

memorandum

DATE: July 2, 1979

REPLY TO
ATTN OF: Lawrence P. King

SUBJECT: Revised Draft of Rules for Meeting of July 11-12

TO: The Chairman and Members of the Advisory Committee on
Bankruptcy Rules

The enclosed set of rules and forms have been revised pursuant to the Committee's decisions reached at its meeting on June 14 - 15, 1979. There are several changes or additions which require further decision.

Rule 1006. It was decided to rewrite Bankruptcy Rule 107 (Filing Fees), rather than incorporating it by reference. On further consideration, it appears to me that Rule 107 remains applicable and new Rule 1006, in any format, is unnecessary. Bankruptcy Rule 1, the scope rule, should be inapplicable because of its reference to now repealed chapters. Rule 107 has no limiting language and can therefore be taken to apply to all cases, chapter 7, 9, 11, and 13. Since it is not inconsistent with the Code, it need not be redrafted or replaced in the interim set of rules.

Rule 1007. This rule has been changed to spell out the provisions on the filing of lists and schedules in a chapter 11 case. Subdivision (a) is new and its requirement will enable the court or U.S. trustee to comply with 11 U.S.C. §1102 or §151102.

Rules 2003 and X-1003. (Meeting of Creditors or Equity Security Holders.) The word "supervise" is used instead of "preside." Also, subdivision (c) sets out a procedure to be followed when a dispute concerning an election arises at the meeting. The rule does not contain time periods for a meeting of equity security holders. This meeting is to be held only when ordered by the court. 11 U.S.C. §341(b).

Rule 3006(e). This subdivision is intended to reflect Judge Sear's suggestion that the method of transmitting notice required by this rule follow that set out in the Manual for Complex Litigation. Other alternatives would be to impose the duty on the clerk of the bankruptcy

Buy U.S. Savings Bonds Regularly on the Payroll Savings Plan

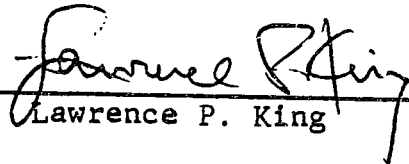


court, on the trustee, debtor in possession, or on the proponent of the plan.

Rule 4001(a). This provision is new and its purpose is indicated in the Note following the rule. It fills a gap in the procedure for seeking relief from the automatic stay of 11 U.S.C. § 362. Subdivision (b) of the rule is not new but is adapted from the earlier automatic stay rules.

Form No. 1 et seq. The unsworn declaration has been inserted in all forms requiring verification.

Forms Nos. 24-26. These forms have been added for use in a chapter 11 case. They are adapted from earlier chapter forms.


Lawrence P. King

cc: Hon. Roszel C. Thomsen