

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

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BANKRUPTCY RULES

June 24, 1991

Honorable Robert E. Keeton
Chairman, Committee on Rules of Practice
and Procedure of the Judicial Conference
of the United States
Washington, D.C. 20544

Dear Judge Keeton:

On behalf of the Advisory Committee on Bankruptcy Rules, I have the honor to submit proposals to amend the Federal Rules of Bankruptcy Procedure.

I request that the Preliminary Draft containing these proposed amendments be circulated to the bench and bar and that views and comments be solicited. I further request that the Advisory Committee be permitted to conduct two public hearings to afford an opportunity for the oral presentation of views.

The proposed amendments are as follows:

(1) Rules 1010 and 1013 are amended to delete references to the official forms for the summons and the order for relief in an involuntary case. These forms were deleted from the official forms effective August 1, 1991.

(2) Rule 1017 is amended to clarify that the date of the filing of a notice of conversion in a case under chapter 12 or chapter 13 of the Bankruptcy Code is treated as the date of the entry of the order of conversion for the purpose of applying Rule 1019. Rule 1019 governs the conversion of a case to a chapter 7 liquidation case.

(3) Rule 2002 is amended to avoid the necessity of sending to the Washington, D.C., address of the Securities and Exchange Commission various notices in connection with a chapter 11 case if the Commission prefers to have the notices sent to a local office.

The amendment also clarifies that certain notices are to be sent to the Securities and Exchange Commission only if the Commission has filed a notice of appearance or has made a request filed with the court.

(4) Rule 2003 is amended to extend the time for holding the meeting of creditors in chapter 13 cases by ten days so that courts will have greater flexibility for scheduling the meeting. This change will enable courts, if they so desire, to hold the confirmation hearing and the meeting of creditors on the same day while complying with the minimum notice requirements set forth in Rule 2002.

(5) Rule 2005 is amended to change the word "magistrate" to "magistrate judge." This amendment conforms to § 321 of the Judicial Improvements Act of 1990, Pub. L. 101-650 (1990), which changed the title of United States magistrate to United States magistrate judge.

(6) Rule 3002 is amended to provide that all creditors, including secured and unsecured creditors, are required to file timely proofs of claim in order to have their claims allowed. The rule is amended further to provide that in a chapter 13 case the court may extend the time for filing a proof of claim for a creditor who has failed to file the claim due to excusable neglect.

(7) Rule 3009 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.

(8) Rule 3015 is amended to provide a time limit for filing a debt adjustment plan after a case is converted to chapter 13 from a different chapter. In addition, procedures relating to objections to confirmation and post-confirmation modification of plans are also added to the rule. Several of these provisions are now contained in Rules 3019 and 3020. A technical correction is also made to clarify that the plan or summary of the plan must be included with each notice of the confirmation hearing in chapter 12 cases pursuant to Rule 2002(a).

(9) The title to Rule 3018 is amended to indicate that the rule is applicable only in chapter 9 municipality and chapter 11 reorganization cases.

(10) Rule 3019 is amended to limit its application to modification of plans in chapter 9 municipality cases and chapter 11 reorganization cases. Provisions relating to modification of plans in chapter 12 and chapter 13 cases are dealt with in Rule 3015 as changed by the proposed amendments.

(11) Rule 3020 is amended to limit its application to confirmation of plans in chapter 9 and chapter 11 cases. Provisions relating to confirmation of chapter 12 and chapter 13 plans are included in Rule 3015 as changed by the proposed amendments.

(12) Rule 5005 is amended to prohibit the clerk from refusing to accept for filing any petition or other paper presented for that purpose solely because it is not presented in proper form. This amendment conforms to the 1991 amendment to Rule 5 F.R.Civ.P.

(13) Rule 6002 is amended to conform to the language of § 102(1) of the Bankruptcy Code and to clarify that, in the absence of a request for a hearing, an actual hearing is not required to determine the propriety of a prior custodian's administration of property of the estate.

(14) Rule 6006 is amended to delete the requirement for an actual hearing when a hearing is not requested in connection with a motion relating to the assumption, rejection, or assignment of an executory contract or unexpired lease.

(15) Rule 6007 is amended to clarify that an actual hearing is not required if a hearing is not requested and there are no objections in connection with a motion regarding the abandonment of property of the estate.

(16) Rule 9019 is amended to conform to the language of § 102(1) of the Code which clarifies that an actual hearing is not required if a hearing is not requested in connection with a motion to approve a compromise or settlement.

(17) Rule 9036 is added to provide for the electronic transmission of certain notices as an alternative to the mailing of notices pursuant to Rule 2002.

Honorable Robert E. Keeton
Chairman, Standing Committee
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A draft of the relevant rules showing the proposed amendments,
and Advisory Committee Notes explaining the proposed amendments,
are enclosed.

Respectfully submitted,

Edward Leavy, Chairman
Advisory Committee on
Bankruptcy Rules

PRELIMINARY DRAFT OF PROPOSED AMENDMENTS
TO THE
FEDERAL RULES OF BANKRUPTCY PROCEDURE*

Rule 1010. Service of Involuntary Petition and Summons;
Petition Commencing Ancillary Case

1 On the filing of an involuntary petition or a
2 petition commencing a case ancillary to a foreign
3 proceeding, the clerk shall forthwith issue a
4 summons for service. When an involuntary petition
5 is filed, service shall be made on the debtor.
6 When a petition commencing an ancillary case is
7 filed, service shall be made on the parties against
8 whom relief is sought pursuant to § 304(b) of the
9 Code and on such other parties as the court may
10 direct. The summons ~~shall conform to the~~
11 ~~appropriate Official Form and a copy~~ shall be
12 served with a copy of the petition in the manner
13 provided for service of a summons and complaint by
14 Rule 7004(a) or (b). If service cannot be so made,
15 the court may order the summons and petition to be
16 served by mailing copies to the party's last known
17 address, and by not less than one publication in a
18 manner and form directed by the court. The summons
19 and petition may be served on the party anywhere.

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

20 Rule 7004(f) and Rule 4(g) and (h) F.R.Civ.P. apply
21 when service is made or attempted under this rule.

COMMITTEE NOTE

This rule is amended to delete the reference to the official form. The official form for the summons was abrogated in 1991.

Rule 1013. Hearing and Disposition
of Petition in Involuntary Cases

1 (a) CONTESTED PETITION. The court shall
2 determine the issues of a contested petition at the
3 earliest practicable time and forthwith enter an
4 order for relief, dismiss the petition, or enter
5 other appropriate orders.

6 (b) DEFAULT. If no pleading or other defense
7 to a petition is filed within the time provided by
8 Rule 1011, the court, on the next day, or as soon
9 thereafter as practicable, shall enter an order for
10 the relief prayed for in the petition.

11 (c) ~~[abrogated] ORDER FOR RELIEF. An order for~~
12 ~~relief shall conform substantially to the~~
13 ~~appropriate Official Form.~~

COMMITTEE NOTE

Subdivision (c) is abrogated because the official form for the order for relief was abrogated in 1991.

Rule 1017. Dismissal or Conversion of Case; Suspension

* * * * *

1 (d) PROCEDURE FOR DISMISSAL OR CONVERSION. A
2 proceeding to dismiss a case or convert a case to
3 another chapter, except pursuant to §§ 706(a),
4 707(b), 1112(a), 1208(a) or (b), or 1307(a) or (b),
5 is governed by Rule 9014. Conversion or dismissal
6 pursuant to §§ 706(a), 1112(a), 1208(b), or
7 1307(b) shall be on motion filed and served as
8 required by Rule 9013. A chapter 12 or chapter 13
9 case shall be converted without court order on the
10 filing by the debtor of a notice of conversion
11 pursuant to §§ 1208(a) or 1307(a) and the date of
12 the filing of the notice shall be deemed the date
13 of the conversion order for the ~~purpose~~ purposes of
14 applying § 348(c) of the Code and Rule 1019. The
15 clerk shall forthwith transmit to the United States
16 trustee a copy of such notice.

* * * * *

COMMITTEE NOTE

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 entry of the order of conversion for the purpose of applying Rule 1019.

Rule 2002. Notices to Creditors, Equity Security Holders, United States, and United States Trustee

* * * * *

1 (j) NOTICES TO THE UNITED STATES. Copies of
2 notices required to be mailed to all creditors
3 under this rule shall be mailed (1) in a chapter 11
4 reorganization case to the Securities and Exchange
5 Commission ~~at Washington, D.C.,~~ and at any other
6 place the Commission designates in a filed writing
7 if the Commission has filed a notice of appearance
8 in the case or has made a request in a filed
9 writing;

* * * * *

COMMITTEE NOTE

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 made a request in writing filed with the court.

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

1 (a) DATE AND PLACE. In a chapter 7 liquidation
2 or a chapter 11 reorganization case, Unless the
3 case is a chapter 9 municipality case or a chapter
4 12 family farmer's debt adjustment case, the United
5 States trustee shall call a meeting of creditors to
6 be held not less than 20 nor more than 40 days
7 after the order for relief. In a chapter 12 family
8 farmer debt adjustment case, the United States
9 trustee shall call a meeting of creditors to be
10 held not less than 20 nor more than 35 days after
11 the order for relief. In a chapter 13 individual's
12 debt adjustment case, the United States trustee
13 shall call a meeting of creditors to be held not
14 less than 20 nor more than 50 days after the order
15 for relief. If there is an appeal from or a motion
16 to vacate the order for relief, or if there is a
17 motion to dismiss the case, the United States

18 trustee may set a later time for the meeting. The
19 meeting may be held at a regular place for holding
20 court or at any other place designated by the
21 United States trustee within the district
22 convenient for the parties in interest. If the
23 United States trustee designates a place for the
24 meeting which is not regularly staffed by the
25 United States trustee or an assistant who may
26 preside at the meeting, the meeting may be held not
27 more than 60 days after the order for relief.

* * * * *

COMMITTEE NOTE

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.

Rule 2005. Apprehension and Removal of Debtor to Compel Attendance for Examination

* * * * *

1 (b) REMOVAL. Whenever any order to bring the
2 debtor before the court is issued under this rule
3 and the debtor is found in a district other than
4 that of the court issuing the order, the debtor may

5 be taken into custody under the order and removed
6 in accordance with the following rules:

7 (1) If taken at a place less than 100
8 miles from the place of issue of the order, the
9 debtor shall be brought forthwith before the court
10 that issued the order.

11 (2) If taken at a place 100 miles or more
12 from the place of issue of the order, the debtor
13 shall be brought without unnecessary delay before
14 the nearest United States magistrate judge,
15 bankruptcy judge, or district judge. If, after
16 hearing, the magistrate judge, bankruptcy judge, or
17 district judge finds that an order has issued under
18 this rule and that the person in custody is the
19 debtor, or if the person in custody waives a
20 hearing, the magistrate judge, bankruptcy judge, or
21 district judge shall issue an order of removal and
22 the person in custody shall be released on
23 conditions assuring prompt appearance before the
24 court which issued the order to compel the
25 attendance.

26 * * * * *

COMMITTEE NOTE

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."

Rule 3002. Filing Proof of Claim or Interest

1 (a) Necessity for Filing. An ~~unsecured~~ A
2 creditor or an equity security holder must file a
3 proof of claim or interest in accordance with this
4 rule for the claim or interest to be allowed,
5 except as provided in Rules 1019(3), 3003, 3004 and
6 3005.

7 * * * * *

8 (c) TIME FOR FILING. In a chapter 7
9 liquidation, chapter 12 family farmer's debt
10 adjustment, or chapter 13 individual's debt
11 adjustment case, a proof of claim shall be filed
12 within 90 days after the first date set for the
13 meeting of creditors called pursuant to § 341(a) of
14 the Code, except as follows:

15 * * * * *

16 (7) In a chapter 13 individual's debt
17 adjustment case, on motion by a creditor who has
18 not filed a proof of claim within the time herein

19 above prescribed, the court for cause shown may
20 extend the time for filing a proof of claim by the
21 creditor where the failure to file a timely proof
22 was the result of excusable neglect.

COMMITTEE NOTE

Subdivision (a) is amended to include secured creditors. A secured claim may not be allowed unless a proof of claim is filed. The amendment also clarifies that the time limits for filing proofs of claim set forth in subdivision (c) apply to both secured and unsecured claims. Notwithstanding this amendment, however, a lien is not void merely because the secured claim is not an allowed secured claim due only to the failure to file a proof of claim. See § 506(d) of the Code.

Subdivision (c) is amended to provide that in a chapter 13 case the court may extend the time for filing a proof of claim for a creditor who has failed to file a timely proof due to excusable neglect. This revision is designed to give the court discretion to treat as timely filed an otherwise late proof of claim that is filed by a creditor who has not been listed or scheduled and who had no knowledge of the case in time to file a timely proof of claim.

**Rule 3009. Declaration and Payment of
Dividends in Chapter 7 Liquidation Cases**

1 In chapter 7 cases, dividends to creditors
2 shall be paid as promptly as practicable ~~in the~~
3 ~~amounts and at the times as ordered by the court.~~
4 Dividend checks shall be made payable and mailed to

5 each creditor whose claim has been allowed, unless
6 a power of attorney authorizing another entity to
7 receive dividends has been executed and filed in
8 accordance with Rule 9010. In that event, dividend
9 checks shall be made payable to the creditor and to
10 the other entity and shall be mailed to the other
11 entity.

COMMITTEE NOTE

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.

**Rule 3015. Filing, Confirmation, and Modification
of Plan in Chapter 12 Family Farmer's Debt
Adjustment and Chapter 13 Individual's
Debt Adjustment Cases**

1 (a) CHAPTER 12 PLAN. The debtor may file a
2 chapter 12 plan with the petition. If a plan is
3 not filed with the petition, it shall be filed
4 within the time prescribed by § 1221 of the Code.

5 (b) CHAPTER 13 PLAN. The debtor may file a
6 chapter 13 plan with the petition. If a plan is
7 not filed with the petition, it shall be filed
8 within 15 days thereafter, and such time shall not

9 be further extended except for cause shown and on
10 notice as the court may direct. If a case is
11 converted to chapter 13, a plan shall be filed
12 within 15 days thereafter, and such time shall not
13 be further extended except for cause shown and on
14 notice as the court may direct.

15 (c) DATING. Every proposed plan and any
16 modification thereof shall be dated.

17 (d) NOTICE AND COPIES. The plan or a summary
18 of the plan shall be included with each notice of
19 the hearing on confirmation mailed pursuant to Rule
20 2002~~(b)~~. If required by the court, the debtor
21 shall furnish a sufficient number of copies to
22 enable the clerk to include a copy of the plan with
23 the notice of the hearing.

24 (e) TRANSMISSION TO UNITED STATES TRUSTEE. The
25 clerk shall forthwith transmit to the United States
26 trustee a copy of the plan and any modification
27 thereof filed pursuant to subdivision (a) or (b) of
28 this rule.

29 (f) OBJECTIONS TO CONFIRMATION. Objections to
30 confirmation of the plan shall be filed and served
31 on the debtor, the trustee, and any other entity

32 designated by the court, and shall be transmitted
33 to the United States trustee, before confirmation
34 of the plan. An objection to confirmation is
35 governed by Rule 9014.

36 (g) MODIFICATION OF PLAN AFTER CONFIRMATION.
37 A request for modification of a plan pursuant to
38 § 1229 or § 1329 shall identify the name of the
39 proponent and shall be filed together with the
40 proposed modification. The clerk, or some other
41 person as the court may direct, shall give the
42 debtor, the trustee, and all creditors not less
43 than 20 days notice by mail of the time fixed for
44 filing objections and, if an objection is filed,
45 the hearing to consider the proposed modification,
46 unless the court orders otherwise with respect to
47 creditors who are not affected by the proposed
48 modification. A copy of the notice shall be
49 transmitted to the United States trustee. A copy
50 of the proposed modification or a summary thereof
51 shall be included with the notice. If required by
52 the court, the proponent shall furnish a sufficient
53 number of copies of the proposed modification or a
54 summary thereof to enable the clerk to include a

55 copy with each notice. Objections to the proposed
56 modification shall be filed and served on the
57 debtor, the trustee, and any other entity
58 designated by the court, and shall be transmitted
59 to the United States trustee. An objection to a
60 proposed modification is governed by Rule 9014.

COMMITTEE NOTE

Subdivision (b) is amended to provide a time limit for filing a plan after a case has been converted to chapter 13.

Subdivision (d) is amended to clarify that the plan or summary of the plan must be included with each notice of the confirmation hearing in chapter 12 cases 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. 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.

**Rule 3018. Acceptance or Rejection of
Plans in Chapter 9 Municipality and
Chapter 11 Reorganization Cases**

COMMITTEE NOTE

The title of this rule is amended to indicate that it applies only in chapter 9 and chapter 11 cases.

**Rule 3019. Modification of Accepted Plan Before
Confirmation in Chapter 9 Municipality and
Chapter 11 Reorganization Cases**

1 In a chapter 9 municipality case or chapter 11
2 reorganization case, After after a plan has been
3 accepted and before its confirmation, the proponent
4 may file a modification of the plan. If the court
5 finds after hearing on notice to the trustee, any
6 committee appointed under the Code and any other
7 entity designated by the court that the proposed
8 modification does not adversely change the
9 treatment of the claim of any creditor or the
10 interest of any equity security holder who has not
11 accepted in writing the modification, it shall be
12 deemed accepted by all creditors and equity
13 security holders who have previously accepted the
14 plan.

COMMITTEE NOTE

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 are governed by Rule 3015.

Rule 3020. Deposit; Confirmation of Plan
in a Chapter 9 Municipality or a Chapter 11
Reorganization Case

1 (a) DEPOSIT. In a chapter 11 case, prior to
2 entry of the order confirming the plan, the court
3 may order the deposit with the trustee or debtor in
4 possession of the consideration required by the
5 plan to be distributed on confirmation. Any money
6 deposited shall be kept in a special account
7 established for the exclusive purpose of making the
8 distribution.

9 (b) OBJECTIONS TO AND HEARING ON CONFIRMATION
10 IN CHAPTER 9 AND CHAPTER 11 CASES.

11 (1) Objections. Objections to
12 confirmation of the plan shall be filed and served
13 on the debtor, the trustee, the proponent of the
14 plan, any committee appointed under the Code and on
15 any other entity designated by the court, within a
16 time fixed by the court. Unless the case is a

17 chapter 9 municipality case, a copy of every
18 objection to confirmation shall be transmitted by
19 the objecting party to the United States trustee
20 within the time fixed for the filing of
21 objections. An objection to confirmation is
22 governed by Rule 9014.

23 (2) Hearing. The court shall rule on
24 confirmation of the plan after notice and hearing
25 as provided in Rule 2002. If no objection is
26 timely filed, the court may determine that the plan
27 has been proposed in good faith and not by any
28 means forbidden by law without receiving evidence
29 on such issues.

30 (c) ORDER OF CONFIRMATION. The order of
31 confirmation shall conform to the appropriate
32 Official Form and notice of entry thereof shall be
33 mailed promptly as provided in Rule 2002(f) to the
34 debtor, the trustee, creditors, equity security
35 holders and other parties in interest. Except in
36 a chapter 9 municipality case, notice of entry of
37 the order of confirmation shall be transmitted to
38 the United States trustee as provided in Rule
39 2002(k).

40 (d) RETAINED POWER. Notwithstanding the entry
41 of the order of confirmation, the court may enter
42 all orders necessary to administer the estate.

COMMITTEE NOTE

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.

Rule 5005. Filing and Transmittal of Papers

1 (a) FILING. The lists, schedules, statements,
2 proofs of claim or interest, complaints, motions,
3 applications, objections and other papers required
4 to be filed by these rules, except as provided in
5 28 U.S.C. § 1409, shall be filed with the clerk in
6 the district where the case under the Code is
7 pending. The judge of that court may permit the
8 papers to be filed with the judge, in which event
9 the filing date shall be noted thereon, and they
10 shall be forthwith transmitted to the clerk. The
11 clerk shall not refuse to accept for filing any
12 petition or other paper presented for that purpose
13 solely because it is not presented in proper form

14 as required by these rules or any local rules or
15 practices.

* * * * *

COMMITTEE NOTE

Subdivision (a) is amended to conform to the 1991 amendment to Rule 5 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 certain 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 judicial officer. A clerk may of course advise a party or counsel that a particular instrument is not in proper form, and may be directed to so inform the court.

Rule 6002. Accounting by Prior Custodian of
Property of the Estate

* * * * *

1 (b) EXAMINATION OF ADMINISTRATION. On the
2 filing and transmittal of the report and account
3 required by subdivision (a) of this rule and after
4 an examination has been made into the superseded
5 administration, after notice and a hearing ~~on~~
6 ~~notice~~ the court shall determine the propriety of
7 the administration, including the reasonableness of
8 all disbursements.

COMMITTEE NOTE

Subdivision (b) is amended to conform to the language of § 102(1) of the Code.

**Rule 6006. Assumption, Rejection and
Assignment of Executory Contracts and
Unexpired Leases**

* * * * *

1 (c) ~~HEARING~~ NOTICE. When a motion is made
2 pursuant to subdivision (a) or (b) of this rule,
3 ~~the court shall set a hearing on~~ notice shall be
4 given to the other party to the contract or lease,
5 to other parties in interest as the court may
6 direct, and, except in a chapter 9 municipality
7 case, to the United States trustee.

COMMITTEE NOTE

This rule is amended to delete the requirement for an actual hearing when no request for a hearing is made. See Rule 9014.

Rule 6007. Abandonment or Disposition of Property

1 (a) NOTICE OF PROPOSED ABANDONMENT OR
2 DISPOSITION; OBJECTIONS; HEARING. Unless otherwise
3 directed by the court, the trustee or debtor in
4 possession shall give notice of a proposed

5 abandonment or disposition of property to the
6 United States trustee, all creditors, indenture
7 trustees and committees elected pursuant to § 705
8 or appointed pursuant to § 1102 of the Code. An
9 objection may be filed and served by a party in
10 interest within 15 days of the mailing of the
11 notice, or within the time fixed by the court. If
12 a timely objection is made, the court shall set a
13 hearing on notice to the United States trustee and
14 to other entities as the court may direct.

15 (b) MOTION BY PARTY IN INTEREST. A party in
16 interest may file and serve a motion requiring the
17 trustee or debtor in possession to abandon property
18 of the estate.

19 (c) ~~abrogated HEARING. If a timely objection~~
20 ~~is made as prescribed by subdivision (a) of this~~
21 ~~rule, or if a motion is made as prescribed by~~
22 ~~subdivision (b), the court shall set a hearing on~~
23 ~~notice to the United States trustee and to other~~
24 ~~entities as the court may direct.~~

COMMITTEE NOTE

This rule is amended to clarify that when a motion is made pursuant to subdivision (b), a hearing may not be required if a hearing is not requested or if there is no opposition to the motion. See Rule 9014.

Rule 9019. Compromise and Arbitration

1 (a) COMPROMISE. On motion by the trustee and
2 after notice and a hearing ~~on notice to~~ , the court
3 may approve a compromise or settlement. Notice
4 shall be given to creditors, the United States
5 trustee, the debtor and indenture trustees as
6 provided in Rule 2002 and to such other entities as
7 the court may designate, ~~the court may approve a~~
8 ~~compromise or settlement.~~

* * * * *

COMMITTEE NOTE

Subdivision (a) is amended to conform to the language of § 102(1) of the Code.

Rule 9036. Notice by Electronic Transmission

1 Whenever the clerk or some other person as
2 directed by the court is required to send notice by

3 mailed and the entity entitled to receive the notice
4 requests in writing that, instead of notice by
5 mail, all or part of the information required to be
6 contained in the notice be sent by a specified type
7 of electronic transmission, the court may direct
8 the clerk or other person to send the information
9 by such electronic transmission. Notice by
10 electronic transmission is complete, and the sender
11 shall have fully complied with the requirement to
12 send notice, when the sender obtains electronic
13 confirmation that the transmission has been
14 received.

COMMITTEE NOTE

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 in lieu of mail to transmit 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.