

TO: HON. ROBERT E. KEETON  
CHAIRMAN, STANDING COMMITTEE

FROM: HON. EDWARD LEAVY  
CHAIRMAN, ADVISORY COMMITTEE  
ON BANKRUPTCY RULES

RE: REPORT OF THE ADVISORY COMMITTEE

DATE: JUNE 24, 1991

The Advisory Committee on Bankruptcy Rules met on June 20-21, 1991, in Boston. A copy of the agenda of the meeting is attached for your information. At the meeting, the Advisory Committee approved a number of proposed amendments to the Bankruptcy Rules. As I explain in a separate letter, I will be asking the Standing Committee at its meeting on July 18-19, 1991, for permission to publish these proposed amendments for comment from the bench and bar.

As I reported to the Standing Committee in January of this year, the Advisory Committee has formed three subcommittees to gather information and to formulate initial proposals for improving the Bankruptcy Rules in three specific areas. Each subcommittee has been active during the past year and has submitted a reports the June 1991 meeting of the Advisory Committee.

A subcommittee on chapter 13 individual debt adjustment cases has gathered comments from judges and practitioners from those districts that have a high volume of chapter 13 cases. The subcommittee invited several judges and lawyers to a meeting held in Raleigh, North Carolina in December of 1990, and also has

received written comments from others. The subcommittee had several telephone conferences since then, and prepared a report with recommendations for improvements to the rules focusing on chapter 13 debt adjustment cases. As a result, the Advisory Committee at its June 1991 meeting approved several changes that are included in the package of proposed amendments that will be presented to the Standing Committee at the July 18-19 meeting.

A subcommittee on technology of the Advisory Committee held a meeting in New Orleans on June 4-5, 1991, resulting in a proposal subsequently adopted by the Advisory Committee to provide for sending notices by electronic transmission instead of mail. The proposed new rule, Rule 9036, will provide substantial savings to the court system, and will significantly benefit credit card companies, institutional lenders, taxing authorities, and other entities who receive thousands of bankruptcy notices each year by mail at different locations.

A subcommittee on alternative dispute resolution also has met and has reported on its progress at the Advisory Committee meeting in June. The Advisory Committee will continue to focus on the use of alternative dispute resolution in bankruptcy cases, but will not be asking the Standing Committee for action in this area at the July meeting.

The Advisory Committee also plans to continue its efforts to study problems relating to local rules.

The Advisory Committee adopted a resolution that it is the sense of the Advisory Committee that it would be desirable to work

toward establishing a pattern of 7, 14, and 21-day time periods in the Bankruptcy Rules, with exceptions where appropriate, together with similar action of the other Advisory Committees.

Advisory Committee on Bankruptcy Rules

Meeting of June 20-21, 1991

Boston, Massachusetts

AGENDA

Introductory Item

1. Approval of minutes of January 1991 meeting. [Draft mailed by James E. Macklin, Jr., 2/15/91.]

Rules

2. Consideration of proposals of Technology Subcommittee concerning notice by other than mail and when is such notice is complete. [Materials: to be distributed prior to or at the meeting.]
3. Proposed Amendments to facilitate Chapter 13 cases, (from Chapter 13 Subcommittee). [Materials: Part I of Subcommittee Memorandum dated April 24, 1991, transmitted by Joseph F. Spaniol, Jr., May 10, 1991.]

The following matters, except the proposed amendment to Rule 3002(c), were discussed by the Advisory Committee and preliminarily approved at the January 1991 meeting.

Rule 2003. Proposed amendment to extend time for holding § 341 meeting in chapter 13 cases.

Rule 3002(a). Proposed amendment to delete the word "unsecured" for the purpose of clarifying that a secured creditor must file a proof of claim in order to have an "allowed claim" and must do so by the bar date.

Rule 3002(c). Proposed amendment to permit a secured creditor to file a proof of claim after the bar date if the failure to file timely was due to excusable neglect.

Rule 3004. Proposed amendment to give a secured creditor an opportunity to file a superseding claim, after the bar date, to replace a claim filed by the debtor or trustee.

The following matters are further new proposals of the Chapter 13 Subcommittee.

Rule 3015. Proposed amendments to deal with plan confirmation and modification in chapter 12 and chapter 13 cases.

Rules 3018, 3019, and 3020. Proposed amendments of a conforming nature to make these rules inapplicable in chapter 12 and chapter 13 cases.

Rules 1017(d). Proposed technical amendment to carify that date of filing of notice of conversion is to be treated as date of order of conversion for purposes of applying Rule 1019.

4. Twenty-two (22) further proposals concerning Chapter 13 cases not endorsed by the Subcommittee. Any member may request discussion of one or more of these, but proposals concerning which no request is made will be deemed rejected. [Materials: Part II of Subcommittee Memorandum dated April 24, 1991, and transmitted by Joseph F. Spaniol, Jr., May 10, 1991.]
5. Consideration of draft Committee Notes for proposed amendments to Rules 2002(j)(1), 3009, and 6007, which amendments were approved at January 1991 meeting. [Materials to be supplied by Reporter prior to or at the meeting.]
6. Report by Professor Resnick on time periods in rules.

#### Subcommittee Reports

7. Technology
8. Alternative Dispute Resolution
9. Local Rules
10. Forms
11. Meeting Dates and Places

#### Information/Miscellaneous

12. Update on Memorandum of Understanding on case closing between Administrative Office and Executive Office for U.S. Trustees.
13. Report of the Judicial Conference Committee on Rules of Practice and Procedure. [Materials: Report to JCUS, March 1991.]

New Business

14. Proposals of Judge Keeton for reexamination of the Rules of Practice and Procedure relating to the conduct of trials.

[Materials: Discussion draft of "Federal Rules of [Proof and Practice] [Trial], transmitted to Standing Committee by James E. Macklin, Jr., 1/29/91; Proposals for Discussion transmitted by Standing Committee by Judge Keeton, 1/15/91; Suggestions for discussion transmitted to Standing Committee by Judge Keeton 11/26/90.]

15. Discussion of 1990 amendment to 28 U.S.C. § 2072, the Rules Enabling Act, authorizing the prescribing of rules that define when a court's ruling is final for purposes of appeal. [Referred by Committee on Rules of Practice and Procedure.]

16. Consideration of technical, conforming amendment to Rule 2005(b)(2) pursuant to Section 321 of the Federal Courts Study Committee Implementation Act of 1990, which changed the title of federal magistrate to "magistrate judge." [Materials: to be distributed at the meeting.]

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.

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

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

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

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

9 (c) [abrogated] ~~ORDER-FOR-RELIEF--An-order-for-relief-shall~~  
10 ~~conform-substantially-to-the-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 proceeding to  
2 dismiss a case or convert a case to another chapter, except  
3 pursuant to §§ 706(a), 707(b), 1112(a), 1208(a) or (b), or 1307(a)  
4 or (b), is governed by Rule 9014. Conversion or dismissal pursuant  
5 to §§ 706(a), 1112(a), 1208(b), or 1307(b) shall be on motion  
6 filed and served as required by Rule 9013. A chapter 12 or chapter  
7 13 case shall be converted without court order on the filing by the  
8 debtor of a notice of conversion pursuant to §§ 1208(a) or 1307(a)  
9 and the date of the filing of the notice shall be deemed the date  
10 of the conversion order for the ~~purpose~~ purposes of applying §  
11 348(c) of the Code and Rule 1019. The clerk shall forthwith  
12 transmit to the United States 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 notices required  
2 to be mailed to all creditors under this rule shall be mailed (1)  
3 in a chapter 11 reorganization case to the Securities and Exchange  
4 Commission at ~~Washington, D.C.,~~ and at any other place the  
5 Commission designates in a filed writing if the Commission has  
6 filed a notice of appearance in the case or has made a request in  
7 a filed 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 or a chapter  
2 11 reorganization case, ~~Unless the case is a chapter 9 municipality~~  
3 ~~case or a chapter 12 family farmer's debt adjustment case,~~ the  
4 United States trustee shall call a meeting of creditors to be held  
5 not less than 20 nor more than 40 days after the order for relief.  
6 In a chapter 12 family farmer debt adjustment case, the United  
7 States trustee shall call a meeting of creditors to be held not  
8 less than 20 nor more than 35 days after the order for relief. In  
9 a chapter 13 individual's debt adjustment case, the United States  
10 trustee shall call a meeting of creditors to be held not less than  
11 20 nor more than 50 days after the order for relief. If there is  
12 an appeal from or a motion to vacate the order for relief, or if  
13 there is a motion to dismiss the case, the United States trustee  
14 may set a later time for the meeting. The meeting may be held at  
15 a regular place for holding court or at any other place designated  
16 by the United States trustee within the district convenient for the  
17 parties in interest. If the United States trustee designates a  
18 place for the meeting which is not regularly staffed by the United  
19 States trustee or an assistant who may preside at the meeting, the  
20 meeting may be held not more than 60 days after the order for  
21 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 debtor before  
2 the court is issued under this rule and the debtor is found in a  
3 district other than that of the court issuing the order, the debtor  
4 may be taken into custody under the order and removed in accordance  
5 with the following rules:

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

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

\* \* \* \*

21 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 creditor or an  
2 equity security holder must file a proof of claim or interest in  
3 accordance with this rule for the claim or interest to be allowed,  
4 except as provided in Rules 1019(3), 3003, 3004 and 3005.

5 \* \* \* \*

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

11 \* \* \* \*

12 (7) In a chapter 13 individual's debt adjustment case,  
13 on motion by a creditor who has not filed a proof of claim  
14 within the time herein above prescribed, the court for cause  
15 shown may extend the time for filing a proof of claim by the  
16 creditor where the failure to file a timely proof was the  
17 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 shall be paid as  
2 promptly as practicable ~~in the amounts and at the times as ordered~~  
3 ~~by the court~~. Dividend checks shall be made payable and mailed to  
4 each creditor whose claim has been allowed, unless a power of  
5 attorney authorizing another entity to receive dividends has been  
6 executed and filed in accordance with Rule 9010. In that event,  
7 dividend checks shall be made payable to the creditor and to the  
8 other entity and shall be mailed to the other 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 chapter 12 plan  
2 with the petition. If a plan is not filed with the petition, it  
3 shall be filed within the time prescribed by § 1221 of the Code.

4 (b) CHAPTER 13 PLAN. The debtor may file a chapter 13 plan  
5 with the petition. If a plan is not filed with the petition, it  
6 shall be filed within 15 days thereafter, and such time shall not  
7 be further extended except for cause shown and on notice as the  
8 court may direct. If a case is converted to chapter 13, a plan  
9 shall be filed within 15 days thereafter, and such time shall not  
10 be further extended except for cause shown and on notice as the  
11 court may direct.

12 (c) DATING. Every proposed plan and any modification thereof  
13 shall be dated.

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

19 (e) TRANSMISSION TO UNITED STATES TRUSTEE. The clerk shall  
20 forthwith transmit to the United States trustee a copy of the plan  
21 and any modification thereof filed pursuant to subdivision (a) or  
22 (b) of this rule.

1           (f) OBJECTIONS TO CONFIRMATION. Objections to confirmation  
2 of the plan shall be filed and served on the debtor, the trustee,  
3 and any other entity designated by the court, and shall be  
4 transmitted to the United States trustee, before confirmation of  
5 the plan. An objection to confirmation is governed by Rule 9014.

6           (g) MODIFICATION OF PLAN AFTER CONFIRMATION. A request for  
7 modification of a plan pursuant to § 1229 or § 1329 shall identify  
8 the name of the proponent and shall be filed together with the  
9 proposed modification. The clerk, or some other person as the  
10 court may direct, shall give the debtor, the trustee, and all  
11 creditors not less than 20 days notice by mail of the time fixed  
12 for filing objections and, if an objection is filed, the hearing  
13 to consider the proposed modification, unless the court orders  
14 otherwise with respect to creditors who are not affected by the  
15 proposed modification. A copy of the notice shall be transmitted  
16 to the United States trustee. A copy of the proposed modification  
17 or a summary thereof shall be included with the notice. If  
18 required by the court, the proponent shall furnish a sufficient  
19 number of copies of the proposed modification or a summary thereof  
20 to enable the clerk to include a copy with each notice. Objections  
21 to the proposed modification shall be filed and served on the  
22 debtor, the trustee, and any other entity designated by the court,  
23 and shall be transmitted to the United States trustee. An objection  
24 to a proposed modification is governed by Rule 9014.

COMMITTEE NOTE

Subdivision (c) 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 in only 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 reorganization  
2 case,    ~~After~~ after a plan has been accepted and before its  
3 confirmation , the proponent may file a modification of the plan.  
4 If the court finds after hearing on notice to the trustee, any  
5 committee appointed under the Code and any other entity designated  
6 by the court that the proposed modification does not adversely  
7 change the treatment of the claim of any creditor or the interest  
8 of any equity security holder who has not accepted in writing the  
9 modification, it shall be deemed accepted by all creditors and  
10 equity security holders who have previously accepted the 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 entry of the  
2 order confirming the plan, the court may order the deposit with the  
3 trustee or debtor in possession of the consideration required by  
4 the plan to be distributed on confirmation. Any money deposited  
5 shall be kept in a special account established for the exclusive  
6 purpose of making the distribution.

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

9 (1) Objections. Objections to confirmation of the plan  
10 shall be filed and served on the debtor, the trustee, the  
11 proponent of the plan, any committee appointed under the Code  
12 and on any other entity designated by the court, within a time  
13 fixed by the court. Unless the case is a chapter 9  
14 municipality case, a copy of every objection to confirmation  
15 shall be transmitted by the objecting party to the United  
16 States trustee within the time fixed for the filing of  
17 objections. An objection to confirmation is governed by Rule  
18 9014.

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

24 (c) ORDER OF CONFIRMATION. The order of confirmation shall

1 conform to the appropriate Official Form and notice of entry  
2 thereof shall be mailed promptly as provided in Rule 2002(f) to the  
3 debtor, the trustee, creditors, equity security holders and other  
4 parties in interest. Except in a chapter 9 municipality case,  
5 notice of entry of the order of confirmation shall be transmitted  
6 to the United States trustee as provided in Rule 2002(k).

7 (d) RETAINED POWER. Notwithstanding the entry of the order  
8 of confirmation, the court may enter all orders necessary to  
9 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, proofs of  
2 claim or interest, complaints, motions, applications, objections  
3 and other papers required to be filed by these rules, except as  
4 provided in 28 U.S.C. § 1409, shall be filed with the clerk in the  
5 district where the case under the Code is pending. The judge of  
6 that court may permit the papers to be filed with the judge, in  
7 which event the filing date shall be noted thereon, and they shall  
8 be forthwith transmitted to the clerk. The clerk shall not refuse  
9 to accept for filing any petition or other paper presented for that  
10 purpose solely because it is not presented in proper form as  
11 required by these rules or any local rules or 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 filing and  
2 transmittal of the report and account required by subdivision (a)  
3 of this rule and after an examination has been made into the  
4 superseded administration, after notice and a hearing ~~en-actise~~ the  
5 court shall determine the propriety of the administration,  
6 including the reasonableness of 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 pursuant to  
2 subdivision (a) or (b) of this rule, ~~the court shall set a hearing~~  
3 ~~on~~ notice shall be given to the other party to the contract or  
4 lease, to other parties in interest as the court may direct, and,  
5 except in a chapter 9 municipality case, to the United States  
6 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 DISPOSITION; OBJECTIONS;  
2 HEARING. Unless otherwise directed by the court, the trustee or  
3 debtor in possession shall give notice of a proposed abandonment  
4 or disposition of property to the United States trustee, all  
5 creditors, indenture trustees and committees elected pursuant to  
6 § 705 or appointed pursuant to  
7 § 1102 of the Code. An objection may be filed and served by a  
8 party in interest within 15 days of the mailing of the notice, or  
9 within the time fixed by the court. If a timely objection is made,  
10 the court shall set a hearing on notice to the United States  
11 trustee and to other entities as the court may direct.

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

15 (c) abrogated HEARING, ~~---If-a-timely-objection-is-made-as~~  
16 ~~prescribed-by-subdivision-(a)-of-this-rule,-or-if-a-motion-is-made~~  
17 ~~as-prescribed-by-subdivision-(b),-the-court-shall-set-a-hearing-on~~  
18 ~~notice-to-the-United-States-trustee-and-to-other-the-entities-as~~  
19 ~~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 after notice and  
2 a hearing ~~on notice to~~ , the court may approve a compromise or  
3 settlement. Notice shall be given to creditors, the United States  
4 trustee, the debtor and indenture trustees as provided in Rule 2002  
5 and to such other entities as the court may  
6 designate, ~~the court may approve a compromise or settlement.~~

COMMITTEE NOTE

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

### Rule 9036. Notice by Electronic Transmission

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