

SUMMARY OF THE
REPORT OF THE JUDICIAL CONFERENCE
COMMITTEE ON RULES OF PRACTICE AND PROCEDURE

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

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NOTICE
NO RECOMMENDATION PRESENTED HEREIN REPRESENTS THE POLICY OF THE JUDICIAL
CONFERENCE UNLESS APPROVED BY THE JUDICIAL CONFERENCE ITSELF.

REPORT OF THE JUDICIAL CONFERENCE

COMMITTEE ON RULES OF PRACTICE AND PROCEDURE

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

The Committee on Rules of Practice and Procedure met on January 4-5, 2001. Judge A. Wallace Tashima, Charles J. Cooper, and David M. Bernick and new members, Chief Justice Charles Talley Wells and Dean Mary Kay Kane, were unable to attend. The Department of Justice was represented by Roger A. Pauley, Director, Office of Legislation.

Representing the advisory rules committees were: Judge Will L. Garwood, chair, and Professor Patrick J. Schiltz, reporter, of the Advisory Committee on Appellate Rules; Judge A. Thomas Small, chair, and Professor Jeffrey W. Morris, reporter, of the Advisory Committee on Bankruptcy Rules; Judge David F. Levi, chair, and Professor Edward H. Cooper, reporter, of the Advisory Committee on Civil Rules; Judge W. Eugene Davis, chair, and Professor David A. Schlueter, reporter, of the Advisory Committee on Criminal Rules; and Judge Milton I. Shadur, chair, and Professor Daniel J. Capra, reporter, of the Advisory Committee on Evidence Rules.

Participating in the meeting was Professor Geoffrey C. Hazard, former committee member; Peter G. McCabe, the Committee's Secretary; Professor Daniel R. Coquillette, the Committee's reporter; John K. Rabiej, Chief of the Administrative Office's Rules Committee Support Office; Nancy G. Miller of the Administrative Office; Marie Leary of the Federal

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Judicial Center; Professor Mary P. Squiers, Director of the Local Rules Project; and Professor R. Joseph Kimble and Joseph F. Spaniol, consultants to the Committee.

FEDERAL RULES OF APPELLATE PROCEDURE

The Advisory Committee on Appellate Rules canceled its fall 2000 meeting because the agenda was light. It presented no items for the Committee's action.

At its April 2001 meeting, the advisory committee will review comments submitted on a preliminary draft of proposed amendments to 17 appellate rules published in August 2000 for public comment. With the notable exceptions of amendments to Rule 4(a)(7) dealing with the time to appeal a final judgment and Rule 26.1 requiring a corporate party to disclose financial interests, the proposed changes are generally "housekeeping." A public hearing on the proposed rules amendments was canceled because no requests to testify were received by the advisory committee.

FEDERAL RULES OF BANKRUPTCY PROCEDURE

The Advisory Committee on Bankruptcy Rules presented no items for the Committee's action.

The advisory committee is reviewing comments submitted on a preliminary draft of proposed amendments to seven bankruptcy rules and one new rule and form published in August 2000 for public comment. A public hearing on the proposed rules amendments was held on January 26, 2001, in Washington, D.C.

The advisory committee is studying a variety of issues relating to protecting the privacy interests of participants in the bankruptcy process while maintaining appropriate levels of public access to information contained in bankruptcy files. It is also considering a proposed new rule

requiring a corporate party to disclose financial interests patterned on similar, proposed rules to the Appellate, Civil, and Criminal Rules.

FEDERAL RULES OF CIVIL PROCEDURE

The Advisory Committee on Civil Rules presented one set of proposals for the Committee's action.

Rules Approved for Publication and Comment

The advisory committee proposed amendments to Rule C of the Supplemental Rules for Certain Admiralty and Maritime Claims with a recommendation that they be published for comment. The proposed changes include one technical change and otherwise are designed to conform to provisions of the Civil Asset Forfeiture Reform Act of 2000, Pub. L. No. 106-185.

The committee approved the recommendations of the advisory committee to circulate the proposed rule amendments to the bench and bar for comment. The committee also decided to publish the proposed amendments immediately, with a response deadline of April 2, 2001, to facilitate prompt action that will reduce the potential confusion between the present inconsistent rule and the Civil Asset Forfeiture Reform Act.

Informational Items

Proposed amendments to the Civil Rules were published in August 2000. One would add a new financial disclosure rule for corporate parties, coordinated with parallel provisions in the Appellate and Criminal Rules. Others, integrated with proposed changes in the Appellate Rules, would refine the procedure for entering judgment. A public hearing on the proposed rules amendments was canceled because no one asked to testify. Written comments are coming in.

The advisory committee continues to study proposed amendments to Rule 23 on class actions, Rule 26 on discovery of electronic data, and Rule 53 on special masters.

FEDERAL RULES OF CRIMINAL PROCEDURE

The Advisory Committee on Criminal Rules advised the Committee that it plans to revise the Rules Governing Section 2254 and 2255 Cases in accordance with uniform drafting guidelines. The restyling of the rules is one in a series of comprehensive revisions to simplify, clarify, and make more uniform all the federal procedural rules. The Committee endorsed the advisory committee's action.

The advisory committee is reviewing comments submitted on a preliminary draft of proposed "substantive" amendments to ten criminal rules and one new rule and a proposed comprehensive "style" revision of all the criminal rules published in August 2000 for public comment. Public hearings scheduled in New Orleans on January 24, 2001, and in San Francisco on January 29, 2001, were canceled because no request to testify was received by the advisory committee. The scheduled public hearing on February 12 was rescheduled and will be held on April 25, 2001, on the morning of the first day of the advisory committee's spring meeting.

FEDERAL RULES OF EVIDENCE

The Advisory Committee on Evidence Rules canceled its fall 2000 meeting because the agenda was light. It presented no items for the Committee's action.

The advisory committee is considering a few suggested rules changes and is continuing its review of the status of evidentiary privileges.

RULES GOVERNING ATTORNEY CONDUCT

A subcommittee consisting of representatives of the advisory rules committees and the Committee on Court Administration and Case Management and Committee on Federal/State Jurisdiction continues to meet to discuss problems concerning the regulation of attorney conduct in federal court. The subcommittee's studies have shown that there is wide disparity among local

rules of federal courts governing attorney conduct. The subcommittee is now focusing on whether the local rules variations are causing real problems. A conference of experts and practitioners in the attorney-disciplinary field was held in Washington, D.C., on January 16, 2001, and provided useful insights into the issues. In addition, the subcommittee continues to monitor congressional activity on the subject that would require the rules committees to report on relevant attorney conduct rules.

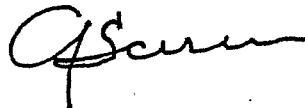
TECHNOLOGY SUBCOMMITTEE

The Committee's Technology Subcommittee reported on its ongoing work with the Committee on Court Administration and Case Management concerning privacy issues arising from electronic access to case files. The subcommittee is also working with that committee to develop guidance for courts on handling electronic case filings.

LONG-RANGE PLANNING

The Committee was presented with a brief planning document outlining the Committee's strategic issues and goals. The document was considered and no changes to the Committee's mission or strategies were adopted.

Respectfully submitted,



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Chair

David M. Bernick
Michael Boudin
Frank W. Bullock, Jr.
Charles J. Cooper
Sidney A. Fitzwater
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