule 610.

COMMITTEE NOTES ON RULES—2024 AMENDMENT

The language of Rule 6009 has been amended as part of the general restyling of the Bankruptcy Rules to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only.

Rule 6010. Avoiding an Indemnifying Lien or a Transfer to a Surety

This rule applies if a lien voidable under §547 has been dissolved by furnishing a bond or other obligation, and the surety has been indemnified by the transfer of or creation of a lien on the debtor's nonexempt property. The surety must be joined as a defendant in any proceeding to avoid that transfer or lien. Part VII governs the proceeding.

(As amended Apr. 30, 1991, eff. Aug. 1, 1991; Apr. 2, 2024, eff. Dec. 1, 2024.)

NOTES OF ADVISORY COMMITTEE ON RULES—1983

This rule is derived from former Bankruptcy Rule 612.

NOTES OF ADVISORY COMMITTEE ON RULES—1991 AMENDMENT

This rule is amended to conform to §550(a) of the Code which provides that the trustee may recover the property transferred in a voidable transfer. The value of the property may be recovered in lieu of the property itself only if the court so orders.

COMMITTEE NOTES ON RULES—2024 AMENDMENT

The language of Rule 6010 has been amended as part of the general restyling of the Bankruptcy Rules to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only.

Rule 6011. Claiming Patient Records Scheduled for Destruction in a Health-Care-Business Case

(a) NOTICE BY PUBLICATION ABOUT THE RECORDS. A notice by publication about destroying or claiming patient records under §351(1)(A) must not identify any patient by name or contain other identifying information. The notice must:

(1) identify with particularity the health-care facility whose patient records the trustee proposes to destroy;

(2) state the name, address, telephone number, email address, and website (if any) of the person from whom information about the records may be obtained;

(3) state how to claim the records and the final date for doing so; and

(4) state that if they are not claimed by that date, they will be destroyed.

(b) NOTICE BY MAIL ABOUT THE RECORDS.

(1) *Required Information*. Subject to applicable nonbankruptcy law relating to patient privacy, a notice by mail about destroying or claiming patient records under §351(1)(B) must:

(A) include the information described in (a); and

(B) direct a family member or other representative who receives the notice to tell the patient about it.

(2) *Mailing*. The notice must be mailed to:

- the patient;
- any family member or other contact person whose name and address have been given to the trustee or debtor for providing information about the patient's health care;
- the Attorney General of the State where the health-care facility is located; and
- any insurance company known to have provided health-care insurance to the patient.

(c) PROOF OF COMPLIANCE WITH NOTICE REQUIREMENTS. Unless the court orders the trustee to file a proof of compliance with §351(1)(B) under seal, the trustee must keep the proof of compliance for a reasonable time but not file it.

(d) REPORT ON THE DESTRUCTION OF UNCLAIMED RECORDS. Within 30 days after a patient's unclaimed records have been destroyed under §351(3), the trustee must file a report that certifies the destruction and explains the method used. The report must not identify any patient by name or by other identifying information.

(Added Apr. 23, 2008, eff. Dec. 1, 2008; amended Apr. 2, 2024, eff. Dec. 1, 2024.)

COMMITTEE NOTES ON RULES—2008

This rule is new. It implements §351(1), which was added to the Code by the 2005 amendments. That provision requires the trustee to notify patients that their patient records will be destroyed if they remain unclaimed for one year after the publication of a notice in an appropriate newspaper. The Code provision also requires that individualized notice be sent to each patient and to the patient's family member or other contact person.

The variety of health care businesses and the range of current and former patients present the need for flexibility in the creation and publication of the notices that will be given. Nevertheless, there are some matters that must be included in any notice being given to patients, their family members, and contact persons to ensure that sufficient information is provided to these persons regarding the trustee's intent to dispose of patient records. Subdivision (a) of this rule lists the minimum requirements for notices given under §351(1)(A), and subdivision (b) governs the form of notices under §351(1)(B). Notices given under this rule are subject to provisions under applicable federal and state law that relate to the protection of patients' privacy, such as the Health Insurance Portability and Accountability Act of 1996, Pub. L. No. 104–191 (HIPAA).

Subdivision (c) directs the trustee to maintain proof of compliance with §351(1)(B), but because the proof of compliance may contain patient names that should or must remain confidential, it prohibits filing the proof of compliance unless the court orders the trustee to file it under seal.

Subdivision (d) requires the trustee to file a report with the court regarding the destruction of patient records. This certification is intended to ensure that the trustee properly completed the destruction process. However, because the report will be filed with the court and ordinarily will be available to the public under §107, the names, addresses, and other identifying information of patients are not to be included in the report to protect patient privacy.

Changes Made After Publication. Subdivision (b)(2) was amended to add the Attorney General of the State where a health care facility is located to the list of entities entitled to notice of the disposal of patient records.

COMMITTEE NOTES ON RULES—2024 AMENDMENT

The language of Rule 6011 has been amended as part of the general restyling of the Bankruptcy Rules to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only.

PART VII—ADVERSARY PROCEEDINGS

Rule 7001. Types of Adversary Proceedings

An adversary proceeding is governed by the rules in this Part VII. The following are adversary proceedings:

(a) a proceeding to recover money or property—except a proceeding to compel the debtor to deliver property to the trustee, a proceeding by an individual debtor to recover tangible personal property under §542(a), or a proceeding under §554(b), §725, Rule 2017, or Rule 6002;

(b) a proceeding to determine the validity, priority, or extent of a lien or other interest in property—except a proceeding under Rule 3012 or Rule 4003(d);

(c) a proceeding to obtain authority under §363(h) to sell both the estate's interest in property and that of a co-owner;

(d) a proceeding to revoke or object to a discharge—except an objection under §727(a)(8) or (a)(9), or §1328(f);

(e) a proceeding to revoke an order confirming a plan in a Chapter 11, 12, or 13 case;

(f) a proceeding to determine whether a debt is dischargeable;

(g) a proceeding to obtain an injunction or other equitable relief—except when the relief is provided in a Chapter 9, 11, 12, or 13 plan;

(h) a proceeding to subordinate an allowed claim or interest—except when subordination is provided in a Chapter 9, 11, 12, or 13 plan;

(i) a proceeding to obtain a declaratory judgment related to any proceeding described in (a)–(h); and

(j) a proceeding to determine a claim or cause of action removed under 28 U.S.C. §1452.

(As amended Mar. 30, 1987, eff. Aug. 1, 1987; Apr. 30, 1991, eff. Aug. 1, 1991; Apr. 26, 1999, eff. Dec. 1, 1999; Apr. 28, 2010, eff. Dec. 1, 2010; Apr. 27, 2017, eff. Dec. 1, 2017; Apr. 2, 2024, eff. Dec. 1, 2024.)

NOTES OF ADVISORY COMMITTEE ON RULES—1983

The rules in Part VII govern the procedural aspects of litigation involving the matters referred to in this Rule 7001. Under Rule 9014 some of the Part VII rules also apply to contested matters.

These Part VII rules are based on the premise that to the extent possible practice before the bankruptcy courts and the district courts should be the same. These rules either incorporate or are adaptations of most of the Federal Rules of Civil Procedure. Although the Part VII rules of the former Bankruptcy Rules also relied heavily on the F.R.Civ.P., the former Part VII rules departed from the civil practice in two significant ways: a trial or pretrial conference had to be scheduled as soon as the adversary proceeding was filed and pleadings had to be filed within periods shorter than those established by the F.R.Civ.P. These departures from the civil practice have been eliminated.

The content and numbering of these Part VII rules correlates to the content and numbering of the F.R.Civ.P. Most, but not all, of the F.R.Civ.P. have a comparable Part VII rule. When there is no Part VII rule with a number corresponding to a particular F.R.Civ.P., Parts V and IX of these rules must be consulted to determine if one of the rules in those parts deals with the subject. The list below indicates the F.R.Civ.P., or subdivision thereof, covered by a rule in either Part V or Part IX.

F.R.Civ.P.	Rule in Part V or IX
6	9006
7(b)	9013
10(a)	9004(b)
11	9011
38,39	9015(a)–(e)
47–51	9015(f)
43,44,44.1	9017
45	9016
58	9021

59	9023
60	9024
61	9005
63	9028
77(a),(b),(c)	5001
77(d)	9022(d)
79(a)–(d)	5003
81(c)	9027
83	9029
92	9030

Proceedings to which the rules in Part VII apply directly include those brought to avoid transfers by the debtor under §§544, 545, 547, 548 and 549 of the Code; subject to important exceptions, proceedings to recover money or property; proceedings on bonds under Rules 5008(d) and 9025; proceedings under Rule 4004 to determine whether a discharge in a chapter 7 or 11 case should be denied because of an objection grounded on §727 and proceedings in a chapter 7 or 13 case to revoke a discharge as provided in §§727(d) or 1328(e); and proceedings initiated pursuant to §523(c) of the Code to determine the dischargeability of a particular debt. Those proceedings were classified as adversary proceedings under former Bankruptcy Rule 701.

Also included as adversary proceedings are proceedings to revoke an order of confirmation of a plan in a chapter 11 or 13 case as provided in §§1144 and 1330, to subordinate under §510(c), other than as part of a plan, an allowed claim or interest, and to sell under §363(h) both the interest of the estate and a co-owner in property.

Declaratory judgments with respect to the subject matter of the various adversary proceedings are also adversary proceedings.

Any claim or cause of action removed to a bankruptcy court pursuant to [former] 28 U.S.C. §1478 is also an adversary proceeding.

Unlike former Bankruptcy Rule 701, requests for relief from an automatic stay do not commence an adversary proceeding. Section 362(e) of the Code and Rule 4001 establish an expedited schedule for judicial disposition of requests for relief from the automatic stay. The formalities of the adversary proceeding process and the time for serving pleadings are not well suited to the expedited schedule. The motion practice prescribed in Rule 4001 is best suited to such requests because the court has the flexibility to fix hearing dates and other deadlines appropriate to the particular situation.

Clause (1) contains important exceptions. A person with an interest in property in the possession of the trustee or debtor in possession may seek to recover or reclaim that property under §554(b) or §725 of the Code. Since many attempts to recover or reclaim property under these two sections do not generate disputes, application of the formalities of the Part VII Rules is not appropriate. Also excluded from adversary proceedings is litigation arising from an examination under Rule 2017 of a debtor's payments of money or transfers of property to an attorney representing the debtor in a case under the Code or an examination of a superseded administration under Rule 6002.

Exemptions and objections thereto are governed by Rule 4003. Filing of proofs of claim and the allowances thereof are governed by Rules 3001–3005, and objections to claims are governed by Rule 3007. When an objection to a claim is joined with a demand for relief of the kind specified in this Rule 7001, the matter becomes an adversary proceeding. See Rule 3007.

NOTES OF ADVISORY COMMITTEE ON RULES—1987 AMENDMENT

Another exception is added to clause (1). A trustee may proceed by motion to recover property from the debtor.

NOTES OF ADVISORY COMMITTEE ON RULES—1991 AMENDMENT

Clauses (5) and (8) are amended to include chapter 12 plans.

COMMITTEE NOTES ON RULES—1999 AMENDMENT

This rule is amended to recognize that an adversary proceeding is not necessary to obtain injunctive or other equitable relief that is provided for in a plan under circumstances in which substantive law permits the relief. Other amendments are stylistic.

GAP Report on Rule 7001. No changes since publication, except for stylistic changes.

COMMITTEE NOTES ON RULES—2010 AMENDMENT

Paragraph (4) of the rule is amended to create an exception for objections to discharge under §§727(a)(8), (a)(9), and 1328(f) of the Code. Because objections to discharge on these grounds typically present issues more easily resolved than other objections to discharge, the more formal procedures applicable to adversary proceedings, such as commencement by a complaint, are not required. Instead, objections on these three grounds are governed by Rule 4004(d). In an appropriate case, however, Rule 9014(c) allows the court to order that additional provisions of Part VII of the rules apply to these matters.

Changes Made After Publication. The proposed addition of subsection (b) was deleted, and the content of that provision was moved to Rule 4004(d). The exception in paragraph (4) of the rule was revised to refer to objections to discharge under §§727(a)(8), (a)(9), and 1328(f) of the Code. The redesignation of the existing rule as subdivision (a) was also deleted. The Committee Note was revised to reflect these changes.

COMMITTEE NOTES ON RULES—2017 AMENDMENT

Subdivision (2) is amended to provide that the determination of the amount of a secured claim under Rule 3012, like a proceeding by the debtor to avoid a lien on or other transfer of exempt property under Rule 4003(d), does not require an adversary proceeding. The determination of the amount of a secured claim may be sought by motion or through a chapter 12 or chapter 13 plan in accordance with Rule 3012. An adversary proceeding continues to be required for lien avoidance not governed by Rule 4003(d).

COMMITTEE NOTES ON RULES—2024 AMENDMENT

The language of Rule 7001 has been amended as part of the general restyling of the Bankruptcy Rules to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only.

Additionally, the following substantive changes have been made.

Paragraph (a) is amended to create an exception for certain turnover proceedings under §542(a) of the Code. An individual debtor may need to obtain the prompt return from a third party of tangible personal property—such as an automobile or tools of the trade—in order to produce income to fund a plan or to regain the use of property that may be exempted. As noted by Justice Sotomayor in her concurrence in *City of Chicago v. Fulton*, 141 S. Ct. 585, 592–95 (2021), the more formal procedures applicable to adversary proceedings can be too time-consuming in such a situation. Instead, the debtor can now proceed by motion to require turnover of such property under §542(a), and the procedures of Rule 9014 will apply. In an appropriate case, however, Rule 9014(c) allows the court to order that additional provisions of Part VII of the rules will apply to the matter.

Rule 7002. References to the Federal Rules of Civil Procedure

When a Federal Rule of Civil Procedure applicable to an adversary proceeding refers to another civil rule, that reference is to the civil rule as modified by this Part VII.

(As amended Apr. 2, 2024, eff. Dec. 1, 2024.)

NOTES OF ADVISORY COMMITTEE ON RULES—1983

Rules 5, 12, 13, 14, 25, 27, 30, 41 and 52 F.R.Civ.P. are made applicable to adversary proceedings by Part VII. Each of those rules contains a cross reference to another Federal Rule; however, the Part VII rule which incorporates the cross-referenced Federal Rule modifies the Federal Rule in some way. Under this Rule 7002 the cross reference is to the Federal Rule as modified by Part VII. For example, Rule 5 F.R.Civ.P., which is made applicable to adversary proceedings by Rule 7005, contains a reference to Rule 4 F.R.Civ.P. Under this Rule 7002, the cross reference is to Rule 4 F.R.Civ.P. as modified by Rule 7004.

Rules 7, 10, 12, 13, 14, 19, 22, 23.2, 24–37, 41, 45, 49, 50, 52, 55, 59, 60, 62 F.R.Civ.P. are made applicable to adversary proceedings by Part VII or generally to cases under the Code by Part IX. Each of those Federal Rules contains a cross reference to another Federal Rule which is not modified by the Part VII or Part IX rule which makes the cross-referenced Federal Rule applicable. Since the cross-referenced rule is not modified by a Part VII rule this Rule 7002 does not apply.

COMMITTEE NOTES ON RULES—2024 AMENDMENT

The language of Rule 7002 has been amended as part of the general restyling of the Bankruptcy Rules to make them more easily understood and to make style and terminology consistent throughout the rules. These

changes are intended to be stylistic only.

REFERENCES IN TEXT

The Federal Rules of Civil Procedure, referred to in text, are set out in the Appendix to Title 28, Judiciary and Judicial Procedure.

Rule 7003. Commencing an Adversary Proceeding

Fed. R. Civ. P. 3 applies in an adversary proceeding.

(As amended Apr. 2, 2024, eff. Dec. 1, 2024.)

NOTES OF ADVISORY COMMITTEE ON RULES—1983

Rule 5005(a) requires that a complaint commencing an adversary proceeding be filed with the court in which the case under the Code is pending unless [former] 28 U.S.C. §1473 authorizes the filing of the complaint in another district.

COMMITTEE NOTES ON RULES—2024 AMENDMENT

The language of Rule 7003 has been amended as part of the general restyling of the Bankruptcy Rules to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only.

REFERENCES IN TEXT

The Federal Rules of Civil Procedure, referred to in text, are set out in the Appendix to Title 28, Judiciary and Judicial Procedure.

Rule 7004. Process; Issuing and Serving a Summons and Complaint

(a) ISSUING, DELIVERING, AND PERSONALLY SERVING A SUMMONS AND COMPLAINT.

(1) *In General*. Except as provided in (2), Fed. R. Civ. P. 4(a), (b), (c)(1), (d)(5), (e)–(j), (l), and (m) applies in an adversary proceeding.

(2) *Issuing and Delivering a Summons*. The clerk may:

(A) sign, seal, and issue the summons electronically by placing an "s/" before the clerk's name and adding the court's seal to the summons; and

(B) deliver the summons to the person who will serve it.

(3) *Personally Serving a Summons and Complaint*. Any person who is at least 18 years old and not a party may personally serve a summons and complaint under Fed. R. Civ. P. 4(e)–(j).

(b) SERVICE BY MAIL AS AN ALTERNATIVE. Except as provided in subdivision (h), in addition to the methods of service authorized by Fed. R. Civ. P. 4(e)–(j), a copy of a summons and complaint may be served by first-class mail, postage prepaid, within the United States on:

(1) an individual except an infant or an incompetent person—by mailing the copy to the individual's dwelling or usual place of abode or where the individual regularly conducts a business or profession;

(2) an infant or incompetent person—by mailing the copy:

(A) to a person who, under the law of the state where service is made, is authorized to receive service on behalf of the infant or incompetent person when an action is brought in that state's courts of general jurisdiction; and

(B) at that person's dwelling or usual place of abode or where the person regularly conducts a business or profession;

(3) a domestic or foreign corporation, or a partnership or other unincorporated association—by mailing the copy:

(A) to an officer, a managing or general agent, or an agent authorized by appointment or by law to receive service; and

(B) also to the defendant if a statute authorizes an agent to receive service and the statute so requires;

(4) the United States, with these requirements:

(A) a copy of the summons and complaint must be mailed to:

(i) the civil-process clerk in the United States attorney's office in the district where the action is filed;

(ii) the Attorney General of the United States in Washington, D.C.; and

(iii) in an action attacking the validity of an order of a United States officer or agency that is not a party, also to that officer or agency; and

(B) if the plaintiff has mailed a copy of the summons and complaint to a person specified in either (A)(i) or (ii), the court must allow a reasonable time to serve the others that must be served under (A);

(5) an officer or agency of the United States, with these requirements:

(A) the summons and complaint must be mailed not only to the officer or the agency—as prescribed in (3) if the agency is a corporation—but also to the United States, as prescribed in (4);

(B) if the plaintiff has mailed a copy of the summons and complaint to a person specified in either (4)(A)(i) or (ii), the court must allow a reasonable time to serve the others that must be served under (A); and

(C) if a United States trustee is the trustee in the case, service may be made on the United States trustee solely as trustee, as prescribed in (10);

(6) a state or municipal corporation or other governmental organization subject to suit, with these requirements:

(A) the summons and complaint must be mailed to the person or office that, under the law of the state where service is made, is authorized to receive service in a case filed against that defendant in that state's courts of general jurisdiction; and

(B) if there is no such authorized person or office, the summons and complaint must be mailed to the defendant's chief executive officer;

(7) a defendant of any class referred to in (1) and (3)—for whom it also suffices to mail the summons and complaint to the entity on which service must be made under a federal statute or under the law of the state where service is made when an action is brought against that defendant in that state's courts of general jurisdiction;

(8) any defendant—for whom it also suffices to mail the summons and complaint to the defendant's agent under these conditions:

(A) the agent is authorized by appointment or by law to accept service;

(B) the mail is addressed to the agent's dwelling or usual place of abode or where the agent regularly conducts a business or profession; and

(C) if the agent's authorization so requires, a copy is also mailed to the defendant as provided in this subdivision (b);

(9) the debtor, after a petition has been filed by or served upon a debtor, and until the case is dismissed or closed—by mailing the copy to the address shown on the debtor's petition or the address the debtor specifies in a filed writing;

(10) a United States trustee who is the trustee in the case and service is made upon the United States trustee solely as trustee—by addressing the mail to the United States trustee's office or other place that the United States trustee designates within the district.

(c) SERVICE BY PUBLICATION IN AN ADVERSARY PROCEEDING INVOLVING PROPERTY RIGHTS. If a party to an adversary proceeding to determine or protect rights in property in the court's custody cannot be served under (b) or Fed. R. Civ. P. 4(e)–(j), the court may order the summons and complaint to be served by:

(1) first-class mail, postage prepaid, to the party's last known address; and

(2) at least one publication in a form and manner as the court orders.

(d) NATIONWIDE SERVICE OF PROCESS. A summons and complaint (and all other process, except a subpoena) may be served anywhere within the United States.

(e) TIME TO SERVE A SUMMONS AND COMPLAINT.

(1) *In General*. A summons and complaint served by delivery under Fed. R. Civ. P. 4(e), (g), (h)(1), (i), or (j)(2) must be served within 7 days after the summons is issued. If served by mail, they must be deposited in the mail within 7 days after the summons is issued. If a summons is not timely delivered or mailed, a new summons must be issued.

(2) *Exception*. This subdivision (e) does not apply to service in a foreign country.

(f) ESTABLISHING PERSONAL JURISDICTION. If exercising jurisdiction is consistent with the United States Constitution and laws, serving a summons or filing a waiver of service under this Rule 7004 or the applicable provisions of Fed. R. Civ. P. 4 establishes personal jurisdiction over a defendant:

(1) in a bankruptcy case; or

(2) in a civil proceeding arising under the Code, or arising in or related to a case under the Code.

(g) SERVING A DEBTOR'S ATTORNEY. If, when served, a debtor is represented by an attorney, the attorney must also be served by any means authorized by Fed. R. Civ. P. 5(b).

(h) SERVICE OF PROCESS ON AN INSURED DEPOSITORY INSTITUTION. Service on an insured depository institution (as defined in section 3 of the Federal Deposit Insurance Act) in a contested matter or adversary proceeding shall be made by certified mail addressed to an officer of the institution unless—

(1) the institution has appeared by its attorney, in which case the attorney shall be served by first class mail;

(2) the court orders otherwise after service upon the institution by certified mail of notice of an application to permit service on the institution by first class mail sent to an officer of the institution designated by the institution; or

(3) the institution has waived in writing its entitlement to service by certified mail by designating an officer to receive service.

(i) SERVICE OF PROCESS BY TITLE. This subdivision (i) applies to service on a domestic or foreign corporation or partnership or other unincorporated association under Rule 7004(b)(3), or on an officer of an insured depository institution under Rule 7004(h). The defendant's officer or agent need not be correctly named in the address—or even be named—if the envelope is addressed to the defendant's proper address and directed to the attention of the officer's or agent's position or title.

(As amended Mar. 30, 1987, eff. Aug. 1, 1987; Apr. 30, 1991, eff. Aug. 1, 1991; Pub. L. 103–394, title I, §114, Oct. 22, 1994, 108 Stat. 4118; Apr. 23, 1996, eff. Dec. 1, 1996; Apr. 26, 1999, eff. Dec. 1, 1999; Apr. 25, 2005, eff. Dec. 1, 2005; Apr. 12, 2006, eff. Dec. 1, 2006; Mar. 26, 2009, eff. Dec. 1, 2009; Apr. 25, 2014, eff. Dec. 1, 2014; Apr. 26, 2018, eff. Dec. 1, 2018; Apr. 11, 2022, eff. Dec. 1, 2022; Apr. 2, 2024, eff. Dec. 1, 2024.)

NOTES OF ADVISORY COMMITTEE ON RULES—1983

Subdivision (a) of the rule, by incorporation of Rule 4(a), (b), (d), (e) and (g)–(i) F.R.Civ.P., governs the mechanics of issuance of a summons and its form, the manner of service on parties and their representatives, and service in foreign countries.

Subdivision (b), which is the same as former Rule 704(c), authorizes service of process by first class mail postage prepaid. This rule retains the modes of service contained in former Bankruptcy Rule 704. The former practice, in effect since 1976, has proven satisfactory.

Subdivision (c) is derived from former Bankruptcy Rule 704(d)(2).

Subdivision (d). Nationwide service of process is authorized by subdivision (d).

Subdivision (e) authorizes service by delivery on individuals and corporations in foreign countries if the party to be served is the debtor or any person required to perform the duties of the debtor and certain other persons, the adversary proceeding involves property in the custody of the bankruptcy court, or if federal or state law authorizes such service in a foreign country.

Subdivision (f). The requirement of former Bankruptcy Rule 704 that the summons be served within 10 days is carried over into these rules by subdivision (f).

NOTES OF ADVISORY COMMITTEE ON RULES—1987 AMENDMENT

Subdivision (a) is amended to make Rule 4(j) F.R.Civ.P. applicable to service of the summons. If service is not completed within 120 days of the filing of the complaint, the complaint may be dismissed.

Technical amendments are made to subdivisions (a), (b), (e), and (f) to conform to recent amendments to Rule 4 F.R.Civ.P.

NOTES OF ADVISORY COMMITTEE ON RULES—1991 AMENDMENT

The United States trustee may serve as trustee in a case pursuant to 28 U.S.C. §586(a)(2) and §§701(a)(2), 1202(a), and 1302(a) of the Code. This rule is amended to avoid the necessity of mailing copies of a summons and complaint or other pleadings to the Attorney General and to the United States attorney when service on the United States trustee is required only because the United States trustee is acting as a case trustee. For example, a proceeding commenced by a creditor to dismiss a case for unreasonable delay under §707(a) is governed by Rule 9014 which requires service on the trustee pursuant to the requirements of Rule 7004 for the service of a summons and complaint. The Attorney General and the United States attorney would have no interest in receiving a copy of the motion to dismiss. Mailing to the office of the United States trustee when acting as the case trustee is sufficient in such cases.

The words "with the court" in subdivision (b)(9) are deleted as unnecessary. See Rules 5005(a) and 9001(3).

The new paragraph (10) of subdivision (b) does not affect requirements for service of process on the United States trustee when sued or otherwise a party to a litigation unrelated to its capacity as a trustee. If a proceeding is commenced against the United States trustee which is unrelated to the United States trustee's role as trustee, the requirements of paragraph (5) of subdivision (b) of this rule would apply.

Subdivision (g) is added in anticipation of substantial amendment to, and restructuring of subdivisions of, Rule 4 F.R.Civ.P. Any amendment to Rule 4 will not affect service in bankruptcy cases and proceedings until further amendment to the Bankruptcy Rules. On January 1, 1990, Rule 4 F.R.Civ.P. read as follows:

RULE 4 F.R.CIV.P.

PROCESS

(a) SUMMONS: ISSUANCE. Upon the filing of the complaint the clerk shall forthwith issue a summons and deliver the summons to the plaintiff or the plaintiff's attorney, who shall be responsible for prompt service of the summons and a copy of the complaint. Upon request of the plaintiff separate or additional summons shall issue against any defendants.

(b) SAME: FORM. The summons shall be signed by the clerk, be under the seal of the court, contain the name of the court and the names of the parties, be directed to the defendant, state the name and address of the plaintiff's attorney, if any, otherwise the plaintiff's address, and the time within which these rules require the defendant to appear and defend, and shall notify the defendant that in case of the defendant's failure to do so judgment by default will be rendered against the defendant for the relief demanded in the complaint. When, under Rule 4(e), service is made pursuant to a statute or rule of court of a state, the summons, or notice, or order in lieu of summons shall correspond as nearly as may be to that required by the statute or rule.

(c) SERVICE.

(1) [Not applicable.]

(2)(A) [Not applicable.]

(B) [Not applicable.]

(C) A summons and complaint may be served upon a defendant of any class referred to in paragraph (1) or (3) of subdivision (d) of this rule—

(i) pursuant to the law of the State in which the district court is held for the service of summons or

other like process upon such defendant in an action brought in the courts of general jurisdiction of that State, or

(ii) [Not applicable.]

(D) [Not applicable.]

(E) [Not applicable.]

(3) [Not applicable.]

(d) SUMMONS AND COMPLAINT: PERSON TO BE SERVED. The summons and complaint shall be served together. The plaintiff shall furnish the person making service with such copies as are necessary. Service shall be made as follows:

(1) Upon an individual other than an infant or an incompetent person, by delivering a copy of the summons and of the complaint to the individual personally or by leaving copies thereof at the individual's dwelling house or usual place of abode with some person of suitable age and discretion then residing therein or by delivering a copy of the summons and of the complaint to an agent authorized by appointment or by law to receive service of process.

(2) Upon an infant or an incompetent person, by serving the summons and complaint in the manner prescribed by the law of the state in which the service is made for the service of summons or other like process upon any such defendant in an action brought in the courts of general jurisdiction of that state.

(3) Upon a domestic or foreign corporation or upon a partnership or other unincorporated association which is subject to suit under a common name, by delivering a copy of the summons and of the complaint to an officer, a managing or general agent, or to any other agent authorized by appointment or by law to receive service of process and, if the agent is one authorized by statute to receive service and the statute so requires, by also mailing a copy to the defendant.

(4) Upon the United States, by delivering a copy of the summons and of the complaint to the United States attorney for the district in which the action is brought or to an assistant United States attorney or clerical employee designated by the United States attorney in a writing filed with the clerk of the court and by sending a copy of the summons and of the complaint by registered or certified mail to the Attorney General of the United States at Washington, District of Columbia, and in any action attacking the validity of an order of an officer or agency of the United States not made a party, by also sending a copy of the summons and of the complaint by registered or certified mail to such officer or agency.

(5) Upon an officer or agency of the United States, by serving the United States and by sending a copy of the summons and of the complaint by registered or certified mail to such officer or agency. If the agency is a corporation the copy shall be delivered as provided in paragraph (3) of this subdivision of this rule.

(6) Upon a state or municipal corporation or other governmental organization thereof subject to suit, by delivering a copy of the summons and of the complaint to the chief executive officer thereof or by serving the summons and complaint in the manner prescribed by the law of that state for the service of summons or other like process upon any such defendant.

(e) SUMMONS: SERVICE UPON PARTY NOT INHABITANT OF OR FOUND WITHIN STATE. Whenever a statute of the United States or an order of court thereunder provides for service of a summons, or of a notice, or of an order in lieu of summons upon a party not an inhabitant of or found within the state in which the district court is held, service may be made under the circumstances and in the manner prescribed by the statute or order, or, if there is no provision therein prescribing the manner of service, in a manner stated in this rule. Whenever a statute or rule of court of the state in which the district court is held provides (1) for service of a summons, or of a notice, or of an order in lieu of summons upon a party not an inhabitant of or found within the state, or (2) for service upon or notice to such a party to appear and respond or defend in an action by reason of the attachment or garnishment or similar seizure of the party's property located within the state, service may in either case be made under the circumstances and in the manner prescribed in the statute or rule.

(f) [Not applicable.]

(g) RETURN. The person serving the process shall make proof of service thereof to the court promptly and in any event within the time during which the person served must respond to the process. If service is made by a person other than a United States marshal or deputy United States marshal, such person shall make affidavit thereof. If service is made under subdivision (c)(2)(C)(ii) of this rule, return shall be made by the sender's filing with the court the acknowledgment received pursuant to such subdivision. Failure to make proof of service does not affect the validity of the service.

(h) AMENDMENT. At any time in its discretion and upon such terms as it deems just, the court may allow any process or proof of service thereof to be amended, unless it clearly appears that material prejudice would result to the substantial rights of the party against whom the process issued.

(i) ALTERNATIVE PROVISIONS FOR SERVICE IN A FOREIGN COUNTRY.

(1) *Manner*. When the federal or state law referred to in subdivision (e) of this rule authorizes service upon a party not an inhabitant of or found within the state in which the district court is held, and service is to be effected upon the party in a foreign country, it is also sufficient if service of the summons and complaint is made: (A) in the manner prescribed by the law of the foreign country for service in that country in an action in any of its courts of general jurisdiction; or (B) as directed by the foreign authority in response to a letter rogatory, when service in either case is reasonably calculated to give actual notice; or (C) upon an individual, by delivery to the individual personally, and upon a corporation or partnership or association, by delivery to an officer, a managing or general agent; or (D) by any form of mail, requiring a signed receipt, to be addressed and dispatched by the clerk of the court to the party to be served; or (E) as directed by order of the court. Service under (C) or (E) above may be made by any person who is not a party and is not less than 18 years of age or who is designated by order of the district court or by the foreign court. On request, the clerk shall deliver the summons to the plaintiff for transmission to the person or the foreign court or officer who will make the service.

(2) *Return*. Proof of service may be made as prescribed by subdivision (g) of this rule, or by the law of the foreign country, or by order of the court. When service is made pursuant to subparagraph (1)(D) of this subdivision, proof of service shall include a receipt signed by the addressee or other evidence of delivery to the addressee satisfactory to the court.

(j) SUMMONS: TIME LIMIT FOR SERVICE. If a service of the summons and complaint is not made upon a defendant within 120 days after the filing of the complaint and the party on whose behalf such service was required cannot show good cause why such service was not made within that period, the action shall be dismissed as to that defendant without prejudice upon the court's own initiative with notice to such party or upon motion. This subdivision shall not apply to service in a foreign country pursuant to subdivision (i) of this rule.

NOTES OF ADVISORY COMMITTEE ON RULES—1996 AMENDMENT

The purpose of these amendments is to conform the rule to the 1993 revisions of Rule 4 F.R.Civ.P. and to make stylistic improvements. Rule 7004, as amended, continues to provide for service by first class mail as an alternative to the methods of personal service provided in Rule 4 F.R.Civ.P., except as provided in the new subdivision (h).

Rule 4(d)(2) F.R.Civ.P. provides a procedure by which the plaintiff may request by first class mail that the defendant waive service of the summons. This procedure is not applicable in adversary proceedings because it is not necessary in view of the availability of service by mail pursuant to Rule 7004(b). However, if a written waiver of service of a summons is made in an adversary proceeding, Rule 4(d)(1) F.R.Civ.P. applies so that the defendant does not thereby waive any objection to the venue or the jurisdiction of the court over the person of the defendant.

Subdivisions (b)(4) and (b)(5) are amended to conform to the 1993 amendments to Rule 4(i)(3) F.R.Civ.P., which protect the plaintiff from the hazard of losing a substantive right because of failure to comply with the requirements of multiple service when the United States or an officer, agency, or corporation of the United States is a defendant. These subdivisions also are amended to require that the summons and complaint be addressed to the civil process clerk at the office of the United States attorney.

Subdivision (e), which has governed service in a foreign country, is abrogated and Rule 4(f) and (h)(2) F.R.Civ.P., as substantially revised in 1993, are made applicable in adversary proceedings.

The new subdivision (f) is consistent with the 1993 amendments to F.R.Civ.P. 4(k)(2). It clarifies that service or filing a waiver of service in accordance with this rule or the applicable subdivisions of F.R.Civ.P. 4 is sufficient to establish personal jurisdiction over the defendant. See the committee note to the 1993 amendments to Rule 4 F.R.Civ.P.

Subdivision (g) is abrogated. This subdivision was promulgated in 1991 so that anticipated revisions to Rule 4 F.R.Civ.P. would not affect service of process in adversary proceedings until further amendment to Rule 7004.

Subdivision (h) and the first phrase of subdivision (b) were added by §114 of the Bankruptcy Reform Act of 1994, Pub. L. No. 103–394, 108 Stat. 4106.

GAP Report on Rule 7004. After publication of the proposed amendments, Rule 7004(b) was amended and Rule 7004(h) was added by the Bankruptcy Reform Act of 1994 to provide for service by certified mail on an insured depository institution. The above draft includes those statutory amendments (without underlining new language or striking former language). No other changes have been made since publication, except for stylistic changes.

COMMITTEE NOTES ON RULES—1999 AMENDMENT

Subdivision (e) is amended so that the ten-day time limit for service of a summons does not apply if the

summons is served in a foreign country.

GAP Report on Rule 7004. No changes since publication.

COMMITTEE NOTES ON RULES—2005 AMENDMENT

This amendment specifically authorizes the clerk to issue a summons electronically. In some bankruptcy cases the trustee or debtor in possession may commence hundreds of adversary proceedings simultaneously, and permitting the electronic signing and sealing of the summonses for those proceedings increases the efficiency of the clerk's office without any negative impact on any party. The rule only authorizes electronic issuance of the summons. It does not address the service requirements for the summons. Those requirements are set out elsewhere in Rule 7004, and nothing in Rule 7004(a)(2) should be construed as authorizing electronic service of a summons.

Changes Made After Publication and Comment. No changes were made after publication.

COMMITTEE NOTES ON RULES—2006 AMENDMENT

Under current Rule 7004, an entity may serve a summons and complaint upon the debtor by personal service or by mail. If the entity chooses to serve the debtor by mail, it must also serve a copy of the summons and complaint on the debtor's attorney by mail. If the entity effects personal service on the debtor, there is no requirement that the debtor's attorney also be served.

Subdivision (b)(9). The rule is amended to delete the reference in subdivision (b)(9) to the debtor's address as set forth in the statement of financial affairs. In 1991, the Official Form of the statement of financial affairs was revised and no longer includes a question regarding the debtor's current residence. Since that time, Official Form 1, the petition, has required the debtor to list both the debtor's residence and mailing address. Therefore, the subdivision is amended to delete the statement of financial affairs as a document that might contain an address at which the debtor can be served.

Subdivision (g). The rule is amended to require service on the debtor's attorney whenever the debtor is served with a summons and complaint. The amendment makes this change by deleting that portion of Rule 7004(b)(9) that requires service on the debtor's attorney when the debtor is served by mail, and relocates the obligation to serve the debtor's attorney into new subdivision (g). Service on the debtor's attorney is not limited to mail service, but may be accomplished by any means permitted under Rule 5(b) F.R.Civ.P.

Changes Made After Publication. The Committee Note was amended to add the final [second] paragraph of the Note. The new paragraph describes the reason for the deletion of the reference in the rule to the statement of affairs as a source for the debtor's address. This was a secondary reason for amending the rule, and even in the absence of public comment on the proposed amendment, the Advisory Committee believes that the additional explanation in the Committee Note is appropriate.

COMMITTEE NOTES ON RULES—2009 AMENDMENT

The rule is amended to implement changes in connection with the amendment to Rule 9006(a) and the manner by which time is computed under the rules. The deadlines in the rule are amended to substitute a deadline that is a multiple of seven days. Throughout the rules, deadlines are amended in the following manner:

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

COMMITTEE NOTES ON RULES—2014 AMENDMENT

Subdivision (e) is amended to alter the period of time during which service of the summons and complaint must be made. The amendment reduces that period from fourteen days to seven days after issuance of the summons. Because Rule 7012 provides that the defendant's time to answer the complaint is calculated from the date the summons is issued, a lengthy delay between issuance and service of the summons may unduly shorten the defendant's time to respond. The amendment is therefore intended to encourage prompt service after issuance of a summons. If service of the summons within any seven-day period is impracticable, a court retains the discretion to enlarge that period of time under Rule 9006(b).

Changes Made After Publication and Comment. A new sentence referring to the availability of an enlargement of time under Rule 9006(b) was added to the Committee Note. The only other change made after publication and comment was stylistic.

COMMITTEE NOTES ON RULES—2018 AMENDMENT

In 1996, Rule 7004(a) was amended to incorporate by reference F.R.Civ.P. 4(d)(1). Civil Rule 4(d)(1) addresses the effect of a defendant's waiver of service. In 2007, Civil Rule 4 was amended, and the language of old Civil Rule 4(d)(1) was modified and renumbered as Civil Rule 4(d)(5). Accordingly, Rule 7004(a) is amended to update the cross-reference to Civil Rule 4.

COMMITTEE NOTES ON RULES—2022 AMENDMENT

New Rule 7004(i) is intended to reject those cases interpreting Rule 7004(b)(3) and Rule 7004(h) to require service on a named officer, managing or general agent or other agent, rather than use of their titles. Service to a corporation or partnership, unincorporated association or insured depository institution at its proper address directed to the attention of the "Chief Executive Officer," "President," "Officer for Receiving Service of Process," "Managing Agent," "General Agent," "Officer," or "Agent for Receiving Service of Process" (or other similar titles) is sufficient.

COMMITTEE NOTES ON RULES—2024 AMENDMENT

The language of Rule 7004 has been amended as part of the general restyling of the Bankruptcy Rules to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only. The beginning of Rule 7004(b) (through the words "in addition") and all of Rule 7004(h) have not been restyled because they were enacted by Congress, P.L. 103–394, Sec. 114, 108 Stat. 4106, 4118 (1994). The Bankruptcy Rules Enabling Act, 28 U.S.C. §2075, provides no authority to modify statutory language.

REFERENCES IN TEXT

The Federal Rules of Civil Procedure, referred to in subds. (a)(1), (3), (b), (c), (e)(1), (f), and (g), are set out in the Appendix to Title 28, Judiciary and Judicial Procedure.

Section 3 of the Federal Deposit Insurance Act, referred to in subd. (h), is classified to section 1813 of Title 12, Banks and Banking.

AMENDMENT BY PUBLIC LAW

1994—Subd. (b). Pub. L. 103–394, §114(1), substituted "Except as provided in subdivision (h), in addition" for "In addition".

Subd. (h). Pub. L. 103–394, §114(2), added subd. (h).

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103–394 effective Oct. 22, 1994, and not applicable with respect to cases commenced under this title before Oct. 22, 1994, see section 702 of Pub. L. 103–394, set out as a note under section 101 of this title.

Rule 7005. Serving and Filing Pleadings and Other Papers

Fed. R. Civ. P. 5 applies in an adversary proceeding.

(As amended Apr. 2, 2024, eff. Dec. 1, 2024.)

NOTES OF ADVISORY COMMITTEE ON RULES—1983

Rule 5 F.R.Civ.P. refers to Rule 4 F.R.Civ.P. Pursuant to Rule 7002 this reference is to Rule 4 F.R.Civ.P. as incorporated and modified by Rule 7004.

COMMITTEE NOTES ON RULES—2024 AMENDMENT

The language of Rule 7005 has been amended as part of the general restyling of the Bankruptcy Rules to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only.

REFERENCES IN TEXT

The Federal Rules of Civil Procedure, referred to in text, are set out in the Appendix to Title 28, Judiciary and Judicial Procedure.

Rule 7007. Pleadings Allowed

Fed. R. Civ. P. 7 applies in an adversary proceeding.

(As amended Apr. 2, 2024, eff. Dec. 1, 2024.)

COMMITTEE NOTES ON RULES—2024 AMENDMENT

The language of Rule 7007 has been amended as part of the general restyling of the Bankruptcy Rules to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only.

REFERENCES IN TEXT

The Federal Rules of Civil Procedure, referred to in text, are set out in the Appendix to Title 28, Judiciary and Judicial Procedure.

Rule 7007.1. Corporate Ownership Statement

(a) REQUIRED DISCLOSURE. Any nongovernmental corporation—other than the debtor—that is a party to an adversary proceeding must file a statement identifying any parent corporation and any publicly held corporation that owns 10% or more of its stock or stating that there is no such corporation. The same requirement applies to a nongovernmental corporation that seeks to intervene.

(b) TIME FOR FILING; SUPPLEMENTAL FILING. The statement must:

(1) be filed with the corporation's first appearance, pleading, motion, response, or other request to the court; and

(2) be supplemented whenever the information required by this rule changes.

(Added Mar. 27, 2003, eff. Dec. 1, 2003; amended Apr. 30, 2007, eff. Dec. 1, 2007; Apr. 14, 2021, eff. Dec. 1, 2021; Apr. 2, 2024, eff. Dec. 1, 2024.)

COMMITTEE NOTES ON RULES—2003

This rule is derived from Rule 26.1 of the Federal Rules of Appellate Procedure. The information that parties shall supply will support properly informed disqualification decisions in situations that call for automatic disqualification under Canon 3C(1)(c) of the Code of Conduct for United States Judges. This rule does not cover all of the circumstances that may call for disqualification under the subjective financial interest standard of Canon 3C, and does not deal at all with other circumstances that may call for disqualification. Nevertheless, the required disclosures are calculated to reach the majority of circumstances that are likely to call for disqualification under Canon 3C(1)(c).

The rule directs nongovernmental corporate parties to list those corporations that hold significant ownership interests in them. This includes listing membership interests in limited liability companies and similar entities that fall under the definition of a corporation in Bankruptcy Code §101.

Under subdivision (b), parties must file the statement with the first document that they file in any adversary proceeding. The rule also requires parties and other persons to file supplemental statements promptly whenever changed circumstances require disclosure of new or additional information.

The rule does not prohibit the adoption of local rules requiring disclosures beyond those called for in Rule 7007.1.

Changes Made After Publication and Comments. No changes since publication.

COMMITTEE NOTES ON RULES—2007 AMENDMENT

The rule is amended to clarify that a party must file a corporate ownership statement with its initial paper filed with the court in an adversary proceeding. The party's initial filing may be a document that is not a "pleading" as defined in Rule 7 F. R. Civ. P., which is made applicable in adversary proceedings by Rule 7007. The amendment also brings Rule 7007.1 more closely in line with Rule 7.1 F. R. Civ. P.

Changes After Publication. No changes were made after publication.

COMMITTEE NOTES ON RULES—2021 AMENDMENT

The rule is amended to conform to recent amendments to Fed. R. Bankr. P. 8012 and Fed. R. App. P. 26.1, and the anticipated amendment to Fed. R. Civ. P. 7.1. Subdivision (a) is amended to encompass nongovernmental corporations that seek to intervene. Stylistic changes are made to subdivision (b) to reflect that some statements will be filed by nonparties seeking to intervene.

COMMITTEE NOTES ON RULES—2024 AMENDMENT

The language of Rule 7007.1 has been amended as part of the general restyling of the Bankruptcy Rules to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only.

Rule 7008. General Rules of Pleading

Fed. R. Civ. P. 8 applies in an adversary proceeding. The allegation of jurisdiction required by that rule must include a reference to the name, number, and Code chapter of the case that the adversary proceeding relates to and the district and division where it is pending. In an adversary proceeding before a bankruptcy court, a complaint, counterclaim, crossclaim, or third-party complaint must state whether the pleader does or does not consent to the entry of final orders or judgment by the bankruptcy court.

(As amended Mar. 30, 1987, eff. Aug. 1, 1987; Apr. 25, 2014, eff. Dec. 1, 2014; Apr. 28, 2016, eff. Dec. 1, 2016; Apr. 2, 2024, eff. Dec. 1, 2024.)

NOTES OF ADVISORY COMMITTEE ON RULES—1987 AMENDMENT

Proceedings before a bankruptcy judge are either core or non-core. 28 U.S.C. §157. A bankruptcy judge may enter a final order or judgment in a core proceeding. In a non-core proceeding, absent consent of the parties, the bankruptcy judge may not enter a final order or judgment but may only submit proposed findings of fact and conclusions of law to the district judge who will enter the final order or judgment. 28 U.S.C. §157(c)(1). The amendment to subdivision (a) of this rule requires an allegation as to whether a proceeding is core or non-core. A party who alleges that the proceeding is non-core shall state whether the party does or does not consent to the entry of a final order or judgment by the bankruptcy judge. Failure to include the statement of consent does not constitute consent. Only express consent in the pleadings or otherwise is effective to authorize entry of a final order or judgment by the bankruptcy judge in a non-core proceeding. Amendments to Rule 7012 require that the defendant admit or deny the allegation as to whether the proceeding is core or non-core.

COMMITTEE NOTES ON RULES—2014 AMENDMENT

The rule is amended to delete subdivision (b), which required a request for attorney's fees always to be pleaded as a claim in an allowed pleading. That requirement, which differed from the practice under the Federal Rules of Civil Procedure, had the potential to serve as a trap for the unwary.

The procedures for seeking an award of attorney's fees are now set out in Rule 7054(b)(2), which makes applicable most of the provisions of Rule 54(d)(2) F.R.Civ.P. As specified by Rule 54(d)(2)(A) and (B) F.R.Civ.P., a claim for attorney's fees must be made by a motion filed no later than 14 days after entry of the judgment unless the governing substantive law requires those fees to be proved at trial as an element of damages. When fees are an element of damages, such as when the terms of a contract provide for the recovery of fees incurred prior to the instant adversary proceeding, the general pleading requirements of this rule still apply.

Changes Made After Publication and Comment. No changes were made after publication and comment.

COMMITTEE NOTES ON RULES—2016 AMENDMENT

The rule is amended to remove the requirement that the pleader state whether the proceeding is core or non-core and to require in all proceedings that the pleader state whether the party does or does not consent to the entry of final orders or judgment by the bankruptcy court. Some proceedings that satisfy the statutory definition of core proceedings, 28 U.S.C. §157(b)(2), may remain beyond the constitutional power of a bankruptcy judge to adjudicate finally. The amended rule calls for the pleader to make a statement regarding consent, whether or not a proceeding is termed non-core. Rule 7012(b) has been amended to require a similar statement in a responsive pleading. The bankruptcy judge will then determine the appropriate course of proceedings under Rule 7016.

COMMITTEE NOTES ON RULES—2024 AMENDMENT

The language of Rule 7008 has been amended as part of the general restyling of the Bankruptcy Rules to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only.

REFERENCES IN TEXT

The Federal Rules of Civil Procedure, referred to in text, are set out in the Appendix to Title 28, Judiciary and Judicial Procedure.

Rule 7009. Pleading Special Matters

Fed. R. Civ. P. 9 applies in an adversary proceeding.

(As amended Apr. 2, 2024, eff. Dec. 1, 2024.)

COMMITTEE NOTES ON RULES—2024 AMENDMENT

The language of Rule 7009 has been amended as part of the general restyling of the Bankruptcy Rules to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only.

REFERENCES IN TEXT

The Federal Rules of Civil Procedure, referred to in text, are set out in the Appendix to Title 28, Judiciary and Judicial Procedure.

Rule 7010. Form of Pleadings in an Adversary Proceeding

Fed. R. Civ. P. 10 applies in an adversary proceeding—except that a pleading's caption must substantially conform to the appropriate version of Form 416.

(As amended Apr. 30, 1991, eff. Aug. 1, 1991; Apr. 2, 2024, eff. Dec. 1, 2024.)

NOTES OF ADVISORY COMMITTEE ON RULES—1991 AMENDMENT

Reference to the Official Form number is deleted in anticipation of future revision and renumbering of the Official Forms.

COMMITTEE NOTES ON RULES—2024 AMENDMENT

The language of Rule 7010 has been amended as part of the general restyling of the Bankruptcy Rules to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only.

REFERENCES IN TEXT

The Federal Rules of Civil Procedure, referred to in text, are set out in the Appendix to Title 28, Judiciary and Judicial Procedure.

Rule 7012. Defenses; Effect of a Motion; Motion for Judgment on the Pleadings and Other Procedural Matters

(a) TIME TO SERVE. The time to serve a responsive pleading is as follows:

(1) *Answer to a Complaint in General*. A defendant must serve an answer to a complaint within 30 days after the summons was issued, unless the court sets a different time.

(2) *Answer to a Complaint Served by Publication or on a Party in a Foreign Country*. The court must set the time to serve an answer to a complaint served by publication or served on a party in a foreign country.

(3) *Answer to a Crossclaim*. A party served with a pleading that states a crossclaim must serve an answer to the crossclaim within 21 days after being served.

(4) *Answer to a Counterclaim.* A plaintiff served with an answer that contains a counterclaim must serve an answer to the counterclaim within 21 days after service of:

(A) the answer; or

(B) a court order requiring an answer, unless the order states otherwise.

(5) *Answer to a Complaint or Crossclaim—or Answer to a Counterclaim—Served on the United States or an Officer or Agency*. The United States or its officer or agency must serve:

(A) an answer to a complaint within 35 days after the summons was issued; and

(B) an answer to a crossclaim or a counterclaim within 35 days after the United States attorney is served with the pleading that asserts the claim.

(6) *Effect of a Motion*. Unless the court sets a different time, serving a motion under this rule alters these times as follows:

(A) if the court denies the motion or postpones disposition until trial, the responsive pleading must be served within 14 days after notice of the court's action; or

(B) if the court grants a motion for a more definite statement, the responsive pleading must be served within 14 days after the statement is served.

(b) APPLICABILITY OF CIVIL RULE 12(b)–(i). Fed. R. Civ. P. 12(b)–(i) applies in an adversary proceeding. A responsive pleading must state whether the party does or does not consent to the entry of final orders or judgment by the bankruptcy court.

(As amended Mar. 30, 1987, eff. Aug. 1, 1987; Apr. 23, 2008, eff. Dec. 1, 2008; Mar. 26, 2009, eff. Dec. 1, 2009; Apr. 28, 2016, eff. Dec. 1, 2016; Apr. 2, 2024, eff. Dec. 1, 2024.)

NOTES OF ADVISORY COMMITTEE ON RULES—1983

Subdivision (a) continues the practice of former Bankruptcy Rule 712(a) by requiring that the answer to a complaint be filed within 30 days after the issuance of the summons. Under Rule 7004(f), the summons must be served within 10 days of issuance. The other pleading periods in adversary proceedings are the same as those in civil actions before the district courts, except that the United States is allowed 35 rather than 60 days to respond.

Rule 12(b)(7) and (h)(2) F.R.Civ.P. refers to Rule 19 F.R.Civ.P. Pursuant to Rule 7002 these references are to Rule 19 F.R.Civ.P. as incorporated and modified by Rule 7019.

NOTES OF ADVISORY COMMITTEE ON RULES—1987 AMENDMENT

The amendment to subdivision (b) requires a response to the allegation that the proceeding is core or non-core. A final order of judgment may not be entered in a non-core proceeding heard by a bankruptcy judge unless all parties expressly consent. 28 U.S.C. §157(c).

COMMITTEE NOTES ON RULES—2008 AMENDMENT

The rule is amended to conform to the changes made to the Federal Rules of Civil Procedure through the restyling of those rules effective on December 1, 2007.

COMMITTEE NOTES ON RULES—2009 AMENDMENT

The rule is amended to implement changes in connection with the amendment to Rule 9006(a) and the manner by which time is computed under the rules. The deadlines in the rule are amended to substitute a deadline that is a multiple of seven days. Throughout the rules, deadlines are amended in the following manner:

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

COMMITTEE NOTES ON RULES—2016 AMENDMENT

Subdivision (b) is amended to remove the requirement that the pleader state whether the proceeding is core or non-core and to require in all proceedings that the pleader state whether the party does or does not consent to the entry of final orders or judgment by the bankruptcy court. The amended rule also removes the provision requiring express consent before the entry of final orders and judgments in non-core proceedings. Some proceedings that satisfy the statutory definition of core proceedings, 28 U.S.C. §157(b)(2), may remain beyond the constitutional power of a bankruptcy judge to adjudicate finally. The amended rule calls for the pleader to make a statement regarding consent, whether or not a proceeding is termed non-core. This amendment complements the requirements of amended Rule 7008(a). The bankruptcy judge's subsequent

determination of the appropriate course of proceedings, including whether to enter final orders and judgments or to issue proposed findings of fact and conclusions of law, is a pretrial matter now provided for in amended Rule 7016.

COMMITTEE NOTES ON RULES—2024 AMENDMENT

The language of Rule 7012 has been amended as part of the general restyling of the Bankruptcy Rules to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only.

REFERENCES IN TEXT

The Federal Rules of Civil Procedure, referred to in subd. (b), are set out in the Appendix to Title 28, Judiciary and Judicial Procedure.

Rule 7013. Counterclaim and Crossclaim

Fed. R. Civ. P. 13 applies in an adversary proceeding. But a party sued by a trustee or debtor in possession need not state as a counterclaim any claim the party has against the debtor, the debtor's property, or the estate, unless the claim arose after the order for relief. If, through oversight, inadvertence, or excusable neglect, a trustee or debtor in possession fails to plead a counterclaim—or when justice so requires—the court may permit the trustee or debtor in possession to:

(a) amend the pleading; or

(b) commence a new adversary proceeding or separate action.

(As amended Mar. 30, 1987, eff. Aug. 1, 1987; Apr. 2, 2024, eff. Dec. 1, 2024.)

NOTES OF ADVISORY COMMITTEE ON RULES—1983

Rule 13(h) F.R.Civ.P. refers to Rule 19 F.R.Civ.P. Pursuant to Rule 7002 this reference is to Rule 19 F.R.Civ.P. as incorporated and modified by Rule 7019.

COMMITTEE NOTES ON RULES—2024 AMENDMENT

The language of Rule 7013 has been amended as part of the general restyling of the Bankruptcy Rules to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only.

REFERENCES IN TEXT

The Federal Rules of Civil Procedure, referred to in text, are set out in the Appendix to Title 28, Judiciary and Judicial Procedure.

Rule 7014. Third-Party Practice

Fed. R. Civ. P. 14 applies in an adversary proceeding.

(As amended Apr. 2, 2024, eff. Dec. 1, 2024.)

NOTES OF ADVISORY COMMITTEE ON RULES—1983

This rule does not purport to deal with questions of jurisdiction. The scope of the jurisdictional grant under [former] 28 U.S.C. §1471 and whether the doctrines of pendent or ancillary jurisdiction are applicable to adversary proceedings will be determined by the courts.

Rule 14 F.R.Civ.P. refers to Rules 12 and 13 F.R.Civ.P. Pursuant to Rule 7002 those references are to Rules 12 and 13 as incorporated and modified by Rules 7012 and 7013.

COMMITTEE NOTES ON RULES—2024 AMENDMENT

The language of Rule 7014 has been amended as part of the general restyling of the Bankruptcy Rules to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only.

REFERENCES IN TEXT

The Federal Rules of Civil Procedure, referred to in text, are set out in the Appendix to Title 28, Judiciary

and Judicial Procedure.

Rule 7015. Amended and Supplemental Pleadings

Fed. R. Civ. P. 15 applies in an adversary proceeding.

(As amended Apr. 2, 2024, eff. Dec. 1, 2024.)

COMMITTEE NOTES ON RULES—2024 AMENDMENT

The language of Rule 7015 has been amended as part of the general restyling of the Bankruptcy Rules to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only.

REFERENCES IN TEXT

The Federal Rules of Civil Procedure, referred to in text, are set out in the Appendix to Title 28, Judiciary and Judicial Procedure.

Rule 7016. Pretrial Procedures

(a) PRETRIAL CONFERENCES; SCHEDULING; MANAGEMENT. Fed. R. Civ. P. 16 applies in an adversary proceeding.

(b) DETERMINING PROCEDURE. On its own or a party's timely motion, the court must decide whether:

(1) to hear and determine the proceeding;

(2) to hear it and issue proposed findings of fact and conclusions of law; or

(3) to take other action.

(As amended Apr. 28, 2016, eff. Dec. 1, 2016; Apr. 2, 2024, eff. Dec. 1, 2024.)

COMMITTEE NOTES ON RULES—2016 AMENDMENT

This rule is amended to create a new subdivision (b) that provides for the bankruptcy court to enter final orders and judgment, issue proposed findings and conclusions, or take some other action in a proceeding. The rule leaves the decision as to the appropriate course of proceedings to the bankruptcy court. The court's decision will be informed by the parties' statements, required under Rules 7008(a), 7012(b), and 9027(a) and (e), regarding consent to the entry of final orders and judgment. If the bankruptcy court chooses to issue proposed findings of fact and conclusions of law, Rule 9033 applies.

COMMITTEE NOTES ON RULES—2024 AMENDMENT

The language of Rule 7016 has been amended as part of the general restyling of the Bankruptcy Rules to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only.

REFERENCES IN TEXT

The Federal Rules of Civil Procedure, referred to in subd. (a), are set out in the Appendix to Title 28, Judiciary and Judicial Procedure.

Rule 7017. Plaintiff and Defendant; Capacity; Public Officers

Fed. R. Civ. P. 17 applies in an adversary proceeding, except as provided in Rule 2010(b).

(As amended Apr. 30, 1991, eff. Aug. 1, 1991; Apr. 2, 2024, eff. Dec. 1, 2024.)

NOTES OF ADVISORY COMMITTEE ON RULES—1983

Rules 2010(d) and 5008(d), which implement §§322 and 345 of the Code, authorize a party in interest to prosecute a claim on the bond of a trustee or depository in the name of the United States.

NOTES OF ADVISORY COMMITTEE ON RULES—1991 AMENDMENT

Reference to Rule 5008(d) is deleted because of the abrogation of Rule 5008.

COMMITTEE NOTES ON RULES—2024 AMENDMENT

The language of Rule 7017 has been amended as part of the general restyling of the Bankruptcy Rules to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only.

REFERENCES IN TEXT

The Federal Rules of Civil Procedure, referred to in text, are set out in the Appendix to Title 28, Judiciary and Judicial Procedure.

Rule 7018. Joinder of Claims

Fed. R. Civ. P. 18 applies in an adversary proceeding.

(As amended Apr. 2, 2024, eff. Dec. 1, 2024.)

COMMITTEE NOTES ON RULES—2024 AMENDMENT

The language of Rule 7018 has been amended as part of the general restyling of the Bankruptcy Rules to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only.

REFERENCES IN TEXT

The Federal Rules of Civil Procedure, referred to in text, are set out in the Appendix to Title 28, Judiciary and Judicial Procedure.

Rule 7019. Required Joinder of Parties

Fed. R. Civ. P. 19 applies in an adversary proceeding. But these exceptions apply:

(a) if an entity joined as a party raises the defense that the court lacks subject-matter jurisdiction and the defense is sustained, the court must dismiss the party; and

(b) if an entity joined as a party properly and timely raises the defense of improper venue, the court must determine under 28 U.S.C. §1412 whether to transfer to another district the entire adversary proceeding or just that part involving the joined party.

(As amended Mar. 30, 1987, eff. Aug. 1, 1987; Apr. 2, 2024, eff. Dec. 1, 2024.)

NOTES OF ADVISORY COMMITTEE ON RULES—1983

This rule addresses a situation different from that encountered by the district court when its jurisdiction is based on diversity of citizenship under 28 U.S.C. §1332. Joining of a party whose citizenship is the same as that of an adversary destroys the district court's jurisdiction over the entire civil action but under [former] 28 U.S.C. §1471 the attempted joinder of such a person would not affect the bankruptcy court's jurisdiction over the original adversary proceeding.

NOTES OF ADVISORY COMMITTEE ON RULES—1987 AMENDMENT

The rule is amended to delete the reference to retention of the adversary proceeding if venue is improper. See 28 U.S.C. §1412.

COMMITTEE NOTES ON RULES—2024 AMENDMENT

The language of Rule 7019 has been amended as part of the general restyling of the Bankruptcy Rules to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only.

REFERENCES IN TEXT

The Federal Rules of Civil Procedure, referred to in text, are set out in the Appendix to Title 28, Judiciary and Judicial Procedure.

Rule 7020. Permissive Joinder of Parties

Fed. R. Civ. P. 20 applies in an adversary proceeding.

(As amended Apr. 2, 2024, eff. Dec. 1, 2024.)

COMMITTEE NOTES ON RULES—2024 AMENDMENT

The language of Rule 7020 has been amended as part of the general restyling of the Bankruptcy Rules to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only.

REFERENCES IN TEXT

The Federal Rules of Civil Procedure, referred to in text, are set out in the Appendix to Title 28, Judiciary and Judicial Procedure.

Rule 7021. Misjoinder and Nonjoinder of Parties

Fed. R. Civ. P. 21 applies in an adversary proceeding.

(As amended Apr. 2, 2024, eff. Dec. 1, 2024.)

COMMITTEE NOTES ON RULES—2024 AMENDMENT

The language of Rule 7021 has been amended as part of the general restyling of the Bankruptcy Rules to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only.

REFERENCES IN TEXT

The Federal Rules of Civil Procedure, referred to in text, are set out in the Appendix to Title 28, Judiciary and Judicial Procedure.

Rule 7022. Interpleader

Fed. R. Civ. P. 22(a) applies in an adversary proceeding. This rule supplements and does not limit the joinder of parties under Rule 7020.

(As amended Apr. 23, 2008, eff. Dec. 1, 2008; Apr. 2, 2024, eff. Dec. 1, 2024.)

COMMITTEE NOTES ON RULES—2008 AMENDMENT

The rule is amended to conform to the changes made to the Federal Rules of Civil Procedure through the restyling of those rules effective on December 1, 2007.

COMMITTEE NOTES ON RULES—2024 AMENDMENT

The language of Rule 7022 has been amended as part of the general restyling of the Bankruptcy Rules to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only.

REFERENCES IN TEXT

The Federal Rules of Civil Procedure, referred to in text, are set out in the Appendix to Title 28, Judiciary and Judicial Procedure.

Rule 7023. Class Actions

Fed. R. Civ. P. 23 applies in an adversary proceeding.

(As amended Apr. 2, 2024, eff. Dec. 1, 2024.)

COMMITTEE NOTES ON RULES—2024 AMENDMENT

The language of Rule 7023 has been amended as part of the general restyling of the Bankruptcy Rules to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only.

REFERENCES IN TEXT

The Federal Rules of Civil Procedure, referred to in text, are set out in the Appendix to Title 28, Judiciary and Judicial Procedure.

Rule 7023.1. Derivative Actions

Fed. R. Civ. P. 23.1 applies in an adversary proceeding.

(As amended Apr. 23, 2008, eff. Dec. 1, 2008; Apr. 2, 2024, eff. Dec. 1, 2024.)

COMMITTEE NOTES ON RULES—2008 AMENDMENT

The rule is amended to conform to the changes made to the Federal Rules of Civil Procedure through the restyling of those rules effective on December 1, 2007.

COMMITTEE NOTES ON RULES—2024 AMENDMENT

The language of Rule 7023.1 has been amended as part of the general restyling of the Bankruptcy Rules to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only.

REFERENCES IN TEXT

The Federal Rules of Civil Procedure, referred to in text, are set out in the Appendix to Title 28, Judiciary and Judicial Procedure.

Rule 7023.2. Adversary Proceedings Relating to Unincorporated Associations

Fed. R. Civ. P. 23.2 applies in an adversary proceeding.

(As amended Apr. 2, 2024, eff. Dec. 1, 2024.)

COMMITTEE NOTES ON RULES—2024 AMENDMENT

The language of Rule 7023.2 has been amended as part of the general restyling of the Bankruptcy Rules to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only.

REFERENCES IN TEXT

The Federal Rules of Civil Procedure, referred to in text, are set out in the Appendix to Title 28, Judiciary and Judicial Procedure.

Rule 7024. Intervention

Fed. R. Civ. P. 24 applies in an adversary proceeding.

(As amended Apr. 2, 2024, eff. Dec. 1, 2024.)

NOTES OF ADVISORY COMMITTEE ON RULES—1983

A person may seek to intervene in the case under the Code or in an adversary proceeding relating to the case under the Code. Intervention in a case under the Code is governed by Rule 2018 and intervention in an adversary proceeding is governed by this rule. Intervention in a case and intervention in an adversary proceeding must be sought separately.

COMMITTEE NOTES ON RULES—2024 AMENDMENT

The language of Rule 7024 has been amended as part of the general restyling of the Bankruptcy Rules to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only.

REFERENCES IN TEXT

The Federal Rules of Civil Procedure, referred to in text, are set out in the Appendix to Title 28, Judiciary and Judicial Procedure.

Rule 7025. Substitution of Parties

Fed. R. Civ. P. 25 applies in an adversary proceeding—but is subject to Rule 2012.

(As amended Apr. 2, 2024, eff. Dec. 1, 2024.)

NOTES OF ADVISORY COMMITTEE ON RULES—1983

Rule 25 F.R.Civ.P. refers to Rule 4 F.R.Civ.P. Pursuant to Rule 7002 that reference is to Rule 4 as incorporated and modified by Rule 7004.

COMMITTEE NOTES ON RULES—2024 AMENDMENT

The language of Rule 7025 has been amended as part of the general restyling of the Bankruptcy Rules to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only.

REFERENCES IN TEXT

The Federal Rules of Civil Procedure, referred to in text, are set out in the Appendix to Title 28, Judiciary and Judicial Procedure.

Rule 7026. Duty to Disclose; General Provisions Governing Discovery

Fed. R. Civ. P. 26 applies in an adversary proceeding.

(As amended Apr. 2, 2024, eff. Dec. 1, 2024.)

COMMITTEE NOTES ON RULES—2024 AMENDMENT

The language of Rule 7026 has been amended as part of the general restyling of the Bankruptcy Rules to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only.

REFERENCES IN TEXT

The Federal Rules of Civil Procedure, referred to in text, are set out in the Appendix to Title 28, Judiciary and Judicial Procedure.

Rule 7027. Depositions to Perpetuate Testimony

Fed. R. Civ. P. 27 applies in an adversary proceeding.

(As amended Apr. 2, 2024, eff. Dec. 1, 2024.)

NOTES OF ADVISORY COMMITTEE ON RULES—1983

Rule 27(a)(2) F.R.Civ.P. refers to Rule 4 F.R.Civ.P. Pursuant to Rule 7002 the reference is to Rule 4 F.R.Civ.P. as incorporated and modified by Rule 7004.

COMMITTEE NOTES ON RULES—2024 AMENDMENT

The language of Rule 7027 has been amended as part of the general restyling of the Bankruptcy Rules to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only.

REFERENCES IN TEXT

The Federal Rules of Civil Procedure, referred to in text, are set out in the Appendix to Title 28, Judiciary and Judicial Procedure.

Rule 7028. Persons Before Whom Depositions May Be Taken

Fed. R. Civ. P. 28 applies in an adversary proceeding.

(As amended Apr. 2, 2024, eff. Dec. 1, 2024.)

COMMITTEE NOTES ON RULES—2024 AMENDMENT

The language of Rule 7028 has been amended as part of the general restyling of the Bankruptcy Rules to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only.

REFERENCES IN TEXT

The Federal Rules of Civil Procedure, referred to in text, are set out in the Appendix to Title 28, Judiciary and Judicial Procedure.

Rule 7029. Stipulations About Discovery Procedure

Fed. R. Civ. P. 29 applies in an adversary proceeding.

(As amended Apr. 2, 2024, eff. Dec. 1, 2024.)

COMMITTEE NOTES ON RULES—2024 AMENDMENT

The language of Rule 7029 has been amended as part of the general restyling of the Bankruptcy Rules to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only.

REFERENCES IN TEXT

The Federal Rules of Civil Procedure, referred to in text, are set out in the Appendix to Title 28, Judiciary and Judicial Procedure.

Rule 7030. Depositions by Oral Examination

Fed. R. Civ. P. 30 applies in an adversary proceeding.

(As amended Apr. 2, 2024, eff. Dec. 1, 2024.)

NOTES OF ADVISORY COMMITTEE ON RULES—1983

Rule 30 F.R.Civ.P. refers to Rule 4 F.R.Civ.P. Pursuant to Rule 7002 that reference is a reference to Rule 4 F.R.Civ.P. as incorporated and modified by Rule 7004.

COMMITTEE NOTES ON RULES—2024 AMENDMENT

The language of Rule 7030 has been amended as part of the general restyling of the Bankruptcy Rules to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only.

REFERENCES IN TEXT

The Federal Rules of Civil Procedure, referred to in text, are set out in the Appendix to Title 28, Judiciary and Judicial Procedure.

Rule 7031. Depositions by Written Questions

Fed. R. Civ. P. 31 applies in an adversary proceeding.

(As amended Apr. 2, 2024, eff. Dec. 1, 2024.)

COMMITTEE NOTES ON RULES—2024 AMENDMENT

The language of Rule 7031 has been amended as part of the general restyling of the Bankruptcy Rules to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only.

REFERENCES IN TEXT

The Federal Rules of Civil Procedure, referred to in text, are set out in the Appendix to Title 28, Judiciary and Judicial Procedure.

Rule 7032. Using Depositions in Court Proceedings

Fed. R. Civ. P. 32 applies in an adversary proceeding.

(As amended Apr. 2, 2024, eff. Dec. 1, 2024.)

COMMITTEE NOTES ON RULES—2024 AMENDMENT

The language of Rule 7032 has been amended as part of the general restyling of the Bankruptcy Rules to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only.

REFERENCES IN TEXT

The Federal Rules of Civil Procedure, referred to in text, are set out in the Appendix to Title 28, Judiciary and Judicial Procedure.

Rule 7033. Interrogatories to Parties

Fed. R. Civ. P. 33 applies in an adversary proceeding.

(As amended Apr. 2, 2024, eff. Dec. 1, 2024.)

COMMITTEE NOTES ON RULES—2024 AMENDMENT

The language of Rule 7033 has been amended as part of the general restyling of the Bankruptcy Rules to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only.

REFERENCES IN TEXT

The Federal Rules of Civil Procedure, referred to in text, are set out in the Appendix to Title 28, Judiciary and Judicial Procedure.

Rule 7034. Producing Documents, Electronically Stored Information, and Tangible Things, or Entering onto Land, for Inspection and Other Purposes

Fed. R. Civ. P. 34 applies in an adversary proceeding.

(As amended Apr. 2, 2024, eff. Dec. 1, 2024.)

COMMITTEE NOTES ON RULES—2024 AMENDMENT

The language of Rule 7034 has been amended as part of the general restyling of the Bankruptcy Rules to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only.

REFERENCES IN TEXT

The Federal Rules of Civil Procedure, referred to in text, are set out in the Appendix to Title 28, Judiciary and Judicial Procedure.

Rule 7035. Physical and Mental Examinations

Fed. R. Civ. P. 35 applies in an adversary proceeding.

(As amended Apr. 2, 2024, eff. Dec. 1, 2024.)

COMMITTEE NOTES ON RULES—2024 AMENDMENT

The language of Rule 7035 has been amended as part of the general restyling of the Bankruptcy Rules to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only.

REFERENCES IN TEXT

The Federal Rules of Civil Procedure, referred to in text, are set out in the Appendix to Title 28, Judiciary

and Judicial Procedure.

Rule 7036. Requests for Admission

Fed. R. Civ. P. 36 applies in an adversary proceeding.

(As amended Apr. 2, 2024, eff. Dec. 1, 2024.)

COMMITTEE NOTES ON RULES—2024 AMENDMENT

The language of Rule 7036 has been amended as part of the general restyling of the Bankruptcy Rules to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only.

REFERENCES IN TEXT

The Federal Rules of Civil Procedure, referred to in text, are set out in the Appendix to Title 28, Judiciary and Judicial Procedure.

Rule 7037. Failure to Make Disclosures or to Cooperate in Discovery; Sanctions

Fed. R. Civ. P. 37 applies in an adversary proceeding.

(As amended Apr. 2, 2024, eff. Dec. 1, 2024.)

COMMITTEE NOTES ON RULES—2024 AMENDMENT

The language of Rule 7037 has been amended as part of the general restyling of the Bankruptcy Rules to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only.

REFERENCES IN TEXT

The Federal Rules of Civil Procedure, referred to in text, are set out in the Appendix to Title 28, Judiciary and Judicial Procedure.

Rule 7040. Scheduling Cases for Trial

Fed. R. Civ. P. 40 applies in an adversary proceeding.

(As amended Apr. 2, 2024, eff. Dec. 1, 2024.)

COMMITTEE NOTES ON RULES—2024 AMENDMENT

The language of Rule 7040 has been amended as part of the general restyling of the Bankruptcy Rules to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only.

REFERENCES IN TEXT

The Federal Rules of Civil Procedure, referred to in text, are set out in the Appendix to Title 28, Judiciary and Judicial Procedure.

Rule 7041. Dismissing Adversary Proceedings

Fed. R. Civ. P. 41 applies in an adversary proceeding. But a complaint objecting to the debtor's discharge may be dismissed on the plaintiff's motion only:

(a) by a court order setting out any terms and conditions for the dismissal; and

(b) with notice to the trustee, the United States trustee, and any other person the court designates.

(As amended Apr. 30, 1991, eff. Aug. 1, 1991; Apr. 2, 2024, eff. Dec. 1, 2024.)

NOTES OF ADVISORY COMMITTEE ON RULES—1983

Dismissal of a complaint objecting to a discharge raises special concerns because the plaintiff may have

been induced to dismiss by an advantage given or promised by the debtor or someone acting in his interest. Some courts by local rule or order have required the debtor and his attorney or the plaintiff to file an affidavit that nothing has been promised to the plaintiff in consideration of the withdrawal of the objection. By specifically authorizing the court to impose conditions in the order of dismissal this rule permits the continuation of this salutary practice.

Rule 41 F.R.Civ.P. refers to Rule 19 F.R.Civ.P. Pursuant to Rule 7002 that reference is to Rule 19 F.R.Civ.P. as incorporated and modified by Rule 7019.

NOTES OF ADVISORY COMMITTEE ON RULES—1991 AMENDMENT

The United States trustee has standing to object to the debtor's discharge pursuant to §727(c) and may have refrained from commencing an adversary proceeding objecting to discharge within the time limits provided in Rule 4004 only because another party commenced such a proceeding. The United States trustee may oppose dismissal of the original proceeding.

The rule is also amended to clarify that the court may direct that other persons receive notice of a plaintiff's motion to dismiss a complaint objecting to discharge.

COMMITTEE NOTES ON RULES—2024 AMENDMENT

The language of Rule 7041 has been amended as part of the general restyling of the Bankruptcy Rules to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only.

REFERENCES IN TEXT

The Federal Rules of Civil Procedure, referred to in text, are set out in the Appendix to Title 28, Judiciary and Judicial Procedure.

Rule 7042. Consolidating Adversary Proceedings; Separate Trials

Fed. R. Civ. P. 42 applies in an adversary proceeding.

(As amended Apr. 2, 2024, eff. Dec. 1, 2024.)

COMMITTEE NOTES ON RULES—2024 AMENDMENT

The language of Rule 7042 has been amended as part of the general restyling of the Bankruptcy Rules to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only.

REFERENCES IN TEXT

The Federal Rules of Civil Procedure, referred to in text, are set out in the Appendix to Title 28, Judiciary and Judicial Procedure.

Rule 7052. Findings and Conclusions by the Court; Judgment on Partial Findings

Fed. R. Civ. P. 52 applies in an adversary proceeding—except that a motion under Fed. R. Civ. P. 52(b) to amend or add findings must be filed within 14 days after the judgment is entered. The reference in Fed. R. Civ. P. 52(a) to entering a judgment under Fed. R. Civ. P. 58 must be read as referring to entering a judgment or order under Rule 5003(a).

(As amended Mar. 26, 2009, eff. Dec. 1, 2009; Apr. 2, 2024, eff. Dec. 1, 2024.)

NOTES OF ADVISORY COMMITTEE ON RULES—1983

Rule 52(a) F.R.Civ.P. refers to Rule 12 F.R.Civ.P. Pursuant to Rule 7002 this reference is to Rule 12 F.R.Civ.P. as incorporated and modified by Rule 7012.

COMMITTEE NOTES ON RULES—2009 AMENDMENT

The rule is amended by limiting the time for filing post judgment motions for amended or additional findings. In 2009, Rule 52 F. R. Civ. P. was amended to extend the deadline for filing those post judgment motions to no later than 28 days after entry of the judgment. That deadline corresponds to the 30-day deadline

for filing a notice of appeal in a civil case under Rule 4(a)(1)(A) F. R. App. P. In a bankruptcy case, the deadline for filing a notice of appeal is 14 days. Therefore, the 28-day deadline for filing a motion for amended or additional findings would effectively override the notice of appeal deadline under Rule 8002(a) but for this amendment.

The rule is amended to clarify that the reference in Rule 52 F. R. Civ. P. to Rule 58 F. R. Civ. P. and its provisions is construed as a reference to the entry of a judgment or order under Rule 5003(a).

Changes Made After Publication. No changes since publication.

COMMITTEE NOTES ON RULES—2024 AMENDMENT

The language of Rule 7052 has been amended as part of the general restyling of the Bankruptcy Rules to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only.

REFERENCES IN TEXT

The Federal Rules of Civil Procedure, referred to in text, are set out in the Appendix to Title 28, Judiciary and Judicial Procedure.

Rule 7054. Judgments; Costs

(a) JUDGMENT. Fed. R. Civ. P. 54(a)–(c) applies in an adversary proceeding.

(b) COSTS AND ATTORNEY'S FEES.

(1) *Costs Other Than Attorney's Fees*. The court may allow costs to the prevailing party, unless a federal statute or these rules provide otherwise. Costs against the United States, its officers, and its agencies may be imposed only to the extent permitted by law. The clerk, on 14 days' notice, may tax costs, and the court, on motion served within the next 7 days, may review the clerk's action.

(2) *Attorney's Fees.*

(A) *In General*. Fed. R. Civ. P. 54(d)(2)(A)–(C) and (E) applies in an adversary proceeding—except for the reference in 54(d)(2)(C) to Civil Rule 78.

(B) *Local Rules for Resolving Issues*. By local rule, the court may establish special procedures to resolve fee-related issues without extensive evidentiary hearings.

(As amended Apr. 23, 2012, eff. Dec. 1, 2012; Apr. 25, 2014, eff. Dec. 1, 2014; Apr. 2, 2024, eff. Dec. 1, 2024.)

COMMITTEE NOTES ON RULES—2012 AMENDMENT

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.

COMMITTEE NOTES ON RULES—2014 AMENDMENT

Subdivision (b) is amended to prescribe the procedure for seeking an award of attorney's fees and related nontaxable expenses in adversary proceedings. It does so by adding new paragraph (2) that incorporates most of the provisions of Rule 54(d)(2) F.R.Civ.P. The title of subdivision (b) is amended to reflect the new content, and the previously existing provision governing costs is renumbered as paragraph (1) and re-titled.

As provided in Rule 54(d)(2)(A), new subsection (b)(2) does not apply to fees recoverable as an element of damages, as when sought under the terms of a contract providing for the recovery of fees incurred prior to the instant adversary proceeding. Such fees typically are required to be claimed in a pleading.

Rule 54(d)(2)(D) F.R.Civ.P. does not apply in adversary proceedings insofar as it authorizes the referral of fee matters to a master or a magistrate judge. The use of masters is not authorized in bankruptcy cases, *see* Rule 9031, and 28 U.S.C. §636 does not authorize a magistrate judge to exercise jurisdiction upon referral by a bankruptcy judge. The remaining provision of Rule 54(d)(2)(D) is expressed in subdivision (b)(2)(B) of this rule.

Rule 54(d)(2)(C) refers to Rule 78 F.R.Civ.P., which is not applicable in adversary proceedings. Accordingly, that reference is not incorporated by this rule.

Changes Made After Publication and Comment. No changes were made after publication and comment.

COMMITTEE NOTES ON RULES—2024 AMENDMENT

The language of Rule 7054 has been amended as part of the general restyling of the Bankruptcy Rules to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only.

REFERENCES IN TEXT

The Federal Rules of Civil Procedure, referred to in subds. (a) and (b)(2)(A), are set out in the Appendix to Title 28, Judiciary and Judicial Procedure.

Civil Rule 78, referred to in subd. (b)(2)(A), probably means Rule 78 of the Federal Rules of Civil Procedure, which is set out in the Appendix to Title 28, Judiciary and Judicial Procedure.

Rule 7055. Default; Default Judgment

Fed. R. Civ. P. 55 applies in an adversary proceeding.

(As amended Apr. 2, 2024, eff. Dec. 1, 2024.)

COMMITTEE NOTES ON RULES—2024 AMENDMENT

The language of Rule 7055 has been amended as part of the general restyling of the Bankruptcy Rules to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only.

REFERENCES IN TEXT

The Federal Rules of Civil Procedure, referred to in text, are set out in the Appendix to Title 28, Judiciary and Judicial Procedure.

Rule 7056. Summary Judgment

Fed. R. Civ. P. 56 applies in an adversary proceeding. But a motion for summary judgment must be filed at least 30 days before the first date set for an evidentiary hearing on any issue that the motion addresses, unless a local rule sets a different time or the court orders otherwise.

(As amended Apr. 23, 2012, eff. Dec. 1, 2012; Apr. 2, 2024, eff. Dec. 1, 2024.)

COMMITTEE NOTES ON RULES—2012 AMENDMENT

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.

COMMITTEE NOTES ON RULES—2024 AMENDMENT

The language of Rule 7056 has been amended as part of the general restyling of the Bankruptcy Rules to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only.

REFERENCES IN TEXT

The Federal Rules of Civil Procedure, referred to in text, are set out in the Appendix to Title 28, Judiciary and Judicial Procedure.

Rule 7058. Entering Judgment

Fed. R. Civ. P. 58 applies in an adversary proceeding. A reference in that rule to the civil docket must be read as referring to the docket maintained by the clerk under Rule 5003(a).

(Added Mar. 26, 2009, eff. Dec. 1, 2009; amended Apr. 2, 2024, eff. Dec. 1, 2024.)

COMMITTEE NOTES ON RULES—2009

This rule makes Rule 58 F.R.Civ.P. applicable in adversary proceedings and is added in connection with the amendments to Rule 9021.

Changes Made After Publication. No changes since publication.

COMMITTEE NOTES ON RULES—2024 AMENDMENT

The language of Rule 7058 has been amended as part of the general restyling of the Bankruptcy Rules to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only.

REFERENCES IN TEXT

The Federal Rules of Civil Procedure, referred to in text, are set out in the Appendix to Title 28, Judiciary and Judicial Procedure.

Rule 7062. Stay of Proceedings to Enforce a Judgment

Fed. R. Civ. P. 62 applies in an adversary proceeding—except that a proceeding to enforce a judgment is stayed for 14 days after its entry.

(As amended Apr. 30, 1991, eff. Aug. 1, 1991; Apr. 26, 1999, eff. Dec. 1, 1999; Apr. 26, 2018, eff. Dec. 1, 2018; Apr. 2, 2024, eff. Dec. 1, 2024.)

NOTES OF ADVISORY COMMITTEE ON RULES—1983

The additional exceptions set forth in this rule make applicable to those matters the consequences contained in Rule 62(c) and (d) with respect to orders in actions for injunctions.

NOTES OF ADVISORY COMMITTEE ON RULES—1991 AMENDMENT

This rule is amended to include as additional exceptions to Rule 62(a) an order granting relief from the automatic stay of actions against codebtors provided by §1201 of the Code, the sale or lease of property of the estate under §363, and the assumption or assignment of an executory contract under §365.

COMMITTEE NOTES ON RULES—1999 AMENDMENT

The additional exceptions to Rule 62(a) consist of orders that are issued in contested matters. These exceptions are deleted from this rule because of the amendment to Rule 9014 that renders this rule inapplicable in contested matters unless the court orders otherwise. *See also* the amendments to Rules 3020, 3021, 4001, 6004, and 6006 that delay the implementation of certain types of orders for a period of ten days unless the court otherwise directs.

GAP Report on Rule 7062. No changes since publication.

COMMITTEE NOTES ON RULES—2018 AMENDMENT

The rule is amended to retain a 14-day period for the automatic stay of a judgment. F.R.Civ.P. 62(a) now provides for a 30-day stay to accommodate the 28-day time periods under the Federal Rules of Civil Procedure for filing post-judgment motions and the 30-day period for filing a notice of appeal. Under the Bankruptcy Rules, however, those periods are limited to 14 days. *See* Rules 7052, 8002, 9015, and 9023.

COMMITTEE NOTES ON RULES—2024 AMENDMENT

The language of Rule 7062 has been amended as part of the general restyling of the Bankruptcy Rules to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only.

REFERENCES IN TEXT

The Federal Rules of Civil Procedure, referred to in text, are set out in the Appendix to Title 28, Judiciary and Judicial Procedure.

Rule 7064. Seizing a Person or Property

Fed. R. Civ. P. 64 applies in an adversary proceeding.

(As amended Apr. 2, 2024, eff. Dec. 1, 2024.)

COMMITTEE NOTES ON RULES—2024 AMENDMENT

The language of Rule 7064 has been amended as part of the general restyling of the Bankruptcy Rules to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only.

REFERENCES IN TEXT

The Federal Rules of Civil Procedure, referred to in text, are set out in the Appendix to Title 28, Judiciary and Judicial Procedure.

Rule 7065. Injunctions

Fed. R. Civ. P. 65 applies in an adversary proceeding. But on application of a debtor, trustee, or debtor in possession, the court may issue a temporary restraining order or preliminary injunction without complying with subdivision (c) of that rule.

(As amended Apr. 2, 2024, eff. Dec. 1, 2024.)

COMMITTEE NOTES ON RULES—2024 AMENDMENT

The language of Rule 7065 has been amended as part of the general restyling of the Bankruptcy Rules to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only.

REFERENCES IN TEXT

The Federal Rules of Civil Procedure, referred to in text, are set out in the Appendix to Title 28, Judiciary and Judicial Procedure.

Rule 7067. Deposit into Court

Fed. R. Civ. P. 67 applies in an adversary proceeding.

(As amended Apr. 2, 2024, eff. Dec. 1, 2024.)

COMMITTEE NOTES ON RULES—2024 AMENDMENT

The language of Rule 7067 has been amended as part of the general restyling of the Bankruptcy Rules to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only.

REFERENCES IN TEXT

The Federal Rules of Civil Procedure, referred to in text, are set out in the Appendix to Title 28, Judiciary and Judicial Procedure.

Rule 7068. Offer of Judgment

Fed. R. Civ. P. 68 applies in an adversary proceeding.

(As amended Apr. 2, 2024, eff. Dec. 1, 2024.)

COMMITTEE NOTES ON RULES—2024 AMENDMENT

The language of Rule 7068 has been amended as part of the general restyling of the Bankruptcy Rules to

make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only.

REFERENCES IN TEXT

The Federal Rules of Civil Procedure, referred to in text, are set out in the Appendix to Title 28, Judiciary and Judicial Procedure.

Rule 7069. Execution

Fed. R. Civ. P. 69 applies in an adversary proceeding.

(As amended Apr. 2, 2024, eff. Dec. 1, 2024.)

COMMITTEE NOTES ON RULES—2024 AMENDMENT

The language of Rule 7069 has been amended as part of the general restyling of the Bankruptcy Rules to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only.

REFERENCES IN TEXT

The Federal Rules of Civil Procedure, referred to in text, are set out in the Appendix to Title 28, Judiciary and Judicial Procedure.

Rule 7070. Enforcing a Judgment for a Specific Act; Vesting Title

Fed. R. Civ. P. 70 applies in an adversary proceeding. When real or personal property is within the court's jurisdiction, the court may enter a judgment divesting a party's title and vesting it in another person.

(As amended Mar. 30, 1987, eff. Aug. 1, 1987; Apr. 2, 2024, eff. Dec. 1, 2024.)

NOTES OF ADVISORY COMMITTEE ON RULES—1987 AMENDMENT

The reference to court is used in the amendment because the district court may preside over an adversary proceeding.

COMMITTEE NOTES ON RULES—2024 AMENDMENT

The language of Rule 7070 has been amended as part of the general restyling of the Bankruptcy Rules to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only.

REFERENCES IN TEXT

The Federal Rules of Civil Procedure, referred to in text, are set out in the Appendix to Title 28, Judiciary and Judicial Procedure.

Rule 7071. Enforcing Relief for or Against a Nonparty

Fed. R. Civ. P. 71 applies in an adversary proceeding.

(As amended Apr. 2, 2024, eff. Dec. 1, 2024.)

COMMITTEE NOTES ON RULES—2024 AMENDMENT

The language of Rule 7071 has been amended as part of the general restyling of the Bankruptcy Rules to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only.

REFERENCES IN TEXT

The Federal Rules of Civil Procedure, referred to in text, are set out in the Appendix to Title 28, Judiciary and Judicial Procedure.

Rule 7087. Transferring an Adversary Proceeding

On motion and after a hearing, the court may transfer an adversary proceeding, or any part of it, to another district under 28 U.S.C. §1412—except as provided in Rule 7019(b).

(As amended Mar. 30, 1987, eff. Aug. 1, 1987; Apr. 2, 2024, eff. Dec. 1, 2024.)

NOTES OF ADVISORY COMMITTEE ON RULES—1987 AMENDMENT

The reference to the venue section of title 28 is amended to conform to the 1984 amendments to title 28.

COMMITTEE NOTES ON RULES—2024 AMENDMENT

The language of Rule 7087 has been amended as part of the general restyling of the Bankruptcy Rules to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only.

PART VIII—APPEAL TO A DISTRICT COURT OR A BANKRUPTCY APPELLATE PANEL

LENGTH LIMITS STATED IN PART VIII OF THE FEDERAL RULES OF BANKRUPTCY PROCEDURE

For the length limits stated in this part, see the Appendix, set out following the Official Forms following Part X of these rules.

Rule 8001. Scope; Definition of "BAP"; Sending Documents Electronically

(a) SCOPE. These Part VIII rules govern the procedure in a United States district court and in a bankruptcy appellate panel on appeal from a bankruptcy court's judgment, order, or decree. They also govern certain procedures on appeal to a United States court of appeals under 28 U.S.C. §158(d).

(b) DEFINITION OF "BAP." "BAP" means a bankruptcy appellate panel established by a circuit judicial council and authorized to hear appeals from a bankruptcy court under 28 U.S.C. §158.

(c) REQUIREMENT TO SEND DOCUMENTS ELECTRONICALLY. Under these Part VIII rules, a document must be sent electronically, unless:

(1) it is sent by or to an individual who is not represented by counsel; or

(2) the court's local rules permit or require mailing or delivery by other means.

(Added Apr. 25, 2014, eff. Dec. 1, 2014; amended Apr. 2, 2024, eff. Dec. 1, 2024.)

PRIOR RULE

A prior Rule 8001, Apr. 25, 1983, eff. Aug. 1, 1983, as amended Mar. 30, 1987, eff. Aug. 1, 1987; Apr. 30, 1991, eff. Aug. 1, 1991; Apr. 11, 1997, eff. Dec. 1, 1997; Apr. 23, 2008, eff. Dec. 1, 2008; Mar. 26, 2009, eff. Dec. 1, 2009, related to manner of taking appeal, voluntary dismissal, and certification to court of appeals, prior to revision of Part VIII, Apr. 25, 2014, eff. Dec. 1, 2014.

COMMITTEE NOTES ON RULES—2014

These Part VIII rules apply to appeals under 28 U.S.C. §158(a) from bankruptcy courts to district courts and BAPs. The Federal Rules of Appellate Procedure generally govern bankruptcy appeals to courts of appeals.

Eight of the Part VIII rules do, however, relate to appeals to courts of appeals. Rule 8004(e) provides that the authorization by a court of appeals of a direct appeal of a bankruptcy court's interlocutory order or decree constitutes a grant of leave to appeal. Rule 8006 governs the procedure for certification under 28 U.S.C. §158(d)(2) of a direct appeal from a judgment, order, or decree of a bankruptcy court to a court of appeals. Rule 8007 addresses stays pending a direct appeal to a court of appeals. Rule 8008 authorizes a bankruptcy court to issue an indicative ruling while an appeal is pending in a court of appeals. Rules 8009 and 8010 govern the record on appeal in a direct appeal to a court of appeals. Rule 8025 governs the granting of a stay

of a district court or BAP judgment pending an appeal to the court of appeals. And Rule 8028 authorizes the court of appeals to suspend applicable Part VIII rules in a particular case, subject to certain enumerated exceptions.

These rules take account of the evolving technology in the federal courts for the electronic filing, storage, and transmission of documents. Except as applied to pro se parties, the Part VIII rules require documents to be sent electronically, unless applicable court rules or orders expressly require or permit another means of sending a particular document.

Changes Made After Publication and Comment. No changes were made after publication and comment.

COMMITTEE NOTES ON RULES—2024 AMENDMENT

The language of Rule 8001 has been amended as part of the general restyling of the Bankruptcy Rules to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only.

Rule 8002. Time to File a Notice of Appeal

(a) IN GENERAL.

(1) *Time to File*. Except as (b) and (c) provide otherwise, a notice of appeal must be filed with the bankruptcy clerk within 14 days after the judgment, order, or decree to be appealed is entered.

(2) *Filing Before the Entry of Judgment*. A notice of appeal filed after the bankruptcy court announces a decision or order—but before entry of the judgment, order, or decree—is treated as filed on the date of and after the entry.

(3) *Multiple Appeals*. If one party timely files a notice of appeal, any other party may file a notice of appeal within 14 days after the date when the first notice was filed, or within the time otherwise allowed by this rule—whichever is later.

(4) *Mistaken Filing in Another Court*. If a notice of appeal is mistakenly filed in a district court, BAP, or court of appeals, that court's clerk must note on it the date when it was received and send it to the bankruptcy clerk. The notice is then considered filed in the bankruptcy court on the date noted.

(5) *Entry Defined.*

(A) *In General*. A judgment, order, or decree is entered for purposes of this subdivision (a):

(i) when it is entered in the docket under Rule 5003(a); or

(ii) if Rule 7058 applies and Fed. R. Civ. P. 58(a) requires a separate document, when the judgment, order, or decree is entered in the docket under Rule 5003(a) and when the earlier of these events occurs:

- the judgment, order, or decree is set out in a separate document; or
- 150 days have run from entry of the judgment, order, or decree in the docket under Rule 5003(a).

(B) *Failure to Use a Separate Document*. A failure to set out a judgment, order, or decree in a separate document when required by Fed. R. Civ. P. 58(a) does not affect the validity of an appeal from that judgment, order, or decree.

(b) EFFECT OF A MOTION ON THE TIME TO APPEAL.

(1) *In General*. If a party files in the bankruptcy court any of the following motions—and does so within the time allowed by these rules—the time to file an appeal runs for all parties from the entry of the order disposing of the last such remaining motion:

(A) to amend or make additional findings under Rule 7052, whether or not granting the motion would alter the judgment;

(B) to alter or amend the judgment under Rule 9023;

(C) for a new trial under Rule 9023; or

(D) for relief under Rule 9024 if the motion is filed within 14 days after the judgment is entered.

(2) *Notice of Appeal Filed Before a Motion Is Decided*. If a party files a notice of appeal after the court announces or enters a judgment, order, or decree—but before it disposes of any motion listed in (1)—the notice becomes effective when the order disposing of the last such remaining motion is entered.

(3) *Appealing a Ruling on a Motion*. A party intending to challenge an order disposing of a motion listed in (1)—or an alteration or amendment of a judgment, order, or decree made by a decision on the motion—must file a notice of appeal or an amended notice of appeal. It must:

(A) comply with Rule 8003 or 8004; and

(B) be filed within the time allowed by this rule, measured from the entry of the order disposing of the last such remaining motion.

(4) *No Additional Fee for an Amended Notice*. No additional fee is required to file an amended notice of appeal.

(c) APPEAL BY AN INMATE CONFINED IN AN INSTITUTION.

(1) *In General*. If an institution has a system designed for legal mail, an inmate confined there must use that system to receive the benefit of this paragraph (1). If an inmate files a notice of appeal from a bankruptcy court's judgment, order, or decree, the notice is timely if it is deposited in the institution's internal mail system on or before the last day for filing and:

(A) it is accompanied by:

(i) a declaration in compliance with 28 U.S.C. §1746—or a notarized statement—setting out the date of deposit and stating that first-class postage is being prepaid; or

(ii) evidence (such as a postmark or date stamp) showing that the notice was so deposited and that postage was prepaid; or

(B) the appellate court exercises its discretion to permit the later filing of a declaration or notarized statement that satisfies (A)(i).

(2) *Multiple Appeals*. If an inmate files under this subdivision (c) the first notice of appeal, the 14-day period provided in (a)(3) for another party to file a notice of appeal runs from the date when the bankruptcy clerk dockets the first notice.

(d) EXTENDING THE TIME TO FILE A NOTICE OF APPEAL.

(1) *When the Time May Be Extended*. Except as (2) provides otherwise, the bankruptcy court may, on motion, extend the time to file a notice of appeal if the motion is filed:

(A) within the time allowed by this rule; or

(B) within 21 days after that time expires if the party shows excusable neglect.

(2) *When the Time Must Not Be Extended*. The bankruptcy court must not extend the time to file the notice if the judgment, order, or decree being appealed:

(A) grants relief from an automatic stay under §362, 922, 1201, or 1301;

(B) authorizes the sale or lease of property or the use of cash collateral under §363;

(C) authorizes obtaining credit under §364;

(D) authorizes assuming or assigning an executory contract or unexpired lease under §365;

(E) approves a disclosure statement under §1125; or

(F) confirms a plan under §943, 1129, 1225, or 1325.

(3) *Limit on Extending Time*. An extension of time must not exceed 21 days after the time allowed by this rule, or 14 days after the order granting the motion to extend time is entered—whichever is later.

(Added Apr. 25, 2014, eff. Dec. 1, 2014; amended Apr. 26, 2018, eff. Dec. 1, 2018; Apr. 2, 2024, eff. Dec. 1, 2024.)

PRIOR RULE

A prior Rule 8002, Apr. 25, 1983, eff. Aug. 1, 1983, as amended Mar. 30, 1987, eff. Aug. 1, 1987; Apr. 30, 1991, eff. Aug. 1, 1991; Apr. 29, 1994, eff. Aug. 1, 1994; Apr. 11, 1997, eff. Dec. 1, 1997; Mar. 26, 2009, eff. Dec. 1, 2009, related to time for filing notice of appeal, prior to revision of Part VIII, Apr. 25, 2014, eff. Dec. 1, 2014.

COMMITTEE NOTES ON RULES—2014

This rule is derived from former Rule 8002 and F.R.App.P. 4(a) and (c). With the exception of subdivision (c), the changes to the former rule are stylistic. The rule retains the former rule's 14-day time period for filing a notice of appeal, as opposed to the longer periods permitted for appeals in civil cases under F.R.App.P. 4(a).

Subdivision (a) continues to allow any other party to file a notice of appeal within 14 days after the first notice of appeal is filed, or thereafter to the extent otherwise authorized by this rule. Subdivision (a) also retains provisions of the former rule that prescribe the date the notice of appeal is deemed filed if the appellant files it prematurely or in the wrong court.

Subdivision (b), like former Rule 8002(b) and F.R.App.P. 4(a), tolls the time for filing a notice of appeal when certain postjudgment motions are filed, and it prescribes the effective date of a notice of appeal that is filed before the court disposes of all of the specified motions. As under the former rule, a party that wants to appeal the court's disposition of the motion or the alteration or amendment of a judgment, order, or decree in response to such a motion must file a notice of appeal or, if it has already filed one, an amended notice of appeal.

Although Rule 8003(a)(3)(C) requires a notice of appeal to be accompanied by the required fee, no additional fee is required for the filing of an amended notice of appeal.

Subdivision (c) mirrors the provisions of F.R.App.P. 4(c)(1) and (2), which specify timing rules for a notice of appeal filed by an inmate confined in an institution.

Subdivision (d) continues to allow the court to grant an extension of time to file a notice of appeal, except with respect to certain specified judgments, orders, and decrees.

Changes Made After Publication and Comment. Stylistic changes were made to the title of subdivision (b)(3) and to subdivision (c)(1).

COMMITTEE NOTES ON RULES—2018 AMENDMENT

Clarifying amendments are made to subdivisions (a), (b), and (c) of the rule. They are modeled on parallel provisions of F.R.App.P. 4.

Paragraph (5) is added to subdivision (a) to clarify the effect of the separate-document requirement of F.R.Civ.P. 58(a) on the entry of a judgment, order, or decree for the purpose of determining the time for filing a notice of appeal.

Rule 7058 adopts F.R.Civ.P. 58 for adversary proceedings. If Rule 58(a) requires a judgment to be set out in a separate document, the time for filing a notice of appeal runs—subject to subdivisions (b) and (c)—from when the judgment is docketed and the judgment is set out in a separate document or, if no separate document is prepared, from 150 days from when the judgment is entered in the docket. The court's failure to comply with the separate-document requirement of Rule 58(a), however, does not affect the validity of an appeal.

Rule 58 does not apply in contested matters. Instead, under Rule 9021, a separate document is not required, and a judgment or order is effective when it is entered in the docket. The time for filing a notice of appeal under subdivision (a) therefore begins to run upon docket entry in contested matters, as well as in adversary proceedings for which Rule 58 does not require a separate document.

A clarifying amendment is made to subdivision (b)(1) to conform to a recent amendment to F.R.App.P. 4(a)(4)—from which Rule 8002(b)(1) is derived. Former Rule 8002(b)(1) provided that "[i]f a party timely files in the bankruptcy court" certain post-judgment motions, "the time to file an appeal runs for all parties from the entry of the order disposing of the last such remaining motion." Responding to a circuit split concerning the meaning of "timely" in F.R.App.P. 4(a)(4), the amendment adopts the majority approach and rejects the approach taken in *National Ecological Foundation v. Alexander*, 496 F.3d 466 (6th Cir. 2007). A motion made after the time allowed by the Bankruptcy Rules will not qualify as a motion that, under Rule 8002(b)(1), re-starts the appeal time—and that fact is not altered by, for example, a court order that sets a due date that is later than permitted by the Bankruptcy Rules, another party's consent or failure to object to the motion's lateness, or the court's disposition of the motion without explicit reliance on untimeliness.

Subdivision (c)(1) is revised to conform to F.R.App.P. 4(c)(1), which was recently amended to streamline and clarify the operation of the inmate-filing rule. The rule requires the inmate to show timely deposit and prepayment of postage. It is amended to specify that a notice is timely if it is accompanied by a declaration or notarized statement stating the date the notice was deposited in the institution's mail system and attesting to

the prepayment of first-class postage. The declaration must state that first-class postage "is being prepaid,"; not (as directed by the former rule) that first-class postage "has been prepaid." This change reflects the fact that inmates may need to rely upon the institution to affix postage after the inmate has deposited the document in the institution's mail system. A new Director's Form sets out a suggested form of the declaration.

The amended rule also provides that a notice is timely without a declaration or notarized statement if other evidence accompanying the notice shows that the notice was deposited on or before the due date and that postage was prepaid. If the notice is not accompanied by evidence that establishes timely deposit and prepayment of postage, then the appellate court—district court, BAP, or court of appeals in the case of a direct appeal—has discretion to accept a declaration or notarized statement at a later date. The rule uses the phrase "exercises its discretion to permit"—rather than simply "permits"—to help ensure that pro se inmates are aware that a court will not necessarily forgive a failure to provide the declaration initially.

COMMITTEE NOTES ON RULES—2024 AMENDMENT

The language of Rule 8002 has been amended as part of the general restyling of the Bankruptcy Rules to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only.

REFERENCES IN TEXT

The Federal Rules of Civil Procedure, referred to in subd. (a)(5)(A)(ii), (B), are set out in the Appendix to Title 28, Judiciary and Judicial Procedure.

Rule 8003. Appeal as of Right—How Taken; Docketing the Appeal

(a) FILING A NOTICE OF APPEAL.

(1) *Time to File*. An appeal under 28 U.S.C. §158(a)(1) or (2) from a bankruptcy court's judgment, order, or decree to a district court or a BAP may be taken only by filing a notice of appeal with the bankruptcy clerk within the time allowed by Rule 8002.

(2) *Failure to Take Any Other Step*. An appellant's failure to take any step other than timely filing a notice of appeal does not affect the appeal's validity, but is ground only for the district court or BAP to act as it considers appropriate, including dismissing the appeal.

(3) *Content of the Notice of Appeal*. A notice of appeal must:

(A) conform substantially to Form 417A;

(B) be accompanied by the judgment—or the appealable order or decree—from which the appeal is taken; and

(C) be accompanied by the prescribed filing fee.

(4) *Merger*. The notice of appeal encompasses all orders that, for purposes of appeal, merge into the identified judgment or appealable order or decree. It is not necessary to identify those orders in the notice of appeal.

(5) *Final Judgment*. The notice of appeal encompasses the final judgment, whether or not that judgment is set out in a separate document under Rule 7058, if the notice identifies:

(A) an order that adjudicates all remaining claims and the rights and liabilities of all remaining parties; or

(B) an order described in Rule 8002(b)(1).

(6) *Limited Appeal*. An appellant may identify only part of a judgment or appealable order or decree by expressly stating that the notice of appeal is so limited. Without such an express statement, specific identifications do not limit the scope of the notice of appeal.

(7) *Impermissible Ground for Dismissal*. An appeal must not be dismissed for failure to properly identify the judgment or appealable order or decree if the notice of appeal was filed after entry of the judgment or appealable order or decree and identifies an order that merged into that judgment or appealable order or decree.

(8) *Clerk's Request for Additional Copies of the Notice of Appeal*. On the bankruptcy clerk's request, the appellant must provide enough copies of the notice of appeal to enable the clerk to comply with (c).

(b) JOINT OR CONSOLIDATED APPEALS.

(1) *Joint Notice of Appeal*. When two or more parties are entitled to appeal from a bankruptcy court's judgment, order, or decree and their interests make joinder practicable, they may file a joint notice of appeal. They may then proceed on appeal as a single appellant.

(2) *Consolidating Appeals*. When parties have separately filed timely notices of appeal, the district court or BAP may join or consolidate the appeals.

(c) SERVING THE NOTICE OF APPEAL.

(1) *Serving Parties; Sending to the United States Trustee*. The bankruptcy clerk must serve the notice of appeal by sending a copy to counsel of record for each party to the appeal—excluding the appellant's counsel—and send it to the United States trustee. If a party is proceeding pro se, the clerk must send the notice to the party's last known address. The clerk must note, on each copy, the date when the notice of appeal was filed.

(2) *Failure to Serve the Notice of Appeal*. The bankruptcy clerk's failure to serve notice on a party or send notice to the United States trustee does not affect the appeal's validity.

(3) *Entry of Service on the Docket*. The clerk must note on the docket the names of the parties served and the date and method of service.

(d) SENDING THE NOTICE OF APPEAL TO THE DISTRICT COURT OR BAP; DOCKETING THE APPEAL.

(1) *Where to Send the Notice of Appeal*. If a BAP has been established to hear appeals from that district—and an appellant has not elected to have the appeal heard in the district court—the bankruptcy clerk must promptly send the notice of appeal to the BAP clerk. Otherwise, the bankruptcy clerk must promptly send it to the district clerk.

(2) *Docketing the Appeal*. Upon receiving the notice of appeal, the district or BAP clerk must:

(A) docket the appeal under the title of the bankruptcy case and the title of any adversary proceeding; and

(B) identify the appellant, adding the appellant's name if necessary.

(Added Apr. 25, 2014, eff. Dec. 1, 2014; amended Apr. 24, 2023, eff. Dec. 1, 2023; Apr. 2, 2024, eff. Dec. 1, 2024.)

PRIOR RULE

A prior Rule 8003, Apr. 25, 1983, eff. Aug. 1, 1983, as amended Mar. 30, 1987, eff. Aug. 1, 1987; Apr. 23, 2008, eff. Dec. 1, 2008; Mar. 26, 2009, eff. Dec. 1, 2009, related to leave to appeal, prior to revision of Part VIII, Apr. 25, 2014, eff. Dec. 1, 2014.

COMMITTEE NOTES ON RULES—2014

This rule is derived from several former Bankruptcy Rule and Appellate Rule provisions. It addresses appeals as of right, joint and consolidated appeals, service of the notice of appeal, and the timing of the docketing of an appeal in the district court or BAP.

Subdivision (a) incorporates, with stylistic changes, much of the content of former Rule 8001(a) regarding the taking of an appeal as of right under 28 U.S.C. §158(a)(1) or (2). The rule now requires that the judgment, order, or decree being appealed be attached to the notice of appeal.

Subdivision (b), which is an adaptation of F.R.App.P. 3(b), permits the filing of a joint notice of appeal by multiple appellants that have sufficiently similar interests that their joinder is practicable. It also allows the district court or BAP to consolidate appeals taken separately by two or more parties.

Subdivision (c) is derived from former Rule 8004 and F.R.App.P. 3(d). Under Rule 8001(c), the former rule's requirement that service of the notice of appeal be accomplished by mailing is generally modified to require that the bankruptcy clerk serve counsel by electronic means. Service on pro se parties must be made by sending the notice to the address most recently provided to the court.

Subdivision (d) modifies the provision of former Rule 8007(b), which delayed the docketing of an appeal by the district court or BAP until the record was complete and the bankruptcy clerk transmitted it. The new provision, adapted from F.R.App.P. 3(d) and 12(a), requires the bankruptcy clerk to promptly transmit the notice of appeal to the clerk of the district court or BAP. Upon receipt of the notice of appeal, the district or

BAP clerk must docket the appeal. Under this procedure, motions filed in the district court or BAP prior to completion and transmission of the record can generally be placed on the docket of an already pending appeal.

Changes Made After Publication and Comment. In subdivision (d)(2), the direction for docketing a bankruptcy appeal was changed to reflect the fact that many bankruptcy appeals have dual titles—the bankruptcy case itself and the adversary proceeding that is the subject of the appeal. Stylistic changes were made to subdivision (c)(1). Conforming changes were made to the Committee Note.

COMMITTEE NOTES ON RULES—2023 AMENDMENT

Subdivision (a) is amended to conform to recent amendments to Fed. R. App. P. 3(c), which clarified that the designation of a particular interlocutory order in a notice of appeal does not prevent the appellate court from reviewing all orders that merged into the judgment or appealable order or decree. These amendments reflect that a notice of appeal is supposed to be a simple document that provides notice that a party is appealing and invokes the jurisdiction of the appellate court. It therefore must state who is appealing, what is being appealed, and to what court the appeal is being taken. It is the role of the briefs, not the notice of appeal, to focus the issues on appeal.

Subdivision (a)(3)(B) is amended in an effort to avoid the misconception that it is necessary or appropriate to identify each and every order of the bankruptcy court that the appellant may wish to challenge on appeal. It requires the attachment of "the judgment—or the appealable order or decree—from which the appeal is taken"—and the phrase "or the part of it" is deleted. In most cases, because of the merger principle, it is appropriate to identify and attach only the judgment or the appealable order or decree from which the appeal as of right is taken.

Subdivision (a)(4) now calls attention to the merger principle. The general merger rule can be stated simply: an appeal from a final judgment or appealable order or decree permits review of all rulings that led up to the judgment, order, or decree. Because this general rule is subject to some exceptions and complications, the amendment does not attempt to codify the merger principle but instead leaves its details to case law. The amendment does not change the principle established in *Budinich v. Becton Dickinson & Co.*, 486 U.S. 196, 202–03 (1988), that "a decision on the merits is a 'final decision' . . . whether or not there remains for adjudication a request for attorney's fees attributable to the case."

Sometimes a party who is aggrieved by a final judgment will make a motion in the bankruptcy court instead of immediately filing a notice of appeal. Rule 8002(b)(1) permits a party who makes certain motions to await disposition of those motions before appealing. But some courts treat a notice of appeal that identifies only the order disposing of such a motion as limited to that order, rather than bringing the final judgment before the appellate court for review. To reduce the unintended loss of appellate rights in this situation, subdivision (a)(5) is added. This amendment does not alter the requirement of Rule 8002(b)(3) (requiring a notice of appeal or an amended notice of appeal if a party intends to challenge an order disposing of certain motions).

Subdivision (a)(6) is added to enable deliberate limitations of the notice of appeal. It allows an appellant to identify only part of a judgment or appealable order or decree by expressly stating that the notice of appeal is so limited. Without such an express statement, however, specific identifications do not limit the scope of the notice of appeal.

On occasion, a party may file a notice of appeal after a judgment or appealable order or decree but identify only a previously nonappealable order that merged into that judgment or appealable order or decree. To deal with this situation, subdivision (a)(7) is added to provide that an appeal must not be dismissed for failure to properly identify the judgment or appealable order or decree if the notice of appeal was filed after entry of the judgment or appealable order or decree and identifies an order that merged into the judgment, order, or decree from which the appeal is taken. In this situation, a court should act as if the notice had properly identified the judgment or appealable order or decree. In determining whether a notice of appeal was filed after the entry of judgment, Rules 8002(a)(2) and (b)(2) apply.

COMMITTEE NOTES ON RULES—2024 AMENDMENT

The language of Rule 8003 has been amended as part of the general restyling of the Bankruptcy Rules to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only.

Rule 8004. Leave to Appeal from an Interlocutory Order or Decree Under 28 U.S.C. §158(a)(3)

(a) NOTICE OF APPEAL AND ACCOMPANYING MOTION FOR LEAVE TO APPEAL. To

appeal under 28 U.S.C. §158(a)(3) from a bankruptcy court's interlocutory order or decree, a party must file with the bankruptcy clerk a notice of appeal under Rule 8003(a). The notice must:

(1) be filed within the time allowed by Rule 8002;

(2) be accompanied by a motion for leave to appeal prepared in accordance with (b); and

(3) unless served electronically using the court's electronic-filing system, include proof of service in accordance with Rule 8011(d).

(b) CONTENT OF THE MOTION FOR LEAVE TO APPEAL; RESPONSE.

(1) *Content*. A motion for leave to appeal under 28 U.S.C. §158(a)(3) must include:

(A) the facts needed to understand the question presented;

(B) the question itself;

(C) the relief sought;

(D) the reasons why leave to appeal should be granted; and

(E) a copy of the interlocutory order or decree and any related opinion or memorandum.

(2) *Response*. Within 14 days after the motion for leave is served, a party may file with the district or BAP clerk a response in opposition or a cross-motion.

(c) SENDING THE NOTICE OF APPEAL AND MOTION FOR LEAVE TO APPEAL; DOCKETING THE APPEAL; ORAL ARGUMENT NOT REQUIRED.

(1) *Sending to the District Court or BAP*. If a BAP has been established to hear appeals from that district—and an appellant has not elected to have the appeal heard in the district court—the bankruptcy clerk must promptly send to the BAP clerk the notice of appeal and the motion for leave to appeal. Otherwise, the bankruptcy clerk must promptly send the notice and motion to the district clerk.

(2) *Docketing the Appeal*. Upon receiving the notice and motion, the district or BAP clerk must docket the appeal as prescribed by Rule 8003(d)(2).

(3) *Oral Argument Not Required*. Unless the district court or BAP orders otherwise, a motion, a cross-motion, and any response will be submitted without oral argument.

(d) FAILURE TO FILE A MOTION FOR LEAVE TO APPEAL. If an appellant files a timely notice of appeal under this rule but fails to include a motion for leave to appeal, the district court or BAP may:

(1) treat the notice of appeal as a motion for leave to appeal and grant or deny it; or

(2) order the appellant to file a motion for leave to appeal within 14 days after the order has been entered—unless the order provides otherwise.

(e) DIRECT APPEAL TO A COURT OF APPEALS. If leave to appeal an interlocutory order or decree is required under 28 U.S.C. §158(a)(3), an authorization by a court of appeals for a direct appeal under 28 U.S.C. §158(d)(2) satisfies the requirement.

(Added Apr. 25, 2014, eff. Dec. 1, 2014; amended Apr. 2, 2024, eff. Dec. 1, 2024.)

PRIOR RULE

A prior Rule 8004, Apr. 25, 1983, eff. Aug. 1, 1983, as amended Mar. 30, 1987, eff. Aug. 1, 1987; Apr. 30, 1991, eff. Aug. 1, 1991, related to service of the notice of appeal, prior to revision of Part VIII, Apr. 25, 2014, eff. Dec. 1, 2014.

COMMITTEE NOTES ON RULES—2014

This rule is derived from former Rules 8001(b) and 8003 and F.R.App.P. 5. It retains the practice for interlocutory bankruptcy appeals of requiring a notice of appeal to be filed along with a motion for leave to appeal. Like current Rule 8003, it alters the timing of the docketing of the appeal in the district court or BAP.

Subdivision (a) requires a party seeking leave to appeal under 28 U.S.C. §158(a)(3) to file with the bankruptcy clerk both a notice of appeal and a motion for leave to appeal.

Subdivision (b) prescribes the contents of the motion, retaining the requirements of former Rule 8003(a). It

also continues to allow another party to file a cross-motion or response to the appellant's motion. Because of the prompt docketing of the appeal under the current rule, the cross-motion or response must be filed in the district court or BAP, rather than in the bankruptcy court as the former rule required.

Subdivision (c) requires the bankruptcy clerk to transmit promptly to the district court or BAP the notice of appeal and the motion for leave to appeal. Upon receipt of the notice and the motion, the district or BAP clerk must docket the appeal. Unless the district court or BAP orders otherwise, no oral argument will be held on the motion.

Subdivision (d) retains the provisions of former Rule 8003(c). It provides that if the appellant timely files a notice of appeal, but fails to file a motion for leave to appeal, the court can either direct that a motion be filed or treat the notice of appeal as the motion and either grant or deny leave.

Subdivision (e), like former Rule 8003(d), treats the authorization of a direct appeal by the court of appeals as a grant of leave to appeal under 28 U.S.C. §158(a)(3) if the district court or BAP has not already granted leave. Thus, a separate order granting leave to appeal is not required. If the court of appeals grants permission to appeal, the record must be assembled and transmitted in accordance with Rules 8009 and 8010.

Changes Made After Publication and Comment. In subdivision (c)(2), the direction for docketing a bankruptcy appeal was changed to reflect the fact that many bankruptcy appeals have dual titles—the bankruptcy case itself and the adversary proceeding that is the subject of the appeal. As published, subdivision (c)(3) stated that the court must dismiss the appeal if the motion for leave to appeal is denied. That sentence was deleted.

COMMITTEE NOTES ON RULES—2024 AMENDMENT

The language of Rule 8004 has been amended as part of the general restyling of the Bankruptcy Rules to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only.

Rule 8005. Election to Have an Appeal Heard in the District Court Instead of the BAP

(a) FILING A STATEMENT OF ELECTION. To elect to have the district court hear an appeal, a party must file a statement of election within the time prescribed by 28 U.S.C. §158(c)(1). The statement must substantially conform to Form 417A.

(b) SENDING DOCUMENTS RELATING TO THE APPEAL. Upon receiving an appellant's timely statement of election, the bankruptcy clerk must send all documents related to the appeal to the district clerk. A BAP clerk who receives a timely statement of election from a party other than the appellant must:

(1) send those documents to the district clerk; and

(2) notify the bankruptcy clerk that they have been sent.

(c) DETERMINING THE VALIDITY OF AN ELECTION. Within 14 days after the statement of election has been filed, a party seeking to determine the election's validity must file a motion in the court where the appeal is pending.

(d) EFFECT OF FILING A MOTION FOR LEAVE TO APPEAL WITHOUT FILING A NOTICE OF APPEAL. If an appellant moves for leave to appeal under Rule 8004 but fails to file a notice of appeal with the motion, it must be treated as a notice of appeal in determining whether the statement of election has been timely filed.

(Added Apr. 25, 2014, eff. Dec. 1, 2014; amended Apr. 2, 2024, eff. Dec. 1, 2024.)

PRIOR RULE

A prior Rule 8005, Apr. 25, 1983, eff. Aug. 1, 1983, as amended Mar. 30, 1987, eff. Aug. 1, 1987, related to stay pending appeal, prior to revision of Part VIII, Apr. 25, 2014, eff. Dec. 1, 2014.

COMMITTEE NOTES ON RULES—2014

This rule, which implements 28 U.S.C. §158(c)(1), is derived from former Rule 8001(e). It applies only in districts in which an appeal to a BAP is authorized.

As the former rule required, subdivision (a) provides that an appellant that elects to have a district court, rather than a BAP, hear its appeal must file with the bankruptcy clerk a statement of election when it files its

notice of appeal. The statement must conform substantially to the appropriate Official Form. For appellants, that statement is included in the Notice of Appeal Official Form. If a BAP has been established for appeals from the bankruptcy court and the appellant does not file a timely statement of election, any other party that elects to have the district court hear the appeal must file a statement of election with the BAP clerk no later than 30 days after service of the notice of appeal.

Subdivision (b) requires the bankruptcy clerk to transmit all appeal documents to the district clerk if the appellant files a timely statement of election. If the appellant does not make that election, the bankruptcy clerk must transmit those documents to the BAP clerk. Upon a timely election by any other party, the BAP clerk must promptly transmit the appeal documents to the district clerk and notify the bankruptcy clerk that the appeal has been transferred.

Subdivision (c) provides a new procedure for the resolution of disputes regarding the validity of an election. A motion seeking the determination of the validity of an election must be filed no later than 14 days after the statement of election is filed. Nothing in this rule prevents a court from determining the validity of an election on its own motion.

Subdivision (d) provides that, in the case of an appeal by leave, if the appellant files a motion for leave to appeal but fails to file a notice of appeal, the filing and service of the motion will be treated for timing purposes under this rule as the filing and service of the notice of appeal.

Changes Made After Publication and Comment. In subdivision (b), a requirement was added that the BAP clerk notify the bankruptcy clerk if an appeal is transferred from the BAP to the district court upon the election of an appellee. Conforming and clarifying changes were made to the Committee Note.

COMMITTEE NOTES ON RULES—2024 AMENDMENT

The language of Rule 8005 has been amended as part of the general restyling of the Bankruptcy Rules to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only.

Rule 8006. Certifying a Direct Appeal to the [1] Court of Appeals

(a) EFFECTIVE DATE OF A CERTIFICATION. A certification of a bankruptcy court's judgment, order, or decree to a court of appeals for direct review under 28 U.S.C. §158(d)(2) becomes effective when:

(1) it is filed;

(2) a timely appeal is taken under Rule 8003 or Rule 8004; and

(3) the notice of appeal becomes effective under Rule 8002.

(b) FILING THE CERTIFICATION. The certification must be filed with the clerk of the court where the matter is pending. For purposes of this rule, a matter remains pending in the bankruptcy court for 30 days after the first notice of appeal concerning that matter becomes effective under Rule 8002. After that time, the matter is pending in the district court or BAP.

(c) JOINT CERTIFICATION BY ALL APPELLANTS AND APPELLEES.

(1) *In General*. A joint certification by all appellants and appellees under 28 U.S.C. §158(d)(2)(A) must be made using Form 424. The parties may supplement the certification with a short statement about its basis. The statement may include the information required by (f)(2).

(2) *Supplemental Statement by the Court*. Within 14 days after the parties file the certification, the bankruptcy court—or the court where the matter is pending—may file a short supplemental statement about the certification's merits.

(d) COURT'S AUTHORITY TO CERTIFY A DIRECT APPEAL. Only the court where the matter is pending under (b) may certify a direct appeal to a court of appeals. The court may do so on a party's request or on its own.

(e) CERTIFICATION BY THE COURT ACTING ON ITS OWN.

(1) *Separate Document Required; Service; Content*. A certification by a court acting on its own must be set forth in a separate document. The clerk of the certifying court must serve the

document on the parties to the appeal in the manner required for serving a notice of appeal under Rule 8003(c)(1). It must be accompanied by an opinion or memorandum that contains the information required by (f)(2)(A)–(D).

(2) *Supplemental Statement by a Party*. Within 14 days after the court's certification, a party may file with the clerk of the certifying court a short supplemental statement about the merits of certification.

(f) CERTIFICATION BY THE COURT ON REQUEST.

(1) *How Requested*. A party's request for certification under 28 U.S.C. §158(d)(2)(A)—or a request by a majority of the appellants and of the appellees—must be filed with the clerk of the court where the matter is pending. The request must be filed within 60 days after the judgment, order, or decree is entered.

(2) *Service; Content*. The request must be served on all parties to the appeal in the manner required for serving a notice of appeal under Rule 8003(c)(1). The request must include:

(A) the facts needed to understand the question presented;

(B) the question itself;

(C) the relief sought;

(D) the reasons why a direct appeal should be allowed, including which circumstance specified in 28 U.S.C. §158(d)(2)(A)(i)–(iii) applies; and

(E) the judgment, order, or decree, and any related opinion or memorandum.

(3) *Time to File a Response or a Cross-Request.*

(A) *Response*. A party may file a response within 14 days after the request has been served, or within such other time as the court where the matter is pending allows.

(B) *Cross-Request*. A party may file a cross-request for certification within 14 days after the request has been served or within 60 days after the judgment, order, or decree has been entered—whichever occurs first.

(4) *Oral Argument Not Required*. Unless the court where the matter is pending orders otherwise, a request, a cross-request, and any response will be submitted without oral argument.

(5) *Form of a Certification; Service*. The court that certifies a direct appeal in response to a request must do so in a separate document served on all parties to the appeal in the manner required for serving a notice of appeal under Rule 8003(c)(1).

(g) REQUEST AFTER CERTIFICATION FOR A COURT OF APPEALS TO AUTHORIZE A DIRECT APPEAL. Within 30 days after the certification has become effective under (a), any party to the appeal may ask the court of appeals to authorize a direct appeal by filing a petition with the circuit clerk in accordance with Fed. R. App. P. 6(c).

(Added Apr. 25, 2014, eff. Dec. 1, 2014; amended Apr. 26, 2018, eff. Dec. 1, 2018; Apr. 2, 2024, eff. Dec. 1, 2024; Apr. 23, 2025, eff. Dec. 1, 2025.)

PRIOR RULE

A prior Rule 8006, Apr. 25, 1983, eff. Aug. 1, 1983, as amended Mar. 30, 1987, eff. Aug. 1, 1987; Apr. 30, 1991, eff. Aug. 1, 1991; Apr. 29, 1994, eff. Aug. 1, 1994; Mar. 26, 2009, eff. Dec. 1, 2009, related to record and issues on appeal, prior to revision of Part VIII, Apr. 25, 2014, eff. Dec. 1, 2014.

COMMITTEE NOTES ON RULES—2014

This rule is derived from former Rule 8001(f), and it provides the procedures for the certification of a direct appeal of a judgment, order, or decree of a bankruptcy court to the court of appeals under 28 U.S.C. §158(d)(2). Once a case has been certified in the bankruptcy court, the district court, or the BAP for direct appeal and a request for permission to appeal has been timely filed with the circuit clerk, the Federal Rules of Appellate Procedure govern further proceedings in the court of appeals.

Subdivision (a), like the former rule, requires that an appeal be properly taken—now under Rule 8003 or 8004—before a certification for direct review in the court of appeals takes effect. This rule requires the timely filing of a notice of appeal under Rule 8002 and accounts for the delayed effectiveness of a notice of appeal

under the circumstances specified in that rule. Ordinarily, a notice of appeal is effective when it is filed in the bankruptcy court. Rule 8002, however, delays the effectiveness of a notice of appeal when (1) it is filed after the announcement of a decision or order but prior to the entry of the judgment, order, or decree; or (2) it is filed after the announcement or entry of a judgment, order, or decree but before the bankruptcy court disposes of certain postjudgment motions.

When the bankruptcy court enters an interlocutory order or decree that is appealable under 28 U.S.C. §158(a)(3), certification for direct review in the court of appeals may take effect before the district court or BAP grants leave to appeal. The certification is effective when the actions specified in subdivision (a) have occurred. Rule 8004(e) provides that if the court of appeals grants permission to take a direct appeal before leave to appeal an interlocutory ruling has been granted, the authorization by the court of appeals is treated as the granting of leave to appeal.

Subdivision (b) provides that a certification must be filed in the court where the matter is pending, as determined by this subdivision. This provision modifies the former rule. Because of the prompt docketing of appeals in the district court or BAP under Rules 8003 and 8004, a matter is deemed—for purposes of this rule only—to remain pending in the bankruptcy court for 30 days after the effective date of the notice of appeal. This provision will in appropriate cases give the bankruptcy judge, who will be familiar with the matter being appealed, an opportunity to decide whether certification for direct review is appropriate. Similarly, subdivision (d) provides that only the court where the matter is then pending according to subdivision (b) may make a certification on its own motion or on the request of one or more parties.

Section 158(d)(2) provides three different ways in which an appeal may be certified for direct review. Implementing these options, the rule provides in subdivision (c) for the joint certification by all appellants and appellees; in subdivision (e) for the bankruptcy court's, district court's, or BAP's certification on its own motion; and in subdivision (f) for the bankruptcy court's, district court's, or BAP's certification on request of a party or a majority of appellants and a majority of appellees.

Subdivision (g) requires that, once a certification for direct review is made, a request to the court of appeals for permission to take a direct appeal to that court must be filed with the clerk of the court of appeals no later than 30 days after the effective date of the certification. Federal Rule of Appellate Procedure 6(c), which incorporates all of F.R.App.P. 5 except subdivision (a)(3), prescribes the procedure for requesting the permission of the court of appeals and governs proceedings that take place thereafter in that court.

Changes Made After Publication and Comment. In subdivisions (b) and (g), cross-references were added. In subdivision (f)(4), the statement regarding the inapplicability of Rule 9014 was deleted as unnecessary. A clarifying change was made to the first paragraph of the Committee Note.

COMMITTEE NOTES ON RULES—2018 AMENDMENT

Subdivision (c) is amended to provide authority for the court to file a statement on the merits of a certification for direct review by the court of appeals when the certification is made jointly by all of the parties to the appeal. It is a counterpart to subdivision (e)(2), which allows a party to file a similar statement when the court certifies direct review on the court's own motion.

The bankruptcy court may file a supplemental statement within 14 days after the certification, even if the appeal is no longer pending before it according to subdivision (b). If the appeal is pending in the district court or BAP during that 14-day period, the appellate court is authorized to file a statement. In all cases, the filing of a statement by the court is discretionary.

COMMITTEE NOTES ON RULES—2024 AMENDMENT

The language of Rule 8006 has been amended as part of the general restyling of the Bankruptcy Rules to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only.

COMMITTEE NOTES ON RULES—2025 AMENDMENT

Rule 8006(g) is revised to clarify that any party to the appeal may file a request that a court of appeals authorize a direct appeal. There is no obligation to do so if no party wishes the court of appeals to authorize a direct appeal.

REFERENCES IN TEXT

The Federal Rules of Appellate Procedure, referred to in subd. (g), are set out in the Appendix to Title 28, Judiciary and Judicial Procedure.

[1] So in House Document 119–46, which substituted "the" for "a" but did not explicitly amend catchline.

Rule 8007. Stay Pending Appeal; Bond; Suspending Proceedings

(a) INITIAL MOTION IN THE BANKRUPTCY COURT.

(1) *In General*. Ordinarily, a party must move first in the bankruptcy court for the following relief:

(A) a stay of the bankruptcy court's judgment, order, or decree pending appeal;

(B) the approval of a bond or other security provided to obtain a stay of judgment;

(C) an order suspending, modifying, restoring, or granting an injunction while an appeal is pending; or

(D) an order suspending or continuing proceedings or granting other relief permitted by (e).

(2) *Time to File*. The motion may be filed either before or after the notice of appeal is filed.

(b) MOTION IN THE DISTRICT COURT, BAP, OR COURT OF APPEALS ON DIRECT APPEAL.

(1) *In General*. A motion for the relief specified in (a)(1)—or to vacate or modify a bankruptcy court's order granting such relief—may be filed in the court where the appeal is pending.

(2) *Required Showing*. The motion must:

(A) show that moving first in the bankruptcy court would be impracticable; or

(B) if a motion has already been made in the bankruptcy court, state whether the court has ruled on it, and if so, state any reasons given for the ruling.

(3) *Additional Requirements*. The motion must also include:

(A) the reasons for granting the relief requested and the facts relied on;

(B) affidavits or other sworn statements supporting facts subject to dispute; and

(C) relevant parts of the record.

(4) *Serving Notice*. The movant must give reasonable notice of the motion to all parties.

(c) *Filing a Bond or Other Security as a Condition of Relief*.[1] The district court, BAP, or court of appeals may condition relief on filing a bond or other security with the bankruptcy court.

(d) *Bond or Other Security for a Trustee; Not for the United States*.[1] The court may require a trustee who appeals to file a bond or other security. No bond or security is required when:

(1) the United States, its officer, or its agency appeals; or

(2) an appeal is taken by direction of any federal governmental department.

(e) *Continuing Proceedings in the Bankruptcy Court*.[1] Despite Rule 7062—but subject to the authority of the district court, BAP, or court of appeals—while the appeal is pending, the bankruptcy court may:

(1) suspend or order the continuation of other proceedings in the case, or

(2) issue any appropriate order to protect the rights of all parties in interest.

(Added Apr. 25, 2014, eff. Dec. 1, 2014; amended Apr. 26, 2018, eff. Dec. 1, 2018; Apr. 2, 2024, eff. Dec. 1, 2024.)

PRIOR RULE

A prior Rule 8007, Apr. 25, 1983, eff. Aug. 1, 1983, as amended Mar. 30, 1987, eff. Aug. 1, 1987; Apr. 30, 1991, eff. Aug. 1, 1991, related to completion and transmission of the record and docketing of the appeal, prior to revision of Part VIII, Apr. 25, 2014, eff. Dec. 1, 2014.

COMMITTEE NOTES ON RULES—2014

This rule is derived from former Rule 8005 and F.R.App.P. 8. It now applies to direct appeals in courts of appeals.

Subdivision (a), like the former rule, requires a party ordinarily to seek relief pending an appeal in the bankruptcy court. Subdivision (a)(1) expands the list of relief enumerated in F.R.App.P. 8(a)(1) to reflect bankruptcy practice. It includes the suspension or continuation of other proceedings in the bankruptcy case, as authorized by subdivision (e). Subdivision (a)(2) clarifies that a motion for a stay pending appeal, approval of a supersedeas bond, or any other relief specified in paragraph (1) may be made in the bankruptcy court before or after the filing of a notice of appeal.

Subdivision (b) authorizes a party to seek the relief specified in (a)(1), or the vacation or modification of the granting of such relief, by means of a motion filed in the court where the appeal is pending—district court, BAP, or the court of appeals on direct appeal. Accordingly, a notice of appeal need not be filed with respect to a bankruptcy court's order granting or denying such a motion. The motion for relief in the district court, BAP, or court of appeals must state why it was impracticable to seek relief initially in the bankruptcy court, if a motion was not filed there, or why the bankruptcy court denied the relief sought.

Subdivisions (c) and (d) retain the provisions of the former rule that permit the district court or BAP—and now the court of appeals—to condition the granting of relief on the posting of a bond by the appellant, except when that party is a federal government entity. Rule 9025 governs proceedings against sureties.

Subdivision (e) retains the provision of the former rule that authorizes the bankruptcy court to decide whether to suspend or allow the continuation of other proceedings in the bankruptcy case while the matter for which a stay has been sought is pending on appeal.

Changes Made After Publication and Comment. The clause "or where it will be taken" was deleted in subdivision (b)(1). Stylistic changes were made to the titles of subdivisions (b) and (e) and in subdivision (e)(1). A discussion of subdivision (e) was added to the Committee Note.

COMMITTEE NOTES ON RULES—2018 AMENDMENT

The amendments to subdivisions (a)(1)(B), (c), and (d) conform this rule with the amendment of Rule 62 F.R.Civ.P., which is made applicable to adversary proceedings by Rule 7062. Rule 62 formerly required a party to provide a "supersedeas bond" to obtain a stay of the judgment and proceedings to enforce the judgment. As amended, Rule 62(b) allows a party to obtain a stay by providing a "bond or other security."

COMMITTEE NOTES ON RULES—2024 AMENDMENT

The language of Rule 8007 has been amended as part of the general restyling of the Bankruptcy Rules to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only.

[1] *So in original. The heading probably should not be italicized.*

Rule 8008. Indicative Rulings

(a) *Motion for Relief Filed When an Appeal Is Pending; Bankruptcy Court's Options*.[1] If a party files a timely motion in the bankruptcy court for relief that the court lacks authority to grant because an appeal has been docketed and is pending, the bankruptcy court may:

(1) defer considering the motion;

(2) deny the motion;

(3) state that it would grant the motion if the court where the appeal is pending remands for that purpose; or

(4) state that the motion raises a substantial issue.

(b) *Notice to the Court Where the Appeal Is Pending*.[1] If the bankruptcy court states that it would grant the motion or that the motion raises a substantial issue, the movant must promptly notify the clerk of the court where the appeal is pending.

(c) *Remand After an Indicative Ruling*.[1] If the bankruptcy court states that it would grant the motion or that the motion raises a substantial issue, the district court or BAP may remand for further proceedings but retains jurisdiction unless it expressly dismisses the appeal. If the district court or BAP remands but retains jurisdiction, the parties must promptly notify the clerk of that court when the bankruptcy court has decided the motion on remand.

(Added Apr. 25, 2014, eff. Dec. 1, 2014; amended Apr. 2, 2024, eff. Dec. 1, 2024.)

PRIOR RULE

A prior Rule 8008, Apr. 25, 1983, eff. Aug. 1, 1983, as amended Mar. 30, 1987, eff. Aug. 1, 1987; Apr. 23, 1996, eff. Dec. 1, 1996, related to filing and service, prior to revision of Part VIII, Apr. 25, 2014, eff. Dec. 1, 2014.

COMMITTEE NOTES ON RULES—2014

This rule is an adaptation of F.R.Civ.P. 62.1 and F.R.App.P. 12.1. It provides a procedure for the issuance of an indicative ruling when a bankruptcy court determines that, because of a pending appeal, the court lacks jurisdiction to grant a request for relief that the court concludes is meritorious or raises a substantial issue. The rule does not attempt to define the circumstances in which an appeal limits or defeats the bankruptcy court's authority to act in the face of a pending appeal. In contrast, Rule 8002(b) identifies motions that, if filed within the relevant time limit, suspend the effect of a notice of appeal filed before the last such motion is resolved. In those circumstances, the bankruptcy court has authority to resolve the motion without resorting to the indicative ruling procedure.

Subdivision (b) requires the movant to notify the court where an appeal is pending if the bankruptcy court states that it would grant the motion or that it raises a substantial issue. This provision applies to appeals pending in the district court, the BAP, or the court of appeals.

Federal Rules of Appellate Procedure 6 and 12.1 govern the procedure in the court of appeals following notification of the bankruptcy court's indicative ruling.

Subdivision (c) of this rule governs the procedure in the district court or BAP upon notification that the bankruptcy court has issued an indicative ruling. The district court or BAP may remand to the bankruptcy court for a ruling on the motion for relief. The district court or BAP may also remand all proceedings, thereby terminating the initial appeal, if it expressly states that it is dismissing the appeal. It should do so, however, only when the appellant has stated clearly its intention to abandon the appeal. Otherwise, the district court or BAP may remand for the purpose of ruling on the motion, while retaining jurisdiction to proceed with the appeal after the bankruptcy court rules, provided that the appeal is not then moot and a party wishes to proceed.

Changes Made After Publication and Comment. No changes were made after publication and comment.

COMMITTEE NOTES ON RULES—2024 AMENDMENT

The language of Rule 8008 has been amended as part of the general restyling of the Bankruptcy Rules to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only.

[1] *So in original. The heading probably should not be italicized.*

Rule 8009. Record on Appeal; Sealed Documents

(a) DESIGNATING THE RECORD ON APPEAL; STATEMENT OF THE ISSUES; CONTENT OF THE RECORD.

(1) *Appellant's Designation and Statement of the Issues*. The appellant must:

(A) file with the bankruptcy clerk a designation of the items to be included in the record on appeal and a statement of the issues to be presented; and

(B) file and serve the designation and statement on the appellee within 14 days after:

- the notice of appeal as of right has become effective under Rule 8002; or
- an order granting leave to appeal has been entered.

Premature service is treated as service on the first day on which filing is timely.

(2) *Appellee's and Cross-Appellant's Designation and Statement of the Issues.*

(A) *Appellee*. Within 14 days after being served, the appellee may file with the bankruptcy clerk and serve on the appellant a designation of additional items to be included in the record.

(B) *Cross-Appellant*. An appellee who files a cross-appeal must file and serve a designation of additional items to be included in the record and a statement of the issues to be presented on

the cross-appeal.

(3) *Cross-Appellee's Designation*. Within 14 days after the cross-appellant's designation and statement have been served, the cross-appellee may file with the bankruptcy clerk and serve on the cross-appellant a designation of additional items to be included in the record.

(4) *Record on Appeal*. The record on appeal must include:

- the docket entries kept by the bankruptcy clerk;
- items designated by the parties;
- the notice of appeal;
- the judgment, order, or decree being appealed;
- any order granting leave to appeal;
- any certification required for a direct appeal to the court of appeals;
- any opinion, findings of fact and conclusions of law relating to the issues on appeal, including transcripts of all oral rulings;
- any transcript ordered under (b);
- any statement required by (c); and
- any other items from the record that the court where the appeal is pending orders to be included.

(5) *Copies for the Bankruptcy Clerk*. If paper copies are needed and the bankruptcy clerk requests copies of designated items, the party filing the designation must provide them. If the party fails to do so, the bankruptcy clerk must prepare them at that party's expense.

(b) TRANSCRIPT OF PROCEEDINGS.

(1) *Appellant's Duty to Order*. Within the period prescribed by (a)(1), the appellant must:

(A) order in writing from the reporter, as defined in Rule 8010(a)(1), a transcript of such parts of the proceedings not already on file as the appellant considers necessary for the appeal, and file a copy of the order with the bankruptcy clerk; or

(B) file with the bankruptcy clerk a certificate stating that the appellant is not ordering a transcript.

(2) *Appellee's Duty to Order as a Cross-Appellant*. Within 14 days after the appellant has filed a copy of the transcript order—or a certificate stating that the appellant is not ordering a transcript—the appellee as cross-appellant must:

(A) order in writing from the reporter a transcript of such additional parts of the proceedings as the cross-appellant considers necessary for the appeal, and file a copy of the order with the bankruptcy clerk; or

(B) file with the bankruptcy clerk a certificate stating that the cross-appellant is not ordering a transcript.

(3) *Appellee's or Cross-Appellee's Right to Order*. Within 14 days after the appellant or cross-appellant has filed a copy of a transcript order—or a certificate stating that the appellant or cross-appellant is not ordering a transcript—the appellee or cross-appellee:

(A) may order in writing from the reporter a transcript of any additional parts of the proceeding that the appellee or cross-appellee considers necessary for the appeal; and

(B) must file a copy of the order with the bankruptcy clerk.

(4) *Payment*. At the time of ordering, a party must make satisfactory arrangements with the reporter to pay for the transcript.

(5) *Unsupported Finding or Conclusion*. If the appellant intends to argue on appeal that a finding or conclusion is unsupported by the evidence or is contrary to the evidence, the appellant must include in the record a transcript of all relevant testimony and a copy of all relevant exhibits.

(c) WHEN A TRANSCRIPT IS UNAVAILABLE.

(1) *Statement of the Evidence*. If a transcript of a hearing or trial is unavailable, the appellant may prepare a statement of the evidence or proceedings from the best available means, including the appellant's recollection. The statement must be filed within the time prescribed by (a)(1) and served on the appellee.

(2) *Appellee's Response*. The appellee may serve objections or proposed amendments within 14 days after being served.

(3) *Court Approval*. The statement and any objections or proposed amendments must then be submitted to the bankruptcy court for settlement and approval. As settled and approved, the statement must be included by the bankruptcy clerk in the record on appeal.

(d) AGREED STATEMENT AS THE RECORD ON APPEAL.

(1) *Agreed Statement*. Instead of the record on appeal as defined in (a), the parties may prepare, sign, and submit to the bankruptcy court a statement of the case showing how the issues presented by the appeal arose and were decided in the bankruptcy court.

(2) *Content*. The statement must set forth only those facts alleged and proved or sought to be proved that are essential to the court's resolution of the issues. If the statement is accurate, it—together with any additions that the bankruptcy court considers necessary to a full presentation of the issues on appeal—must be:

(A) approved by the bankruptcy court; and

(B) certified to the court where the appeal is pending as the record on appeal.

(3) *Time to Send the Agreed Statement to the Appellate Court*. The bankruptcy clerk must then send the agreed statement to the clerk of the court where the appeal is pending within the time provided by Rule 8010. A copy may be filed in place of the appendix required by Rule 8018(b) or, in the case of a direct appeal to the court of appeals, by Fed. R. App. P. 30.

(e) CORRECTING OR MODIFYING THE RECORD.

(1) *Differences About Accuracy; Improper Designations*. If any difference arises about whether the record accurately discloses what occurred in the bankruptcy court, the difference must be submitted to and settled by the bankruptcy court and the record conformed accordingly. If an item has been improperly designated as part of the record on appeal, a party may move to strike that item.

(2) *Omissions and Misstatements*. If anything material to either party is omitted from or misstated in the record by error or accident, the omission or misstatement may be corrected, and a supplemental record may be certified and sent:

(A) on stipulation of the parties;

(B) by the bankruptcy court before or after the record has been sent; or

(C) by the court where the appeal is pending.

(3) *Remaining Questions*. All other questions about the form and content of the record must be presented to the court where the appeal is pending.

(f) SEALED DOCUMENTS.

(1) *In General*. A document placed under seal by the bankruptcy court may be designated as a part of the record on appeal. But a document so designated:

(A) must be identified without revealing confidential or secret information; and

(B) may be sent only as (2) prescribes.

(2) *When to Send a Sealed Document*. To have a sealed document sent as part of the record, a party must file in the court where the appeal is pending a motion to accept the document under

seal. If the motion is granted, the movant must notify the bankruptcy court, and the bankruptcy clerk must promptly send the sealed document to the clerk of the court where the appeal is pending.

(g) DUTY TO ASSIST THE BANKRUPTCY CLERK. All parties to an appeal must take any other action needed to enable the bankruptcy clerk to assemble and send the record.

(Added Apr. 25, 2014, eff. Dec. 1, 2014; amended Apr. 2, 2024, eff. Dec. 1, 2024.)

PRIOR RULE

A prior Rule 8009, Apr. 25, 1983, eff. Aug. 1, 1983, as amended Mar. 30, 1987, eff. Aug. 1, 1987; Mar. 26, 2009, eff. Dec. 1, 2009, related to briefs and appendix and filing and service, prior to revision of Part VIII, Apr. 25, 2014, eff. Dec. 1, 2014.

COMMITTEE NOTES ON RULES—2014

This rule is derived from former Rule 8006 and F.R.App.P. 10 and 11(a). The provisions of this rule and Rule 8010 are applicable to appeals taken directly to a court of appeals under 28 U.S.C. §158(d)(2), as well as to appeals to a district court or BAP. *See* F.R.App.P. 6(c)(2)(A) and (B).

The rule retains the practice of former Rule 8006 of requiring the parties to designate items to be included in the record on appeal. In this respect, the bankruptcy rule differs from the appellate rule. Among other things, F.R.App.P. 10(a) provides that the record on appeal consists of all the documents and exhibits filed in the case. This requirement would often be unworkable in a bankruptcy context because thousands of items might have been filed in the overall bankruptcy case.

Subdivision (a) provides the time period for an appellant to file a designation of items to be included in the record on appeal and a statement of the issues to be presented. It then provides for the designation of additional items by the appellee, cross-appellant, and cross-appellee, as well as for the cross-appellant's statement of the issues to be presented in its appeal. Subdivision (a)(4) prescribes the content of the record on appeal. Ordinarily, the bankruptcy clerk will not need to have paper copies of the designated items because the clerk will either transmit them to the appellate court electronically or otherwise make them available electronically. If the bankruptcy clerk requires a paper copy of some or all of the items designated as part of the record, the clerk may request the party that designated the item to provide the necessary copies, and the party must comply with the request or bear the cost of the clerk's copying.

Subdivision (b) governs the process for ordering a complete or partial transcript of the bankruptcy court proceedings. In situations in which a transcript is unavailable, subdivision (c) allows for the parties' preparation of a statement of the evidence or proceedings, which must be approved by the bankruptcy court.

Subdivision (d) adopts the practice of F.R.App.P. 10(d) of permitting the parties to agree on a statement of the case in place of the record on appeal. The statement must show how the issues on appeal arose and were decided in the bankruptcy court. It must be approved by the bankruptcy court in order to be certified as the record on appeal.

Subdivision (e), modeled on F.R.App.P. 10(e), provides a procedure for correcting the record on appeal if an item is improperly designated, omitted, or misstated.

Subdivision (f) is a new provision that governs the handling of any document that remains sealed by the bankruptcy court and that a party wants to include in the record on appeal. The party must request the court where the appeal is pending to accept the document under seal, and that motion must be granted before the bankruptcy clerk may transmit the sealed document to the district, BAP, or circuit clerk.

Subdivision (g) requires the parties' cooperation with the bankruptcy clerk in assembling and transmitting the record. It retains the requirement of former Rule 8006, which was adapted from F.R.App.P. 11(a).

Changes Made After Publication and Comment. In subdivision (a)(2) and (3), the place of filing was clarified. "Docket entries kept by the bankruptcy clerk" was added to the list in subdivision (a)(4).

COMMITTEE NOTES ON RULES—2024 AMENDMENT

The language of Rule 8009 has been amended as part of the general restyling of the Bankruptcy Rules to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only.

REFERENCES IN TEXT

The Federal Rules of Appellate Procedure, referred to in subd. (d)(3), are set out in the Appendix to Title 28, Judiciary and Judicial Procedure.

Rule 8010. Transcribing the Proceedings; Filing the Transcript; Sending the Record

(a) REPORTER'S DUTIES.

(1) *Proceedings Recorded Without a Court Reporter Present*. If proceedings are recorded without a reporter present, the person or service selected under bankruptcy court procedures to transcribe the recording is the reporter for purposes of this rule.

(2) *Preparing and Filing the Transcript*. The reporter must prepare and file a transcript as follows:

(A) *Initial Steps*. Upon receiving a transcript order under Rule 8009(b), the reporter must file in the bankruptcy court an acknowledgment showing when the order was received and when the reporter expects to have the transcript completed.

(B) *Filing the Transcript*. After completing the transcript, the reporter must file it with the bankruptcy clerk, who will notify the district, BAP, or circuit clerk of its filing.

(C) *Extending the Time to Complete a Transcript*. If the transcript cannot be completed within 30 days after the order has been received, the reporter must request an extension from the bankruptcy clerk. The clerk must enter on the docket and notify the parties whether the extension is granted.

(D) *Failure to File on Time*. If the reporter fails to file the transcript on time, the bankruptcy clerk must notify the bankruptcy judge.

(b) CLERK'S DUTIES.

(1) *Sending the Record*. Subject to Rule 8009(f) and (5) below, when the record is complete, the bankruptcy clerk must send to the clerk of the court where the appeal is pending either the record or a notice that it is available electronically.

(2) *Multiple Appeals*. If there are multiple appeals from a judgment, order, or decree, the bankruptcy clerk must send a single record.

(3) *Docketing the Record in the Appellate Court*. Upon receiving the record—or a notice that it is available electronically—the district, BAP, or circuit clerk must enter that information on the docket and promptly notify all parties to the appeal.

(4) *If the Court Orders Paper Copies*. If the court where the appeal is pending orders that paper copies of the record be provided, the clerk of that court must so notify the appellant. If the appellant fails to provide them, the bankruptcy clerk must prepare them at the appellant's expense.

(5) *Motion for Leave to Appeal*. Subject to (c), if a motion for leave to appeal is filed under Rule 8004, the bankruptcy clerk must prepare and send the record only after the motion is granted.

(c) WHEN A PRELIMINARY MOTION IS FILED IN THE DISTRICT COURT, BAP, OR COURT OF APPEALS.

(1) *In General*. This subdivision (c) applies if, before the record is sent, a party moves in the district court, BAP, or court of appeals for:

(A) leave to appeal;

(B) dismissal;

(C) a stay pending appeal;

(D) approval of a bond or other security provided to obtain a stay of judgment; or

(E) any other intermediate order.

(2) *Sending the Record*. The bankruptcy clerk must send to the clerk of the court where the relief is sought any parts of the record designated by a party to the appeal—or send a notice that they are available electronically.

(Added Apr. 25, 2014, eff. Dec. 1, 2014; amended Apr. 26, 2018, eff. Dec. 1, 2018; Apr. 2, 2024, eff. Dec. 1, 2024.)

PRIOR RULE

A prior Rule 8010, Apr. 25, 1983, eff. Aug. 1, 1983, related to form and length of briefs, prior to revision of Part VIII, Apr. 25, 2014, eff. Dec. 1, 2014.

COMMITTEE NOTES ON RULES—2014

This rule is derived from former Rule 8007 and F.R.App.P. 11. It applies to an appeal taken directly to a court of appeals under 28 U.S.C. §158(d)(2), as well as to an appeal to a district court or BAP.

Subdivision (a) generally retains the procedure of former Rule 8007(a) regarding the reporter's duty to prepare and file a transcript if a party requests one. It clarifies that the person or service that transcribes the recording of a proceeding is considered the reporter under this rule if the proceeding is recorded without a reporter being present in the courtroom. It also makes clear that the reporter must file with the bankruptcy court the acknowledgment of the request for a transcript and statement of the expected completion date, the completed transcript, and any request for an extension of time beyond 30 days for completion of the transcript.

Subdivision (b) requires the bankruptcy clerk to transmit the record to the district, BAP or circuit clerk when the record is complete and, in the case of appeals under 28 U.S.C. §158(a)(3), leave to appeal has been granted. This transmission will be made electronically, either by sending the record itself or sending notice that the record can be accessed electronically. The court where the appeal is pending may, however, require that a paper copy of some or all of the record be furnished, in which case the clerk of that court will direct the appellant to provide the copies. If the appellant does not do so, the bankruptcy clerk must prepare the copies at the appellant's expense.

In a change from former Rule 8007(b), subdivision (b) of this rule no longer directs the clerk of the appellate court to docket the appeal upon receipt of the record from the bankruptcy clerk. Instead, under Rules 8003(d) and 8004(c) and F.R.App.P. 12(a), the district, BAP, or circuit clerk dockets the appeal upon receipt of the notice of appeal or, in the case of appeals under 28 U.S.C. §158(a)(3), the notice of appeal and the motion for leave to appeal. Accordingly, by the time the district, BAP, or circuit clerk receives the record, the appeal will already be docketed in that court. The clerk of the appellate court must indicate on the docket and give notice to the parties to the appeal when the transmission of the record is received. Under Rule 8018(a) and F.R.App.P. 31, the briefing schedule is generally based on that date.

Subdivision (c) is derived from former Rule 8007(c) and F.R.App.P. 11(g). It provides for the transmission of parts of the record that the parties designate for consideration by the district court, BAP, or court of appeals in ruling on specified preliminary motions filed prior to the preparation and transmission of the record on appeal.

Changes Made After Publication and Comment. Subdivision (a)(1) was revised to more accurately reflect the way in which transcription services are selected. A cross-reference to Rule 8009(b) was added to subdivision (a)(2)(A).

COMMITTEE NOTES ON RULES—2018 AMENDMENT

The amendment of subdivision (c) conforms this rule with the amendment of Rule 62 F.R.Civ.P., which is made applicable in adversary proceedings by Rule 7062. Rule 62 formerly required a party to provide a "supersedeas bond" to obtain a stay of the judgment and proceedings to enforce the judgment. As amended, Rule 62(b) allows a party to obtain a stay by providing a "bond or other security."

COMMITTEE NOTES ON RULES—2024 AMENDMENT

The language of Rule 8010 has been amended as part of the general restyling of the Bankruptcy Rules to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only.

Rule 8011. Filing and Service; Signature

(a) FILING.

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

(2) *Method and Timeliness.*

(A) *Nonelectronic Filing.*

(i) In General. For a document not filed electronically, filing may be accomplished by mail addressed to the district or BAP clerk. Except as provided in (ii) and (iii), filing is timely only if the clerk receives the document within the time set for filing.

(ii) Brief or Appendix. A brief or appendix not filed electronically is also timely filed if, on

or before the last day for filing, it is:

• mailed to the clerk by first-class mail—or other class of mail that is at least as expeditious—postage prepaid; or

• dispatched to a third-party commercial carrier for delivery to the clerk within 3 days.

(iii) Inmate Filing. If an institution has a system designed for legal mail, an inmate confined there must use that system to receive the benefit of this item (iii). A document not filed electronically by an inmate confined in an institution is timely if it is deposited in the institution's internal mailing system on or before the last day for filing and:

• it is accompanied by a declaration in compliance with 28 U.S.C. §1746—or a notarized statement—setting out the date of deposit and stating that first-class postage is being prepaid; or by evidence (such as a postmark or date stamp) showing that the notice was so deposited and that postage was prepaid; or

• the appellate court exercises its discretion to permit the later filing of a declaration or notarized statement that satisfies this item (iii).

(B) *Electronic Filing.*

(i) By a Represented Person—Generally Required; Exceptions. An entity represented by an attorney must file electronically, unless nonelectronic filing is allowed by the court for cause or is allowed or required by local rule.

(ii) By an Unrepresented Individual—When Allowed or Required. An individual not represented by an attorney:

• may file electronically only if allowed by court order or by local rule; and

• may be required to file electronically only by court order, or by a local rule that includes reasonable exceptions.

(iii) Same as a Written Paper. A document filed electronically is a written paper for purposes of these rules.

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

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

(b) *Service of All Documents Required*.[1] Unless a rule requires service by the clerk, a party must, at or before the time of the filing of a document, serve it on the other parties to the appeal. Service on a party represented by counsel must be made on the party's counsel.

(c) MANNER OF SERVICE.

(1) *Nonelectronic Service*. Nonelectronic service may be by any of the following:

(A) personal delivery;

(B) mail; or

(C) third-party commercial carrier for delivery within 3 days.

(2) *Service By Electronic Means*. Electronic service may be made by:

(A) sending a document to a registered user by filing it with the court's electronic-filing system; or

(B) using other electronic means that the person served consented to in writing.

(3) *When Service Is Complete*. Service by mail or by third-party commercial carrier is complete

on mailing or delivery to the carrier. Service by electronic means is complete on filing or sending, unless the person making service receives notice that the document was not received by the person served.

(d) PROOF OF SERVICE.

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

(A) an acknowledgement of service by the person served; or

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

(i) the date and manner of service;

(ii) the names of the persons served; and

(iii) the mail or electronic address, the fax number, or the address of the place of delivery—as appropriate for the manner of service—for each person served.

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

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

(e) SIGNATURE ALWAYS REQUIRED.

(1) *Electronic Filing*. Every document filed electronically must include the electronic signature of the person filing it or, if the person is represented, the counsel's electronic signature. A filing made through a person's electronic-filing account and authorized by that person—together with that person's name on a signature block—constitutes the person's signature.

(2) *Paper Filing*. Every document filed in paper form must be signed by the person filing it or, if the person is represented, by the person's counsel.

(Added Apr. 25, 2014, eff. Dec. 1, 2014; amended Apr. 26, 2018, eff. Dec. 1, 2018; Apr. 2, 2024, eff. Dec. 1, 2024.)

PRIOR RULE

A prior Rule 8011, Apr. 25, 1983, eff. Aug. 1, 1983, related to motions, prior to revision of Part VIII, Apr. 25, 2014, eff. Dec. 1, 2014.

COMMITTEE NOTES ON RULES—2014

This rule is derived from former Rule 8008 and F.R.App.P. 25. It adopts some of the additional details of the appellate rule, and it provides greater recognition of the possibility of electronic filing and service.

Subdivision (a) governs the filing of documents in the district court or BAP. Consistent with other provisions of these Part VIII rules, subdivision (a)(2) requires electronic filing of documents, including briefs and appendices, unless the district court's or BAP's procedures permit or require other methods of delivery to the court. An electronic filing is timely if it is received by the district or BAP clerk within the time fixed for filing. No additional copies need to be submitted when documents are filed electronically, by mail, or by delivery unless the district court or BAP requires them.

Subdivision (a)(3) provides that the district or BAP clerk may not refuse to accept a document for filing solely because its form does not comply with these rules or any local rule or practice. The district court or BAP may, however, direct the correction of any deficiency in any document that does not conform to the requirements of these rules or applicable local rules, and may prescribe such other relief as the court deems appropriate.

Subdivisions (b) and (c) address the service of documents in the district court or BAP. Except for documents that the district or BAP clerk must serve, a party that makes a filing must serve copies of the document on the other parties to the appeal. Service on represented parties must be made on counsel. Subdivision (c) expresses the general requirement under these Part VIII rules that documents be sent electronically. *See* Rule 8001(c). Local court rules, however, may provide for other means of service, and subdivision (c) specifies non-electronic methods of service by or on an unrepresented party. Electronic service is complete upon transmission, unless the party making service receives notice that the transmission did not reach the person intended to be served in a readable form.

Subdivision (d) retains the former rule's provisions regarding proof of service of a document filed in the district court or BAP. In addition, it provides that a certificate of service must state the mail or electronic address or fax number to which service was made.

Subdivision (e) is a new provision that requires an electronic signature of counsel or an unrepresented filer for documents that are filed electronically in the district court or BAP. A local rule may specify a method of providing an electronic signature that is consistent with any standards established by the Judicial Conference of the United States. Paper copies of documents filed in the district court or BAP must bear an actual signature of counsel or the filer. By requiring a signature, subdivision (e) ensures that a readily identifiable attorney or party takes responsibility for every document that is filed.

Changes Made After Publication and Comment. No changes were made after publication and comment.

COMMITTEE NOTES ON RULES—2018 AMENDMENT

The rule is amended to conform to the amendments to F.R.App.P. 25 on inmate filing, electronic filing, signature, service, and proof of service.

Consistent with Rule 8001(c), subdivision (a)(2) generally makes electronic filing mandatory. The rule recognizes exceptions for persons proceeding without an attorney, exceptions for good cause, and variations established by local rule.

Subdivision (a)(2)(A)(iii) is revised to conform to F.R.App.P. 25(a)(2)(A)(iii), which was recently amended to streamline and clarify the operation of the inmate-filing rule. The rule requires the inmate to show timely deposit and prepayment of postage. It is amended to specify that a notice is timely if it is accompanied by a declaration or notarized statement stating the date the notice was deposited in the institution's mail system and attesting to the prepayment of first-class postage. The declaration must state that first-class postage "is being prepaid," not (as directed by the former rule) that first-class postage "has been prepaid." This change reflects the fact that inmates may need to rely upon the institution to affix postage after the inmate has deposited the document in the institution's mail system. A new Director's Form sets out a suggested form of the declaration.

The amended rule also provides that a notice is timely without a declaration or notarized statement if other evidence accompanying the notice shows that the notice was deposited on or before the due date and that postage was prepaid. If the notice is not accompanied by evidence that establishes timely deposit and prepayment of postage, then the appellate court—district court, BAP, or court of appeals in the case of a direct appeal—has discretion to accept a declaration or notarized statement at a later date. The rule uses the phrase "exercises its discretion to permit"—rather than simply "permits"—to help ensure that pro se inmates are aware that a court will not necessarily forgive a failure to provide the declaration initially.

Subdivision (c) is amended to authorize electronic service by means of the court's electronic-filing system on registered users without requiring their written consent. All other forms of electronic service require the written consent of the person served.

Service is complete when a person files the paper with the court's electronic-filing system for transmission to a registered user, or when one person sends it to another person by other electronic means that the other person has consented to in writing. But service is not effective if the person who filed with the court or the person who sent by other agreed-upon electronic means receives notice that the paper did not reach the person to be served. The rule does not make the court responsible for notifying a person who filed the paper with the court's electronic-filing system that an attempted transmission by the court's system failed. But a filer who receives notice that the transmission failed is responsible for making effective service.

As amended, subdivision (d) eliminates the requirement of proof of service when service is made through the electronic-filing system. The notice of electronic filing generated by the system serves that purpose.

Subdivision (e) requires the signature of counsel or an unrepresented party on every document that is filed. A filing made through a person's electronic-filing account and authorized by that person, together with that person's name on a signature block, constitutes the person's signature. A person's electronic-filing account means an account established by the court for use of the court's electronic-filing system, which account the person accesses with the user name and password (or other credentials) issued to that person by the court.

COMMITTEE NOTES ON RULES—2024 AMENDMENT

The language of Rule 8011 has been amended as part of the general restyling of the Bankruptcy Rules to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only.

[1] *So in original. The heading probably should not be italicized.*

Rule 8012. Disclosure Statement

(a) DISCLOSURE BY A NONGOVERNMENTAL CORPORATION. Any nongovernmental corporation that is a party to a district-court or BAP proceeding or that seeks to intervene must file a statement that:

(1) identifies any parent corporation and any publicly held corporation that owns 10% or more of its stock; or

(2) states that there is no such corporation.

(b) DISCLOSURE ABOUT THE DEBTOR. The debtor, the trustee, or, if neither is a party, the appellant must file a statement that:

(1) identifies each debtor not named in the caption; and

(2) for each debtor that is a corporation, discloses the information required by (a).

(c) TIME TO FILE; SUPPLEMENTAL FILING. A Rule 8012 statement must:

(1) be filed with the principal brief or upon filing a motion, response, petition, or answer in the district court or BAP, whichever occurs first—unless a local rule requires earlier filing;

(2) be included before the table of contents in the principal brief; and

(3) be supplemented whenever the information required by this rule changes.

(Added Apr. 25, 2014, eff. Dec. 1, 2014; amended Apr. 27, 2020, eff. Dec. 1, 2020; Apr. 2, 2024, eff. Dec. 1, 2024.)

PRIOR RULE

A prior Rule 8012, Apr. 25, 1983, eff. Aug. 1, 1983, related to oral argument, prior to revision of Part VIII, Apr. 25, 2014, eff. Dec. 1, 2014.

COMMITTEE NOTES ON RULES—2014

This rule is derived from F.R.App.P. 26.1. It requires the filing of corporate disclosure statements and supplemental statements in order to assist district court and BAP judges in determining whether they should recuse themselves. Rule 9001 makes the definitions in §101 of the Code applicable to these rules. Under §101(9) the word "corporation" includes a limited liability company, limited liability partnership, business trust, and certain other entities that are not designated under applicable law as corporations.

If filed separately from a brief, motion, response, petition, or answer, the statement must be filed and served in accordance with Rule 8011. Under Rule 8015(a)(7)(B)(iii), the corporate disclosure statement is not included in calculating applicable word-count limitations.

Changes Made After Publication and Comment. A sentence was added to the Committee Note to draw attention to the broad definition of "corporation" under §101(9) of the Bankruptcy Code.

COMMITTEE NOTES ON RULES—2020 AMENDMENT

The rule is amended to conform to recent amendments to F.R.App.P. 26.1. Subdivision (a) is amended to encompass nongovernmental corporations that seek to intervene on appeal.

New subdivision (b) requires disclosure of the name of all of the debtors in the bankruptcy case. The names of the debtors are not always included in the caption of appeals. It also requires, for corporate debtors, disclosure of the same information required to be disclosed under subdivision (a).

Subdivision (c), previously subdivision (b), now applies to all the disclosure requirements in Rule 8012.

COMMITTEE NOTES ON RULES—2024 AMENDMENT

The language of Rule 8012 has been amended as part of the general restyling of the Bankruptcy Rules to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only.

Rule 8013. Motions; Interventions

(a) CONTENT OF A MOTION; RESPONSE; REPLY.

(1) *Request for Relief*. A request for an order or other relief is made by filing a motion with the district or BAP clerk.

(2) *Content of a Motion.*

(A) *Grounds, Relief Sought, and Supporting Argument*. A motion must state with particularity the grounds for the motion, the relief sought, and the legal argument supporting it.

(B) *Motion to Expedite an Appeal*. A motion to expedite an appeal must explain what justifies considering the appeal ahead of other matters. The motion may be filed as an emergency motion under (d). If it is granted, the district court or BAP may accelerate the time to:

(i) send the record;

(ii) file briefs and other documents;

(iii) conduct oral argument; and

(iv) resolve the appeal.

(C) *Accompanying Documents.*

(i) Supporting Document. Any affidavit or other document necessary to support a motion must be served and filed with the motion.

(ii) Content of Affidavit. An affidavit must contain only factual information, not legal argument.

(iii) Motion Seeking Substantive Relief. A motion seeking substantive relief must include a copy of the bankruptcy court's judgment, order, or decree, and any accompanying opinion as a separate exhibit.

(D) *Documents Barred or Not Required.*

(i) No Separate Brief. A separate brief supporting or responding to a motion must not be filed.

(ii) Notice and Proposed Order Not Required. Unless the court orders otherwise, a notice of motion or a proposed order is not required.

(3) *Response and Reply; Time to File*. Unless the district court or BAP orders otherwise:

(A) any party to the appeal may—within 7 days after the motion is served—file a response to the motion; and

(B) the movant may—within 7 days after the response is served—file a reply that addresses only matters raised in the response.

(b) DISPOSITION OF A MOTION FOR A PROCEDURAL ORDER. The district court or BAP may rule on a motion for a procedural order—including a motion under Rule 9006(b) or (c)—at any time, without awaiting a response. A party adversely affected by the ruling may move to reconsider, vacate, or modify it within 7 days after the order is served.

(c) ORAL ARGUMENT. A motion will be decided without oral argument unless the district court or BAP orders otherwise.

(d) EMERGENCY MOTION.

(1) *Noting the Emergency*. A movant who requests expedited action—because irreparable harm would occur during the time needed to consider a response—must insert "Emergency" before the motion's title.

(2) *Content*. An emergency motion must:

(A) be accompanied by an affidavit setting forth the nature of the emergency;

(B) state whether all grounds for it were previously submitted to the bankruptcy court and, if not, why the motion should not be remanded;

(C) include:

(i) the email address, office address, and telephone number of the moving counsel; and

(ii) when known, the same information as in (i) for opposing counsel and any unrepresented party to the appeal; and

(D) be served as Rule 8011 prescribes.

(3) *Notifying Opposing Parties*. Before filing an emergency motion, the movant must make every practicable effort to notify opposing counsel and any unrepresented party in time for them to respond. The affidavit accompanying the motion must state:

(A) when and how notice was given; or

(B) why giving it was impracticable.

(e) MOTION CONSIDERED BY A SINGLE BAP JUDGE.

(1) *Judge's Authority*. A BAP judge may act alone on any motion but may not:

(A) dismiss or otherwise determine an appeal;

(B) deny a motion for leave to appeal; or

(C) deny a motion for a stay pending appeal if denial would make the appeal moot.

(2) *Reviewing a Single Judge's Action*. The BAP, on its own or on a party's motion, may review a single judge's action.

(f) FORM OF DOCUMENTS; LENGTH LIMITS; NUMBER OF COPIES.

(1) *Document Filed in Paper Form*. Fed. R. App. P. 27(d)(1) applies to a motion, response, or reply filed in paper form in the district court or BAP.

(2) *Document Filed Electronically*. A motion, response, or reply filed electronically must comply with the requirements in (1) for covers, line spacing, margins, typeface, and type style. It must also comply with the length limits in (3).

(3) *Length Limits*. Except by the district court's or BAP's permission, and excluding the accompanying documents authorized by (a)(2)(C):

(A) a motion or a response to a motion produced using a computer must include a certificate under Rule 8015(h) and not exceed 5,200 words;

(B) a handwritten or typewritten motion or a response to a motion must not exceed 20 pages;

(C) a reply produced using a computer must include a certificate under Rule 8015(h) and not exceed 2,600 words; and

(D) a handwritten or typewritten reply must not exceed 10 pages.

(4) *Providing Paper Copies*. Paper copies must be provided only if required by a local rule or by an order in a particular case.

(g) MOTION FOR LEAVE TO INTERVENE.

(1) *Time to File*. Unless a statute provides otherwise, an entity seeking to intervene in an appeal in the district court or BAP must move for leave to intervene and serve a copy of the motion on all parties to the appeal. The motion—or other notice of intervention authorized by statute—must be filed within 30 days after the appeal is docketed.

(2) *Content*. The motion must concisely state:

(A) the movant's interest;

(B) the grounds for intervention;

(C) whether intervention was sought in the bankruptcy court;

(D) why intervention is being sought at this stage of the proceedings; and

(E) why participating as an amicus curiae—rather than intervening—would not be adequate.

(Added Apr. 25, 2014, eff. Dec. 1, 2014; amended Apr. 26, 2018, eff. Dec. 1, 2018; Apr. 27, 2020, eff. Dec. 1, 2020; Apr. 2, 2024, eff. Dec. 1, 2024.)

PRIOR RULE

A prior Rule 8013, Apr. 25, 1983, eff. Aug. 1, 1983, as amended Mar. 30, 1987, eff. Aug. 1, 1987, related to disposition of appeal and weight accorded bankruptcy judge's findings of fact, prior to revision of Part VIII, Apr. 25, 2014, eff. Dec. 1, 2014.

COMMITTEE NOTES ON RULES—2014

This rule is derived from former Rule 8011 and F.R.App.P. 15(d) and 27. It adopts many of the provisions of the appellate rules that specify the form and page limits of motions and accompanying documents, while also adjusting those requirements for electronic filing. In addition, it prescribes the procedure for seeking to intervene in the district court or BAP.

Subdivision (a) retains much of the content of former Rule 8011(a) regarding the contents of a motion, response, and reply. It also specifies the documents that may accompany a motion. Unlike the former rule, which allowed the filing of separate briefs supporting a motion, subdivision (a) now adopts the practice of F.R.App.P. 27(a) of prohibiting the filing of briefs supporting or responding to a motion. The motion or response itself must include the party's legal arguments.

Subdivision (a)(2)(B) clarifies the procedure for seeking to expedite an appeal. A motion under this provision seeks to expedite the time for the disposition of the appeal as a whole, whereas an emergency motion—which is addressed by subdivision (d)—typically involves an urgent request for relief short of disposing of the entire appeal (for example, an emergency request for a stay pending appeal to prevent imminent mootness). In appropriate cases—such as when there is an urgent need to resolve the appeal quickly to prevent harm—a party may file a motion to expedite the appeal as an emergency motion.

Subdivision (b) retains the substance of former Rule 8011(b). It authorizes the district court or BAP to act on a motion for a procedural order without awaiting a response to the motion. It specifies that a party seeking reconsideration, vacation, or modification of the order must file a motion within 7 days after service of the order.

Subdivision (c) continues the practice of former Rule 8011(c) and F.R.App.P. 27(e) of dispensing with oral argument of motions in the district court or BAP unless the court orders otherwise.

Subdivision (d), which carries forward the content of former Rule 8011(d), governs emergency motions that the district court or BAP may rule on without awaiting a response when necessary to prevent irreparable harm. A party seeking expedited action on a motion in the district court or BAP must explain the nature of the emergency, whether all grounds in support of the motion were first presented to the bankruptcy court, and, if not, why the district court or BAP should not remand for reconsideration. The moving party must also explain the steps taken to notify opposing counsel and any unrepresented parties in advance of filing the emergency motion and, if they were not notified, why it was impracticable to do so.

Subdivision (e), like former Rule 8011(e) and similar to F.R.App.P. 27(c), authorizes a single BAP judge to rule on certain motions. This authority, however, does not extend to issuing rulings that would dispose of the appeal. For that reason, the rule now prohibits a single BAP judge from denying a motion for a stay pending appeal when the effect of that ruling would be to require dismissal of the appeal as moot. A ruling by a single judge is subject to review by the BAP.

Subdivision (f) incorporates by reference the formatting and appearance requirements of F.R.App.P. 27(d)(1). When paper versions of the listed documents are filed, they must comply with the requirements of the specified rules regarding reproduction, covers, binding, appearance, and format. When these documents are filed electronically, they must comply with the relevant requirements of the specified rules regarding covers and format. Subdivision (f) also specifies page limits for motions, responses, and replies, which is a matter that former Rule 8011 did not address.

Subdivision (g) clarifies the procedure for seeking to intervene in a proceeding that has been appealed. It is based on F.R.App.P. 15(d), but it also requires the moving party to explain why intervention is being sought at the appellate stage. The former Part VIII rules did not address intervention.

Changes Made After Publication and Comment. Subdivision (a)(2)(D) was changed to allow the court to require a notice of motion or proposed order. A stylistic change was made to subdivision (d)(2)(B).

COMMITTEE NOTES ON RULES—2018 AMENDMENT

Subdivision (f)(3) is amended to conform to F.R.App.P. 27(d)(2), which was recently amended to replace page limits with word limits for motions and responses produced using a computer. The word limits were derived from the current page limits, using the assumption that one page is equivalent to 260 words. Documents produced using a computer must include the certificate of compliance required by Rule 8015(h); Official Form 417C suffices to meet that requirement. Page limits are retained for papers prepared without the aid of a computer (i.e., handwritten or typewritten papers). For both the word limit and the page limit, the calculation excludes the accompanying documents required by Rule 8013(a)(2)(C) and any items listed in Rule 8015(h).

COMMITTEE NOTES ON RULES—2020 AMENDMENT

Subdivision (a)(1) is amended to delete the reference to proof of service. This change reflects the recent amendment to Rule 8011(d) that eliminated the requirement of proof of service when filing and service are completed using a court's electronic-filing system.

COMMITTEE NOTES ON RULES—2024 AMENDMENT

The language of Rule 8013 has been amended as part of the general restyling of the Bankruptcy Rules to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only.

REFERENCES IN TEXT

The Federal Rules of Appellate Procedure, referred to in subd. (f)(1), are set out in the Appendix to Title 28, Judiciary and Judicial Procedure.

Rule 8014. Briefs

(a) APPELLANT'S BRIEF. The appellant's brief must contain the following under appropriate headings and in the order indicated:

(1) a disclosure statement, if required by Rule 8012;

(2) a table of contents, with page references;

(3) a table of authorities—cases (alphabetically arranged), statutes, and other authorities—with references to the pages of the brief where they are cited;

(4) a jurisdictional statement, including:

(A) the basis for the bankruptcy court's subject-matter jurisdiction, citing applicable statutory provisions and stating relevant facts establishing jurisdiction;

(B) the basis for the district court's or BAP's jurisdiction, citing applicable statutory provisions and stating relevant facts establishing jurisdiction;

(C) the filing dates establishing the timeliness of the appeal; and

(D) an assertion that the appeal is from a final judgment, order, or decree—or information establishing the district court's or BAP's jurisdiction on another basis;

(5) a statement of the issues presented and, for each one, a concise statement of the applicable standard of appellate review;

(6) a concise statement of the case setting out the facts relevant to the issues submitted for review, describing the relevant procedural history, and identifying the rulings presented for review, with appropriate references to the record;

(7) a summary of the argument, which must contain a succinct, clear, and accurate statement of the arguments made in the body of the brief, and which must not merely repeat the argument headings;

(8) the argument, which must contain the appellant's contentions and the reasons for them, with citations to the authorities and parts of the record on which the appellant relies;

(9) a short conclusion stating the precise relief sought; and

(10) the certificate of compliance, if required by Rule 8015(a)(7) or (b).

(b) APPELLEE'S BRIEF. The appellee's brief must conform to the requirements of (a)(1)–(8) and (10), except that none of the following need appear unless the appellee is dissatisfied with the appellant's statement:

(1) the jurisdictional statement;

(2) the statement of the issues and the applicable standard of appellate review; and

(3) the statement of the case.

(c) REPLY BRIEF. The appellant may file a brief in reply to the appellee's brief. A reply brief must comply with (a)(2)–(3).

(d) SETTING OUT STATUTES, RULES, REGULATIONS, OR SIMILAR AUTHORITIES. If the court's determination of the issues presented requires the study of the Code or other statutes, rules, regulations, or similar authority, the relevant parts must be set out in the brief or in an addendum.

(e) BRIEFS IN A CASE INVOLVING MULTIPLE APPELLANTS OR APPELLEES. In a case

involving more than one appellant or appellee, including consolidated cases, any number of appellants or appellees may join in a brief, and any party may adopt by reference a part of another's brief. Parties may also join in reply briefs.

(f) CITATION OF SUPPLEMENTAL AUTHORITIES. If pertinent and significant authorities come to a party's attention after the party's brief has been filed—or after oral argument but before a decision—a party may promptly advise the district or BAP clerk by a signed submission, with a copy to all other parties, setting forth the citations. The submission must state the reasons for the supplemental citations, referring either to the pertinent page of a brief or to a point argued orally. The body of the submission must not exceed 350 words. Any response must be similarly limited, and it must be made within 7 days after service unless the court orders otherwise.

(Added Apr. 25, 2014, eff. Dec. 1, 2014; amended Apr. 2, 2024, eff. Dec. 1, 2024.)

PRIOR RULE

A prior Rule 8014, Apr. 25, 1983, eff. Aug. 1, 1983, as amended Mar. 30, 1987, eff. Aug. 1, 1987, related to costs, prior to revision of Part VIII, Apr. 25, 2014, eff. Dec. 1, 2014.

COMMITTEE NOTES ON RULES—2014

This rule is derived from former Rule 8010(a) and (b) and F.R.App.P. 28. Adopting much of the content of Rule 28, it provides greater detail than former Rule 8010 contained regarding appellate briefs.

Subdivision (a) prescribes the content and structure of the appellant's brief. It largely follows former Rule 8010(a)(1), but, to ensure national uniformity, it eliminates the provision authorizing a district court or BAP to alter these requirements. Subdivision (a)(1) provides that when Rule 8012 requires an appellant to file a corporate disclosure statement, it must be placed at the beginning of the appellant's brief. Subdivision (a)(10) is new. It implements the requirement under Rule 8015(a)(7)(C) and (b) for the filing of a certificate of compliance with the limit on the number of words or lines allowed to be in a brief.

Subdivision (b) carries forward the provisions of former Rule 8010(a)(2).

Subdivision (c) is derived from F.R.App.P. 28(c). It authorizes an appellant to file a reply brief, which will generally complete the briefing process.

Subdivision (d) is similar to former Rule 8010(b), but it is reworded to reflect the likelihood that briefs will generally be filed electronically rather than in paper form.

Subdivision (e) mirrors F.R.App.P. 28(i). It authorizes multiple appellants or appellees to join in a single brief. It also allows a party to incorporate by reference portions of another party's brief.

Subdivision (f) adopts the procedures of F.R.App.P. 28(j) with respect to the filing of supplemental authorities with the district court or BAP after a brief has been filed or after oral argument. Unlike the appellate rule, it specifies a period of 7 days for filing a response to a submission of supplemental authorities. The supplemental submission and response must comply with the signature requirements of Rule 8011(e).

Changes Made After Publication and Comment. No changes were made after publication and comment.

COMMITTEE NOTES ON RULES—2024 AMENDMENT

The language of Rule 8014 has been amended as part of the general restyling of the Bankruptcy Rules to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only.

Rule 8015. Form and Length of a Brief; Form of an Appendix or Other Paper

(a) PAPER COPIES OF A BRIEF. If a paper copy of a brief may or must be filed, the following provisions apply:

(1) *Reproduction.*

(A) *Printing*. The brief may be reproduced by any process that yields a clear black image on light paper. The paper must be opaque and unglazed. Only one side of the paper may be used.

(B) *Text*. Text must be reproduced with a clarity that equals or exceeds the output of a laser printer.

(C) *Other Reproductions*. Photographs, illustrations, and tables may be reproduced by any method that results in a good copy of the original. A glossy finish is acceptable if the original is glossy.

(2) *Cover*. The front cover of the brief must contain:

(A) the number of the case centered at the top;

(B) the name of the court;

(C) the title of the case as prescribed by Rule 8003(d)(2) or 8004(c)(2);

(D) the nature of the proceeding and the name of the court below;

(E) the title of the brief, identifying the party or parties for whom the brief is filed; and

(F) the name, office address, telephone number, and email address of counsel representing the party for whom the brief is filed.

(3) *Binding*. The brief must be bound in any manner that is secure, does not obscure the text, and permits the brief to lie reasonably flat when open.

(4) *Paper Size, Line Spacing, and Margins*. The brief must be on 8½"-by-11" paper. The text must be double-spaced, but quotations more than two lines long may be indented and single-spaced. Headings and footnotes may be single-spaced. Margins must be at least one inch on all four sides. Page numbers may be placed in the margins, but no text may appear there.

(5) *Typeface*. Either a proportionally spaced or monospaced face may be used.

(A) *Proportional Spacing*. A proportionally spaced face must include serifs, but sans-serif type may be used in headings and captions. A proportionally spaced face must be 14-point or larger.

(B) *Monospacing*. A monospaced face may not contain more than 10½ characters per inch.

(6) *Type Styles*. The brief must be set in plain, roman style, although italics or boldface may be used for emphasis. Case names must be italicized or underlined.

(7) *Length.*

(A) *Page Limitation*. A principal brief must not exceed 30 pages, or a reply brief 15 pages, unless it complies with (B).

(B) *Type-Volume Limitation.*

(i) Principal Brief. A principal brief is acceptable if it contains a certificate under (h) and:

- contains no more than 13,000 words; or
- uses a monospaced face and contains no more than 1,300 lines of text.

(ii) Reply Brief. A reply brief is acceptable if it includes a certificate under (h) and contains no more than half the type volume specified in item (i).

(b) BRIEF FILED ELECTRONICALLY. A brief filed electronically must comply with (a)—except for (a)(1), (a)(3), and the paper requirement of (a)(4).

(c) PAPER COPIES OF AN APPENDIX. A paper copy of an appendix must comply with (a)(1), (2), (3), and (4), with the following exceptions:

(1) an appendix may include a legible photocopy of any document found in the record or of a printed decision; and

(2) when necessary for including odd-sized documents such as technical drawings, an appendix may be a size other than 8½" by 11", and need not lie reasonably flat when opened.

(d) APPENDIX FILED ELECTRONICALLY. An appendix filed electronically must comply with (a)(2) and (4)—except for the paper requirement of (a)(4).

(e) OTHER DOCUMENTS.

(1) *Motion*. Rule 8013(f) governs the form of a motion, response, or reply.

(2) *Paper Copies of Other Documents*. A paper copy of any other document—except one submitted under Rule 8014(f)—must comply with (a), with the following exceptions:

(A) a cover is not necessary if the caption and signature page together contain the information required by (a)(2); and

(B) the length limits of (a)(7) do not apply.

(3) *Document Filed Electronically*. Any other document filed electronically—except a document submitted under Rule 8014(f)—must comply with the requirements of (2).

(f) LOCAL VARIATION. A district court or BAP must accept documents that comply with the form requirements of this rule and the length limits set by this Part VIII. By local rule or order in a particular case, a district court or BAP may accept documents that do not meet all the form requirements of this rule or the length limits set by this Part VIII.

(g) ITEMS EXCLUDED FROM LENGTH. In computing any length limit, headings, footnotes, and quotations count toward the limit, but the following items do not:

- cover page;
- disclosure statement under Rule 8012;
- table of contents;
- table of citations;
- statement regarding oral argument;
- addendum containing statutes, rules, or regulations;
- certificate of counsel;
- signature block;
- proof of service; and
- any item specifically excluded by these rules or by local rule.

(h) CERTIFICATE OF COMPLIANCE.

(1) *Briefs and Documents That Require a Certificate*. A brief submitted under Rule 8015(a)(7)(B), 8016(d)(2), or 8017(b)(4)—and a document submitted under Rule 8013(f)(3)(A), 8013(f)(3)(C), or 8022(b)(1)—must include a certificate by the attorney, or an unrepresented party, that the document complies with the type-volume limitation. The individual preparing the certificate may rely on the word or line count of the word-processing system used to prepare the document. The certificate must state the number of words—or the number of lines of monospaced type—in the document.

(2) *Using the Official Form*. A certificate of compliance that conforms substantially to Form 417C satisfies the certificate requirement.

(Added Apr. 25, 2014, eff. Dec. 1, 2014; amended Apr. 26, 2018, eff. Dec. 1, 2018; Apr. 27, 2020, eff. Dec. 1, 2020; Apr. 2, 2024, eff. Dec. 1, 2024.)

PRIOR RULE

A prior Rule 8015, Apr. 25, 1983, eff. Aug. 1, 1983, as amended Mar. 30, 1987, eff. Aug. 1, 1987; Mar. 26, 2009, eff. Dec. 1, 2009, related to motion for rehearing, prior to revision of Part VIII, Apr. 25, 2014, eff. Dec. 1, 2014.

COMMITTEE NOTES ON RULES—2014

This rule is derived primarily from F.R.App.P. 32. Former Rule 8010(c) prescribed page limits for principal briefs and reply briefs. Those limits are now addressed by subdivision (a)(7) of this rule. In addition, the rule incorporates most of the detail of F.R.App.P. 32 regarding the appearance and format of briefs, appendices, and other documents, along with new provisions that apply when those documents are filed electronically.

Subdivision (a) prescribes the form requirements for briefs that are filed in paper form. It incorporates F.R.App.P. 32(a), except it does not include color requirements for brief covers, it requires the cover of a brief to include counsel's e-mail address, and cross-references to the appropriate bankruptcy rules are substituted for references to the Federal Rules of Appellate Procedure.

Subdivision (a)(7) decreases the length of briefs, as measured by the number of pages, that was permitted by former Rule 8010(c). Page limits are reduced from 50 to 30 pages for a principal brief and from 25 to 15 for a reply brief in order to achieve consistency with F.R.App.P. 32(a)(7). But as permitted by the appellate rule, subdivision (a)(7) also permits the limits on the length of a brief to be measured by a word or line count, as an alternative to a page limit. Basing the calculation of brief length on either of the type-volume methods specified in subdivision (a)(7)(B) will result in briefs that may exceed the designated page limits in (a)(7)(A) and that may be approximately as long as allowed by the prior page limits.

Subdivision (b) adapts for briefs that are electronically filed subdivision (a)'s form requirements. With the

use of electronic filing, the method of reproduction, method of binding, and use of paper become irrelevant. But information required on the cover, formatting requirements, and limits on brief length remain the same.

Subdivisions (c) and (d) prescribe the form requirements for appendices. Subdivision (c), applicable to paper appendices, is derived from F.R.App.P. 32(b), and subdivision (d) adapts those requirements for electronically filed appendices.

Subdivision (e), which is based on F.R.App.P. 32(c), addresses the form required for documents—in paper form or electronically filed—that these rules do not otherwise cover.

Subdivision (f), like F.R.App.P. 32(e), provides assurance to lawyers and parties that compliance with this rule's form requirements will allow a brief or other document to be accepted by any district court or BAP. A court may, however, by local rule or, under Rule 8028 by order in a particular case, choose to accept briefs and documents that do not comply with all of this rule's requirements. The decision whether to accept a brief that appears not to be in compliance with the rules must be made by the court. Under Rule 8011(a)(3), the clerk may not refuse to accept a document for filing solely because it is not presented in proper form as required by these rules or any local rule or practice.

Under Rule 8011(e), the party filing the document or, if represented, its counsel must sign all briefs and other submissions. If the document is filed electronically, an electronic signature must be provided in accordance with Rule 8011(e).

Changes Made After Publication and Comment. In subdivision (f), "or order in a particular case" was deleted as unnecessary. The discussion in the Committee Note about brief lengths was revised, and the discussion of subdivision (f) was expanded.

COMMITTEE NOTES ON RULES—2018 AMENDMENT

The rule is amended to conform to recent amendments to F.R.App.P. 32, which reduced the word limits generally allowed for briefs. When Rule 32(a)(7)(B)'s type-volume limits for briefs were adopted in 1998, the word limits were based on an estimate of 280 words per page. Amended F.R.App.P. 32 applies a conversion ratio of 260 words per page and reduces the word limits accordingly. Rule 8015(a)(7) adopts the same reduced word limits for briefs prepared by computer.

In a complex case, a party may need to file a brief that exceeds the type-volume limitations specified in these rules, such as to include unusually voluminous information explaining relevant background or legal provisions or to respond to multiple briefs by opposing parties or amici. The Committee expects that courts will accommodate those situations by granting leave to exceed the type-volume limitations as appropriate.

Subdivision (f) is amended to make clear a court's ability (by local rule or order in a case) to increase the length limits for briefs and other documents. Subdivision (f) already established this authority as to the length limits in Rule 8015(a)(7); the amendment makes clear that this authority extends to all length limits in Part VIII of the Bankruptcy Rules.

A new subdivision (g) is added to set out a global list of items excluded from length computations, and the list of exclusions in former subdivision (a)(7)(B)(iii) is deleted. The certificate-of-compliance provision formerly in subdivision (a)(7)(C) is relocated to a new subdivision (h) and now applies to filings under all type-volume limits (other than Rule 8014(f)'s word limit)—including the new word limits in Rules 8013, 8016, 8017, and 8022. Conforming amendments are made to Official Form 417C.

COMMITTEE NOTES ON RULES—2020 AMENDMENT

The amendment to subdivision (g) is made to reflect recent amendments to Rule 8011(d) that eliminated the requirement of proof of service when filing and service are completed using a court's electronic-filing system. Because each item listed in Rule 8015(g) will not always be required, the initial article is deleted. The word "corporate" is deleted before "disclosure statement" to reflect a concurrent change in the title of Rule 8012.

COMMITTEE NOTES ON RULES—2024 AMENDMENT

The language of Rule 8015 has been amended as part of the general restyling of the Bankruptcy Rules to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only.

Rule 8016. Cross-Appeals

(a) APPLICABILITY. This rule applies to a case in which a cross-appeal is filed. Rules 8014(a)–(c), 8015(a)(7)(A)–(B), and 8018(a)(1)–(3) do not apply to such a case, unless this rule states otherwise.

(b) DESIGNATION OF APPELLANT. The party who files a notice of appeal first is the appellant

for purposes of this rule and Rule 8018(a)(4) and (b) and Rule 8019. If notices are filed on the same day, the plaintiff, petitioner, applicant, or movant in the proceeding below is the appellant. These designations may be modified by the parties' agreement or by court order.

(c) BRIEFS. In a case involving a cross-appeal:

(1) *Appellant's Principal Brief.* The appellant must file a principal brief in the appeal. That brief must comply with Rule 8014(a).

(2) *Appellee's Principal and Response Brief.* The appellee must file a principal brief in the cross-appeal and must, in the same brief, respond to the principal brief in the appeal. That brief must comply with Rule 8014(a), but the brief need not include a statement of the case unless the appellee is dissatisfied with the appellant's statement.

(3) *Appellant's Response and Reply Brief.* The appellant must file a brief that responds to the principal brief in the cross-appeal and may, in the same brief, reply to the response in the appeal. That brief must comply with Rule 8014(a)(2)–(8) and (10), but none of the following need appear unless the appellant is dissatisfied with the appellee's statement in the cross-appeal:

(A) the jurisdictional statement;

(B) the statement of the issues;

(C) the statement of the case; and

(D) the statement of the applicable standard of appellate review.

(4) *Appellee's Reply Brief.* The appellee may file a brief in reply to the response in the cross-appeal. That brief must comply with Rule 8014(a)(2)–(3) and (10) and must be limited to the issues presented by the cross-appeal.

(d) LENGTH.

(1) *Page Limitation.* Unless it complies with (2), the appellant's principal brief must not exceed 30 pages; the appellee's principal and response brief, 35 pages; the appellant's response and reply brief, 30 pages; and the appellee's reply brief, 15 pages.

(2) *Type-Volume Limitation.*

(A) *Appellant's Brief.* The appellant's principal brief or the appellant's response and reply brief is acceptable if it includes a certificate under Rule 8015(h) and:

(i) contains no more than 13,000 words; or

(ii) uses a monospaced face and contains no more than 1,300 lines of text.

(B) *Appellee's Principal and Response Brief.* The appellee's principal and response brief is acceptable if it includes a certificate under Rule 8015(h) and:

(i) contains no more than 15,300 words; or

(ii) uses a monospaced face and contains no more than 1,500 lines of text.

(C) *Appellee's Reply Brief.* The appellee's reply brief is acceptable if it includes a certificate under Rule 8015(h) and contains no more than half the type volume specified in (A).

(e) TIME TO SERVE AND FILE A BRIEF. Briefs must be served and filed as follows, unless the district court or BAP by order in a particular case excuses the filing of briefs or sets different time limits:

(1) the appellant's principal brief, within 30 days after the docketing of a notice that the record has been sent or is available electronically;

(2) the appellee's principal and response brief, within 30 days after the appellant's principal brief is served;

(3) the appellant's response and reply brief, within 30 days after the appellee's principal and response brief is served; and

(4) the appellee's reply brief, within 14 days after the appellant's response and reply brief is served but at least 7 days before scheduled argument—unless the district court or BAP, for cause, allows a later filing.

(Added Apr. 25, 2014, eff. Dec. 1, 2014; amended Apr. 26, 2018, eff. Dec. 1, 2018; Apr. 2, 2024, eff. Dec. 1, 2024.)

PRIOR RULE

A prior Rule 8016, Apr. 25, 1983, eff. Aug. 1, 1983, as amended Mar. 30, 1987, eff. Aug. 1, 1987; Apr. 30, 1991, eff. Aug. 1, 1991, related to duties of clerk of district court and bankruptcy appellate panel, prior to revision of Part VIII, Apr. 25, 2014, eff. Dec. 1, 2014.

COMMITTEE NOTES ON RULES—2014

This rule is derived from F.R.App.P. 28.1. It governs the timing, content, length, filing, and service of briefs in bankruptcy appeals in which there is a cross-appeal. The former Part VIII rules did not separately address the topic of cross-appeals.

Subdivision (b) prescribes which party is designated the appellant when there is a cross-appeal. Generally, the first to file a notice of appeal will be the appellant.

Subdivision (c) specifies the briefs that the appellant and the appellee may file. Because of the dual role of the parties to the appeal and cross-appeal, each party is permitted to file a principal brief and a response to the opposing party's brief, as well as a reply brief. For the appellee, the principal brief in the cross-appeal and the response in the appeal are combined into a single brief. The appellant, on the other hand, initially files a principal brief in the appeal and later files a response to the appellee's principal brief in the cross-appeal, along with a reply brief in the appeal. The final brief that may be filed is the appellee's reply brief in the cross-appeal.

Subdivision (d), which prescribes page limits for briefs, is adopted from F.R.App.P. 28.1(e). It applies to briefs that are filed electronically, as well as to those filed in paper form. Like Rule 8015(a)(7), it imposes limits measured by either the number of pages or the number of words or lines of text.

Subdivision (e) governs the time for filing briefs in cases in which there is a cross-appeal. It adapts the provisions of F.R.App.P. 28.1(f).

Changes Made After Publication and Comment. Subdivision (d)(2)(D) was added, and subdivision (f) was deleted. In subdivision (a), the statement that Rule 8018(a) does not apply was changed to refer to Rule 8018(a)(1)–(3). In subdivision (b), Rule 8018(a)(4) was added to the list of rules. Conforming changes were made to the Committee Note.

COMMITTEE NOTES ON RULES—2018 AMENDMENT

The rule is amended to conform to recent amendments to F.R.App.P. 28.1, which reduced the word limits generally allowed for briefs in cross-appeals. When Rule 28.1 was adopted in 2005, it modeled its type-volume limits on those set forth in F.R.App.P. 32(a)(7) for briefs in cases that did not involve a cross-appeal. At that time, Rule 32(a)(7)(B) set word limits based on an estimate of 280 words per page. Amended F.R.App.P. 32 and 28.1 apply a conversion ratio of 260 words per page and reduce the word limits accordingly. Rule 8016(d)(2) adopts the same reduced word limits.

In a complex case, a party may need to file a brief that exceeds the type-volume limitations specified in these rules, such as to include unusually voluminous information explaining relevant background or legal provisions or to respond to multiple briefs by opposing parties or amici. The Committee expects that courts will accommodate those situations by granting leave to exceed the type-volume limitations as appropriate.

Subdivision (d) is amended to refer to new Rule 8015(h) (which now contains the certificate-of-compliance provision formerly in Rule 8015(a)(7)(C)).

COMMITTEE NOTES ON RULES—2024 AMENDMENT

The language of Rule 8016 has been amended as part of the general restyling of the Bankruptcy Rules to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only.

Rule 8017. Brief of an Amicus Curiae

(a) DURING THE INITIAL CONSIDERATION OF A CASE ON THE MERITS.

(1) *Applicability*. This subdivision (a) governs amicus filings during a court's initial consideration of a case on the merits.

(2) *When Permitted*. The United States, its officer or agency, or a state may file an amicus brief without the parties' consent or leave of court. Any other amicus curiae may file a brief only by

leave of court or if the brief states that all parties have consented to its filing, but a district court or BAP may prohibit the filing of or may strike an amicus brief that would result in a judge's disqualification. On its own, and with notice to all parties to an appeal, the district court or BAP may request a brief by an amicus curiae.

(3) *Motion for Leave to File*. A motion for leave must be accompanied by the proposed brief and state:

(A) the movant's interest; and

(B) the reason why an amicus brief is desirable and why the matters asserted are relevant to the disposition of the appeal.

(4) *Content and Form*. An amicus brief must comply with Rule 8015. In addition, the cover must identify the party or parties supported and indicate whether the brief supports affirmance or reversal. If an amicus curiae is a corporation, the brief must include a disclosure statement like that required of parties by Rule 8012. An amicus brief need not comply with Rule 8014, but must include the following:

(A) a table of contents, with page references;

(B) a table of authorities—cases (alphabetically arranged), statutes, and other authorities—with references to the pages of the brief where they are cited;

(C) a concise statement of the identity of the amicus curiae, its interest in the case, and the source of its authority to file;

(D) unless the amicus curiae is one listed in the first sentence of (2), a statement that indicates whether:

(i) a party's counsel authored the brief in whole or in part;

(ii) a party or a party's counsel contributed money that was intended to fund preparing or submitting the brief; and

(iii) a person—other than the amicus curiae, its members, or its counsel—contributed money that was intended to fund preparing or submitting the brief and, if so, identifies each such person;

(E) an argument, which may be preceded by a summary and need not include a statement of the applicable standard of review; and

(F) a certificate of compliance, if required by Rule 8015(h).

(5) *Length*. Except by the district court's or BAP's permission, an amicus brief must be no more than one-half the maximum length authorized by these rules for a party's principal brief. If the court grants a party permission to file a longer brief, that extension does not affect the length of an amicus brief.

(6) *Time for Filing*. An amicus curiae must file its brief—accompanied by a motion for leave to file when required—within 7 days after the principal brief of the party being supported is filed. An amicus curiae that does not support either party must file its brief within 7 days after the appellant's principal brief is filed. The district court or BAP may grant leave for later filing, specifying the time within which an opposing party may answer.

(7) *Reply Brief*. Except by the district court's or BAP's permission, an amicus curiae may not file a reply brief.

(8) *Oral Argument*. An amicus curiae may participate in oral argument only with the district court's or BAP's permission.

(b) DURING CONSIDERATION OF WHETHER TO GRANT REHEARING.

(1) *Applicability*. This subdivision (b) governs amicus filings during a district court's or BAP's consideration of whether to grant rehearing, unless a local rule or order in a particular case provides otherwise.

(2) *When Permitted*. The United States, its officer or agency, or a state may file an amicus brief without the parties' consent or leave of court. Any other amicus curiae may file a brief only by

leave of court.

(3) *Motion for Leave to File*. Paragraph (a)(3) applies to a motion for leave to file.

(4) *Content, Form, and Length*. Paragraph (a)(4) applies to the amicus brief. The brief must include a certificate under Rule 8015(h) and not exceed 2,600 words.

(5) *Time to File*. An amicus curiae supporting a motion for rehearing or supporting neither party must file its brief—accompanied by a motion for leave to file when required—within 7 days after the motion is filed. An amicus curiae opposing the motion for rehearing must file its brief—accompanied by a motion for leave to file when required—no later than the date set by the court for the response.

(Added Apr. 25, 2014, eff. Dec. 1, 2014; amended Apr. 26, 2018, eff. Dec. 1, 2018; Apr. 2, 2024, eff. Dec. 1, 2024.)

PRIOR RULE

A prior Rule 8017, Apr. 25, 1983, eff. Aug. 1, 1983, as amended Mar. 26, 2009, eff. Dec. 1, 2009, related to stay of judgment of district court or bankruptcy appellate panel, prior to revision of Part VIII, Apr. 25, 2014, eff. Dec. 1, 2014.

COMMITTEE NOTES ON RULES—2014

This rule is derived from F.R.App.P. 29. The former Part VIII rules did not address the participation by an amicus curiae in a bankruptcy appeal.

Subdivision (a) adopts the provisions of F.R.App.P. 29(a). In addition, it authorizes the district court or BAP on its own motion—with notice to the parties—to request the filing of a brief by an amicus curiae.

Subdivisions (b)–(g) adopt F.R.App.P. 29(b)–(g).

Changes Made After Publication and Comment. No changes were made after publication and comment.

COMMITTEE NOTES ON RULES—2018 AMENDMENT

Rule 8017 is amended to conform to the recent amendment to F.R.App.P. 29, which now addresses amicus filings in connection with petitions for rehearing. Former Rule 8017 is renumbered Rule 8017(a), and language is added to that subdivision (a) to state that its provisions apply to amicus filings during the district court's or BAP's initial consideration of a case on the merits. New subdivision (b) is added to address amicus filings in connection with a motion for rehearing. Subdivision (b) sets default rules that apply when a district court or BAP does not provide otherwise by local rule or by order in a case. A court remains free to adopt different rules governing whether amicus filings are permitted in connection with motions for rehearing and the procedures when such filings are permitted.

The amendment to subdivision (a)(2) authorizes orders or local rules that prohibit the filing of or permit the striking of an amicus brief by party consent if the brief would result in a judge's disqualification. The amendment does not alter or address the standards for when an amicus brief requires a judge's disqualification. It is modeled on an amendment to F.R.App.P. 29(a). A comparable amendment to subdivision (b) is not necessary. Subdivision (b)(1) authorizes local rules and orders governing filings during a court's consideration of whether to grant rehearing. These local rules or orders may prohibit the filing of or permit the striking of an amicus brief that would result in a judge's disqualification. In addition, under subdivision (b)(2), a court may deny leave to file an amicus brief that would result in a judge's disqualification.

COMMITTEE NOTES ON RULES—2024 AMENDMENT

The language of Rule 8017 has been amended as part of the general restyling of the Bankruptcy Rules to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only.

Rule 8018. Serving and Filing Briefs and Appendices

(a) TIME TO SERVE AND FILE A BRIEF. Unless the district court or BAP by order in a particular case excuses the filing of briefs or sets a different time, the following time limits apply:

(1) *Appellant's Brief*. The appellant must serve and file a brief within 30 days after the docketing of notice that the record has been sent or that it is available electronically.

(2) *Appellee's Brief*. The appellee must serve and file a brief within 30 days after the appellant's brief is served.

(3) *Appellant's Reply Brief*. The appellant may serve and file a reply brief within 14 days after service of the appellee's brief but at least 7 days before scheduled argument—unless the district court or BAP, for cause, allows a later filing.

(4) *Consequence of Failure to File*. If an appellant fails to file a brief on time or within an extended time authorized under (a)(3), the district court or BAP may—on its own after notice or on the appellee's motion—dismiss the appeal. An appellee who fails to file a brief will not be heard at oral argument unless the district court or BAP grants permission.

(b) DUTY TO SERVE AND FILE AN APPENDIX.

(1) *Appellant's Duty*. Subject to (e) and Rule 8009(d), the appellant must serve and file with its principal brief an appendix containing excerpts from the record. It must contain:

(A) the relevant docket entries;

(B) the complaint and answer, or equivalent filings;

(C) the judgment, order, or decree from which the appeal is taken;

(D) any other orders, pleadings, jury instructions, findings, conclusions, or opinions relevant to the appeal;

(E) the notice of appeal; and

(F) any relevant transcript or portion of it.

(2) *Appellee's Appendix*. The appellee may serve and file with its brief an appendix containing any material that is required to be included or is relevant to the appeal or cross-appeal but that is omitted from the appellant's appendix.

(3) *Cross-Appellee's Appendix*. The appellant—as cross-appellee—may also serve and file with its response an appendix containing material that is relevant to matters raised initially by the cross-appeal but that is omitted by the cross-appellant.

(c) FORMAT OF THE APPENDIX.

(1) *Content*. The appendix must:

(A) begin with a table of contents identifying the page at which each part begins;

(B) put the relevant docket entries after the table of contents;

(C) then put other parts of the record chronologically;

(D) when transcript pages are included, show the transcript page numbers in brackets immediately before the included pages; and

(E) indicate omissions from the text of a document or of the transcript by asterisks.

(2) *Immaterial Formal Matters*. The appendix should not include immaterial formal matters, such as captions, subscriptions, and acknowledgments.

(d) REPRODUCING EXHIBITS. Exhibits designated for inclusion in the appendix may be reproduced in a separate volume or volumes, suitably indexed.

(e) APPEAL ON THE ORIGINAL RECORD WITHOUT AN APPENDIX. The district court or BAP may, either by rule for all cases or classes of cases or by order in a particular case:

(1) dispense with the appendix; and

(2) permit an appeal to proceed on the original record with the submission of any relevant parts that the district court or BAP orders the parties to file.

(Added Apr. 25, 2014, eff. Dec. 1, 2014; amended Apr. 2, 2024, eff. Dec. 1, 2024.)

PRIOR RULE

A prior Rule 8018, Apr. 25, 1983, eff. Aug. 1, 1983, as amended Mar. 30, 1987, eff. Aug. 1, 1987; Apr. 27, 1995, eff. Dec. 1, 1995, related to rules by circuit councils and district courts and procedure when there is no controlling law, prior to revision of Part VIII, Apr. 25, 2014, eff. Dec. 1, 2014.

COMMITTEE NOTES ON RULES—2014

This rule is derived from former Rule 8009 and F.R.App.P. 30 and 31. Like former Rule 8009, it addresses

the timing of serving and filing briefs and appendices, as well as the content and format of appendices. Rule 8011 governs the methods of filing and serving briefs and appendices.

The rule retains the bankruptcy practice of permitting the appellee to file its own appendix, rather than requiring the appellant to include in its appendix matters designated by the appellee. Rule 8016 governs the timing of serving and filing briefs when a cross-appeal is taken. This rule's provisions about appendices apply to all appeals, including cross-appeals.

Subdivision (a) retains former Rule 8009's provision that allows the district court or BAP to dispense with briefing or to provide different time periods than this rule specifies. It increases some of the time periods for filing briefs from the periods prescribed by the former rule, while still retaining shorter time periods than some provided by F.R.App.P. 31(a). The time for filing the appellant's brief is increased from 14 to 30 days after the docketing of the notice of the transmission of the record or notice of the availability of the record. That triggering event is equivalent to docketing the appeal under former Rule 8007. Appellate Rule 31(a)(1), by contrast, provides the appellant 40 days after the record is filed to file its brief. The shorter time period for bankruptcy appeals reflects the frequent need for greater expedition in the resolution of bankruptcy appeals, while still providing the appellant more time to prepare its brief than the former rule provided.

Subdivision (a)(2) similarly expands the time period for filing the appellee's brief from 14 to 30 days after the service of the appellant's brief. This period is the same as F.R.App.P. 31(a)(1) provides.

Subdivision (a)(3) retains the 14-day time period for filing a reply brief that the former rule prescribed, but it qualifies that period to ensure that the final brief is filed at least 7 days before oral argument.

If a district court or BAP has a mediation procedure for bankruptcy appeals, that procedure could affect when briefs must be filed. *See* Rule 8027.

Subdivision (a)(4) is new. Based on F.R.App.P. 31(c), it provides for actions that may be taken—dismissal of the appeal or denial of participation in oral argument—if the appellant or appellee fails to file its brief.

Subdivisions (b) and (c) govern the content and format of the appendix to a brief. Subdivision (b) is similar to former Rule 8009(b), and subdivision (c) is derived from F.R.App.P. 30(d).

Subdivision (d), which addresses the inclusion of exhibits in the appendix, is derived from F.R.App.P. 30(e).

Changes Made After Publication and Comment. Subdivision (a)(4) was revised to provide more detail about the procedure for dismissing an appeal due to appellant's failure to timely file a brief.

COMMITTEE NOTES ON RULES—2024 AMENDMENT

The language of Rule 8018 has been amended as part of the general restyling of the Bankruptcy Rules to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only.

Rule 8018.1. Reviewing a Judgment That the Bankruptcy Court Lacked Authority to Enter

If, on appeal, a district court determines that the bankruptcy court did not have authority under Article III of the Constitution to enter the judgment, order, or decree being appealed, the district court may treat it as proposed findings of fact and conclusions of law.

(Added Apr. 26, 2018, eff. Dec. 1, 2018; amended Apr. 2, 2024, eff. Dec. 1, 2024.)

COMMITTEE NOTES ON RULES—2018

This rule is new. It is added to prevent a district court from having to remand an appeal whenever it determines that the bankruptcy court lacked constitutional authority to enter the judgment, order, or decree appealed from. Consistent with the Supreme Court's decision in *Executive Benefits Ins. Agency v. Arkison*, 134 S. Ct. 2165 (2014), the district court in that situation may treat the bankruptcy court's judgment as proposed findings of fact and conclusions of law. Upon making the determination to proceed in that manner, the district court may choose to allow the parties to file written objections to specific proposed findings and conclusions and to respond to another party's objections, *see* Rule 9033; treat the parties' briefs as objections and responses; or prescribe other procedures for the review of the proposed findings of fact and conclusions of law.

COMMITTEE NOTES ON RULES—2024 AMENDMENT

The language of Rule 8018.1 has been amended as part of the general restyling of the Bankruptcy Rules to make them more easily understood and to make style and terminology consistent throughout the rules. These

changes are intended to be stylistic only.

Rule 8019. Oral Argument

(a) PARTY'S STATEMENT. Any party may file, or a district court or BAP may require, a statement explaining why oral argument should, or need not, be permitted.

(b) PRESUMPTION OF ORAL ARGUMENT; EXCEPTIONS. Oral argument must be allowed in every case unless the district judge—or each BAP judge assigned to hear the appeal—examines the briefs and record and determines that oral argument is unnecessary because:

(1) the appeal is frivolous;

(2) the dispositive issue or issues have been authoritatively decided; or

(3) the facts and legal arguments are adequately presented in the briefs and record, and the decisional process would not be significantly aided by oral argument.

(c) NOTICE OF ORAL ARGUMENT; MOTION TO POSTPONE. The district court or BAP must advise all parties of the date, time, and place for oral argument and the time allowed for each side. A motion to postpone the argument or to allow longer argument must be filed reasonably before the hearing date.

(d) ORDER AND CONTENT OF THE ARGUMENT. The appellant opens and concludes the argument. Counsel must not read at length from briefs, the record, or authorities.

(e) CROSS-APPEALS AND SEPARATE APPEALS. If there is a cross-appeal, Rule 8016(b) determines which party is the appellant and which is the appellee for the purposes of oral argument. Unless the district court or BAP orders otherwise, a cross-appeal or separate appeal must be argued when the initial appeal is argued. Separate parties should avoid duplicative argument.

(f) NONAPPEARANCE OF A PARTY. If the appellee fails to appear for argument, the district court or BAP may hear the appellant's argument. If the appellant fails to appear for argument, the district court or BAP may hear the appellee's argument. If neither party appears, the case will be decided on the briefs unless the district court or BAP orders otherwise.

(g) SUBMISSION ON BRIEFS. The parties may agree to submit a case for decision on the briefs, but the district court or BAP may order that the case be argued.

(h) USE OF PHYSICAL EXHIBITS AT ARGUMENT; REMOVAL. An attorney intending to use physical exhibits other than documents at the argument must arrange to place them in the courtroom on the day of the argument before the court convenes. After the argument, the attorney must remove the exhibits from the courtroom unless the district court or BAP orders otherwise. The clerk may destroy or dispose of them if the attorney does not reclaim them within a reasonable time after the clerk gives notice to do so.

(Added Apr. 25, 2014, eff. Dec. 1, 2014; amended Apr. 2, 2024, eff. Dec. 1, 2024.)

PRIOR RULE

A prior Rule 8019, Apr. 25, 1983, eff. Aug. 1, 1983, as amended Mar. 30, 1987, eff. Aug. 1, 1987, related to suspension of rules in Part VIII, prior to revision of Part VIII, Apr. 25, 2014, eff. Dec. 1, 2014.

COMMITTEE NOTES ON RULES—2014

This rule generally retains the provisions of former Rule 8012 and adds much of the additional detail of F.R.App.P. 34. By incorporating the more detailed provisions of the appellate rule, Rule 8019 promotes national uniformity regarding oral argument in bankruptcy appeals.

Subdivision (a), like F.R.App.P. 34(a)(1), now allows a party to submit a statement explaining why oral argument is or is not needed. It also authorizes a court to require this statement. Former Rule 8012 only authorized statements explaining why oral argument should be allowed.

Subdivision (b) retains the reasons set forth in former Rule 8012 for the district court or BAP to conclude that oral argument is not needed.

The remainder of this rule adopts the provisions of F.R.App.P. 34(b)–(g), with one exception. Rather than requiring the district court or BAP to hear appellant's argument if the appellee does not appear, subdivision (f) authorizes the district court or BAP to go forward with the argument in the appellee's absence. Should the

court decide, however, to postpone the oral argument in that situation, it would be authorized to do so.

Changes Made After Publication and Comment. No changes were made after publication and comment.

COMMITTEE NOTES ON RULES—2024 AMENDMENT

The language of Rule 8019 has been amended as part of the general restyling of the Bankruptcy Rules to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only.

Rule 8020. Frivolous Appeal; Other Misconduct

(a) FRIVOLOUS APPEAL; DAMAGES AND COSTS. If the district court or BAP determines that an appeal is frivolous, then after a separate motion is filed or the court gives notice and a reasonable opportunity to respond, it may award just damages and single or double costs to the appellee.

(b) OTHER MISCONDUCT; SANCTIONS. The district court or BAP may discipline or sanction an attorney or party appearing before it for other misconduct, including a failure to comply with a court order. But the court must first give the attorney or party reasonable notice and an opportunity to show cause to the contrary—and if requested, grant a hearing.

(Added Apr. 25, 2014, eff. Dec. 1, 2014; amended Apr. 2, 2024, eff. Dec. 1, 2024.)

PRIOR RULE

A prior Rule 8020, Apr. 11, 1997, eff. Dec. 1, 1997, related to damages and costs for frivolous appeal, prior to revision of Part VIII, Apr. 25, 2014, eff. Dec. 1, 2014.

COMMITTEE NOTES ON RULES—2014

This rule is derived from former Rule 8020 and F.R.App.P. 38 and 46(c). Subdivision (a) permits an award of damages and costs to an appellee for a frivolous appeal. Subdivision (b) permits the district court or BAP to impose on parties as well as their counsel sanctions for misconduct other than taking a frivolous appeal. Failure to comply with a court order, for which sanctions may be imposed, may include a failure to comply with a local court rule.

Changes Made After Publication and Comment. No changes were made after publication and comment.

COMMITTEE NOTES ON RULES—2024 AMENDMENT

The language of Rule 8020 has been amended as part of the general restyling of the Bankruptcy Rules to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only.

Rule 8021. Costs

(a) AGAINST WHOM ASSESSED. The following rules apply unless the law provides or the district court or BAP orders otherwise:

(1) if an appeal is dismissed, costs are taxed against the appellant, unless the parties agree otherwise;

(2) if a judgment is affirmed, costs are taxed against the appellant;

(3) if a judgment is reversed, costs are taxed against the appellee;

(4) if a judgment is affirmed or reversed in part, modified, or vacated, costs are taxed only as the district court or BAP orders.

(b) COSTS FOR AND AGAINST THE UNITED STATES. Costs for or against the United States, its agency, or its officer may be assessed under (a) only if authorized by law.

(c) COSTS ON APPEAL TAXABLE IN THE BANKRUPTCY COURT. The following costs on appeal are taxable in the bankruptcy court for the benefit of the party entitled to costs under this rule:

(1) producing any required copies of a brief, appendix, exhibit, or the record;

(2) preparing and sending the record;

(3) the reporter's transcript, if needed to determine the appeal;

(4) premiums paid for a bond or other security to preserve rights pending appeal; and
(5) the fee for filing the notice of appeal.

(d) BILL OF COSTS; OBJECTIONS. A party who wants costs taxed must, within 14 days after a judgment on appeal is entered, file with the bankruptcy clerk and serve an itemized and verified bill of costs. Objections must be filed within 14 days after the bill of costs is served, unless the bankruptcy court extends the time.

(Added Apr. 25, 2014, eff. Dec. 1, 2014; amended Apr. 26, 2018, eff. Dec. 1, 2018; Apr. 27, 2020, eff. Dec. 1, 2020; Apr. 2, 2024, eff. Dec. 1, 2024.)

COMMITTEE NOTES ON RULES—2014

This rule is derived from former Rule 8014 and F.R.App.P. 39. It retains the former rule's authorization for taxing appellate costs against the losing party and its specification of the costs that may be taxed. The rule also incorporates some of the additional details regarding the taxing of costs contained in F.R.App.P. 39. Consistent with former Rule 8014, the bankruptcy clerk has the responsibility for taxing all costs. Subdivision (b), derived from F.R.App.P. 39(b), clarifies that additional authority is required for the taxation of costs by or against federal governmental parties.

Changes Made After Publication and Comment. No changes were made after publication and comment.

COMMITTEE NOTES ON RULES—2018 AMENDMENT

The amendment of subdivision (c) conforms this rule with the amendment of F.R.Civ.P. 62, which is made applicable in adversary proceedings by Rule 7062. Rule 62 formerly required a party to provide a "supersedeas bond" to obtain a stay of the judgment and proceedings to enforce the judgment. As amended, Rule 62(b) allows a party to obtain a stay by providing a "bond or other security."

COMMITTEE NOTES ON RULES—2020 AMENDMENT

Subdivision (d) is amended to delete the reference to proof of service. This change reflects the recent amendment to Rule 8011(d) that eliminated the requirement of proof of service when filing and service are completed using a court's electronic-filing system.

COMMITTEE NOTES ON RULES—2024 AMENDMENT

The language of Rule 8021 has been amended as part of the general restyling of the Bankruptcy Rules to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only.

Rule 8022. Motion for Rehearing

(a) TIME TO FILE; CONTENT; RESPONSE; ACTION BY THE DISTRICT COURT OR BAP IF GRANTED.

(1) *Time*. Unless the time is shortened or extended by order or local rule, any motion for rehearing by the district court or BAP must be filed within 14 days after a judgment on appeal is entered.

(2) *Content*. The motion must state with particularity each point of law or fact that the movant believes the district court or BAP has overlooked or misapprehended and must argue in support of the motion.

(3) *Response*. Unless the district court or BAP requests, no response to a motion for rehearing is permitted. But ordinarily, rehearing will not be granted without such a request.

(4) *No Oral Argument*. Oral argument is not permitted.

(5) *Action by the District Court or BAP*. If a motion for rehearing is granted, the district court or BAP may do any of the following:

(A) make a final disposition of the appeal without reargument;
(B) restore the case to the calendar for reargument or resubmission; or
(C) issue any other appropriate order.

(b) FORM; LENGTH. A motion for rehearing must comply in form with Rule 8013(f)(1) and (2).

Copies must be served and filed as Rule 8011 provides. Except by the district court's or BAP's permission:

(1) a motion produced using a computer must include a certificate under Rule 8015(h) and not exceed 3,900 words; and

(2) a handwritten or typewritten motion must not exceed 15 pages.

(Added Apr. 25, 2014, eff. Dec. 1, 2014; amended Apr. 26, 2018, eff. Dec. 1, 2018; Apr. 2, 2024, eff. Dec. 1, 2024.)

COMMITTEE NOTES ON RULES—2014

This rule is derived from former Rule 8015 and F.R.App.P. 40. It deletes the provision of former Rule 8015 regarding the time for appeal to the court of appeals because the matter is addressed by F.R.App.P. 6(b)(2)(A).

Changes Made After Publication and Comment. In subdivision (b), the reference to local rule was deleted as unnecessary.

COMMITTEE NOTES ON RULES—2018 AMENDMENT

Subdivision (b) is amended to conform to the recent amendment to F.R.App.P. 40(b), which was one of several appellate rules in which word limits were substituted for page limits for documents prepared by computer. The word limits were derived from the previous page limits using the assumption that one page is equivalent to 260 words. Documents produced using a computer must include the certificate of compliance required by Rule 8015(h); completion of Official Form 417C suffices to meet that requirement.

Page limits are retained for papers prepared without the aid of a computer (i.e., handwritten or typewritten papers). For both the word limit and the page limit, the calculation excludes any items listed in Rule 8015(g).

COMMITTEE NOTES ON RULES—2024 AMENDMENT

The language of Rule 8022 has been amended as part of the general restyling of the Bankruptcy Rules to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only.

Rule 8023. Voluntary Dismissal

(a) STIPULATED DISMISSAL. The clerk of the district court or BAP must dismiss an appeal if the parties file a signed dismissal agreement specifying how costs are to be paid and pay any court fees that are due.

(b) APPELLANT'S MOTION TO DISMISS. An appeal may be dismissed on the appellant's motion on terms agreed to by the parties or fixed by the district court or BAP.

(c) OTHER RELIEF. A court order is required for any relief beyond the dismissal of an appeal—including approving a settlement, vacating an action of the bankruptcy court, or remanding the case to it.

(d) COURT APPROVAL. This rule does not alter the legal requirements governing court approval of a settlement, payment, or other consideration.

(Added Apr. 25, 2014, eff. Dec. 1, 2014; amended Apr. 11, 2022, eff. Dec. 1, 2022; Apr. 2, 2024, eff. Dec. 1, 2024.)

COMMITTEE NOTES ON RULES—2014

This rule is derived from former Rule 8001(c) and F.R.App.P. 42. The provision of the former rule regarding dismissal of appeals in the bankruptcy court prior to docketing of the appeal has been deleted. Now that docketing occurs promptly after a notice of appeal is filed, *see* Rules 8003(d) and 8004(c), an appeal likely will not be voluntarily dismissed before docketing.

The rule retains the provision of the former rule that the district or BAP clerk must dismiss an appeal upon the parties' agreement. District courts and BAPs continue to have discretion to dismiss an appeal on an appellant's motion. Nothing in the rule prohibits a district court or BAP from dismissing an appeal for other reasons authorized by law, such as the failure to prosecute an appeal.

Changes Made After Publication and Comment. No changes were made after publication and comment.

COMMITTEE NOTES ON RULES—2022 AMENDMENT

The amendment is intended to conform the rule to the revised version of Appellate Rule 42(b) on which it

was modelled. It clarifies that the fees that must be paid are court fees, not attorney's fees. The rule does not alter the legal requirements governing court approval of a settlement, payment, or other consideration. *See, e.g.*, Fed. R. Bankr. P. 9019 (requiring court approval of compromise or settlement). The amendment clarifies that any order beyond mere dismissal—including approving a settlement, vacating or remanding—requires a court order.

COMMITTEE NOTES ON RULES—2024 AMENDMENT

The language of Rule 8023 has been amended as part of the general restyling of the Bankruptcy Rules to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only.

Rule 8023.1. Substitution of Parties

(a) DEATH OF A PARTY.

(1) *After a Notice of Appeal Is Filed*. If a party dies after a notice of appeal has been filed or while a proceeding is pending on appeal in the district court or BAP, the decedent's personal representative may be substituted as a party on motion filed with that court's clerk by the representative or by any party. A party's motion must be served on the representative in accordance with Rule 8011. If the decedent has no representative, any party may suggest the death on the record, and the appellate court may then direct appropriate proceedings.

(2) *Before a Notice of Appeal Is Filed—Potential Appellant*. If a party entitled to appeal dies before filing a notice of appeal, the decedent's personal representative—or, if there is no personal representative, the decedent's attorney of record—may file a notice of appeal within the time prescribed by these rules. After the notice of appeal is filed, substitution must be in accordance with (1).

(3) *Before a Notice of Appeal Is Filed—Potential Appellee*. If a party against whom an appeal may be taken dies after entry of a judgment or order in the bankruptcy court, but before a notice of appeal is filed, an appellant may proceed as if the death had not occurred. After the notice of appeal is filed, substitution must be in accordance with (1).

(b) SUBSTITUTION FOR A REASON OTHER THAN DEATH. If a party needs to be substituted for any reason other than death, the procedure prescribed in (a) applies.

(c) PUBLIC OFFICER: IDENTIFICATION; SUBSTITUTION.

(1) *Identification of a Party*. A public officer who is a party to an appeal or other proceeding in an official capacity may be described as a party by the public officer's official title rather than by name. But the appellate court may require the public officer's name to be added.

(2) *Automatic Substitution of an Officeholder*. When a public officer who is a party to an appeal or other proceeding in an official capacity dies, resigns, or otherwise ceases to hold office, the action does not abate. Subject to Rule 2012, the public officer's successor is automatically substituted as a party. Proceedings after the substitution are to be in the name of the substituted party, but any misnomer that does not affect the parties' substantial rights may be disregarded. An order of substitution may be entered at any time, but failure to enter an order does not affect the substitution.

(Added Apr. 2, 2024, eff. Dec. 1, 2024.)

COMMITTEE NOTES ON RULES—2024

Rule 8023.1 is derived from Fed. R. App. P. 43 and governs substitution of parties upon death or for any other reason in appeals to the district court or bankruptcy appellate panel from a judgment, order[,] or decree of a bankruptcy court.

Rule 8024. Clerk's Duties on Disposition of the Appeal

(a) PREPARING THE JUDGMENT. After receiving the court's opinion—or instructions if there is no opinion—the district or BAP clerk must:

(1) prepare and sign the judgment; and
(2) note it on the docket, which act constitutes entry of judgment.

(b) GIVING NOTICE OF THE JUDGMENT. Immediately after a judgment is entered, the district or BAP clerk must:
(1) send notice of its entry, together with a copy of any opinion, to:
- the parties to the appeal;
- the United States trustee; and
- the bankruptcy clerk; and

(2) note on the docket the date the notice was sent.

(c) RETURNING PHYSICAL ITEMS. On disposition of the appeal, the district or BAP clerk must return to the bankruptcy clerk any physical items sent as the record on appeal.

(Added Apr. 25, 2014, eff. Dec. 1, 2014; amended Apr. 2, 2024, eff. Dec. 1, 2024.)

COMMITTEE NOTES ON RULES—2014

This rule is derived from former Rule 8016, which was adapted from F.R.App.P. 36 and 45(c) and (d). The rule is reworded to reflect that only items in the record that are physically, as opposed to electronically, transmitted to the district court or BAP need to be returned to the bankruptcy clerk. Other changes to the former rule are stylistic.

Changes Made After Publication and Comment. Stylistic changes were made to subdivision (c) and the Committee Note.

COMMITTEE NOTES ON RULES—2024 AMENDMENT

The language of Rule 8024 has been amended as part of the general restyling of the Bankruptcy Rules to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only.

Rule 8025. Staying a District Court or BAP Judgment

(a) AUTOMATIC STAY OF A JUDGMENT ON APPEAL. Unless the district court or BAP orders otherwise, its judgment is stayed for 14 days after its entry.

(b) STAY PENDING AN APPEAL TO THE UNITED STATES COURT OF APPEALS.

(1) *In General*. On a party's motion with notice to all other parties to the appeal, the district court or BAP may stay its judgment pending an appeal to the court of appeals.

(2) *Time Limit*. Except for cause, the stay must not exceed 30 days after the judgment is entered.

(3) *Stay Continued When an Appeal Is Filed*. If, before a stay expires, the party who obtained it appeals to a court of appeals, the stay continues until final disposition by the court of appeals.

(4) *Bond or Other Security*. A bond or other security may be required as a condition for granting or continuing a stay. If a trustee obtains a stay, a bond or other security may be required. But neither is required if a stay is obtained by the United States or its officer or agency, or by direction of any department of the United States government.

(c) AUTOMATIC STAY OF THE BANKRUPTCY COURT'S ORDER, JUDGMENT, OR DECREE. If the district court or BAP enters a judgment affirming the bankruptcy court's order, judgment, or decree, a stay of the district court's or BAP's judgment automatically stays the bankruptcy court's order, judgment, or decree while the appellate stay is in effect.

(d) POWER OF A COURT OF APPEALS OR ITS JUDGES NOT LIMITED. This rule does not limit the power of a court of appeals or any of its judges to:
(1) stay a judgment pending appeal;
(2) stay proceedings while an appeal is pending;
(3) suspend, modify, restore, vacate, or grant a stay or injunction while an appeal is pending; or
(4) issue any order appropriate to preserve the status quo or the effectiveness of any judgment

that might be entered.

(Added Apr. 25, 2014, eff. Dec. 1, 2014; amended Apr. 2, 2024, eff. Dec. 1, 2024.)

COMMITTEE NOTES ON RULES—2014

This rule is derived from former Rule 8017. Most of the changes to the former rule are stylistic. Subdivision (c) is new. It provides that if a district court or BAP affirms the bankruptcy court ruling and the appellate judgment is stayed, the bankruptcy court's order, judgment, or decree that is affirmed on appeal is automatically stayed to the same extent as the stay of the appellate judgment.

Changes Made After Publication and Comment. No changes were made after publication and comment.

COMMITTEE NOTES ON RULES—2024 AMENDMENT

The language of Rule 8025 has been amended as part of the general restyling of the Bankruptcy Rules to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only.

Rule 8026. Making and Amending Local Rules; Procedure When There Is No Controlling Law

(a) LOCAL RULES.

(1) *Making and Amending Local Rules.*

(A) *BAP Local Rules*. A circuit council that has authorized a BAP under 28 U.S.C. §158(b) may make and amend local rules governing the practice and procedure on appeal to the BAP from a bankruptcy court's judgment, order, or decree.

(B) *District-Court Local Rules*. A district court may make and amend local rules governing the practice and procedure on appeal to the district court from a bankruptcy court's judgment, order, or decree.

(C) *Procedure*. Fed. R. Civ. P. 83 governs the procedure for making and amending local rules. A local rule must be consistent with—but not duplicate—an Act of Congress and these Part VIII rules.

(2) *Numbering*. Local rules must conform to any uniform numbering system prescribed by the Judicial Conference of the United States.

(3) *Limitation on Enforcing a Local Rule Relating to Form*. A local rule imposing a requirement of form must not be enforced in a way that causes a party to lose any right because of a nonwillful failure to comply.

(b) PROCEDURE WHEN THERE IS NO CONTROLLING LAW. A judge may regulate practice in any manner consistent with federal law, these rules, the Official Forms, and the district's local rules. For any requirement set out elsewhere, a sanction or other disadvantage may be imposed for noncompliance only if the alleged violator was given actual notice of the requirement in the particular case.

(Added Apr. 25, 2014, eff. Dec. 1, 2014; amended Apr. 2, 2024, eff. Dec. 1, 2024.)

COMMITTEE NOTES ON RULES—2014

This rule is derived from former Rule 8018. The changes to the former rule are stylistic.

Changes Made After Publication and Comment. No changes were made after publication and comment.

COMMITTEE NOTES ON RULES—2024 AMENDMENT

The language of Rule 8026 has been amended as part of the general restyling of the Bankruptcy Rules to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only.

REFERENCES IN TEXT

The Federal Rules of Civil Procedure, referred to in subd. (a)(1)(C), are set out in the Appendix to Title 28, Judiciary and Judicial Procedure.

Rule 8027. Notice of a Mediation Procedure

If the district court or BAP has a mediation procedure applicable to bankruptcy appeals, the clerk must, after docketing the appeal, promptly notify the parties of:

(a) the requirements of the mediation procedure; and

(b) any effect it has on the time to file briefs.

(Added Apr. 25, 2014, eff. Dec. 1, 2014; amended Apr. 2, 2024, eff. Dec. 1, 2024.)

COMMITTEE NOTES ON RULES—2014

This rule is new. It requires the district or BAP clerk to advise the parties promptly after an appeal is docketed of any court mediation procedure that is applicable to bankruptcy appeals. The notice must state what the mediation requirements are and how the procedure affects the time for filing briefs.

Changes Made After Publication and Comment. No changes were made after publication and comment.

COMMITTEE NOTES ON RULES—2024 AMENDMENT

The language of Rule 8027 has been amended as part of the general restyling of the Bankruptcy Rules to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only.

Rule 8028. Suspending These Part VIII Rules

To expedite a decision or for other cause, a district court or BAP—or when appropriate, the court of appeals—may, in a particular case, suspend the requirements of these Part VIII rules, except Rules 8001–8007, 8012, 8020, 8024–8026, and 8028.

(Added Apr. 25, 2014, eff. Dec. 1, 2014; amended Apr. 2, 2024, eff. Dec. 1, 2024.)

COMMITTEE NOTES ON RULES—2014

This rule is derived from former Rule 8019 and F.R.App.P. 2. To promote uniformity of practice and compliance with statutory authority, the rule includes a more extensive list of requirements that may not be suspended than either the former rule or the Federal Rules of Appellate Procedure provide. Rules governing the following matters may not be suspended:

- scope of the rules; definition of "BAP"; method of transmission;
- time for filing a notice of appeal;
- taking an appeal as of right;
- taking an appeal by leave;
- election to have an appeal heard by a district court instead of a BAP;
- certification of direct appeal to a court of appeals;
- stay pending appeal;
- corporate disclosure statement;
- sanctions for frivolous appeals and other misconduct;
- clerk's duties on disposition of an appeal;
- stay of a district court's or BAP's judgment;
- local rules; and
- suspension of the Part VIII rules.

Changes Made After Publication and Comment. No changes were made after publication and comment.

COMMITTEE NOTES ON RULES—2024 AMENDMENT

The language of Rule 8028 has been amended as part of the general restyling of the Bankruptcy Rules to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only.

PART IX—GENERAL PROVISIONS

Rule 9001. Definitions

(a) IN THE CODE. The definitions of words and phrases in §§101, 902, 1101, and 1502 and the rules of construction in §102 apply in these rules.

(b) IN THESE RULES. In these rules, the following words and phrases have these meanings:

(1) "Bankruptcy clerk" means a clerk appointed under 28 U.S.C. §156(b).

(2) "Clerk" means a bankruptcy clerk if one has been appointed; otherwise, it means the district-court clerk.

(3) "Code" means Title 11 of the United States Code.

(4) "Court" or "judge" means the judicial officer who presides over the case or proceeding.

(5) "Debtor," when the debtor is not a natural person and either is required by these rules to perform an act or must appear for examination, includes:

(A) if the debtor is a corporation and if the court so designates:

- any or all of its officers, directors, trustees, or members of a similar controlling body;
- a controlling stockholder or member; or
- any other person in control; or

(B) if the debtor is a partnership:

- any or all of its general partners; or
- if the court so designates, any other person in control.

(6) "Firm" includes a partnership or professional corporation of attorneys or accountants.

(7) "Judgment" means any appealable order.

(8) "Mail" means first-class mail, postage prepaid.

(9) "Notice provider" means an entity approved by the Administrative Office of the United States Courts to give notice to creditors under Rule 2002(g)(4).

(10) "Regular associate" means an attorney regularly employed by, associated with, or counsel to an individual or firm.

(11) "Trustee" includes a debtor in possession in a Chapter 11 case.

(12) "United States trustee" includes an assistant United States trustee and a United States trustee's designee.

(As amended Mar. 30, 1987, eff. Aug. 1, 1987; Apr. 30, 1991, eff. Aug. 1, 1991; Apr. 25, 2005, eff. Dec. 1, 2005; Apr. 28, 2010, eff. Dec. 1, 2010; Apr. 2, 2024, eff. Dec. 1, 2024.)

NOTES OF ADVISORY COMMITTEE ON RULES—1987 AMENDMENT

The terms "bankruptcy clerk" and "clerk" have been defined to reflect that unless otherwise stated, for the purpose of these rules, the terms are meant to identify the court officer for the bankruptcy records. If a bankruptcy clerk is appointed, all filings are made with the bankruptcy clerk. If one has not been appointed, all filings are with the clerk of the district court. Rule 5005.

The rule is also amended to include a definition of "court or judge". Since a case or proceeding may be before a bankruptcy judge or a judge of the district court, "court or judge" is defined to mean the judicial officer before whom the case or proceeding is pending.

NOTES OF ADVISORY COMMITTEE ON RULES—1991 AMENDMENT

Section 582 of title 28 provides that the Attorney General may appoint one or more assistant United States trustees in any region when the public interest so requires. This rule is amended to clarify that an assistant United States trustee, as well as any designee of the United States trustee, is included within the meaning of "United States trustee" in the rules.

COMMITTEE NOTES ON RULES—2005 AMENDMENT

The rule is amended to add the definition of a notice provider and to renumber the final three definitions in the rule. A notice provider is an entity approved by the Administrative Office of the United States Courts to enter into agreements with entities to give notice to those entities in the form and manner agreed to by those parties. The new definition supports the amendment to Rule 2002(g)(4) that authorizes a notice provider to give notices under Rule 2002.

Many entities conduct business on a national scale and receive vast numbers of notices in bankruptcy cases throughout the country. Those entities can agree with a notice provider to receive their notices in a form and at an address or addresses that the creditor and notice provider agree upon. There are processes currently in use that provide substantial assurance that notices are not misdirected. Any notice provider would have to demonstrate to the Administrative Office of the United States Courts that it could provide the service in a manner that ensures the proper delivery of notice to creditors. Once the Administrative Office of the United States Courts approves the notice provider to enter into agreements with creditors, the notice provider and other entities can establish the relationship that will govern the delivery of notices in cases as provided in Rule 2002(g)(4).

Changes Made After Publication and Comment. No changes since publication.

COMMITTEE NOTES ON RULES—2010 AMENDMENT

The rule is amended to add §1502 of the Code to the list of definitional provisions that are applicable to the Rules. That section was added to the Code by the 2005 amendments.

Changes Made After Publication. No changes since publication.

COMMITTEE NOTES ON RULES—2024 AMENDMENT

The language of Rule 9001 has been amended as part of the general restyling of the Bankruptcy Rules to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only.

Rule 9002. Meaning of Words in the Federal Rules of Civil Procedure

Unless they are inconsistent with the context, the following words and phrases in the Federal Rules of Civil Procedure—when made applicable by these rules—have these meanings:

(a) "Action" or "civil action" means an adversary proceeding or, when appropriate:

(1) a contested petition;

(2) a proceeding to vacate an order for relief; or

(3) a proceeding to determine any other contested matter.

(b) "Appeal" means an appeal under 28 U.S.C. §158.

(c) "Clerk" or "clerk of the district court" means the officer responsible for maintaining the district's bankruptcy records.

(d) "District court," "trial court," "court," "district judge," or "judge" means bankruptcy judge if the case or proceeding is pending before a bankruptcy judge.

(e) "Judgment" includes any appealable order.

(As amended Mar. 30, 1987, eff. Aug. 1, 1987; Apr. 22, 1993, eff. Aug. 1, 1993; Apr. 2, 2024, eff. Dec. 1, 2024.)

NOTES OF ADVISORY COMMITTEE ON RULES—1993 AMENDMENT

This rule is revised to include the words "district judge" in anticipation of amendments to the Federal Rules of Civil Procedure.

COMMITTEE NOTES ON RULES—2024 AMENDMENT

The language of Rule 9002 has been amended as part of the general restyling of the Bankruptcy Rules to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only.

REFERENCES IN TEXT

The Federal Rules of Civil Procedure, referred to in text, are set out in the Appendix to Title 28, Judiciary and Judicial Procedure.

Rule 9003. Ex Parte Contacts Prohibited

(a) IN GENERAL. Unless permitted by applicable law, the following persons must refrain from ex parte meetings and communications with the court about matters affecting a particular case or

proceeding:

- an examiner;
- a party in interest;
- a party in interest's attorney, accountant, or employee; and
- the United States trustee and any of its assistants, agents, or employees.

(b) EXCEPTION FOR A UNITED STATES TRUSTEE. A United States trustee and any of its assistants, agents, or employees are not prohibited from communicating with the court about general administrative problems and improving bankruptcy administration—including the operation of the United States trustee system.

(As amended Mar. 30, 1987, eff. Aug. 1, 1987; Apr. 30, 1991, eff. Aug. 1, 1991; Apr. 2, 2024, eff. Dec. 1, 2024.)

NOTES OF ADVISORY COMMITTEE ON RULES—1983

This rule regulates the actions of parties in interest and their attorneys or others employed by parties in interest. This regulation of the conduct of parties in interest and their representative is designed to insure that the bankruptcy system operates fairly and that no appearance of unfairness is created. See H. Rep. No. 95–595, 95th Cong., 1st Sess. 95 et seq. (1977).

This rule is not a substitute for or limitation of any applicable canon of professional responsibility or judicial conduct. See, *e.g.*, Canon 7, EC7–35, Disciplinary Rule 7–110(B) of the Code of Professional Responsibility: "Generally, in adversary proceedings a lawyer should not communicate with a judge relative to a matter pending before, or which is to be brought before, a tribunal over which he presides in circumstances which might have the effect or give the appearance of granting undue advantage to one party;" and Canon 3A(4) of the Code of Judicial Conduct: "A judge should . . . neither initiate nor consider ex parte or other communications concerning a pending or impending proceeding."

NOTES OF ADVISORY COMMITTEE ON RULES—1987 AMENDMENT

This rule is amended to apply to both the bankruptcy judges and the district judges of the district.

NOTES OF ADVISORY COMMITTEE ON RULES—1991 AMENDMENT

Subdivision (a) is amended to extend to examiners the prohibition on ex parte meetings and communications with the court.

Subdivision (b) is derived from Rule X–1010.

COMMITTEE NOTES ON RULES—2024 AMENDMENT

The language of Rule 9003 has been amended as part of the general restyling of the Bankruptcy Rules to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only.

Rule 9004. General Requirements of Form

(a) LEGIBILITY; ABBREVIATIONS. A petition, pleading, schedule, or other document must be clearly legible. Commonly used English abbreviations are acceptable.

(b) CAPTION. A document presented for filing must contain a caption that sets forth:

(1) the court's name;

(2) the case's title;

(3) the case number and, if appropriate, adversary-proceeding number; and

(4) a brief designation of the document's character.

(As amended Apr. 2, 2024, eff. Dec. 1, 2024.)

NOTES OF ADVISORY COMMITTEE ON RULES—1983

Subdivision (b). Additional requirements applicable to the caption for a petition are found in Rule 1005, to the caption for notices to creditors in Rule 2002(m), and to the caption for a pleading or other paper filed in an adversary proceeding in Rule 7010. Failure to comply with this or any other rule imposing a merely formal requirement does not ordinarily result in the loss of rights. See Rule 9005.

COMMITTEE NOTES ON RULES—2024 AMENDMENT

The language of Rule 9004 has been amended as part of the general restyling of the Bankruptcy Rules to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only.

Rule 9005. Harmless Error

Fed. R. Civ. P. 61 applies in a bankruptcy case. When appropriate, the court may order the correction of any error or defect—or the cure of any omission—that does not affect a substantial right.

(As amended Apr. 2, 2024, eff. Dec. 1, 2024.)

COMMITTEE NOTES ON RULES—2024 AMENDMENT

The language of Rule 9005 has been amended as part of the general restyling of the Bankruptcy Rules to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only.

REFERENCES IN TEXT

The Federal Rules of Civil Procedure, referred to in text, are set out in the Appendix to Title 28, Judiciary and Judicial Procedure.

Rule 9005.1. Constitutional Challenge to a Statute—Notice, Certification, and Intervention

Fed. R. Civ. P. 5.1 applies in a bankruptcy case.

(Added Apr. 30, 2007, eff. Dec. 1, 2007; amended Apr. 2, 2024, eff. Dec. 1, 2024.)

COMMITTEE NOTES ON RULES—2007

The rule is added to adopt the new rule added to the Federal Rules of Civil Procedure. The new Civil Rule replaces Rule 24(c) F. R. Civ. P., so the cross reference to Civil Rule 24 contained in Rule 7024 is no longer sufficient to bring the provisions of new Civil Rule 5.1 into adversary proceedings. This rule also makes Civil Rule 5.1 applicable to all contested matters and other proceedings within the bankruptcy case.

Changes After Publication. No changes were made after publication.

COMMITTEE NOTES ON RULES—2024 AMENDMENT

The language of Rule 9005.1 has been amended as part of the general restyling of the Bankruptcy Rules to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only.

REFERENCES IN TEXT

The Federal Rules of Civil Procedure, referred to in text, are set out in the Appendix to Title 28, Judiciary and Judicial Procedure.

Rule 9006. Computing and Extending Time; Motions

(a) COMPUTING TIME. The following rules apply in computing any time period specified in these rules, in the Federal Rules of Civil Procedure, in any local rule or court order, or in any statute that does not specify a method of computing time.

(1) *Period Stated in Days or a Longer Unit*. When the period is stated in days or a longer unit of time:

(A) exclude the day of the event that triggers the period;

(B) count every day, including intermediate Saturdays, Sundays, and legal holidays; and

(C) include the last day of the period, but if the last day is a Saturday, Sunday, or legal holiday, the period continues to run until the end of the next day that is not a Saturday, Sunday,

or legal holiday.

(2) *Period Stated in Hours*. When the period is stated in hours:

(A) begin counting immediately on the occurrence of the event that triggers the period;

(B) count every hour, including hours during intermediate Saturdays, Sundays, and legal holidays; and

(C) if the period would end on a Saturday, Sunday, or legal holiday, then continue the period until the same time on the next day that is not a Saturday, Sunday, or legal holiday.

(3) *Inaccessibility of the Clerk's Office When a Filing Is Due*. Unless the court orders otherwise, if the clerk's office is inaccessible:

(A) on the last day for filing under (1), then the time for filing is extended to the first accessible day that is not a Saturday, Sunday, or legal holiday; or

(B) during the last hour for filing under (2), then the time for filing is extended to the same time on the first accessible day that is not a Saturday, Sunday, or legal holiday.

(4) *"Last Day" Defined*. Unless a different time is set by statute, local rule, or order in a case, the last day ends:

(A) for electronic filing, at midnight in the court's time zone; and

(B) for filing by other means, when the clerk's office is scheduled to close.

(5) *"Next Day" Defined*. The "next day" is determined by continuing to count forward when the period is measured after an event, and backward when measured before an event.

(6) *"Legal Holiday" Defined*. "Legal holiday" means:

(A) the day set aside by statute for observing New Year's Day, Birthday of Martin Luther King Jr., Washington's Birthday, Memorial Day, Juneteenth National Independence Day, Independence Day, Labor Day, Columbus Day, Veteran's Day, Thanksgiving Day, or Christmas Day;

(B) any day declared a holiday by the President or Congress; and

(C) for periods that are measured after an event, any other day declared a holiday by the state where the district court is located. (In this rule, "state" includes the District of Columbia and any United States commonwealth or territory.)

(b) EXTENDING TIME.

(1) *In General*. This paragraph (1) applies when these rules, a notice given under these rules, or a court order requires or allows an act to be performed at or within a specified period. Except as provided in (2) and (3), the court may—at any time and for cause—extend the time to act if:

(A) with or without a motion or notice, a request to extend is made before the period (or a previously extended period) expires; or

(B) on motion made after the specified period expires, the failure to act within that period resulted from excusable neglect.

(2) *Exceptions*. The court must not extend the time to act under Rules 1007(d), 2003(a) and (d), 7052, 9023, and 9024.

(3) *Extensions Governed by Other Rules*. The court may extend the time to:

(A) act under Rules 1006(b)(2), 1017(e), 3002(c), 4003(b), 4004(a), 4007(c), 4008(a), 8002, and 9033—but only as permitted by those rules; and

(B) file the certificate required by Rule 1007(b)(7), and the schedules and statements in a small business case under §1116(3)—but only as permitted by Rule 1007(c).

(c) REDUCING TIME.

(1) *When Permitted*. When a rule, notice given under a rule, or court order requires or allows an act to be done within a specified time, the court may—for cause and with or without a motion or

notice—reduce the time.

(2) *When Not Permitted*. The court may not reduce the time to act under Rule 2002(a)(7), 2003(a), 3002(c), 3014, 3015, 4001(b)(2) or (c)(2), 4003(a), 4004(a), 4007(c), 4008(a), 8002, or 9033(b). Also, the court may not reduce the time set by Rule 1007(c) to file the certificate required by Rule 1007(b)(7).

(d) TIME TO SERVE A MOTION AND A RESPONSE.

(1) *In General*. A written motion (other than one that may be heard ex parte) and notice of any hearing must be served at least 7 days before the hearing date, unless the court or these rules set a different period. Any affidavit supporting the motion must be served with it. An order to change the period may be granted for cause on ex parte application.

(2) *Response*. Except as provided in Rule 9023, any written response must be served at least 1 day before the hearing, unless the court allows otherwise.

(e) SERVICE COMPLETE ON MAILING. Service by mail of process, any other document, or notice is complete upon mailing.

(f) ADDITIONAL TIME AFTER CERTAIN SERVICE. When a party may or must act within a specified time after being served and service is made by mail or under Fed. R. Civ. P. 5(b)(2)(D) (leaving with the clerk) or (F) (other means consented to), 3 days are added after the period would otherwise expire under (a).

(g) GRAIN-STORAGE FACILITY. This rule does not limit the court's authority under §557 to issue an order governing procedures in a case in which the debtor owns or operates a grain-storage facility.

(As amended Mar. 30, 1987, eff. Aug. 1, 1987; Apr. 25, 1989, eff. Aug. 1, 1989; Apr. 30, 1991, eff. Aug. 1, 1991; Apr. 23, 1996, eff. Dec. 1, 1996; Apr. 26, 1999, eff. Dec. 1, 1999; Apr. 23, 2001, eff. Dec. 1, 2001; Apr. 25, 2005, eff. Dec. 1, 2005; Apr. 23, 2008, eff. Dec. 1, 2008; Mar. 26, 2009, eff. Dec. 1, 2009; Apr. 16, 2013, eff. Dec. 1, 2013; Apr. 28, 2016, eff. Dec. 1, 2016; Apr. 24, 2023, eff. Dec. 1, 2023; Apr. 2, 2024, eff. Dec. 1, 2024.)

NOTES OF ADVISORY COMMITTEE ON RULES—1983

Subdivision (a). This rule is an adaptation of Rule 6 F.R.Civ.P. It governs the time for acts to be done and proceedings to be had in cases under the Code and any litigation arising therein.

Subdivision (b) is patterned after Rule 6(b) F.R.Civ.P. and Rule 26(b) F.R.App.P.

Paragraph (1) of this subdivision confers on the court discretion generally to authorize extensions of time for doing acts required or allowed by these rules or orders of court. The exceptions to this general authority to extend the time are contained in paragraphs (2) and (3).

In the interest of prompt administration of bankruptcy cases certain time periods may not be extended. Paragraph (2) lists the rules which establish time periods which may not be extended: Rule 1007(d), time for filing a list of 20 largest creditors; Rule 1017(b)(3), 30 day period for sending notice of dismissal for failure to pay the filing fee; Rule 1019(2), 20 day period for notice of conversion to a chapter 7 case; Rule 2003(a), meeting of creditors not more than 40 days after order for relief; Rule 2003(d), 10 days for filing a motion for resolution of an election dispute; Rule 3014, time for the §1111(b)(2) election; Rule 4001(b), expiration of stay 30 days following the commencement of final hearing; Rule 7052(b), 10 day period to move to amend findings of fact; Rule 9015(f), 20 day period to move for judgment notwithstanding the verdict; Rule 9023, 10 day period to move for a new trial; and Rule 9024, time to move for relief from judgment.

Many rules which establish a time for doing an act also contain a specific authorization and standard for granting an extension of time and, in some cases, limit the length of an extension. In some instances it would be inconsistent with the objective of the rule and sound administration of the case to permit extension under Rule 9006(b)(1), but with respect to the other rules it is appropriate that the power to extend time be supplemented by Rule 9006(b)(1). Unless a rule which contains a specific authorization to extend time is listed in paragraph (3) of this subdivision, an extension of the time may be granted under paragraph (1) of this subdivision. If a rule is included in paragraph (3) an extension may not be granted under paragraph (1). The following rules are listed in paragraph (3): Rule 1006(b)(2), time for paying the filing fee in installments; Rule 3002(c), 90 day period for filing a claim in a chapter 7 or 13 case; Rule 4003(b), 30 days for filing objections to a claim of exemptions; Rule 4004(a), 60 day period to object to a discharge; Rule 4007(b), 60 day period to file a dischargeability complaint; and Rule 8002, 10 days for filing a notice of appeal.

Subdivision (c). Paragraph (1) of this subdivision authorizes the reduction of the time periods established by these rules or an order of the court. Excluded from this general authority are the time periods established by the rules referred to in paragraph (2) of the subdivision: Rule 2002 (a) and (b), 20 day and 25 day notices of certain hearings and actions in the case; Rule 2003(a), meeting of creditors to be not less than 20 days after the order for relief; Rule 3002(c), 90 days for filing a claim in a chapter 7 or 13 case; Rule 3014, time for §1111(b)(2) election; Rule 3015, 10 day period after filing of petition to file a chapter 13 plan; Rule 4003(a), 15 days for a dependent to claim exemptions; Rule 4004(a), 60 day period to object to a discharge; Rule 4007(c), 60 day period to file a dischargeability complaint; and Rule 8002, 10 days for filing a notice of appeal. Reduction of the time periods fixed in the rules referred to in this subdivision would be inconsistent with the purposes of those rules and would cause harmful uncertainty.

Subdivision (d) is derived from Rule 6(d) F.R.Civ.P. The reference is to Rule 9023 instead of to Rule 59(c) F.R.Civ.P. because Rule 9023 incorporates Rule 59 F.R.Civ.P. but excepts therefrom motions to reconsider orders allowing and disallowing claims.

Subdivision (f) is new and is the same as Rule 6(e) F.R.Civ.P.

NOTES OF ADVISORY COMMITTEE ON RULES—1987 AMENDMENT

Subdivision (a) is amended to conform to the 1984 amendments to Rule 6 F.R.Civ.P.

Subdivision (b). The reference to Rule 4001(b) in paragraph (3) is deleted because of the amendments made to Rule 4001. Rule 9033, which is new, contains specific provisions governing the extension of time to file objections to proposed findings of fact and conclusions of law. Rule 9033 is added to the rules referred to in paragraph (3).

Subdivision (c). Rule 4001(b)(2) and (c)(2) provide that a final hearing on a motion to use cash collateral or a motion for authority to obtain credit may be held no earlier than 15 days after the filing of the motion. These two rules are added to paragraph (2) to make it clear that the 15 day period may not be reduced. Rule 9033 is also added to paragraph (2).

Subdivision (g) is new. Under §557 of the Code, as enacted by the 1984 amendments, the court is directed to expedite grain storage facility cases. This subdivision makes it clear this rule does not limit the court's authority under §557.

The original Advisory Committee Note to this rule included the 25 day notice period of Rule 2002(b) as a time period which may not be reduced under Rule 9006(c)(2). This was an error.

NOTES OF ADVISORY COMMITTEE ON RULES—1989 AMENDMENT

Prior to 1987, subdivision (a) provided that intermediate weekends and legal holidays would not be counted in the computation of a time period if the prescribed or allowed time was less than 7 days. This rule was amended in 1987 to conform to Fed. R. Civ. P. 6(a) which provides for the exclusion of intermediate weekends and legal holidays if the time prescribed or allowed is less than 11 days. An undesirable result of the 1987 amendment was that 10-day time periods prescribed in the interest of prompt administration of bankruptcy cases were extended to at least 14 calendar days.

As a result of the present amendment, 10-day time periods prescribed or allowed will no longer be extended to at least 14 calendar days because of intermediate weekends and legal holidays.

NOTES OF ADVISORY COMMITTEE ON RULES—1991 AMENDMENT

As a result of the 1989 amendment to this rule, the method of computing time under subdivision (a) is not the same as the method of computing time under Rule 6(a) F.R.Civ.P. Subdivision (a) is amended to provide that it governs the computation of time periods prescribed by the Federal Rules of Civil Procedure when the Bankruptcy Rules make a civil rule applicable to a bankruptcy case or proceeding.

Subdivision (b)(2) is amended because of the deletion of Rule 1019(2). Reference to Rule 9015(f) is deleted because of the abrogation of Rule 9015 in 1987.

Subdivision (b)(3) is amended to limit the enlargement of time regarding dismissal of a chapter 7 case for substantial abuse in accordance with Rule 1017(e).

NOTES OF ADVISORY COMMITTEE ON RULES—1996 AMENDMENT

Subdivision (c)(2) is amended to conform to the abrogation of Rule 2002(a)(4) and the renumbering of Rule 2002(a)(8) to Rule 2002(a)(7).

GAP Report on Rule 9006. No changes since publication, except for a stylistic change.

COMMITTEE NOTES ON RULES—1999 AMENDMENT

Rule 9006(b)(2) is amended to conform to the abrogation of Rule 1017(b)(3).

GAP Report on Rule 9006. The proposed amendment to Rule 9006(b)(2) has been added as a technical

change to conform to the abrogation of Rule 1017(b)(3). The proposed amendment to Rule 9006(c)(2), providing that the time under Rule 1019(6) to file a request for payment of an administrative expense after a case is converted to chapter 7 could not be reduced by the court, was deleted. The proposed amendments to Rule 1019(6) have been changed so that the court will fix the time for filing the request for payment. Since the court will fix the time limit, the court should have the power to reduce it. *See* GAP Report to Rule 1019(6).

COMMITTEE NOTES ON RULES—2001 AMENDMENT

Rule 5(b) F. R. Civ. P., which is made applicable in adversary proceedings by Rule 7005, is being restyled and amended to authorize service by electronic means—or any other means not otherwise authorized under Rule 5(b)—if consent is obtained from the person served. The amendment to Rule 9006(f) is intended to extend the three-day "mail rule" to service under Rule 5(b)(2)(D), including service by electronic means. The three-day rule also will apply to service under Rule 5(b)(2)(C) F. R. Civ. P. when the person served has no known address and the paper is served by leaving a copy with the clerk of the court.

Changes Made After Publication and Comments. No changes were made.

COMMITTEE NOTES ON RULES—2005 AMENDMENT

Rule 9006(f) is amended, consistent with a corresponding amendment to Rule 6(e) of the F.R. Civ. P., to clarify the method of counting the number of days to respond after service either by mail or under Civil Rule 5(b)(2)(C) or (D). Three days are added after the prescribed period expires. If, before the application of Rule 9006(f), the prescribed period is less than 8 days, intervening Saturdays, Sundays, and legal holidays are excluded from the calculation under Rule 9006(a). Some illustrations may be helpful.

Under existing Rule 9006(a), assuming that there are no legal holidays and that a response is due in seven days, if a paper is filed on a Monday, the seven day response period commences on Tuesday and concludes on Wednesday of the next week. Adding three days to the end of the period would extend it to Saturday, but because the response period ends on a weekend, the response day would be the following Monday, two weeks after the filing of the initial paper. If the paper is filed on a Tuesday, the seven-day response period would end on the following Thursday, and the response time would also be the following Monday. If the paper is mailed on a Wednesday, the initial seven-day period would expire nine days later on a Friday, but the response would again be due on the following Monday because of Rule 9006(f). If the paper is mailed on a Thursday, however, the seven day period ends on Monday, eleven days after the mailing of the service because of the exclusion of the two intervening Saturdays and Sundays. The response is due three days later on the following Thursday. If the paper is mailed on a Friday, the seven day period would conclude on a Tuesday, and the response is due three days later on a Friday.

No other change in the system of counting time is intended.

Other changes are stylistic.

Changes Made After Publication and Comment. The phrase "would otherwise expire under Rule 9006(a)" was added to the end of the rule to clarify further that the three day extension is to be added to the end of the period that is established under the counting provisions of Rule 9006(a). This also maintains a parallel construction with Civil Rule 6(e) in which the same addition to the rule was made after the public comment period.

COMMITTEE NOTES ON RULES—2008 AMENDMENT

Subdivision (b)(3) is amended to implement §1116(3) of the Code, as amended by the 2005 amendments, which places specific limits on the extension of time for filing schedules and statements of financial affairs in a small business case.

Subdivisions (b)(3) and (c)(2) are amended to provide that enlargement or reduction of the time to file the statement of completion of a personal financial management course required by Rule 1007(b)(7) are governed by Rule 1007(c). Likewise, the amendments to subdivisions (b)(3) and (c)(2) recognize that the enlargement of time to file a reaffirmation agreement is governed by Rule 4008(a), and that reduction of the time provided under that rule is not permitted.

Other amendments are stylistic.

Changes Made After Publication. Subdivision (b)(3) was amended to provide that Rule 9006 does not govern the enlargement of time to file a reaffirmation agreement, the statement required under Rule 1007(b)(7), or the time to file schedules and statements of financial affairs in small business cases. The title of subdivision (b)(3) was also amended to more accurately describe the operation of the provision. Subdivision (c)(2) was amended to recognize that the court may not reduce the time under Rule 1007(c) to file the statement required by Rule 1007(b)(7).

COMMITTEE NOTES ON RULES—2009 AMENDMENT

Subdivision (a). Subdivision (a) has been amended to simplify and clarify the provisions that describe how deadlines are computed. Subdivision (a) governs the computation of any time period found in a Federal Rule of Bankruptcy Procedure, a Federal Rule of Civil Procedure, a statute, a local rule, or a court order. In accordance with Bankruptcy Rule 9029(a), a local rule may not direct that a deadline be computed in a manner inconsistent with subdivision (a).

The time-computation provisions of subdivision (a) apply only when a time period must be computed. They do not apply when a fixed time to act is set. The amendments thus carry forward the approach taken in *Violette v. P.A. Days, Inc.*, 427 F.3d 1015, 1016 (6th Cir. 2005) (holding that Civil Rule 6(a) "does not apply to situations where the court has established a specific calendar day as a deadline"), and reject the contrary holding of *In re American Healthcare Management, Inc.*, 900 F.2d 827, 832 (5th Cir. 1990) (holding that Bankruptcy Rule 9006(a) governs treatment of date-certain deadline set by court order). If, for example, the date for filing is "no later than November 1, 2007," subdivision (a) does not govern. But if a filing is required to be made "within 10 days" or "within 72 hours," subdivision (a) describes how that deadline is computed.

Subdivision (a) does not apply when computing a time period set by a statute if the statute specifies a method of computing time. *See, e.g.*, 11 U.S.C. §527(a)(2) (debt relief agencies must provide a written notice to an assisted person "not later than 3 business days" after providing bankruptcy assistance services).

Subdivision (a)(1). New subdivision (a)(1) addresses the computation of time periods that are stated in days. It also applies to time periods that are stated in weeks, months, or years. *See, e.g.*, Federal Rule of Civil Procedure 60(c)(1) made applicable to bankruptcy cases under Rule 9024. Subdivision (a)(1)(B)'s directive to "count every day" is relevant only if the period is stated in days (not weeks, months, or years).

Under former Rule 9006(a), a period of eight days or more was computed differently than a period of less than eight days. Intermediate Saturdays, Sundays, and legal holidays were included in computing the longer periods, but excluded in computing the shorter periods. Former Rule 9006(a) thus made computing deadlines unnecessarily complicated and led to counterintuitive results.

Under new subdivision (a)(1), all deadlines stated in days (no matter the length) are computed in the same way. The day of the event that triggers the deadline is not counted. All other days—including intermediate Saturdays, Sundays, and legal holidays—are counted, with only one exception: If the period ends on a Saturday, Sunday, or legal holiday, then the deadline falls on the next day that is not a Saturday, Sunday, or legal holiday. An illustration is provided below in the discussion of subdivision (a)(5). Subdivision (a)(3) addresses filing deadlines that expire on a day when the clerk's office is inaccessible.

Where subdivision (a) formerly referred to the "act, event, or default" that triggers the deadline, new subdivision (a) refers simply to the "event" that triggers the deadline; this change in terminology is adopted for brevity and simplicity, and is not intended to change meaning.

Periods previously expressed as less than eight days will be shortened as a practical matter by the decision to count intermediate Saturdays, Sundays, and legal holidays in computing all periods. Many of those periods have been lengthened to compensate for the change. *See, e.g.*, Rules 2008 (trustee's duty to notify court of acceptance of the appointment within five days is extended to seven days); 6004(b) (time for filing and service of objection to proposed use, sale or lease of property extended from five days prior to the hearing to seven days prior to the hearing); and 9006(d) (time for giving notice of a hearing extended from five days prior to the hearing to seven days).

Most of the 10-day periods were adjusted to meet the change in computation method by setting 14 days as the new period. *See, e.g.*, Rules 1007(h) (10-day period to file supplemental schedule for property debtor becomes entitled to acquire after the commencement of the case is extended to 14 days); 3020(e) (10-day stay of order confirming a chapter 11 plan extended to 14 days); 8002(a) (10-day period in which to file notice of appeal extended to 14 days). A 14-day period also has the advantage that the final day falls on the same day of the week as the event that triggered the period—the14th day after a Monday, for example, is a Monday. This advantage of using week-long periods led to adopting seven-day periods to replace some of the periods set at less than 10 days, 21-day periods to replace 20-day periods, and 28-day periods to replace 25-day periods. Thirty-day and longer periods, however, were generally retained without change.

Subdivision (a)(2). New subdivision (a)(2) addresses the computation of time periods that are stated in hours. No such deadline currently appears in the Federal Rules of Bankruptcy Procedure. But some statutes contain deadlines stated in hours, as do some court orders issued in expedited proceedings.

Under subdivision (a)(2), a deadline stated in hours starts to run immediately on the occurrence of the event that triggers the deadline. The deadline generally ends when the time expires. If, however, the time period expires at a specific time (say, 2:17 p.m.) on a Saturday, Sunday, or legal holiday, then the deadline is extended to the same time (2:17 p.m.) on the next day that is not a Saturday, Sunday, or legal holiday. Periods stated in hours are not to be "rounded up" to the next whole hour. Subdivision (a)(3) addresses situations when the clerk's office is inaccessible during the last hour before a filing deadline expires.

Subdivision (a)(2)(B) directs that every hour be counted. Thus, for example, a 72-hour period that commences at 10:23 a.m. on Friday, November 2, 2007, will run until 9:23 a.m. on Monday, November 5; the discrepancy in start and end times in this example results from the intervening shift from daylight saving time to standard time.

Subdivision (a)(3). When determining the last day of a filing period stated in days or a longer unit of time, a day on which the clerk's office is not accessible because of the weather or another reason is treated like a Saturday, Sunday, or legal holiday. When determining the end of a filing period stated in hours, if the clerk's office is inaccessible during the last hour of the filing period computed under subdivision (a)(2) then the period is extended to the same time on the next day that is not a weekend, holiday, or day when the clerk's office is inaccessible.

Subdivision (a)(3)'s extensions apply "[u]nless the court orders otherwise." In some circumstances, the court might not wish a period of inaccessibility to trigger a full 24-hour extension; in those instances, the court can specify a briefer extension.

The text of the rule no longer refers to "weather or other conditions" as the reason for the inaccessibility of the clerk's office. The reference to "weather" was deleted from the text to underscore that inaccessibility can occur for reasons unrelated to weather, such as an outage of the electronic filing system. Weather can still be a reason for inaccessibility of the clerk's office. The rule does not attempt to define inaccessibility. Rather, the concept will continue to develop through caselaw. *See, e.g.*, William G. Phelps, *When Is Office of Clerk of Court Inaccessible Due to Weather or Other Conditions for Purpose of Computing Time Period for Filing Papers under Rule 6(a) of Federal Rules of Civil Procedure*, 135 A.L.R. Fed. 259 (1996) (collecting cases). In addition, many local provisions address inaccessibility for purposes of electronic filing. *See, e.g.*, D. Kan. Rule 5.4.11 ("A Filing User whose filing is made untimely as the result of a technical failure may seek appropriate relief from the court.").

Subdivision (a)(4). New subdivision (a)(4) defines the end of the last day of a period for purposes of subdivision (a)(1). Subdivision (a)(4) does not apply in computing periods stated in hours under subdivision (a)(2), and does not apply if a different time is set by a statute, local rule, or order in the case. A local rule may provide, for example, that papers filed in a drop box after the normal hours of the clerk's office are filed as of the day that is date-stamped on the papers by a device in the drop box.

28 U.S.C. §452 provides that "[a]ll courts of the United States shall be deemed always open for the purpose of filing proper papers, issuing and returning process, and making motions and orders." A corresponding provision exists in Rule 5001(a). Some courts have held that these provisions permit an after-hours filing by handing the papers to an appropriate official. *See, e.g.*, *Casalduc v. Diaz*, 117 F.2d 915, 917 (1st Cir. 1941). Subdivision (a)(4) does not address the effect of the statute on the question of after-hours filing; instead, the rule is designed to deal with filings in the ordinary course without regard to Section 452.

Subdivision (a)(5). New subdivision (a)(5) defines the "next" day for purposes of subdivisions (a)(1)(C) and (a)(2)(C). The Federal Rules of Bankruptcy Procedure contain both forward-looking time periods and backward-looking time periods. A forward-looking time period requires something to be done within a period of time *after* an event. *See, e.g.*, Rules 1007(c) (["]the schedules, statements, and other documents shall be filed by the debtor within 14 days of the entry of the order for relief"); 1019(5)(B)(ii) ("the trustee, not later than 30 days after conversion of the case, shall file and transmit to the United States trustee a final report and account"); and 7012(a) ("If a complaint is duly served, the defendant shall serve an answer within 30 days after the issuance of the summons, except when a different time is prescribed by the court.").

A backward-looking time period requires something to be done within a period of time *before* an event. *See, e.g.*, Rules 6004(b) ("an objection to a proposed use, sale, or lease of property shall be filed and served not less than seven days before the date set for the proposed action"); 9006(d) ("A written motion, other than one which may be heard ex parte, and notice of any hearing shall be served not later than seven days before the time specified for such hearing"). In determining what is the "next" day for purposes of subdivisions (a)(1)(C) and (a)(2)(C), one should continue counting in the same direction—that is, forward when computing a forward-looking period and backward when computing a backward-looking period. If, for example, a filing is due within 10 days *after* an event, and the tenth day falls on Saturday, September 1, 2007, then the filing is due on Tuesday, September 4, 2007 (Monday, September 3, is Labor Day). But if a filing is due 10 days *before* an event, and the tenth day falls on Saturday, September 1, then the filing is due on Friday, August 31.

Subdivision (a)(6). New subdivision (a)(6) defines "legal holiday" for purposes of the Federal Rules of Bankruptcy Procedure, including the time-computation provisions of subdivision (a). Subdivision (a)(6) continues to include within the definition of "legal holiday" days that are declared a holiday by the President or Congress.

For forward-counted periods—*i.e.*, periods that are measured after an event—subdivision (a)(6)(C) includes certain state holidays within the definition of legal holidays, and defines the term "state"—for purposes of

subdivision (a)(6)—to include the District of Columbia and any commonwealth or territory of the United States. Thus, for purposes of subdivision (a)(6)'s definition of "legal holiday," "state" includes the District of Columbia, Guam, American Samoa, the U.S. Virgin Islands, the Commonwealth of Puerto Rico, and the Commonwealth of the Northern Mariana Islands.

However, state legal holidays are not recognized in computing backward-counted periods. For both forward- and backward-counted periods, the rule thus protects those who may be unsure of the effect of state holidays. For forward-counted deadlines, treating state holidays the same as federal holidays extends the deadline. Thus, someone who thought that the federal courts might be closed on a state holiday would be safeguarded against an inadvertent late filing. In contrast, for backward-counted deadlines, not giving state holidays the treatment of federal holidays allows filing on the state holiday itself rather than the day before. Take, for example, Monday, April 21, 2008 (Patriot's Day, a legal holiday in the relevant state). If a filing is due 14 days after an event, and the fourteenth day is April 21, then the filing is due on Tuesday, April 22 because Monday, April 21 counts as a legal holiday. But if a filing is due 14 days before an event, and the fourteenth day is April 21, the filing is due on Monday, April 21; the fact that April 21 is a state holiday does not make April 21 a legal holiday for purposes of computing this backward-counted deadline. But note that if the clerk's office is inaccessible on Monday, April 21, then subdivision (a)(3) extends the April 21 filing deadline forward to the next accessible day that is not a Saturday, Sunday or legal holiday—no earlier than Tuesday, April 22.

Changes Made After Publication. The reference to Rule 6(a)(1) in subdivision (a)(3)(A) at line 50 of the rule as it was published was corrected by referring instead to Rule 9006(a)(1).

The Standing Committee changed Rule 9006(a)(6) to exclude state holidays from the definition of "legal holiday" for purposes of computing backward-counted periods; conforming changes were made to the Committee Note to subdivision (a)(6). In addition, the term "possession" was deleted from the definition of "state" in subdivision (a)(6), and a conforming change was made to the Committee Note.

[*Subdivision (d)*.] The rule is amended to implement changes in connection with the amendment to Rule 9006(a) and the manner by which time is computed under the rules. The deadline in the rule is amended to substitute a deadline that is a multiple of seven days. Throughout the rules, deadlines are amended in the following manner:

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

Subdivision (f) is amended to conform to the changes made to Rule 5(b)(2) of the Federal Rules of Civil Procedure as a part of the Civil Rules Restyling Project. As a part of that project, subparagraphs (b)(2)(C) and (D) of that rule were rewritten as subparagraphs (b)(2)(D), (E), and (F). The cross reference to those rules contained in subdivision (f) of this rule is corrected by this amendment.

COMMITTEE NOTES ON RULES—2013 AMENDMENT

The title of this rule is amended to draw attention to the fact that it prescribes time limits for the service of motion papers. These time periods apply unless another Bankruptcy Rule or a court order, including a local rule, prescribes different time periods. Rules 9013 and 9014 should also be consulted regarding motion practice. Rule 9013 governs the form of motions and the parties who must be served. Rule 9014 prescribes the procedures applicable to contested matters, including the method of serving motions commencing contested matters and subsequent papers. Subdivision (d) is amended to apply to any written response to a motion, rather than just to opposing affidavits. The caption of the subdivision is amended to reflect this change. Other changes are stylistic.

Changes Made After Publication and Comment. No changes were made after publication and comment.

COMMITTEE NOTES ON RULES—2016 AMENDMENT

Subdivision (f) is amended to remove service by electronic means under Civil Rule 5(b)(2)(E) from the modes of service that allow three added days to act after being served.

Rule 9006(f) and Civil Rule 6(d) contain similar provisions providing additional time for actions after being served by mail or by certain modes of service that are identified by reference to Civil Rule 5(b)(2). Rule 9006(f)—like Civil Rule 6(d)—is amended to remove the reference to service by electronic means under Rule 5(b)(2)(E). The amendment also adds clarifying parentheticals identifying the forms of service under Rule 5(b)(2) for which three days will still be added.

Civil Rule 5(b)—made applicable in bankruptcy proceedings by Rules 7005 and 9014(b)—was amended in 2001 to allow service by electronic means with the consent of the person served. Although electronic

transmission seemed virtually instantaneous even then, electronic service was included in the modes of service that allow three added days to act after being served. There were concerns that the transmission might be delayed for some time, and particular concerns that incompatible systems might make it difficult or impossible to open attachments. Those concerns have been substantially alleviated by advances in technology and widespread skill in using electronic transmission.

A parallel reason for allowing the three added days was that electronic service was authorized only with the consent of the person to be served. Concerns about the reliability of electronic transmission might have led to refusals of consent; the three added days were calculated to alleviate these concerns.

Diminution of the concerns that prompted the decision to allow the three added days for electronic transmission is not the only reason for discarding this indulgence. Many rules have been changed to ease the task of computing time by adopting 7-, 14-, 21-, and 28-day periods that allow "day-of-the-week" counting. Adding three days at the end complicated the counting, and increased the occasions for further complication by invoking the provisions that apply when the last day is a Saturday, Sunday, or legal holiday.

Electronic service after business hours, or just before or during a weekend or holiday, may result in a practical reduction in the time available to respond. Extensions of time may be warranted to prevent prejudice.

Eliminating Rule 5(b) subparagraph (2)(E) from the modes of service that allow three added days means that the three added days cannot be retained by consenting to service by electronic means. Consent to electronic service in registering for electronic case filing, for example, does not count as consent to service "by any other means" of delivery under subparagraph (F).

Subdivision (f) is also amended to conform to a corresponding amendment of Civil Rule 6(d). The amendment clarifies that only the party that is served by mail or under the specified provisions of Civil Rule 5—and not the party making service—is permitted to add three days to any prescribed period for taking action after service is made.

COMMITTEE NOTES ON RULES—2023 AMENDMENT

The amendment adds "Juneteenth National Independence Day" to the list of legal holidays. See Juneteenth National Independence Day Act, P.L. 117–17 (2021) (amending 5 U.S.C. §6103(a)).

COMMITTEE NOTES ON RULES—2024 AMENDMENT

The language of Rule 9006 has been amended as part of the general restyling of the Bankruptcy Rules to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only.

Additionally, the following substantive changes have been made.

The amendments to Rule 9006(b)(3)(B) and (c)(2) reflect the amendment to Rule 1007(b)(7) that replaces the requirement for submission of a statement showing that the debtor has completed a course on personal financial management with the requirement that the debtor provide the certificate of course completion issued by the approved provider of that course.

REFERENCES IN TEXT

The Federal Rules of Civil Procedure, referred to in subds. (a) and (f), are set out in the Appendix to Title 28, Judiciary and Judicial Procedure.

Rule 9007. Authority to Regulate Notices

(a) IN GENERAL. Unless these rules provide otherwise, when notice is to be given, the court must designate:

(1) the deadline for giving it;

(2) the entities to whom it must be given; and

(3) the form and manner of giving it.

(b) COMBINED NOTICES. When feasible, the court may order notices under these rules to be combined.

(As amended Mar. 30, 1987, eff. Aug. 1, 1987; Apr. 2, 2024, eff. Dec. 1, 2024.)

COMMITTEE NOTES ON RULES—2024 AMENDMENT

The language of Rule 9007 has been amended as part of the general restyling of the Bankruptcy Rules to make them more easily understood and to make style and terminology consistent throughout the rules. These

changes are intended to be stylistic only.

Rule 9008. Service or Notice by Publication

When these rules require or authorize service or notice by publication, and to the extent that they do not provide otherwise, the court must determine the form and manner of publication—including the newspaper or other medium to be used and the number of publications.

(As amended Apr. 2, 2024, eff. Dec. 1, 2024.)

COMMITTEE NOTES ON RULES—2024 AMENDMENT

The language of Rule 9008 has been amended as part of the general restyling of the Bankruptcy Rules to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only.

Rule 9009. Using Official Forms; Director's Forms

(a) OFFICIAL FORMS. The Official Forms prescribed by the Judicial Conference of the United States must be used without alteration—unless alteration is authorized by these rules, the form itself, or the national instructions for a particular form. A form may be modified to permit minor changes not affecting wording or the order of presentation, including a change that:

(1) expands the prescribed response area to permit a complete response;

(2) deletes space not needed for a response; or

(3) deletes items requiring detail in a question or category if the filer indicates—either by checking "no" or "none," or by stating in words—that there is nothing to report on that item.

(b) DIRECTOR'S FORMS. The Director of the Administrative Office of the United States Courts may issue additional forms.

(c) CONSTRUING FORMS. The forms must be construed to be consistent with these rules and the Code.

(As amended Apr. 30, 1991, eff. Aug. 1, 1991; Apr. 23, 2008, eff. Dec. 1, 2008; Apr. 27, 2017, eff. Dec. 1, 2017; Apr. 2, 2024, eff. Dec. 1, 2024.)

NOTES OF ADVISORY COMMITTEE ON RULES—1983

The rule continues the obligatory character of the Official Forms in the interest of facilitating the processing of the paperwork of bankruptcy administration, but provides that Official Forms will be prescribed by the Judicial Conference of the United States. The Supreme Court and the Congress will thus be relieved of the burden of considering the large number of complex forms used in bankruptcy practice. The use of the Official Forms has generally been held subject to a "rule of substantial compliance" and some of these rules, for example Rule 1002, specifically state that the filed document need only "conform substantially" to the Official Form. See also Rule 9005. The second sentence recognizes the propriety of combining and rearranging Official Forms to take advantage of technological developments and resulting economies.

The Director of the Administrative Office is authorized to issue additional forms for the guidance of the bar.

NOTES OF ADVISORY COMMITTEE ON RULES—1991 AMENDMENT

Rule 9029 [9009] is amended to clarify that local court rules may not prohibit or limit the use of the Official Forms.

COMMITTEE NOTES ON RULES—2008 AMENDMENT

The rule is amended to provide that a plan proponent in a small business chapter 11 case need not use an Official Form of a plan of reorganization and disclosure statement. The use of those forms is optional, and under Rule 3016(d) the proponent may submit a plan and disclosure statement in those cases that does not conform to the Official Forms.

Changes Made After Publication. No changes were made after publication.

COMMITTEE NOTES ON RULES—2017 AMENDMENT

This rule is amended and reorganized into separate subdivisions.

Subdivision (a) addresses permissible modifications to Official Forms. It requires that an Official Form be used without alteration, except when another rule, the Official Form itself, or the national instructions applicable to an Official Form permit alteration. The former language generally permitting alterations has been deleted, but the rule preserves the ability to make minor modifications to an Official Form that do not affect the wording or the order in which information is presented on a form. Permissible changes include those that merely expand or delete the space for responses as appropriate or delete inapplicable items so long as the filer indicates that no response is intended. For example, when more space will be necessary to completely answer a question on an Official Form without an attachment, the answer space may be expanded. Similarly, varying the width or orientation of columnar data on a form for clarity of presentation would be a permissible minor change. On the other hand, many Official Forms indicate on their face that certain changes are not appropriate. Any changes that contravene the directions on an Official Form would be prohibited by this rule.

The creation of subdivision (b) and subdivision (c) is stylistic.

COMMITTEE NOTES ON RULES—2024 AMENDMENT

The language of Rule 9009 has been amended as part of the general restyling of the Bankruptcy Rules to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only.

Rule 9010. Authority to Act Personally or by an Attorney; Power of Attorney

(a) IN GENERAL. A debtor, creditor, equity security holder, indenture trustee, committee, or other party may:

(1) appear in a case and act either on the entity's own behalf or through an attorney authorized to practice in the court; and

(2) perform any act not constituting the practice of law, by an authorized agent, attorney-in-fact, or proxy.

(b) ATTORNEY'S NOTICE OF APPEARANCE. An attorney appearing for a party in a case must file a notice of appearance containing the attorney's name, office address, and telephone number—unless the appearance is already noted in the record.

(c) POWER OF ATTORNEY TO REPRESENT A CREDITOR. The authority of an agent, attorney-in-fact, or proxy to represent a creditor—for any purpose other than executing and filing a proof of claim or accepting or rejecting a plan—must be evidenced by a power of attorney that substantially conforms to the appropriate version of Form 411. A power of attorney must be acknowledged before:

(1) an officer listed in 28 U.S.C. §459 or §953 or in Rule 9012; or

(2) a person authorized to administer oaths under the state law where the oath is administered.

(As amended Mar. 30, 1987, eff. Aug. 1, 1987; Apr. 30, 1991, eff. Aug. 1, 1991; Apr. 2, 2024, eff. Dec. 1, 2024.)

NOTES OF ADVISORY COMMITTEE ON RULES—1983

This rule is substantially the same as former Bankruptcy Rule 910 and does not purport to change prior holdings prohibiting a corporation from appearing *pro se*. See *In re Las Colinas Development Corp*., 585 F.2d 7 (1st Cir. 1978).

NOTES OF ADVISORY COMMITTEE ON RULES—1987 AMENDMENT

Subdivision (c) is amended to include a reference to Rule 9012 which is amended to authorize a bankruptcy judge or clerk to administer oaths.

NOTES OF ADVISORY COMMITTEE ON RULES—1991 AMENDMENT

References to Official Form numbers in subdivision (c) are deleted in anticipation of future revision and renumbering of the Official Forms.

COMMITTEE NOTES ON RULES—2024 AMENDMENT

The language of Rule 9010 has been amended as part of the general restyling of the Bankruptcy Rules to

make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only.

Rule 9011. Signing Documents; Representations to the Court; Sanctions; Verifying and Providing Copies

(a) SIGNATURE. Every petition, pleading, written motion, and other document—except a list, schedule, or statement, or an amendment to one of them—must be signed by at least one attorney of record in the attorney's individual name. A party not represented by an attorney must sign all documents. Each document must state the signer's address and telephone number, if any. The court must strike an unsigned document unless the omission is promptly corrected after being called to the attorney's or party's attention.

(b) REPRESENTATIONS TO THE COURT. By presenting to the court a petition, pleading, written motion, or other document—whether by signing, filing, submitting, or later advocating it—an attorney or unrepresented party certifies that, to the best of the person's knowledge, information, and belief formed after an inquiry reasonable under the circumstances:

(1) it is not presented for any improper purpose, such as to harass, cause unnecessary delay, or needlessly increase litigation costs;

(2) the claims, defenses, and other legal contentions are warranted by existing law or by a nonfrivolous argument to extend, modify, or reverse existing law, or to establish new law;

(3) the allegations and factual contentions have evidentiary support—or if specifically so identified, are likely to have evidentiary support after a reasonable opportunity for further investigation or discovery; and

(4) the denials of factual contentions are warranted on the evidence—or if specifically so identified, are reasonably based on a lack of information or belief.

(c) SANCTIONS.

(1) *In General*. If, after notice and a reasonable opportunity to respond, the court determines that (b) has been violated, the court may, subject to the conditions in this subdivision (c), impose an appropriate sanction on any attorney, law firm, or party that committed the violation or is responsible for it. Absent exceptional circumstances, a law firm must be held jointly responsible for a violation committed by its partner, associate, or employee.

(2) *By Motion.*

(A) *In General*. A motion for sanctions must be made separately from any other motion or request, describe the specific conduct alleged to violate (b), and be served under Rule 7004.

(B) *When to File*. The motion for sanctions must not be filed or presented to the court if the challenged document, claim, defense, contention, allegation, or denial is withdrawn or appropriately corrected within 21 days after the motion was served (or within another period as the court may order). This limitation does not apply if the conduct alleged is filing a petition in violation of (b).

(C) *Awarding Damages*. If warranted, the court may award to the prevailing party the reasonable expenses and attorney's fees incurred in presenting or opposing the motion.

(3) *By the Court*. On its own, the court may enter an order describing the specific conduct that appears to violate (b) and directing an attorney, law firm, or party to show cause why it has not violated (b).

(4) *Nature of a Sanction; Limitations.*

(A) *In General*. A sanction imposed under this rule must be limited to what suffices to deter repetition of the conduct or deter comparable conduct by others similarly situated. The sanction may include:

(i) a nonmonetary directive;

(ii) an order to pay a penalty into court; or

(iii) if imposed on motion and warranted for effective deterrence, an order directing

payment to the movant of all or part of the reasonable attorney's fees and other expenses directly resulting from the violation.

(B) *Limitations on a Monetary Sanction*. The court must not impose a monetary sanction:
(i) against a represented party for violating (b)(2); or
(ii) on its own, unless it issued the show-cause order under (c)(3) before voluntary dismissal or settlement of the claims made by or against the party that is, or whose attorneys are, to be sanctioned.

(5) *Content of a Court Order*. An order imposing a sanction must describe the sanctioned conduct and explain the basis for the sanction.

(d) INAPPLICABILITY TO DISCOVERY. Subdivisions (a)–(c) do not apply to disclosures and discovery requests, responses, objections, and motions that are subject to Rules 7026–7037.

(e) VERIFYING A DOCUMENT. A document filed in a bankruptcy case need not be verified unless these rules provide otherwise. When these rules require verification, an unsworn declaration under 28 U.S.C. §1746 suffices.

(f) COPIES OF SIGNED OR VERIFIED DOCUMENTS. When these rules require copies of a signed or verified document, if the original is signed or verified, a copy that conforms to the original suffices.

(As amended Mar. 30, 1987, eff. Aug. 1, 1987; Apr. 30, 1991, eff. Aug. 1, 1991; Apr. 11, 1997, eff. Dec. 1, 1997; Apr. 2, 2024, eff. Dec. 1, 2024.)

NOTES OF ADVISORY COMMITTEE ON RULES—1983

Subdivision (a). Excepted from the papers which an attorney for a debtor must sign are lists, schedules, statements of financial affairs, statements of executory contracts, Chapter 13 Statements and amendments thereto. Rule 1008 requires that these documents be verified by the debtor. Although the petition must also be verified, counsel for the debtor must sign the petition. See Official Form No. 1. An unrepresented party must sign all papers.

The last sentence of this subdivision authorizes a broad range of sanctions.

The word "document" is used in this subdivision to refer to all papers which the attorney or party is required to sign.

Subdivision (b) extends to all papers filed in cases under the Code the policy of minimizing reliance on the formalities of verification which is reflected in the third sentence of Rule 11 F.R.Civ.P. The second sentence of subdivision (b) permits the substitution of an unsworn declaration for the verification. See 28 U.S.C. §1746. Rules requiring verification or an affidavit are as follows: Rule 1008, petitions, schedules, statements of financial affairs, Chapter 13 Statements and amendments; Rule 2006(e), list of multiple proxies and statement of facts and circumstances regarding their acquisition; Rule 4001(c), motion for ex parte relief from stay; Rule 7065, incorporating Rule 65(b) F.R.Civ.P. governing issuance of temporary restraining order; Rule 8011(d), affidavit in support of emergency motion on appeal.

NOTES OF ADVISORY COMMITTEE ON RULES—1987 AMENDMENT

The statement of intention of the debtor under §521(2) [now 521(a)(2)] of the Code is added to the documents which counsel is not required to sign.

NOTES OF ADVISORY COMMITTEE ON RULES—1991 AMENDMENT

Subdivision (a) is amended to conform to Rule 11 F.R.Civ.P. where appropriate, but also to clarify that it applies to the unnecessary delay or needless increase in the cost of the administration of the case. Deletion of the references to specific statements that are excluded from the scope of this subdivision is stylistic. As used in subdivision (a) of this rule, "statement" is limited to the statement of financial affairs and the statement of intention required to be filed under Rule 1007. Deletion of the reference to the Chapter 13 Statement is consistent with the amendment to Rule 1007(b).

NOTES OF ADVISORY COMMITTEE ON RULES—1997 AMENDMENT

This rule is amended to conform to the 1993 changes to F.R.Civ.P. 11. For an explanation of these amendments, see the advisory committee note to the 1993 amendments to F.R.Civ.P. 11.

The "safe harbor" provision contained in subdivision (c)(1)(A), which prohibits the filing of a motion for

sanctions unless the challenged paper is not withdrawn or corrected within a prescribed time after service of the motion, does not apply if the challenged paper is a petition. The filing of a petition has immediate serious consequences, including the imposition of the automatic stay under §362 of the Code, which may not be avoided by the subsequent withdrawal of the petition. In addition, a petition for relief under chapter 7 or chapter 11 may not be withdrawn unless the court orders dismissal of the case for cause after notice and a hearing.

GAP Report on Rule 9011. The proposed amendments to subdivision (a) were revised to clarify that a party not represented by an attorney must sign lists, schedules, and statements, as well as other papers that are filed.

COMMITTEE NOTES ON RULES—2024 AMENDMENT

The language of Rule 9011 has been amended as part of the general restyling of the Bankruptcy Rules to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only.

Rule 9012. Oaths and Affirmations

(a) WHO MAY ADMINISTER AN OATH. These persons may administer an oath or affirmation or take an acknowledgment:

- a bankruptcy judge;
- a clerk;
- a deputy clerk;
- a United States trustee;
- an officer authorized to administer oaths in a proceeding before a federal court or by state law in the state where the oath is taken; or
- a United States diplomatic or consular officer in a foreign country.

(b) AFFIRMATION AS AN ALTERNATIVE. If an oath is required, a solemn affirmation suffices.

(As amended Mar. 30, 1987, eff. Aug. 1, 1987; Apr. 30, 1991, eff. Aug. 1, 1991; Apr. 2, 2024, eff. Dec. 1, 2024.)

NOTES OF ADVISORY COMMITTEE ON RULES—1983

This rule is derived from Rule 43(d) F.R.Civ.P.

The provisions of former Bankruptcy Rule 912(a) relating to who may administer oaths have been deleted as unnecessary. Bankruptcy judges and the clerks and deputy clerks of bankruptcy courts are authorized by statute to administer oaths and affirmations and to take acknowledgments. 28 U.S.C. §§459, 953. A person designated to preside at the meeting of creditors has authority under Rule 2003(b)(1) to administer the oath. Administration of the oath at a deposition is governed by Rule 7028.

NOTES OF ADVISORY COMMITTEE ON RULES—1987 AMENDMENT

Subdivision (a) has been added to the rule to authorize bankruptcy judges and clerks to administer oaths.

NOTES OF ADVISORY COMMITTEE ON RULES—1991 AMENDMENT

This rule is amended to conform to the 1986 amendment to §343 which provides that the United States trustee may administer the oath to the debtor at the §341 meeting. This rule also allows the United States trustee to administer oaths and affirmations and to take acknowledgments in other situations. This amendment also affects Rule 9010(c) relating to the acknowledgment of a power of attorney. The words "United States trustee" include a designee of the United States trustee pursuant to Rule 9001 and §102(9) of the Code.

COMMITTEE NOTES ON RULES—2024 AMENDMENT

The language of Rule 9012 has been amended as part of the general restyling of the Bankruptcy Rules to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only.

Rule 9013. Motions; Form and Service

(a) REQUEST FOR AN ORDER. A request for an order must be made by written motion unless:
(1) an application is authorized by these rules; or
(2) the request is made during a hearing.

(b) FORM AND SERVICE OF A MOTION. A motion must state its grounds with particularity and set forth the relief or order requested. Unless a written motion may be considered ex parte, the movant must, within the time prescribed by Rule 9006(d), serve the motion on:
• the trustee or debtor in possession and those entities specified by these rules; or
• if these rules do not require service or specify the entities to be served, the entities designated by the court.

(As amended Mar. 30, 1987, eff. Aug. 1, 1987; Apr. 16, 2013, eff. Dec. 1, 2013; Apr. 2, 2024, eff. Dec. 1, 2024.)

NOTES OF ADVISORY COMMITTEE ON RULES—1983

This rule is derived from Rule 5(a) and Rule 7(b)(1) F.R.Civ.P. Except when an application is specifically authorized by these rules, for example an application under Rule 2014 for approval of the employment of a professional, all requests for court action must be made by motion.

COMMITTEE NOTES ON RULES—2013 AMENDMENT

A cross-reference to Rule 9006(d) is added to this rule to call attention to the time limits for the service of motions, supporting affidavits, and written responses to motions. Rule 9006(d) prescribes time limits that apply unless other limits are fixed by these rules, a court order, or a local rule. The other changes are stylistic.

Changes Made After Publication and Comment. No changes were made after publication and comment.

COMMITTEE NOTES ON RULES—2024 AMENDMENT

The language of Rule 9013 has been amended as part of the general restyling of the Bankruptcy Rules to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only.

Rule 9014. Contested Matters

(a) MOTION REQUIRED. In a contested matter not otherwise governed by these rules, relief must be requested by motion. Reasonable notice and an opportunity to be heard must be given to the party against whom relief is sought. No response is required unless the court orders otherwise.

(b) SERVICE.

(1) *Motion*. The motion must be served within the time prescribed by Rule 9006(d) and in the manner for serving a summons and complaint provided by Rule 7004.

(2) *Response*. Any written response must be served within the time prescribed by Rule 9006(d).

(3) *Later Filings*. After a motion is served, any other document must be served in the manner prescribed by Fed. R. Civ. P. 5(b).

(c) APPLYING PART VII RULES.

(1) *In General*. Unless this rule or a court order provides otherwise, the following rules apply in a contested matter: 7009, 7017, 7021, 7025–7026, 7028–7037, 7041–7042, 7052, 7054–7056, 7064, 7069, and 7071. At any stage of a contested matter, the court may order that one or more other Part VII rules apply.

(2) *Exception*. Unless the court orders otherwise, the following subdivisions of Fed. R. Civ. P. 26, as incorporated by Rule 7026, do not apply in a contested matter:
• (a)(1), mandatory disclosure;
• (a)(2), disclosures about expert testimony;
• (a)(3), other pretrial disclosures; and
• (f), mandatory meeting before a scheduling conference.

(3) *Procedural Order*. In issuing any procedural order under this subdivision (c), the court must

give the parties notice and a reasonable opportunity to comply.

(4) *Perpetuating Testimony*. An entity desiring to perpetuate testimony may do so in the manner provided by Rule 7027 for taking a deposition before an adversary proceeding.

(d) TAKING TESTIMONY ON A DISPUTED FACTUAL ISSUE. A witness's testimony on a disputed material factual issue must be taken in the same manner as testimony in an adversary proceeding.

(e) DETERMINING WHETHER A HEARING WILL BE AN EVIDENTIARY HEARING. The court must provide procedures that allow parties—at a reasonable time before a scheduled hearing—to determine whether it will be an evidentiary hearing at which witnesses may testify.

(As amended Mar. 30, 1987, eff. Aug. 1, 1987; Apr. 26, 1999, eff. Dec. 1, 1999; Apr. 29, 2002, eff. Dec. 1, 2002; Apr. 26, 2004, eff. Dec. 1, 2004; Apr. 16, 2013, eff. Dec. 1, 2013; Apr. 2, 2024, eff. Dec. 1, 2024.)

NOTES OF ADVISORY COMMITTEE ON RULES—1983

Rules 1017(d), 3020(b)(1), 4001(a), 4003(d), and 6006(a), which govern respectively dismissal or conversion of a case, objections to confirmation of a plan, relief from the automatic stay and the use of cash collateral, avoidance of a lien under §522(f) of the Code, and the assumption or rejection of executory contracts or unexpired leases, specifically provide that litigation under those rules shall be as provided in Rule 9014. This rule also governs litigation in other contested matters.

Whenever there is an actual dispute, other than an adversary proceeding, before the bankruptcy court, the litigation to resolve that dispute is a contested matter. For example, the filing of an objection to a proof of claim, to a claim of exemption, or to a disclosure statement creates a dispute which is a contested matter. Even when an objection is not formally required, there may be a dispute. If a party in interest opposes the amount of compensation sought by a professional, there is a dispute which is a contested matter.

When the rules of Part VII are applicable to a contested matter, reference in the Part VII rules to adversary proceedings is to be read as a reference to a contested matter. See Rule 9002(1).

COMMITTEE NOTES ON RULES—1999 AMENDMENT

This rule is amended to delete Rule 7062 from the list of Part VII rules that automatically apply in a contested matter.

Rule 7062 provides that Rule 62 F.R.Civ.P., which governs stays of proceedings to enforce a judgment, is applicable in adversary proceedings. The provisions of Rule 62, including the ten-day automatic stay of the enforcement of a judgment provided by Rule 62(a) and the stay as a matter of right by posting a supersedeas bond provided in Rule 62(d), are not appropriate for most orders granting or denying motions governed by Rule 9014.

Although Rule 7062 will not apply automatically in contested matters, the amended rule permits the court, in its discretion, to order that Rule 7062 apply in a particular matter, and Rule 8005 gives the court discretion to issue a stay or any other appropriate order during the pendency of an appeal on such terms as will protect the rights of all parties in interest. In addition, amendments to Rules 3020, 4001, 6004, and 6006 automatically stay certain types of orders for a period of ten days, unless the court orders otherwise.

GAP Report on Rule 9014. No changes since publication.

COMMITTEE NOTES ON RULES—2002 AMENDMENT

The list of Part VII rules that are applicable in a contested matter is extended to include Rule 7009 on pleading special matters, and Rule 7017 on real parties in interest, infants and incompetent persons, and capacity. The discovery rules made applicable in adversary proceedings apply in contested matters unless the court directs otherwise.

Subdivision (b) is amended to permit parties to serve papers, other than the original motion, in the manner provided in Rule 5(b) F.R. Civ.P. When the court requires a response to the motion, this amendment will permit service of the response in the same manner as an answer is served in an adversary proceeding.

Subdivision (d) is added to clarify that if the motion cannot be decided without resolving a disputed material issue of fact, an evidentiary hearing must be held at which testimony of witnesses is taken in the same manner as testimony is taken in an adversary proceeding or at a trial in a district court civil case. Rule 43(a), rather than Rule 43(e), F.R. Civ.P. would govern the evidentiary hearing on the factual dispute. Under Rule 9017, the Federal Rules of Evidence also apply in a contested matter. Nothing in the rule prohibits a court from resolving any matter that is submitted on affidavits by agreement of the parties.

Subdivision (e). Local procedures for hearings and other court appearances in a contested matter vary from district to district. In some bankruptcy courts, an evidentiary hearing at which witnesses may testify usually is held at the first court appearance in the contested matter. In other courts, it is customary for the court to delay the evidentiary hearing on disputed factual issues until some time after the initial hearing date. In order to avoid unnecessary expense and inconvenience, it is important for attorneys to know whether they should bring witnesses to a court appearance. The purpose of the final sentence of this rule is to require that the court provide a mechanism that will enable attorneys to know at a reasonable time before a scheduled hearing whether it will be necessary for witnesses to appear in court on that particular date.

Other amendments to this rule are stylistic.

Changes Made After Publication and Comments:

The Advisory Committee made two changes to subdivision (d) after considering the comments received addressing the proposed rule. First, the word "material" is inserted to make explicit that which was implied in the published version of the proposed rule. Second, the reference to F.R.Civ.P. 43(a) was removed. The purpose of proposed subdivision (d) was to recognize that testimony should be taken in the same manner in both contested matters and adversary proceedings. The revision to the published rule states this more directly.

The Committee Note was amended to reflect the changes made in the text of the rule.

COMMITTEE NOTES ON RULES—2004 AMENDMENT

The rule is amended to provide that the mandatory disclosure requirements of Fed. R. Civ. P. 26, as incorporated by Rule 7026, do not apply in contested matters. The typically short time between the commencement and resolution of most contested matters makes the mandatory disclosure provisions of Rule 26 ineffective. Nevertheless, the court may by local rule or by order in a particular case provide that these provisions of the rule apply in a contested matter.

Changes Made After Publication. No changes since publication.

COMMITTEE NOTES ON RULES—2013 AMENDMENT

A cross-reference to Rule 9006(d) is added to subdivision (b) to call attention to the time limits for the service of motions, supporting affidavits, and written responses to motions. Rule 9006(d) prescribes time limits that apply unless other limits are fixed by these rules, a court order, or a local rule.

Changes Made After Publication and Comment. No changes were made after publication and comment.

COMMITTEE NOTES ON RULES—2024 AMENDMENT

The language of Rule 9014 has been amended as part of the general restyling of the Bankruptcy Rules to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only.

REFERENCES IN TEXT

The Federal Rules of Civil Procedure, referred to in subds. (b)(3) and (c)(2), are set out in the Appendix to Title 28, Judiciary and Judicial Procedure.

Rule 9015. Jury Trial

(a) IN GENERAL. In a bankruptcy case or proceeding, Fed. R. Civ. P. 38–39, 47–49, 51, and 81(c) (insofar as it applies to jury trials) apply. But a demand for a jury trial under Fed. R. Civ. P. 38(b) must be filed in accordance with Rule 5005.

(b) JURY TRIAL BEFORE A BANKRUPTCY JUDGE. The parties may—jointly or separately—file a statement consenting to a jury trial conducted by a bankruptcy judge under 28 U.S.C. §157(e) if:

(1) the right to a jury trial applies;

(2) a timely demand has been filed under Fed. R. Civ. P. 38(b);

(3) the bankruptcy judge has been specially designated to conduct the jury trial; and

(4) the statement is filed within any time specified by local rule.

(c) JUDGMENT AS A MATTER OF LAW; MOTION FOR A NEW TRIAL. Fed. R. Civ. P. 50 applies in a bankruptcy case or proceeding—except that a renewed motion for judgment, or a request for a new trial, must be filed within 14 days after the judgment is entered.

(Added Apr. 11, 1997, eff. Dec. 1, 1997; amended Mar. 26, 2009, eff. Dec. 1, 2009; Apr. 2, 2024, eff. Dec. 1, 2024.)

NOTES OF ADVISORY COMMITTEE ON RULES—1997

This rule provides procedures relating to jury trials. This rule is not intended to expand or create any right to trial by jury where such right does not otherwise exist.

GAP Report on Rule 9015. No changes to the published draft.

COMMITTEE NOTES ON RULES—2009 AMENDMENT

The rule is amended by deleting Rule 50 F.R.Civ.P. from the list in subdivision (a) of rules made applicable in cases and proceedings. However, subdivision (c) is added to make Rule 50 applicable in cases and proceedings, but it limits the time for filing certain post judgment motions to 14 days after the entry of judgment. The amendment is necessary because Rule 50 F.R.Civ.P. was amended in 2009 to extend the deadline for the filing of these post judgment motions to 28 days. That deadline corresponds to the 30-day deadline for filing a notice of appeal in a civil case under Rule 4(a)(1)(A) F.R.App.P. In a bankruptcy case, the deadline for filing a notice of appeal is 14 days. Therefore, the 28-day deadline for filing these post judgment motions would effectively override the notice of appeal deadline under Rule 8002(a) but for this amendment.

Other amendments are stylistic.

COMMITTEE NOTES ON RULES—2024 AMENDMENT

The language of Rule 9015 has been amended as part of the general restyling of the Bankruptcy Rules to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only.

REFERENCES IN TEXT

The Federal Rules of Civil Procedure, referred to in subds. (a), (b)(2), and (c), are set out in the Appendix to Title 28, Judiciary and Judicial Procedure.

Rule 9016. Subpoena

Fed. R. Civ. P. 45 applies in a bankruptcy case.

(As amended Mar. 30, 1987, eff. Aug. 1, 1987; Apr. 2, 2024, eff. Dec. 1, 2024.)

NOTES OF ADVISORY COMMITTEE ON RULES—1983

Although Rule 7004(d) authorizes nationwide service of process, Rule 45 F.R.Civ.P. limits the subpoena power to the judicial district and places outside the district which are within 100 miles of the place of trial or hearing.

COMMITTEE NOTES ON RULES—2024 AMENDMENT

The language of Rule 9016 has been amended as part of the general restyling of the Bankruptcy Rules to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only.

REFERENCES IN TEXT

The Federal Rules of Civil Procedure, referred to in text, are set out in the Appendix to Title 28, Judiciary and Judicial Procedure.

Rule 9017. Evidence

The Federal Rules of Evidence and Fed. R. Civ. P. 43, 44, and 44.1 apply in a bankruptcy case.

(As amended Apr. 2, 2024, eff. Dec. 1, 2024.)

NOTES OF ADVISORY COMMITTEE ON RULES—1983

Sections 251 and 252 of Public Law 95–598, amended Rule 1101 of the Federal Rules of Evidence to provide that the Federal Rules of Evidence apply in bankruptcy courts and to any case or proceeding under the Code. Rules 43, 44 and 44.1 of the F.R.Civ.P., which supplement the Federal Rules of Evidence, are by this rule made applicable to cases under the Code.

Examples of bankruptcy rules containing matters of an evidentiary nature are: Rule 2011, evidence of debtor retained in possession; Rule 3001(f), proof of claim constitutes prima facie evidence of the amount and validity of a claim; and Rule 5007(c), sound recording of court proceedings constitutes the record of the proceedings.

COMMITTEE NOTES ON RULES—2024 AMENDMENT

The language of Rule 9017 has been amended as part of the general restyling of the Bankruptcy Rules to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only.

REFERENCES IN TEXT

The Federal Rules of Evidence, referred to in text, are set out in the Appendix to Title 28, Judiciary and Judicial Procedure.

The Federal Rules of Civil Procedure, referred to in text, are set out in the Appendix to Title 28, Judiciary and Judicial Procedure.

Rule 9018. Secret, Confidential, Scandalous, or Defamatory Matter

(a) IN GENERAL. On motion or on its own, the court may, with or without notice, issue any order that justice requires to:

(1) protect the estate or any entity regarding a trade secret or other confidential research, development, or commercial information;

(2) protect an entity from scandalous or defamatory matter in any document filed in a bankruptcy case; or

(3) protect governmental matters made confidential by statute or regulation.

(b) MOTION TO VACATE OR MODIFY AN ORDER ISSUED WITHOUT NOTICE. An entity affected by an order issued under (a) without notice may move to vacate or modify it. After notice and a hearing, the court must rule on the motion.

(As amended Mar. 30, 1987, eff. Aug. 1, 1987; Apr. 2, 2024, eff. Dec. 1, 2024.)

NOTES OF ADVISORY COMMITTEE ON RULES—1983

This rule provides the procedure for invoking the court's power under §107 of the Code.

COMMITTEE NOTES ON RULES—2024 AMENDMENT

The language of Rule 9018 has been amended as part of the general restyling of the Bankruptcy Rules to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only.

Rule 9019. Compromise or Settlement; Arbitration

(a) APPROVING A COMPROMISE OR SETTLEMENT. On the trustee's motion and after notice and a hearing, the court may approve a compromise or settlement. Notice must be given to:

- all creditors;
- the United States trustee;
- the debtor;
- all indenture trustees as provided in Rule 2002; and
- any other entity the court designates.

(b) COMPROMISING OR SETTLING CONTROVERSIES IN CLASSES. After a hearing on such notice as the court may order, the court may:

(1) designate a class or classes of controversies; and

(2) authorize the trustee to compromise or settle controversies within the class or classes without further hearing or notice.

(c) ARBITRATION OF CONTROVERSIES AFFECTING AN ESTATE. If the parties so stipulate, the court may authorize a controversy affecting an estate to be submitted to final and binding arbitration.

(As amended Mar. 30, 1987, eff. Aug. 1, 1987; Apr. 30, 1991, eff. Aug. 1, 1991; Apr. 22, 1993, eff. Aug. 1, 1993; Apr. 2, 2024, eff. Dec. 1, 2024.)

NOTES OF ADVISORY COMMITTEE ON RULES—1983

Subdivisions (a) and (c) of this rule are essentially the same as the provisions of former Bankruptcy Rule 919 and subdivision (b) is the same as former Rule 8–514(b), which was applicable to railroad reorganizations. Subdivision (b) permits the court to deal efficiently with a case in which there may be a large number of settlements.

NOTES OF ADVISORY COMMITTEE ON RULES—1991 AMENDMENT

This rule is amended to enable the United States trustee to object or otherwise be heard in connection with a proposed compromise or settlement and otherwise to monitor the progress of the case.

NOTES OF ADVISORY COMMITTEE ON RULES—1993 AMENDMENT

Subdivision (a) is amended to conform to the language of §102(1) of the Code. Other amendments are stylistic and make no substantive change.

COMMITTEE NOTES ON RULES—2024 AMENDMENT

The language of Rule 9019 has been amended as part of the general restyling of the Bankruptcy Rules to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only.

Rule 9020. Contempt Proceedings

Rule 9014 governs a motion for a contempt order made by the United States trustee or a party in interest.

(As amended Mar. 30, 1987, eff. Aug. 1, 1987; Apr. 30, 1991, eff. Aug. 1, 1991; Apr. 23, 2001, eff. Dec. 1, 2001; Apr. 2, 2024, eff. Dec. 1, 2024.)

NOTES OF ADVISORY COMMITTEE ON RULES—1983

Section 1481 of Title 28 provides that a bankruptcy court "may not . . . punish a criminal contempt not committed in the presence of the judge of the court or warranting a punishment of imprisonment." Rule 9020 does not enlarge the power of bankruptcy courts.

Subdivision (a) is adapted from former Bankruptcy Rule 920 and Rule 42 F.R.Crim.P. Paragraph (1) of the subdivision permits summary imposition of punishment for contempt if the conduct is in the presence of the court and is of such nature that the conduct "obstruct[s] the administration of justice." See 18 U.S.C. §401(a). Cases interpreting Rule 42(a) F.R.Crim.P. have held that when criminal contempt is in question summary disposition should be the exception: summary disposition should be reserved for situations where it is necessary to protect the judicial institution. 3 Wright, *Federal Practice & Procedure—Criminal* §707 (1969). Those cases are equally pertinent to the application of this rule and, therefore, contemptuous conduct in the presence of the judge may often be punished only after the notice and hearing requirements of subdivision (b) are satisfied.

If the bankruptcy court concludes it is without power to punish or to impose the proper punishment for conduct which constitutes contempt, subdivision (a)(3) authorizes the bankruptcy court to certify the matter to the district court.

Subdivision (b) makes clear that when a person has a constitutional or statutory right to a jury trial in a criminal contempt matter this rule in no way affects that right. See *Frank v. United States*, 395 U.S. 147 (1969).

The Federal Rules of Civil Procedure do not specifically provide the procedure for the imposition of civil contempt sanctions. The decisional law governing the procedure for imposition of civil sanctions by the district courts will be equally applicable to the bankruptcy courts.

NOTES OF ADVISORY COMMITTEE ON RULES—1987 AMENDMENT

The United States Bankruptcy Courts, as constituted under the Bankruptcy Reform Act of 1978, were

courts of law, equity, and admiralty with an inherent contempt power, but former 28 U.S.C. §1481 restricted the criminal contempt power of bankruptcy judges. Under the 1984 amendments, bankruptcy judges are judicial officers of the district court, 28 U.S.C. §§151, 152(a)(1). There are no decisions by the courts of appeals concerning the authority of bankruptcy judges to punish for either civil or criminal contempt under the 1984 amendments. This rule, as amended, recognizes that bankruptcy judges may not have the power to punish for contempt.

Sound judicial administration requires that the initial determination of whether contempt has been committed should be made by the bankruptcy judge. If timely objections are not filed to the bankruptcy judge's order, the order has the same force and effect as an order of the district court. If objections are filed within 10 days of service of the order, the district court conducts a de novo review pursuant to Rule 9033 and any order of contempt is entered by the district court on completion of the court's review of the bankruptcy judge's order.

NOTES OF ADVISORY COMMITTEE ON RULES—1991 AMENDMENT

The words "with the clerk" in subdivision (c) are deleted as unnecessary. See Rules 5005(a) and 9001(3).

COMMITTEE NOTES ON RULES—2001 AMENDMENT

The amendments to this rule cover a motion for an order of contempt filed by the United States trustee or a party in interest. This rule, as amended, does not address a contempt proceeding initiated by the court sua sponte.

Whether the court is acting on motion under this rule or is acting sua sponte, these amendments are not intended to extend, limit, or otherwise affect either the contempt power of a bankruptcy judge or the role of the district judge regarding contempt orders. Issues relating to the contempt power of bankruptcy judges are substantive and are left to statutory and judicial development, rather than procedural rules.

This rule, as amended in 1987, delayed for ten days from service the effectiveness of a bankruptcy judge's order of contempt and rendered the order subject to de novo review by the district court. These limitations on contempt orders were added to the rule in response to the Bankruptcy Amendments and Federal Judgeship Act of 1984, Pub. L. No. 98–353, 98 Stat. 333, which provides that bankruptcy judges are judicial officers of the district court, but does not specifically mention contempt power. *See* 28 U.S.C. §151. As explained in the committee note to the 1987 amendments to this rule, no decisions of the courts of appeals existed concerning the authority of a bankruptcy judge to punish for either civil or criminal contempt under the 1984 Act and, therefore, the rule as amended in 1987 "recognizes that bankruptcy judges may not have the power to punish for contempt." Committee Note to 1987 Amendments to Rule 9020.

Since 1987, several courts of appeals have held that bankruptcy judges have the power to issue civil contempt orders. *See, e.g., Matter of Terrebonne Fuel and Lube, Inc*., 108 F.3d 609 (5th Cir. 1997); *In re Rainbow Magazine, Inc*., 77 F.3d 278 (9th Cir. 1996). Several courts have distinguished between a bankruptcy judge's civil contempt power and criminal contempt power. *See, e.g., Matter of Terrebonne Fuel and Lube, Inc*., 108 F.3d at 613, n. 3 ("[a]lthough we find that bankruptcy judge's [sic] can find a party in civil contempt, we must point out that bankruptcy courts lack the power to hold persons in criminal contempt."). For other decisions regarding criminal contempt power, *see, e.g., In re Ragar*, 3 F.3d 1174 (8th Cir. 1993); *Matter of Hipp, Inc*., 895 F.2d 1503 (5th Cir. 1990). To the extent that Rule 9020, as amended in 1987, delayed the effectiveness of civil contempt orders and required de novo review by the district court, the rule may have been unnecessarily restrictive in view of judicial decisions recognizing that bankruptcy judges have the power to hold parties in civil contempt.

Subdivision (d), which provides that the rule shall not be construed to impair the right to trial by jury, is deleted as unnecessary and is not intended to deprive any party of the right to a jury trial when it otherwise exists.

Changes Made After Publication and Comments. No changes were made in the text of the proposed amendments. Stylistic changes were made to the Committee Note.

COMMITTEE NOTES ON RULES—2024 AMENDMENT

The language of Rule 9020 has been amended as part of the general restyling of the Bankruptcy Rules to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only.

Rule 9021. When a Judgment or Order Becomes Effective

A judgment or order becomes effective when it is entered under Rule 5003.

(As amended Mar. 30, 1987, eff. Aug. 1, 1987; Mar. 26, 2009, eff. Dec. 1, 2009; Apr. 2, 2024, eff. Dec. 1, 2024.)

NOTES OF ADVISORY COMMITTEE ON RULES—1983

Subdivision (a). This rule is derived from Rule 58 F.R.Civ.P. The requirement that a judgment entered in an adversary proceeding or contested matter be set forth on a separate document is to eliminate uncertainty as to whether an opinion or memorandum of the court is a judgment. There is no sound reason to require that every order in a case under the Code be evidenced by a separate document.

Subdivision (b) establishes a procedure for entering a judgment of a bankruptcy court for the recovery of money or property in an index of judgments kept by the clerk of the district court. It clarifies the availability of the same remedies for the enforcement of a bankruptcy court judgment as those provided for the enforcement of a district court judgment. See 28 U.S.C. §§1961–63. When indexed in accordance with subdivision (b) of this rule a judgment of the bankruptcy court may be found by anyone searching for liens of record in the judgment records of the district court. Certification of a copy of the judgment to the clerk of the district court provides a basis for registration of the judgment pursuant to 28 U.S.C. §1963 in any other district. When so registered, the judgment may be enforced by issuance of execution and orders for supplementary proceedings that may be served anywhere within the state where the registering court sits. See 7 Moore, *Federal Practice* 2409–11 (2d ed. 1971). The procedures available in the district court are not exclusive, however, and the holder of a judgment entered by the bankruptcy court may use the remedies under Rules 7069 and 7070 even if the judgment is indexed by the clerk of the district court.

Subdivision (c) makes it clear that when a district court hears a matter reserved to it by [former] 28 U.S.C. §§1471, 1481, its judgments are entered in the district court's civil docket and in the docket of the bankruptcy court. When the district court acts as an appellate court, Rule 8016(a) governs the entry of judgments on appeal.

NOTES OF ADVISORY COMMITTEE ON RULES—1987 AMENDMENT

Former subdivision (a) was derived from Rule 58 F.R.Civ.P. As amended, Rule 9021 adopts Rule 58. The reference in Rule 58 to Rule 79(a) F.R.Civ.P. is to be read as a reference to Rule 5003.

COMMITTEE NOTES ON RULES—2009 AMENDMENT

The rule is amended in connection with the amendment that adds Rule 7058. The entry of judgment in adversary proceedings is governed by Rule 7058, and the entry of a judgment or order in all other proceedings is governed by this rule.

Changes Made After Publication. No changes since publication.

COMMITTEE NOTES ON RULES—2024 AMENDMENT

The language of Rule 9021 has been amended as part of the general restyling of the Bankruptcy Rules to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only.

Rule 9022. Notice of a Judgment or Order

(a) ISSUED BY A BANKRUPTCY JUDGE.

(1) *In General*. Upon entering a judgment or order, the clerk must:

(A) promptly serve notice of the entry on the contesting parties and other entities the court designates;

(B) do so in the manner provided by Fed. R. Civ. P. 5(b);

(C) except in a Chapter 9 case, promptly send a copy of the judgment or order to the United States trustee; and

(D) note service on the docket.

(2) *Lack of Notice; Time to Appeal*. Except as permitted by Rule 8002, lack of notice of the entry does not affect the time to appeal or relieve—or authorize the court to relieve—a party for failing to appeal within the time allowed.

(b) ISSUED BY A DISTRICT JUDGE. Notice of a district judge's judgment or order is governed by Fed. R. Civ. P. 77(d). Except in a Chapter 9 case, the clerk must promptly send a copy of the

judgment or order to the United States trustee.

(As amended Mar. 30, 1987, eff. Aug. 1, 1987; Apr. 30, 1991, eff. Aug. 1, 1991; Apr. 23, 2001, eff. Dec. 1, 2001; Apr. 2, 2024, eff. Dec. 1, 2024.)

NOTES OF ADVISORY COMMITTEE ON RULES—1983

Subdivision (a) of this rule is an adaptation of Rule 77(d) F.R.Civ.P.

Subdivision (b) complements Rule 9021(b). When a district court acts as an appellate court, Rule 8016(b) requires the clerk to give notice of the judgment on appeal.

NOTES OF ADVISORY COMMITTEE ON RULES—1991 AMENDMENT

This rule is amended to enable the United States trustee to be informed of all developments in the case so that administrative and supervisory functions provided in 28 U.S.C. §586(a) may be performed.

COMMITTEE NOTES ON RULES—2001 AMENDMENT

Rule 5(b) F.R.Civ.P., which is made applicable in adversary proceedings by Rule 7005, is being restyled and amended to authorize service by electronic means—or any other means not otherwise authorized under Rule 5(b)—if consent is obtained from the person served. The amendment to Rule 9022(a) authorizes the clerk to serve notice of entry of a judgment or order by electronic means if the person served consents, or to use any other means of service authorized under Rule 5(b), including service by mail. This amendment conforms to the amendments made to Rule 77(d) F.R.Civ.P.

Changes Made After Publication and Comments. No changes were made.

COMMITTEE NOTES ON RULES—2024 AMENDMENT

The language of Rule 9022 has been amended as part of the general restyling of the Bankruptcy Rules to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only.

REFERENCES IN TEXT

The Federal Rules of Civil Procedure, referred to in subds. (a)(1)(B) and (b), are set out in the Appendix to Title 28, Judiciary and Judicial Procedure.

Rule 9023. New Trial; Altering or Amending a Judgment

(a) APPLICATION OF CIVIL RULE 59. Except as this rule and Rule 3008 provide otherwise, Fed. R. Civ. P. 59 applies in a bankruptcy case.

(b) BY MOTION. A motion for a new trial or to alter or amend a judgment must be filed within 14 days after the judgment is entered. In some instances, Rule 8008 governs postjudgment motion practice after an appeal has been docketed and is pending.

(c) BY THE COURT. Within 14 days after judgment is entered, the court may, on its own, order a new trial.

(As amended Mar. 26, 2009, eff. Dec. 1, 2009; Apr. 25, 2014, eff. Dec. 1, 2014; Apr. 2, 2024, eff. Dec. 1, 2024.)

NOTES OF ADVISORY COMMITTEE ON RULES—1983

Rule 59 F.R.Civ.P. regulates motions for a new trial and amendment of judgment. Those motions must be served within 10 days of the entry of judgment. No similar time limit is contained in Rule 3008 which governs reconsideration of claims.

COMMITTEE NOTES ON RULES—2009 AMENDMENT

The rule is amended to limit to 14 days the time for a party to file a post judgment motion for a new trial and for the court to order sua sponte a new trial. In 2009, Rule 59 F. R. Civ. P. was amended to extend the deadline for these actions to 28 days after the entry of judgment. That deadline corresponds to the 30-day deadline for filing a notice of appeal in a civil case under Rule 4(a)(1)(A) F.R.App.P. In a bankruptcy case, however, the deadline for filing a notice of appeal is 14 days. Therefore, the 28-day deadline for filing a motion for a new trial or a motion to alter or amend a judgment would effectively override the notice of appeal deadline under Rule 8002(a) but for this amendment.

COMMITTEE NOTES ON RULES—2014 AMENDMENT

This rule is amended to include a cross-reference to Rule 8008. That rule governs the issuance of an indicative ruling when relief is sought that the court lacks authority to grant because of an appeal that has been docketed and is pending.

Changes Made After Publication and Comment. No changes were made after publication and comment.

COMMITTEE NOTES ON RULES—2024 AMENDMENT

The language of Rule 9023 has been amended as part of the general restyling of the Bankruptcy Rules to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only.

REFERENCES IN TEXT

The Federal Rules of Civil Procedure, referred to in subd. (a), are set out in the Appendix to Title 28, Judiciary and Judicial Procedure.

Rule 9024. Relief from a Judgment or Order

(a) IN GENERAL. Fed. R. Civ. P. 60 applies in a bankruptcy case—except that:

(1) the one-year limitation in Fed. R. Civ. P. 60(c) does not apply to a motion to reopen a case or to reconsider an uncontested order allowing or disallowing a claim against the estate;

(2) a complaint to revoke a discharge in a Chapter 7 case must be filed within the time allowed by §727(e); and

(3) a complaint to revoke an order confirming a plan must be filed within the time allowed by §1144, 1230, or 1330.

(b) INDICATIVE RULING. In some instances, Rule 8008 governs postjudgment motion practice after an appeal has been docketed and is pending.

(As amended Apr. 30, 1991, eff. Aug. 1, 1991; Apr. 23, 2008, eff. Dec. 1, 2008; Apr. 25, 2014, eff. Dec. 1, 2014; Apr. 2, 2024, eff. Dec. 1, 2024.)

NOTES OF ADVISORY COMMITTEE ON RULES—1983

Motions to reopen cases are governed by Rule 5010. Reconsideration of orders allowing and disallowing claims is governed by Rule 3008. For the purpose of this rule all orders of the bankruptcy court are subject to Rule 60 F.R.Civ.P.

Pursuant to §727(e) of the Code a complaint to revoke a discharge must be filed within one year of the entry of the discharge or, when certain grounds of revocation are asserted, the later of one year after the entry of the discharge or the date the case is closed. Under §1144 and §1330 of the Code a party must file a complaint to revoke an order confirming a chapter 11 or 13 plan within 180 days of its entry. Clauses (2) and (3) of this rule make it clear that the time periods established by §§727(e), 1144 and 1330 of the Code may not be circumvented by the invocation of F.R.Civ.P. 60(b).

NOTES OF ADVISORY COMMITTEE ON RULES—1991 AMENDMENT

Clause (3) is amended to include a reference to §1230 of the Code which contains time limitations relating to revocation of confirmation of a chapter 12 plan. The time periods prescribed by §1230 may not be circumvented by the invocation of F.R.Civ.P. 60(b).

COMMITTEE NOTES ON RULES—2008 AMENDMENT

The rule is amended to conform to the changes made to the Federal Rules of Civil Procedure through the restyling of those rules effective on December 1, 2007.

COMMITTEE NOTES ON RULES—2014 AMENDMENT

This rule is amended to include a cross-reference to Rule 8008. That rule governs the issuance of an indicative ruling when relief is sought that the court lacks authority to grant because of an appeal that has been docketed and is pending.

Changes Made After Publication and Comment. No changes were made after publication and comment.

COMMITTEE NOTES ON RULES—2024 AMENDMENT

The language of Rule 9024 has been amended as part of the general restyling of the Bankruptcy Rules to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only.

REFERENCES IN TEXT

The Federal Rules of Civil Procedure, referred to in subd. (a), are set out in the Appendix to Title 28, Judiciary and Judicial Procedure.

Rule 9025. Security; Proceeding Against a Security Provider

When the Code or these rules require or permit a party to give security and the party gives security with one or more security providers, each provider submits to the court's jurisdiction. Liability may be determined in an adversary proceeding governed by the Part VII rules.

(As amended Apr. 26, 2018, eff. Dec. 1, 2018; Apr. 2, 2024, eff. Dec. 1, 2024.)

NOTES OF ADVISORY COMMITTEE ON RULES—1983

This rule is an adaptation of Rule 65.1 F.R.Civ.P. and applies to any surety on a bond given pursuant to §303(e) of the Code, Rules 2001, 2010, 5008, 7062, 7065, 8005, or any other rule authorizing the giving of such security.

COMMITTEE NOTES ON RULES—2018 AMENDMENT

This rule is amended to reflect the amendment of Rule 62 F.R.Civ.P., which is made applicable to adversary proceedings by Rule 7062. Rule 62 allows a party to obtain a stay of a judgment "by providing a bond or other security." Limiting this rule's enforcement procedures to sureties might exclude use of those procedures against a security provider that is not a surety. All security providers are brought into the rule by these amendments.

COMMITTEE NOTES ON RULES—2024 AMENDMENT

The language of Rule 9025 has been amended as part of the general restyling of the Bankruptcy Rules to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only.

Rule 9026. Objecting to a Ruling or Order

Fed. R. Civ. P. 46 applies in a bankruptcy case.

(As amended Apr. 2, 2024, eff. Dec. 1, 2024.)

COMMITTEE NOTES ON RULES—2024 AMENDMENT

The language of Rule 9026 has been amended as part of the general restyling of the Bankruptcy Rules to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only.

REFERENCES IN TEXT

The Federal Rules of Civil Procedure, referred to in text, are set out in the Appendix to Title 28, Judiciary and Judicial Procedure.

Rule 9027. Removing a Claim or Cause of Action from Another Court

(a) NOTICE OF REMOVAL.

(1) *Where Filed; Form and Content*. A notice of removal must be filed with the clerk for the district and division where the state or federal civil action is pending. The notice must be signed under Rule 9011 and must:

(A) contain a short and plain statement of the facts that entitle the party to remove;

(B) contain a statement that the party filing the notice does or does not consent to the bankruptcy court's entry of a final judgment or order; and

(C) be accompanied by a copy of all process and pleadings.

(2) *Time to File When the Claim Was Filed Before the Bankruptcy Case Is Commenced*. If the claim or cause of action in a civil action is pending when a bankruptcy case is commenced, the notice of removal must be filed within the longest of these periods:

(A) 90 days after the order for relief in the bankruptcy case;

(B) if the claim or cause of action has been stayed under §362, 30 days after an order terminating the stay is entered; or

(C) in a Chapter 11 case, 30 days after a trustee qualifies—but no later than 180 days after the order for relief.

(3) *Time to File When the Claim Is Filed After the Bankruptcy Case Was Commenced*. If a claim or cause of action is asserted in another court after the bankruptcy case was commenced, a party filing a notice of removal must do so within the shorter of these periods:

(A) 30 days after receiving (by service or otherwise) the initial pleading setting forth the claim or cause of action sought to be removed; or

(B) 30 days after receiving the summons if the initial pleading has been filed but not served with the summons.

(b) NOTICE TO OTHER PARTIES AND TO THE COURT FROM WHICH THE CLAIM WAS REMOVED. A party filing a notice of removal must promptly:

(1) serve a copy on all other parties to the removed claim or cause of action; and

(2) file a copy with the clerk of the court from which it was removed.

(c) EFFECTIVE DATE OF REMOVAL. Removal becomes effective when the notice is filed under (b)(2). The parties must proceed no further in the court from which the claim or cause of action was removed, unless it is remanded.

(d) REMAND AFTER REMOVAL. A motion to remand is governed by Rule 9014. The party filing the motion must serve a copy on all parties to the removed claim or cause of action.

(e) PROCEDURE AFTER REMOVAL.

(1) *Bringing Proper Parties Before the Court*. After removal, the district court—or the bankruptcy judge to whom the bankruptcy case has been referred—may issue all necessary orders and process to bring before it all proper parties. It does not matter whether they were served by process issued by the court from which the claim or cause of action was removed, or otherwise.

(2) *Records of Prior Proceedings*. The judge may require the party filing the notice of removal to file with the clerk copies of all records and proceedings relating to the claim or cause of action that were filed in the court from which the removal occurred.

(3) *Statement by a Party Other Than the Removing Party*. A party who has filed a pleading regarding a removed claim or cause of action—except the party filing the notice of removal—must:

(A) file a statement that the party does or does not consent to the bankruptcy court's entry of a final order or judgment;

(B) sign the statement under Rule 9011;

(C) file it within 14 days after the notice of removal is filed; and

(D) mail a copy to every other party to the removed claim or cause of action.

(f) PROCESS REGARDING A DEFENDANT AFTER REMOVAL. If a defendant has not been served—or service has not been completed before removal or has been proved defective—then process or service may be completed or new process issued under the Part VII rules. A defendant served after removal may move to remand the claim or cause of action.

(g) APPLYING PART VII RULES.

(1) *In General*. The Part VII rules apply to a claim or cause of action removed to a district court from a federal or state court, and they govern the procedure after removal. Repleading is not

necessary unless the court orders otherwise.

(2) *Time to File an Answer*. In a removed action, a defendant that has not previously done so must file an answer—or present other defenses or objections available under the Part VII rules. The defendant must do so within the longest of these periods:

(A) 21 days after receiving—by service or otherwise—a copy of the initial pleading that sets forth the claim for relief;

(B) 21 days after a summons on the original pleading was served; or

(C) 7 days after the notice of removal was filed.

(h) CLERK'S FAILURE TO SUPPLY CERTIFIED RECORDS OF COURT PROCEEDINGS. If a party is entitled to copies of the records and proceedings in a civil action or proceeding in a federal or state court for use in the removed action or proceeding, the party may demand certified copies from that court's clerk. After the party pays for them or tenders the fees, if the clerk fails to provide them, the court to which the action or proceeding is removed may—after receiving an affidavit stating these facts—order that the record be supplied by affidavit or otherwise. The court may then proceed to trial and judgment, and may award all process, as if certified copies had been filed.

(i) PROPERTY ATTACHED OR SEQUESTERED; SECURITY; INJUNCTION.

(1) *Property Attached or Sequestered*. The court from which a claim or cause of action has been removed must hold attached or sequestered property to answer the final judgment or decree in the same way it would have been held had there been no removal.

(2) *Security*. Any bond, undertaking, or security given by either party before the removal remains valid.

(3) *Injunction*. Any injunction or order issued, or other proceeding had, before the removal remains in effect until dissolved or modified by the court.

(As amended Mar. 30, 1987, eff. Aug. 1, 1987; Apr. 30, 1991, eff. Aug. 1, 1991; Apr. 29, 2002, eff. Dec. 1, 2002; Mar. 26, 2009, eff. Dec. 1, 2009; Apr. 28, 2016, eff. Dec. 1, 2016; Apr. 2, 2024, eff. Dec. 1, 2024.)

NOTES OF ADVISORY COMMITTEE ON RULES—1983

Under 28 U.S.C. §1478(a) [(1982)] "any claim or cause of action in a civil action, other than a proceeding before the United States Tax Court or a civil action by a Government unit to enforce [a] . . . regulatory or police power" may be removed "if the bankruptcy courts have jurisdiction over such claim or cause of action." This rule specifies how removal is accomplished, the procedure thereafter, and the procedure to request remand of the removed claim or cause of action. If the claim or cause of action which is removed to the bankruptcy court is subject to the automatic stay of §362 of the Code, the litigation may not proceed in the bankruptcy court until relief from the stay is granted.

The subdivisions of this rule conform substantially to 28 U.S.C. §§1446–1450 and Rule 81(a) F.R.Civ.P. pertaining to removal to the district courts.

Subdivision (a)(1) is derived from 28 U.S.C. §1446(a).

Subdivisions (a)(2) and (a)(3) are derived from paragraphs one and two of 28 U.S.C. §1446(b). Timely exercise of the right to remove is as important in bankruptcy cases as in removals from a state court to a district court.

Subdivision (a)(2) governs the situation in which there is litigation pending and a party to the litigation becomes a debtor under the Code. Frequently, removal would be of little utility in such cases because the pending litigation will be stayed by §362(a) on commencement of the case under the Code. As long as the stay remains in effect there is no reason to impose a time limit for removal to the bankruptcy court and, therefore, clause (B) of subdivision (a)(2) provides that a removal application may be filed within 30 days of entry of an order terminating the stay. Parties to stayed litigation will not be required to act immediately on commencement of a case under the Code to protect their right to remove. If the pending litigation is not stayed by §362(a) of the Code, the removal application must ordinarily be filed within 90 days of the order for relief. Clause (C) contains an alternative period for a chapter 11 case. If a trustee is appointed, the removal application may be filed within 30 days of the trustee's qualification, provided that the removal application is filed not more than 180 days after the order for relief.

The removal application must be filed within the longest of the three possible periods. For example, in a chapter 11 case if the 90 day period expires but a trustee is appointed shortly thereafter, the removal application may be filed within 30 days of the trustee's qualification but not later than 180 days after the order

for relief. Nevertheless, if the claim or cause of action in the civil action is stayed under §362, the application may be filed after the 180 day period expires, provided the application is filed within 30 days of an order terminating the stay.

Subdivision (a)(3) applies to the situation in which the case under the Code is pending when the removable claim or cause of action is asserted in a civil action initiated in other than the bankruptcy court. The time for filing the application for removal begins to run on receipt of the first pleading containing the removable claim or cause of action. Only litigation not stayed by the Code or by court order may properly be initiated after the case under the Code is commenced. See *e.g.*, §362(a).

Subdivision (b). With one exception, this subdivision is the same as 28 U.S.C. §1446(d). The exemption from the bond requirement is enlarged to include a trustee or debtor in possession. Complete exemption from the bond requirement for removal is appropriate because of the limited resources which may be available at the beginning of a case and the small probability that an action will be improperly removed.

Recovery on the bond is permitted only when the removal was improper. If the removal is proper but the bankruptcy court orders the action remanded on equitable grounds, [former] 28 U.S.C. §1478(b), there is no recovery on the bond.

Subdivisions (c) and (d) are patterned on 28 U.S.C. §1446(e).

Subdivision (e). There is no provision in the Federal Rules of Civil Procedure for seeking remand. The first sentence of this subdivision requires that a request for remand be by motion and that the moving party serve all other parties; however, no hearing is required. In recognition of the intrusion of the removal practice on the state and federal courts from which claims or causes of action are removed, the subdivision directs the bankruptcy court to decide remand motions as soon as practicable. The last sentence of this subdivision is derived from 28 U.S.C. §1446(c)

Subdivisions (f) and (g), with appropriate changes to conform them to the bankruptcy context, are the same as 28 U.S.C. §1447(a) and (b) and 28 U.S.C. §1448, respectively.

Subdivisions (h) and (i) are taken from Rule 81(c) F.R.Civ.P.

Subdivisions (j) and (k) are derived from 28 U.S.C. §1449 and §1450, respectively.

Remand orders of bankruptcy judges are not appealable. [Former] 28 U.S.C. §1478(b).

This rule does not deal with the question whether a single plaintiff or defendant may remove a claim or cause of action if there are two or more plaintiffs or defendants. See [former] 28 U.S.C. §1478.

NOTES OF ADVISORY COMMITTEE ON RULES—1987 AMENDMENT

Section 1452 of title 28, with certain exceptions, provides for removal of claims or causes of action in civil actions pending in state or federal courts when the claim or cause of action is within the jurisdiction conferred by 28 U.S.C. §1334. An order granting or denying a motion for remand is not appealable. 28 U.S.C. §1452(b). Under subdivision (e), as amended, the district court must enter the order on the remand motion; however, the bankruptcy judge conducts the initial hearing on the motion and files a report and recommendation. The parties may file objections. Review of the report and recommendation is pursuant to Rule 9033.

Subdivision (f) has been amended to provide that if there has been a referral pursuant to 28 U.S.C. §157(a) the bankruptcy judge will preside over the removed civil action.

Subdivision (i) has been abrogated consistent with the abrogation of Rule 9015.

NOTES OF ADVISORY COMMITTEE ON RULES—1991 AMENDMENT

The abrogation of subdivision (b) is consistent with the repeal of 28 U.S.C. §1446(d). The changes substituting the notice of removal for the application for removal conform to the 1988 amendments to 28 U.S.C. §1446.

Rules 7008(a) and 7012(b) were amended in 1987 to require parties to allege in pleadings whether a proceeding is core or non-core and, if non-core, whether the parties consent to the entry of final orders or judgment by the bankruptcy judge. Subdivision (a)(1) is amended and subdivision (f)(3) is added to require parties to a removed claim or cause of action to make the same allegations. The party filing the notice of removal must include the allegation in the notice and the other parties who have filed pleadings must respond to the allegation in a separate statement filed within 10 days after removal. However, if a party to the removed claim or cause of action has not filed a pleading prior to removal, there is no need to file a separate statement under subdivision (f)(3) because the allegation must be included in the responsive pleading filed pursuant to Rule 7012(b).

Subdivision (e), redesignated as subdivision (d), is amended to delete the restriction that limits the role of the bankruptcy court to the filing of a report and recommendation for disposition of a motion for remand under 28 U.S.C. §1452(b). This amendment is consistent with §309(c) of the Judicial Improvements Act of 1990, which amended §1452(b) so that it allows an appeal to the district court of a bankruptcy court's order determining a motion for remand. This subdivision is also amended to clarify that the motion is a contested

matter governed by Rule 9014. The words "filed with the clerk" are deleted as unnecessary. See Rules 5005(a) and 9001(3).

COMMITTEE NOTES ON RULES—2002 AMENDMENT

Subdivision (a)(3) is amended to clarify that if a claim or cause of action is initiated after the commencement of a bankruptcy case, the time limits for filing a notice of removal of the claim or cause of action apply whether the case is still pending or has been suspended, dismissed, or closed.

Changes Made After Publication and Comments. No changes were made.

COMMITTEE NOTES ON RULES—2009 AMENDMENT

The rule is amended to implement changes in connection with the amendment to Rule 9006(a) and the manner by which time is computed under the rules. The deadlines in the rule are amended to substitute a deadline that is a multiple of seven days. Throughout the rules, deadlines are amended in the following manner:

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

COMMITTEE NOTES ON RULES—2016 AMENDMENT

Subdivisions (a)(1) and (e)(3) are amended to delete the requirement for a statement that the proceeding is core or non-core and to require in all removed actions a statement that the party does or does not consent to the entry of final orders or judgment by the bankruptcy court. Some proceedings that satisfy the statutory definition of core proceedings, 28 U.S.C. §157(b)(2), may remain beyond the constitutional power of a bankruptcy judge to adjudicate finally. The amended rule calls for a statement regarding consent at the time of removal, whether or not a proceeding is termed non-core.

The party filing the notice of removal must include a statement regarding consent in the notice, and the other parties who have filed pleadings must respond in a separate statement filed within 14 days after removal. If a party to the removed claim or cause of action has not filed a pleading prior to removal, however, there is no need to file a separate statement under subdivision (e)(3), because a statement regarding consent must be included in a responsive pleading filed pursuant to Rule 7012(b). Rule 7016 governs the bankruptcy court's decision whether to hear and determine the proceeding, issue proposed findings of fact and conclusions of law, or take some other action in the proceeding.

COMMITTEE NOTES ON RULES—2024 AMENDMENT

The language of Rule 9027 has been amended as part of the general restyling of the Bankruptcy Rules to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only.

Rule 9028. Judge's Disability

Fed. R. Civ. P. 63 applies in a bankruptcy case.

(As amended Mar. 30, 1987, eff. Aug. 1, 1987; Apr. 2, 2024, eff. Dec. 1, 2024.)

NOTES OF ADVISORY COMMITTEE ON RULES—1983

This rule is an adaptation of Rule 63 F.R.Civ.P.

NOTES OF ADVISORY COMMITTEE ON RULES—1987 AMENDMENT

Rule 9028 has been changed to adopt the procedures contained in Rule 63 of the Federal Rules of Civil Procedure for substituting a judge in the event of disability.

COMMITTEE NOTES ON RULES—2024 AMENDMENT

The language of Rule 9028 has been amended as part of the general restyling of the Bankruptcy Rules to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only.

REFERENCES IN TEXT

The Federal Rules of Civil Procedure, referred to in text, are set out in the Appendix to Title 28, Judiciary and Judicial Procedure.

Rule 9029. Adopting Local Rules; Limit on Enforcing a Local Rule; Absence of Controlling Law

(a) ADOPTING LOCAL RULES.

(1) *By District Courts*. Each district court, acting by a majority of its judges, may make and amend rules governing practice and procedure in all cases and proceedings within its bankruptcy jurisdiction. Fed. R. Civ. P. 83 governs the procedure for adopting local rules. The rules must:

(A) be consistent with—but not duplicate—Acts of Congress and these rules;

(B) not prohibit or limit using Official Forms; and

(C) conform to any uniform numbering system prescribed by the Judicial Conference of the United States.

(2) *Delegating Authority to the Bankruptcy Judges*. A district court may—subject to any limitation or condition it may prescribe and Fed. R. Civ. P. 83—authorize the district's bankruptcy judges to make and amend local bankruptcy rules.

(b) LIMIT ON ENFORCING A LOCAL RULE REGARDING FORM. A local rule imposing a requirement of form must not be enforced in a way that causes a party to lose any right because of a nonwillful failure to comply.

(c) PROCEDURE WHEN THERE IS NO CONTROLLING LAW. A judge may regulate practice in any manner consistent with federal law, these rules, the Official Forms, and the district's local rules. For any requirement set out elsewhere, a sanction or other disadvantage may be imposed for noncompliance only if the alleged violator was given actual notice of the requirement in the particular case.

(As amended Mar. 30, 1987, eff. Aug. 1, 1987; Apr. 30, 1991, eff. Aug. 1, 1991; Apr. 27, 1995, eff. Dec. 1, 1995; Apr. 2, 2024, eff. Dec. 1, 2024.)

NOTES OF ADVISORY COMMITTEE ON RULES—1983

This rule is an adaptation of Rule 83 F.R.Civ.P. and Rule 57(a) F.R.Crim.P. Under this rule bankruptcy courts may make local rules which govern practice before those courts. Circuit councils and district courts are authorized by Rule 8018 to make local rules governing appellate practice.

NOTES OF ADVISORY COMMITTEE ON RULES—1987 AMENDMENT

Rule 9029 is amended to authorize the district court to promulgate local rules governing bankruptcy practice. This rule, as amended, permits the district court to authorize the bankruptcy judges to promulgate or recommend local rules for adoption by the district court.

Effective August 1, 1985, Rule 83 F.R.Civ.P., governing adoption of local rules, was amended to achieve greater participation by the bar, scholars, and the public in the rule making process; to authorize the judicial council to abrogate local rules; and to make certain that single-judge standing orders are not inconsistent with these rules or local rules. Rule 9029 has been amended to incorporate Rule 83. The term "court" in the last sentence of the rule includes the judges of the district court and the bankruptcy judges of the district. Rule 9001(4).

NOTES OF ADVISORY COMMITTEE ON RULES—1991 AMENDMENT

This rule is amended to make it clear that the Official Forms must be accepted in every bankruptcy court.

NOTES OF ADVISORY COMMITTEE ON RULES—1995 AMENDMENT

Subdivision (a). This rule is amended to reflect the requirement that local rules be consistent not only with applicable national rules but also with Acts of Congress. The amendment also states that local rules should not repeat applicable national rules and Acts of Congress.

The amendment also requires that the numbering of local rules conform with any uniform numbering system that may be prescribed by the Judicial Conference. Lack of uniform numbering might create

unnecessary traps for counsel and litigants. A uniform numbering system would make it easier for an increasingly national bar and for litigants to locate a local rule that applies to a particular procedural issue.

Paragraph (2) of subdivision (a) is new. Its aim is to protect against loss of rights in the enforcement of local rules relating to matters of form. For example, a party should not be deprived of a right to a jury trial because its attorney, unaware of—or forgetting—a local rule directing that jury demands be noted in the caption of the case, includes a jury demand only in the body of the pleading. The proscription of paragraph (2) is narrowly drawn—covering only violations that are not willful and only those involving local rules directed to matters of form. It does not limit the court's power to impose substantive penalties upon a party if it or its attorney stubbornly or repeatedly violates a local rule, even one involving merely a matter of form. Nor does it affect the court's power to enforce local rules that involve more than mere matters of form—for example, a local rule requiring that a party demand a jury trial within a specified time period to avoid waiver of the right to a trial by jury.

Subdivision (b). This rule provides flexibility to the court in regulating practice when there is no controlling law. Specifically, it permits the court to regulate practice in any manner consistent with federal law, with rules adopted under 28 U.S.C. §2075, with Official Forms, and with the district's local rules.

This rule recognizes that courts rely on multiple directives to control practice. Some courts regulate practice through the published Federal Rules and the local rules of the court. Some courts also have used internal operating procedures, standing orders, and other internal directives. Although such directives continue to be authorized, they can lead to problems. Counsel or litigants may be unaware of various directives. In addition, the sheer volume of directives may impose an unreasonable barrier. For example, it may be difficult to obtain copies of the directives. Finally, counsel or litigants may be unfairly sanctioned for failing to comply with a directive. For these reasons, the amendment to this rule disapproves imposing any sanction or other disadvantage on a person for noncompliance with such an internal directive, unless the alleged violator has been furnished in a particular case with actual notice of the requirement.

There should be no adverse consequence to a party or attorney for violating special requirements relating to practice before a particular judge unless the party or attorney has actual notice of those requirements. Furnishing litigants with a copy outlining the judge's practices—or attaching instructions to a notice setting a case for conference or trial—would suffice to give actual notice, as would an order in a case specifically adopting by reference a judge's standing order and indicating how copies can be obtained.

COMMITTEE NOTES ON RULES—2024 AMENDMENT

The language of Rule 9029 has been amended as part of the general restyling of the Bankruptcy Rules to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only.

REFERENCES IN TEXT

The Federal Rules of Civil Procedure, referred to in subd. (a), are set out in the Appendix to Title 28, Judiciary and Judicial Procedure.

Rule 9030. Jurisdiction and Venue Not Extended or Limited

These rules must not be construed to extend or limit the courts' jurisdiction or the venue of any matters.

(As amended Mar. 30, 1987, eff. Aug. 1, 1987; Apr. 2, 2024, eff. Dec. 1, 2024.)

NOTES OF ADVISORY COMMITTEE ON RULES—1983

The rule is an adaptation of Rule 82 F.R.Civ.P.

COMMITTEE NOTES ON RULES—2024 AMENDMENT

The language of Rule 9030 has been amended as part of the general restyling of the Bankruptcy Rules to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only.

Rule 9031. Using Masters Not Authorized

Fed. R. Civ. P. 53 does not apply in a bankruptcy case.

(As amended Apr. 2, 2024, eff. Dec. 1, 2024.)

NOTES OF ADVISORY COMMITTEE ON RULES—1983

This rule precludes the appointment of masters in cases and proceedings under the Code.

COMMITTEE NOTES ON RULES—2024 AMENDMENT

The language of Rule 9031 has been amended as part of the general restyling of the Bankruptcy Rules to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only.

REFERENCES IN TEXT

The Federal Rules of Civil Procedure, referred to in text, are set out in the Appendix to Title 28, Judiciary and Judicial Procedure.

Rule 9032. Effect of an Amendment to the Federal Rules of Civil Procedure

To the extent these rules incorporate by reference the Federal Rules of Civil Procedure, an amendment to those rules is also effective under these rules, unless the amendment or these rules provide otherwise.

(As amended Apr. 30, 1991, eff. Aug. 1, 1991; Apr. 2, 2024, eff. Dec. 1, 2024.)

NOTES OF ADVISORY COMMITTEE ON RULES—1991 AMENDMENT

This rule is amended to provide flexibility so that the Bankruptcy Rules may provide that subsequent amendments to a Federal Rule of Civil Procedure made applicable by these rules are not effective with regard to Bankruptcy Code cases or proceedings. For example, in view of the anticipated amendments to, and restructuring of, Rule 4 F.R.Civ.P., Rule 7004(g) will prevent such changes from affecting Bankruptcy Code cases until the Advisory Committee on Bankruptcy Rules has an opportunity to consider such amendments and to make appropriate recommendations for incorporating such amendments into the Bankruptcy Rules.

COMMITTEE NOTES ON RULES—2024 AMENDMENT

The language of Rule 9032 has been amended as part of the general restyling of the Bankruptcy Rules to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only.

REFERENCES IN TEXT

The Federal Rules of Civil Procedure, referred to in text, are set out in the Appendix to Title 28, Judiciary and Judicial Procedure.

Rule 9033. Proposed Findings of Fact and Conclusions of Law

(a) SERVICE. When a bankruptcy court issues proposed findings of fact and conclusions of law, the clerk must promptly serve a copy, by mail, on every party and must note the date of mailing on the docket.

(b) OBJECTIONS; TIME TO FILE.

(1) *Time to File*. Within 14 days after being served, a party may file and serve objections. They must identify each proposed finding or conclusion objected to and state the grounds for objecting. A party may respond to another party's objections within 14 days after being served with a copy.

(2) *Ordering a Transcript*. Unless the district judge orders otherwise, a party filing objections must promptly order a transcript of the record, or the parts of it that all parties agree are—or the bankruptcy judge considers to be—sufficient.

(3) *Extending the Time*. On request made before the time to file objections expires, the bankruptcy judge may, for cause, extend any party's time to file for no more than 21 days after the time otherwise expires. But a request made within 21 days after that time expires may be granted upon a showing of excusable neglect.

(c) REVIEW BY THE DISTRICT JUDGE. The district judge:

(1) must review de novo—on the record or after receiving additional evidence—any part of the bankruptcy judge's findings of fact or conclusions of law to which specific written objection has been made under (b); and

(2) may accept, reject, or modify the proposed findings of fact or conclusions of law, take additional evidence, or remand the matter to the bankruptcy judge with instructions.

(Added Mar. 30, 1987, eff. Aug. 1, 1987; amended Mar. 26, 2009, eff. Dec. 1, 2009; Apr. 28, 2016, eff. Dec. 1, 2016; Apr. 2, 2024, eff. Dec. 1, 2024.)

NOTES OF ADVISORY COMMITTEE ON RULES—1987

Section 157(c)(1) of title 28 requires a bankruptcy judge to submit proposed findings of fact and conclusions of law to the district court when the bankruptcy judge has heard a non-core proceeding. This rule, which is modeled on Rule 72 F.R.Civ.P., provides the procedure for objecting to, and for review by, the district court of specific findings and conclusions.

Subdivision (a) requires the clerk to serve a copy of the proposed findings and conclusions on the parties. The bankruptcy clerk, or the district court clerk if there is no bankruptcy clerk in the district, shall serve a copy of the proposed findings and conclusions on all parties.

Subdivision (b) is derived from Rule 72(b) F.R.Civ.P. which governs objections to a recommended disposition by a magistrate.

Subdivision (c) is similar to Rule 8002(c) of the Bankruptcy Rules and provides for granting of extensions of time to file objections to proposed findings and conclusions.

Subdivision (d) adopts the de novo review provisions of Rule 72(b) F.R.Civ.P.

COMMITTEE NOTES ON RULES—2009 AMENDMENT

The rule is amended to implement changes in connection with the amendment to Rule 9006(a) and the manner by which time is computed under the rules. The deadlines in the rule are amended to substitute a deadline that is a multiple of seven days. Throughout the rules, deadlines are amended in the following manner:

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

COMMITTEE NOTES ON RULES—2016 AMENDMENT

Subdivision (a) is amended to delete language limiting this provision to non-core proceedings. Some proceedings that satisfy the statutory definition of core proceedings, 28 U.S.C. §157(b)(2), may remain beyond the constitutional power of a bankruptcy judge to adjudicate finally. If the bankruptcy court decides, pursuant to Rule 7016, that it is appropriate to issue proposed findings of fact and conclusions of law in a proceeding, this rule governs the subsequent procedures.

COMMITTEE NOTES ON RULES—2024 AMENDMENT

The language of Rule 9033 has been amended as part of the general restyling of the Bankruptcy Rules to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only.

Rule 9034. Sending Copies to the United States Trustee

Except in a Chapter 9 case or when the United States trustee requests otherwise, an entity filing a pleading, motion, objection, or similar document relating to any of the following must send a copy to the United States trustee within the time required for service:

(a) a proposed use, sale, or lease of property of the estate other than in the ordinary course of business;

(b) the approval of a compromise or settlement of a controversy;

(c) the dismissal or conversion of a case to another chapter;

(d) the employment of a professional person;

(e) an application for compensation or reimbursement of expenses;

(f) a motion for, or the approval of an agreement regarding, the use of cash collateral or authority to obtain credit;

(g) the appointment of a trustee or examiner in a Chapter 11 case;

(h) the approval of a disclosure statement;

(i) the confirmation of a plan;

(j) an objection to, or waiver or revocation of, the debtor's discharge; or

(k) any other matter in which the United States trustee requests copies of filed documents or the court orders copies sent to the United States trustee.

(Added Apr. 30, 1991, eff. Aug. 1, 1991; amended Apr. 2, 2024, eff. Dec. 1, 2024.)

NOTES OF ADVISORY COMMITTEE ON RULES—1991

Section 307 of the Code gives the United States trustee the right to appear and be heard on issues in cases and proceedings under the Code. This rule is intended to keep the United States trustee informed of certain developments and disputes in which the United States trustee may wish to be heard. This rule, which derives from Rule X–1008, also enables the United States trustee to monitor the progress of the case in accordance with 28 U.S.C. §586(a). The requirement to transmit copies of certain pleadings, motion papers and other documents is intended to be flexible in that the United States trustee in a particular judicial district may request copies of papers in certain categories, and may request not to receive copies of documents in other categories, when the practice in that district makes that desirable. When the rules require that a paper be served on particular parties, the time period in which service is required is also applicable to transmittal to the United States trustee.

Although other rules require that certain notices be transmitted to the United States trustee, this rule goes further in that it requires the transmittal to the United States trustee of other papers filed in connection with these matters. This rule is not an exhaustive list of the matters of which the United States trustee may be entitled to receive notice.

COMMITTEE NOTES ON RULES—2024 AMENDMENT

The language of Rule 9034 has been amended as part of the general restyling of the Bankruptcy Rules to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only.

Rule 9035. Applying These Rules in a Judicial District in Alabama or North Carolina

In a bankruptcy case filed in or transferred to a district in Alabama or North Carolina and in which a United States trustee is not authorized to act, these rules apply to the extent they are not inconsistent with any applicable federal statute.

(Added Apr. 30, 1991, eff. Aug. 1, 1991; amended Apr. 11, 1997, eff. Dec. 1, 1997; Apr. 2, 2024, eff. Dec. 1, 2024.)

NOTES OF ADVISORY COMMITTEE ON RULES—1991

Section 302(d)(3) of the Bankruptcy Judges, United States Trustees, and Family Farmer Bankruptcy Act of 1986 provides that amendments to the Code relating to United States trustees and quarterly fees required under 28 U.S.C. §1930(a)(6) do not become effective in any judicial district in the States of Alabama and North Carolina until the district elects to be included in the United States trustee system, or October 1, 1992, whichever occurs first, unless Congress extends the deadline. If the United States trustee system becomes effective in these districts, the transition provisions in the 1986 Act will govern the application of the United States trustee amendments to cases that are pending at that time. See §302(d)(3)(F). The statute, and not the bankruptcy court, determines whether a United States trustee is authorized to act in a particular case.

Section 302(d)(3)(I) of the 1986 Act authorizes the Judicial Conference of the United States to promulgate regulations governing the appointment of bankruptcy administrators to supervise the administration of estates and trustees in cases in the districts in Alabama and North Carolina until the provisions of the Act relating to the United States trustee take effect in these districts. Pursuant to this authority, in September 1987, the Judicial Conference promulgated regulations governing the selection and appointment of bankruptcy administrators and regulations governing the establishment, duties, and functions of bankruptcy

administrators. Guidelines relating to the bankruptcy administrator program have been prescribed by the Director of the Administrative Office of the United States Courts.

Many of these rules were amended to implement the United States trustee system in accordance with the 1986 Act. Since the provisions of the 1986 Act relating to the United States trustee system are not effective in cases in Alabama and North Carolina in which a bankruptcy administrator is serving, rules referring to United States trustees are at least partially inconsistent with the provisions of the Bankruptcy Code and title 28 of the United States Code effective in such cases.

In determining the applicability of these rules in cases in Alabama and North Carolina in which a United States trustee is not authorized to act, the following guidelines should be followed:

(1) The following rules do not apply because they are inconsistent with the provisions of the Code or title 28 in these cases: 1002(b), 1007(1), 1009(c), 2002(k), 2007.1(b), 2015(a)(6), 2020, 3015(b), 5005(b), 7004(b)(10), 9003(b), and 9034.

(2) The following rules are partially inconsistent with the provisions of the Code effective in these cases and, therefore, are applicable with the following modifications:

(a) *Rule 2001(a) and (c)*—The court, rather than the United States trustee, appoints the interim trustee.

(b) *Rule 2003*—The duties of the United States trustee relating to the meeting of creditors or equity security holders are performed by the officer determined in accordance with regulations of the Judicial Conference, guidelines of the Director of the Administrative Office, local rules or court orders.

(c) *Rule 2007*—The court, rather than the United States trustee, appoints committees in chapter 9 and chapter 11 cases.

(d) *Rule 2008*—The bankruptcy administrator, rather than the United States trustee, informs the trustee of how to qualify.

(e) *Rule 2009(c) and (d)*—The court, rather than the United States trustee, appoints interim trustees in chapter 7 cases and trustees in chapter 11, 12 and 13 cases.

(f) *Rule 2010*—The court, rather than the United States trustee, determines the amount and sufficiency of the trustee's bond.

(g) *Rule 5010*—The court, rather than the United States trustee, appoints the trustee when a case is reopened.

(3) All other rules are applicable because they are consistent with the provisions of the Code and title 28 effective in these cases, except that any reference to the United States trustee is not applicable and should be disregarded.

Many of the amendments to the rules are designed to give the United States trustee, a member of the Executive Branch, notice of certain developments and copies of petitions, schedules, pleadings, and other papers. In contrast, the bankruptcy administrator is an officer in the Judicial Branch and matters relating to notice of developments and access to documents filed in the clerk's office are governed by regulations of the Judicial Conference of the United States, guidelines of the Administrative Office of the United States Courts, local rules, and court orders. Also, requirements for disclosure of connections with the bankruptcy administrator in applications for employment of professional persons, restrictions on appointments of relatives of bankruptcy administrators, effects of erroneously filing papers with the bankruptcy administrator, and other matters not covered by these rules may be governed by regulations of the Judicial Conference, guidelines of the Director of the Administrative Office, local rules, and court orders.

This rule will cease to have effect if a United States trustee is authorized in every case in the districts in Alabama and North Carolina.

NOTES OF ADVISORY COMMITTEE ON RULES—1997 AMENDMENT

Certain statutes that are not codified in title 11 or title 28 of the United States Code, such as §105 of the Bankruptcy Reform Act of 1994, Pub. L. 103–394, 108 Stat. 4106, relate to bankruptcy administrators in the judicial districts of North Carolina and Alabama. This amendment makes it clear that the Bankruptcy Rules do not apply to the extent that they are inconsistent with these federal statutes.

GAP Report on Rule 9035. No changes to the published draft.

COMMITTEE NOTES ON RULES—2024 AMENDMENT

The language of Rule 9035 has been amended as part of the general restyling of the Bankruptcy Rules to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only.

Rule 9036. Electronic Notice and Service

(a) IN GENERAL. This rule applies whenever these rules require or permit sending a notice or serving a document by mail or other means.

(b) NOTICES FROM AND SERVICE BY THE COURT.

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

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

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

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

(c) NOTICES FROM AND SERVICE BY AN ENTITY. An entity may send notice or serve a document in the same manner that the clerk does under (b), excluding (b)(2)(A) and (B).

(d) WHEN NOTICE OR SERVICE IS COMPLETE; KEEPING AN ADDRESS CURRENT. Electronic notice or service is complete upon filing or sending but is not effective if the filer or sender receives notice that it did not reach the person to be notified or served. The recipient must keep its electronic address current with the clerk.

(e) INAPPLICABILITY. This rule does not apply to any document required to be served in accordance with Rule 7004.

(Added Apr. 22, 1993, eff. Aug. 1, 1993; amended Apr. 25, 2005, eff. Dec. 1, 2005; Apr. 25, 2019, eff. Dec. 1, 2019; Apr. 14, 2021, eff. Dec. 1, 2021; Apr. 2, 2024, eff. Dec. 1, 2024.)

NOTES OF ADVISORY COMMITTEE ON RULES—1993

This rule is added to provide flexibility for banks, credit card companies, taxing authorities, and other entities that ordinarily receive notices by mail in a large volume of bankruptcy cases, to arrange to receive by electronic transmission all or part of the information required to be contained in such notices.

The use of electronic technology instead of mail to send information to creditors and interested parties will be more convenient and less costly for the sender and the receiver. For example, a bank that receives by mail, at different locations, notices of meetings of creditors pursuant to Rule 2002(a) in thousands of cases each year may prefer to receive only the vital information ordinarily contained in such notices by electronic transmission to one computer terminal.

The specific means of transmission must be compatible with technology available to the sender and the receiver. Therefore, electronic transmission of notices is permitted only upon request of the entity entitled to receive the notice, specifying the type of electronic transmission, and only if approved by the court.

Electronic transmission pursuant to this rule completes the notice requirements. The creditor or interested party is not thereafter entitled to receive the relevant notice by mail.

COMMITTEE NOTES ON RULES—2005 AMENDMENT

The rule is amended to delete the requirement that the sender of an electronic notice must obtain electronic confirmation that the notice was received. The amendment provides that notice is complete upon transmission. When the rule was first promulgated, confirmation of receipt of electronic notices was commonplace. In the current electronic environment, very few internet service providers offer the confirmation of receipt service. Consequently, compliance with the rule may be impossible, and the rule could discourage the use of electronic noticing.

Confidence in the delivery of email text messages now rivals or exceeds confidence in the delivery of printed materials. Therefore, there is no need for confirmation of receipt of electronic messages just as there is no such requirement for paper notices.

Changes Made After Publication and Comment. No changes since publication.

COMMITTEE NOTES ON RULES—2019 AMENDMENT

The rule is amended to permit both notice and service by electronic means. The use and reliability of

electronic delivery have increased since the rule was first adopted. The amendments recognize the increased utility of electronic delivery, with appropriate safeguards for parties not filing an appearance in the case through the court's electronic-filing system.

The amended rule permits electronic notice or service on a registered user who has appeared in the case by filing with the court's electronic-filing system. A court may choose to allow registration only with the court's permission. But a party who registers will be subject to service by filing with the court's system unless the court provides otherwise. The rule does not make the court responsible for notifying a person who filed a paper with the court's electronic-filing system that an attempted transmission by the court's system failed. But a filer who receives notice that the transmission failed is responsible for making effective service.

With the consent of the person served, electronic service also may be made by means that do not use the court's system. Consent can be limited to service at a prescribed address or in a specified form, and it may be limited by other conditions.

COMMITTEE NOTES ON RULES—2021 AMENDMENT

The rule is amended to take account of the Administrative Office of the United States Courts' program for providing notice to high-volume paper-notice recipients. Under this program, when the Bankruptcy Noticing Center (BNC) has sent by mail more than a designated number of notices in a calendar month (initially set at 100) from bankruptcy courts to an entity, the Director of the Administrative Office will notify the entity that it is a high-volume paper-notice recipient. As such, this "threshold notice" will inform the entity that it must register an electronic address with the BNC. If, within a time specified in the threshold notice, a notified entity enrolls in Electronic Bankruptcy Noticing with the BNC, it will be sent notices electronically at the address maintained by the BNC upon a start date determined by the Director. If a notified entity does not timely enroll in Electronic Bankruptcy Noticing, it will be informed that court-generated notices will be sent to an electronic address designated by the Director. Any designation by the Director, however, is subject to the entity's right under §342(e) and (f) of the Code to designate an address at which it wishes to receive notices in chapter 7 and chapter 13 cases, including at its own electronic address that it registers with the BNC.

The rule is also reorganized to separate methods of electronic noticing and service available to courts from those available to parties. Both courts and parties may serve or provide notice to registered users of the court's electronic-filing system by filing documents with that system. Both courts and parties also may serve and provide notice to any entity by electronic means consented to in writing by the recipient. Only courts may serve or give notice to an entity at an electronic address registered with the BNC as part of the Electronic Bankruptcy Noticing program.

The title of the rule is revised to more accurately reflect the rule's applicability to methods of electronic noticing and service. Rule 9036 does not preclude noticing and service by physical means otherwise authorized by the court or these rules.

COMMITTEE NOTES ON RULES—2024 AMENDMENT

The language of Rule 9036 has been amended as part of the general restyling of the Bankruptcy Rules to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only.

Rule 9037. Protecting Privacy for Filings

(a) REDACTED FILINGS. Unless the court orders otherwise, in an electronic or paper filing with the court that contains an individual's social-security number, taxpayer-identification number, or birth date, the name of an individual other than the debtor known to be and identified as a minor, or a financial-account number, a party or nonparty making the filing may include only:

(1) the last four digits of a social-security [1] and taxpayer-identification number;
(2) the year of the individual's birth;
(3) the minor's initials; and
(4) the last four digits of the financial-account number.

(b) EXEMPTIONS FROM THE REDACTION REQUIREMENT. The redaction requirement does not apply to the following:

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

(2) the record of an administrative or agency proceeding, unless filed with a proof of claim;
(3) the official record of a state-court proceeding;
(4) the record of a court or tribunal, if that record was not subject to the redaction requirement when originally filed;
(5) a filing covered by (c); and
(6) a filing subject to §110.

(c) FILINGS MADE UNDER SEAL. The court may order that a filing be made under seal without redaction. The court may later unseal the filing or order the entity that made it to file a redacted version for the public record.
(d) PROTECTIVE ORDERS. For cause, the court may by order in a case:
(1) require redaction of additional information; or
(2) limit or prohibit a nonparty's remote electronic access to a document filed with the court.

(e) OPTION FOR ADDITIONAL UNREDACTED DOCUMENT UNDER SEAL. An entity filing a redacted document may also file an unredacted copy under seal. The court must retain the unredacted copy as part of the record.
(f) OPTION FOR FILING A REFERENCE LIST. A filing that contains redacted information may be filed together with a reference list that identifies each item of redacted information and specifies an appropriate identifier that uniquely corresponds to each item listed. The list must be filed under seal and may be amended as of right. A reference in the case to a listed identifier will be construed to refer to the corresponding item of information.
(g) WAIVER OF PROTECTION OF IDENTIFIERS. An entity waives the protection of (a) for the entity's own information by filing it without redaction and not under seal.
(h) MOTION TO REDACT A PREVIOUSLY FILED DOCUMENT.
(1) *Content; Service*. Unless the court orders otherwise, an entity seeking to redact from a previously filed document information that is protected under (a) must:
(A) file a motion that identifies the proposed redactions;
(B) attach to it the proposed redacted document;
(C) include the docket number—or proof-of-claim number—of the previously filed document; and
(D) serve the motion and attachment on:
• the debtor;
• the debtor's attorney;
• any trustee;
• the United States trustee;
• the entity that filed the unredacted document; and
• any individual whose personal identifying information is to be redacted.

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

(Added Apr. 30, 2007, eff. Dec. 1, 2007; amended Apr. 25, 2019, eff. Dec. 1, 2019; Apr. 2, 2024, eff. Dec. 1, 2024.)

COMMITTEE NOTES ON RULES—2007

The rule is adopted in compliance with section 205(c)(3) of the E-Government Act of 2002, Public Law No. 107–347. Section 205(c)(3) requires the Supreme Court to prescribe rules "to protect privacy and security concerns relating to electronic filing of documents and the public availability . . . of documents filed electronically." The rule goes further than the E-Government Act in regulating paper filings even when they are not converted to electronic form, but the number of filings that remain in paper form is certain to diminish

over time. Most districts scan paper filings into the electronic case file, where they become available to the public in the same way as documents initially filed in electronic form. It is electronic availability, not the form of the initial filing, that raises the privacy and security concerns addressed in the E-Government Act.

The rule is derived from and implements the policy adopted by the Judicial Conference in September 2001 to address the privacy concerns resulting from public access to electronic case files. *See* http://www.privacy.uscourts.gov/Policy.htm. The Judicial Conference policy is that documents in case files generally should be made available electronically to the same extent they are available at the courthouse, provided that certain "personal data identifiers" are not included in the public file.

While providing for the public filing of some information, such as the last four digits of an account number, the rule does not intend to establish a presumption that this information never could or should be protected. For example, it may well be necessary in individual cases to prevent remote access by nonparties to any part of an account number or social-security number. It may also be necessary to protect information not covered by the redaction requirement—such as driver's license numbers and alien registration numbers—in a particular case. In such cases, protection may be sought under subdivision (c) or (d). Moreover, the rule does not affect the protection available under other rules, such as Rules 16 and 26(c) of the Federal Rules of Civil Procedure, or under other sources of protective authority.

Any personal information not otherwise protected by sealing or redaction will be made available over the internet. Counsel should therefore notify clients of this fact so that an informed decision may be made on what information is to be included in a document filed with the court.

An individual debtor's full social-security number or taxpayer-identification number is included on the notice of the §341 meeting of creditors sent to creditors. Of course, that is not filed with the court, see Rule 1007(f) (the debtor "submits" this information), and the copy of the notice that is filed with the court does not include the full social-security number or taxpayer-identification number. Thus, since the full social-security number or taxpayer-identification number is not filed with the court, it is not available to a person searching that record.

The clerk is not required to review documents filed with the court for compliance with this rule. As subdivision (a) recognizes, the responsibility to redact filings rests with counsel, parties, and others who make filings with the court.

Subdivision (d) recognizes the court's inherent authority to issue a protective order to prevent remote access to private or sensitive information and to require redaction of material in addition to that which would be redacted under subdivision (a) of the rule. These orders may be issued whenever necessary either by the court on its own motion, or on motion of a party in interest.

Subdivision (e) allows an entity that makes a redacted filing to file an unredacted document under seal. This provision is derived from section 205(c)(3)(iv) of the E-Government Act. Subdivision (f) allows the option to file a reference list of redacted information. This provision is derived from section 205(c)(3)(v) of the E-Government Act, as amended in 2004.

In accordance with the E-Government Act, subdivision (f) of the rule refers to "redacted" information. The term "redacted" is intended to govern a filing that is prepared with abbreviated identifiers in the first instance, as well as a filing in which a personal identifier is edited after its preparation.

Subdivision (g) allows an entity to waive the protections of the rule as to that entity's own information by filing it in unredacted form. An entity may elect to waive the protection if, for example, it is determined that the costs of redaction outweigh the benefits to privacy. As to financial account numbers, the instructions to Schedules E and F of Official Form 6 note that the debtor may elect to include the complete account number on those schedules rather than limit the number to the final four digits. Including the complete number would operate as a waiver by the debtor under subdivision (g) as to the full information that the debtor set out on those schedules. The waiver operates only to the extent of the information that the entity filed without redaction. If an entity files an unredacted identifier by mistake, it may seek relief from the court.

Trial exhibits are subject to the redaction requirements of Rule 9037 to the extent they are filed with the court. Trial exhibits that are not initially filed with the court must be redacted in accordance with this rule if and when they are filed as part of an appeal or for other reasons.

Changes After Publication. Rule 9037 is intended to parallel as closely as possible Civil Rule 5.2 and Criminal Rule 49.1. The Advisory Committees have worked together to maintain as much consistency as possible in the three versions of the rule. The rule has been revised to implement the several style revisions suggested by the Style Subcommittee of the Standing Committee. Subdivision (b) was reorganized and renumbered. Subdivisions (b)(1) and (b)(3) were added in response to suggestions by the Department of Justice. Subdivision (b)(4), formerly subdivision (b)(2), was amended in response to the suggestion of the Committee on Court Administration and Case Management so that the subdivision now refers to court records that become a part of the record in the pending matter. The term "entity" has been substituted for "person" in

subdivision (c) and for "party" in subdivisions (e) and (f) to conform the rule to the definitions provided in the Bankruptcy Code.

COMMITTEE NOTES ON RULES—2019 AMENDMENT

Subdivision (h) is new. It prescribes a procedure for the belated redaction of documents that were filed without complying with subdivision (a).

Generally, whenever someone discovers that information entitled to privacy protection under subdivision (a) appears in a document on file with the court—regardless of whether the case in question remains open or has been closed—that entity may file a motion to redact the document. A single motion may relate to more than one unredacted document. The moving party may be, but is not limited to, the original filer of the document. The motion must identify by location on the case docket or claims register each document to be redacted. It should not, however, include the unredacted information itself.

Subsection (h)(1) authorizes the court to alter the prescribed procedure. This might be appropriate, for example, when the movant seeks to redact a large number of documents. In that situation the court by order or local rule might require the movant to file an omnibus motion, initiate a miscellaneous proceeding, or proceed in another manner directed by the court.

Unless the court orders otherwise, the motion must identify the proposed redactions, and the moving party must attach to the motion the proposed redacted document. The attached document must otherwise be identical to the one previously filed. The court, however, may relieve the movant of this requirement in appropriate circumstances, for example when the movant was not the filer of the unredacted document and does not have access to it. Service of the motion and the attachment must be made on all of the following individuals who are not the moving party: debtor, debtor's attorney, trustee, United States trustee, the filer of the unredacted document, and any individual whose personal identifying information is to be redacted.

Because the filing of the motion to redact may call attention to the existence of the unredacted document as maintained in the court's files or downloaded by third parties, courts should take immediate steps to protect the motion and the document from public access. This restriction may be accomplished electronically, simultaneous with the electronic filing of the motion to redact. For motions filed on paper, restriction should occur at the same time that the motion is docketed so that no one receiving electronic notice of the filing of the motion will be able to access the unredacted document in the court's files.

If the court grants the motion to redact, the court must docket the redacted document, and public access to the motion and the unredacted document should remain restricted. If the court denies the motion, generally the restriction on public access to the motion and the document should be lifted.

This procedure does not affect the availability of any remedies that an individual whose personal identifiers are exposed may have against the entity that filed the unredacted document.

COMMITTEE NOTES ON RULES—2024 AMENDMENT

The language of Rule 9037 has been amended as part of the general restyling of the Bankruptcy Rules to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only.

[1] *So in original. Probably should be followed by "number".*

Rule 9038. Bankruptcy Rules Emergency

(a) CONDITIONS FOR AN EMERGENCY. The Judicial Conference of the United States may declare a Bankruptcy Rules emergency if it determines that extraordinary circumstances relating to public health or safety, or affecting physical or electronic access to a bankruptcy court, substantially impair the court's ability to perform its functions in compliance with these rules.

(b) DECLARING AN EMERGENCY.

(1) *Content*. The declaration must:

(A) designate the bankruptcy court or courts affected;

(B) state any restrictions on the authority granted in (c); and

(C) be limited to a stated period of no more than 90 days.

(2) *Early Termination*. The Judicial Conference may terminate a declaration for one or more bankruptcy courts before the termination date.

(3) *Additional Declarations*. The Judicial Conference may issue additional declarations under this rule.

(c) TOLLING AND EXTENDING TIME LIMITS.

(1) *In an Entire District or Division*. When an emergency is in effect for a bankruptcy court, the chief bankruptcy judge may, for all cases and proceedings in the district or in a division:

(A) order the extension or tolling of a Bankruptcy Rule, local rule, or order that requires or allows a court, a clerk, a party in interest, or the United States trustee, by a specified deadline, to commence a proceeding, file or send a document, hold or conclude a hearing, or take any other action, despite any other Bankruptcy Rule, local rule, or order; or

(B) order that, when a Bankruptcy Rule, local rule, or order requires that an action be taken "promptly," "forthwith," "immediately," or "without delay," it be taken as soon as is practicable or by a date set by the court in a specific case or proceeding.

(2) *In a Specific Case or Proceeding*. When an emergency is in effect for a bankruptcy court, a presiding judge may take the action described in (1) in a specific case or proceeding.

(3) *When an Extension or Tolling Ends*. A period extended or tolled under (1) or (2) terminates on the later of:

(A) the last day of the time period as extended or tolled or 30 days after the emergency declaration terminates, whichever is earlier; or

(B) the last day of the time period originally required, imposed, or allowed by the relevant Bankruptcy Rule, local rule, or order that was extended or tolled.

(4) *Further Extensions or Shortenings*. A presiding judge may lengthen or shorten an extension or tolling in a specific case or proceeding. The judge may do so only for good cause after notice and a hearing and only on the judge's own motion or on motion of a party in interest or the United States trustee.

(5) *Exception*. A time period imposed by statute may not be extended or tolled.

(Added Apr. 24, 2023, eff. Dec. 1, 2023; amended Apr. 2, 2024, eff. Dec. 1, 2024.)

COMMITTEE NOTES ON RULES—2023

The rule is new. It provides authority to extend or toll the time limits in these rules during times of major emergencies affecting the bankruptcy courts. The continuing operation of the bankruptcy courts during the COVID–19 pandemic showed that the existing rules are flexible enough to accommodate remote proceedings, service by mail, and electronic transmission of documents. Nevertheless, it appeared that greater flexibility than Rule 9006(b) provides might be needed to allow the extension of certain time periods in specific cases or any extension on a district-wide basis in response to an emergency.

Emergency rule provisions have also been added to the Civil, Criminal, and Appellate Rules. Along with the Bankruptcy Rule, these rules have been made as uniform as possible. But each set of rules serves distinctive purposes, shaped by different origins, traditions, functions, and needs. Different provisions were compelled by these different purposes.

Subdivision (a) specifies the limited circumstances under which the authority conferred by this rule may be exercised. The Judicial Conference of the United States has the exclusive authority to declare a Bankruptcy Rules emergency, and it may do so only under extraordinary circumstances. Those circumstances must relate to public health or safety or affect physical or electronic access to a bankruptcy court. And, importantly, the court's ability to operate in compliance with the Bankruptcy Rules must be substantially impaired.

Under subdivision (b)(1), a Bankruptcy Rules emergency declaration must specify the bankruptcy courts to which it applies because, instead of being nationwide, an emergency might be limited to one area of the country or even to a particular state. The declaration must also specify a termination date that is no later than 90 days from the declaration's issuance. Under subdivisions (b)(2) and (b)(3), however, that time period may be extended by the issuance of additional declarations or reduced by early termination if circumstances change. The declaration must also specify any limitations placed on the authority granted in subdivision (c) to modify time periods.

Subdivisions (c)(1) and (c)(2) grant the authority, during declared Bankruptcy Rules emergencies, to extend or toll deadlines to the chief bankruptcy judge of a district on a district- or division-wide basis or to the

presiding judge in specific cases. Unless limited by the emergency declaration, this authority extends to all time periods in the rules that are not also imposed by statute. It also applies to directives to take quick action, such as rule provisions that require action to be taken "promptly," "forthwith," "immediately," or "without delay."

Subdivision (c)(3), which addresses the termination of extensions and tolling, provides a "soft landing" upon the termination of a Bankruptcy Rules emergency. It looks to three possible dates for a time period to expire. An extended or tolled time period will terminate either 30 days after the rules-emergency declaration terminates or when the original time period would have expired, whichever is later—unless the extension or tolling itself expires sooner than 30 days after the declaration's termination. In that case, the extended expiration date will apply.

Subdivision (c)(4) allows fine tuning in individual cases of extensions of time or tollings that have been granted.

Subdivision (c)(5) excepts from the authority to extend time periods any time provision imposed by statute. The Bankruptcy Rules Enabling Act, 28 U.S.C. §2075, does not authorize the Bankruptcy Rules to supersede conflicting laws. Accordingly, a time limit in a rule that is a restatement of a deadline imposed by statute or an incorporation by reference of such a deadline may not be extended under this rule. However, if a statute merely incorporates by reference a time period imposed by a rule, that period may be extended.

COMMITTEE NOTES ON RULES—2024 AMENDMENT

The language of Rule 9038 has been amended as part of the general restyling of the Bankruptcy Rules to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only.

REFERENCES IN TEXT

Bankruptcy Rules, referred to in subds. (a) and (c)(1)(A), (B), (3)(B), probably means the Federal Rules of Bankruptcy Procedure, which are set out in this Appendix.

[PART X—UNITED STATES TRUSTEES] (Abrogated Apr. 30, 1991, eff. Aug. 1, 1991)

OFFICIAL FORMS

[The Official Forms prescribed pursuant to Rule 9009 may be found on the United States Courts website.]

APPENDIX

(As added Apr. 26, 2018, eff. Dec. 1, 2018.)

LENGTH LIMITS STATED IN PART VIII OF THE FEDERAL RULES OF BANKRUPTCY PROCEDURE

Appendix: Length Limits Stated in Part VIII of the Federal Rules of Bankruptcy Procedure can also be found in the order of the Supreme Court amending the Federal Rules of Bankruptcy Procedure, April 26, 2018, available at the Supreme Court website.