

REQUEST FOR COMMENT

on
Preliminary Draft of
Proposed Amendments to the
Federal Rules of
Bankruptcy Procedure

ALL WRITTEN COMMENTS DUE BY JANUARY 1, 1999

AMENDMENTS ARE BEING PROPOSED TO:

Bankruptcy Rules 1006, 1007, 1014, 1017, 2001, 2004, 2007, 2014,
("Litigation Package") 2016, 3001, 3006, 3007, 3012, 3013, 3015, 3019,
3020, 4001, 6004, 6006, 6007, 9006, 9013,
9014, 9017, 9021, and 9034

Bankruptcy Rules 1007, 1017, 2002, 4003, 4004, and 5003
("Other Amendments")

Official Forms 1 and 7

A PUBLIC HEARING ON THE AMENDMENTS WILL BE HELD IN:
Washington, D.C. on January 28, 1999

COMMITTEE ON RULES OF PRACTICE AND PROCEDURE
OF THE JUDICIAL CONFERENCE OF THE UNITED STATES

August 1998

Preliminary Draft of
Proposed Amendments to the
Federal Rules of
Bankruptcy Procedure

Request for Comment

ALL WRITTEN COMMENTS DUE BY JANUARY 1, 1999

AMENDMENTS ARE BEING PROPOSED TO:

Bankruptcy Rules 1006, 1007, 1014, 1017, 2001, 2004, 2007, 2014,
("Litigation Package") 2016, 3001, 3006, 3007, 3012, 3013, 3015, 3019,
3020, 4001, 6004, 6006, 6007, 9006, 9013,
9014, 9017, 9021, and 9034

Bankruptcy Rules 1007, 1017, 2002, 4003, 4004, and 5003
("Other Amendments")

Official Forms 1 and 7

Address all communications on rules to
Secretary of the Committee on Rules of Practice and Procedure
Administrative Office of U.S. Courts
Washington, D.C. 20544

COMMITTEE ON RULES OF PRACTICE AND PROCEDURE
OF THE JUDICIAL CONFERENCE OF THE UNITED STATES

August 1998

**COMMITTEE ON RULES OF PRACTICE AND PROCEDURE
OF THE
JUDICIAL CONFERENCE OF THE UNITED STATES**

August 1998

TO THE BENCH, BAR, AND PUBLIC:

The Judicial Conference Advisory Committees on Bankruptcy Rules, Civil Rules, and Evidence Rules has proposed amendments to the federal rules and requested that the proposals be circulated to the bench, bar, and public for comment. The advisory committee notes explain the proposals. (The proposed amendments to the Civil and Evidence Rules are contained in a separate pamphlet and are posted at <www.uscourts.gov>.)

We request that all suggestions and comments, whether favorable, adverse, or otherwise, be placed in the hands of the Secretary as soon as convenient and, in any event, **no later than January 1, 1999**. (Comments on the proposed amendments to the Civil and Evidence Rules are due no later than February 1, 1999.) All communications on the rules should be addressed to the Secretary of the Committee on Rules of Practice and Procedure, Administrative Office of the United States Courts, Washington, D.C. 20544. As part of a two-year pilot project, comments may be sent electronically via the Internet at <www.uscourts.gov>.

To provide persons and organizations wishing an opportunity to comment orally on the proposed amendments, a hearing is scheduled to be held on the amendments to the Bankruptcy Rules in Washington, D.C. on January 28, 1999.

Those wishing to testify should contact the Secretary of the Committee at the above address **at least 30 days before the hearing**. The advisory committee will review all timely received comments and will take a fresh look at the proposals in light of the comments. If the advisory committee approves a proposal, it and any revisions as well as a summary of all comments received from the public will then be considered by the Standing Committee. All comments are made part of the official record and are available for public inspection.

The Judicial Conference Standing Committee on Rules of Practice and Procedure **has not approved these proposals**, except to authorize their publication for comment. The proposed amendments have not been submitted to or considered by the Judicial Conference of the United States or the Supreme Court.

Alicemarie H. Stotler
Chair

Peter G. McCabe
Secretary

TABLE OF CONTENTS

	Page
Letter of transmittal to Judge Alicemarie H. Stotler, Chair, Standing Committee on Rules of Practice and Procedure, from Judge Adrian G. Duplantier, Chair, Advisory Committee on Bankruptcy Rules	1
PART I: LITIGATION PACKAGE	3
Introduction to Preliminary Draft of Proposed Amendments to the Federal Rules of Bankruptcy Procedure Relating to Litigation and Motion Practice	4
Rule 1006. Filing Fee	20
Rule 1007. Lists, Schedules and Statements; Time Limits	23
Rule 1014. Dismissal and Change of Venue	25
Rule 1017. Dismissal or Conversion of Case; Suspension	29
Rule 2001. Appointment of Interim Trustee Before Order for Relief in a Chapter 7 Liquidation Case	33
Rule 2004. Examination	34
Rule 2007. Review of Appointment of Creditors' Committee Organized Before Commencement of the Case	36
Rule 2014. Employment of Professional Persons	39
Rule 2016. Compensation for Services Rendered and Reimbursement of Expenses	48
Rule 3001. Proof of Claim	52
Rule 3006. Withdrawal of Claim; Effect on Acceptance or Rejection of Plan	54
Rule 3007. Objections to Claims	55
Rule 3012. Valuation of Security	57
Rule 3013. Classification of Claims and Interests	57
Rule 3015. Filing, Objection to Confirmation, and Modification of a Plan in a Chapter 12 Family Farmer's Debt Adjustment or a Chapter 13 Individual's Debt Adjustment Case	58
Rule 3019. Modification of Accepted Plan Before Confirmation in a Chapter 9 Municipality or a Chapter 11 Reorganization Case	62
Rule 3020. Deposit; Confirmation of a Plan in a Chapter 9 Municipality or a Chapter 11 Reorganization Case	63
Rule 4001. Relief from Automatic Stay; Prohibiting or Conditioning the Use, Sale, or Lease of Property; Use of Cash Collateral; Obtaining Credit; Agreements	66
Rule 6004. Use, Sale, or Lease of Property	74
Rule 6006. Assumption, Rejection and Assignment of Executory Contracts and Unexpired Leases	79
Rule 6007. Abandonment or Disposition of Property	80
Rule 9006. Time	82
Rule 9013. Motions: Form and Service	84
Rule 9014. Contested Matters	90
Rule 9017. Evidence	110
Rule 9021. Entry of Judgment	111

TABLE OF CONTENTS

	Page
Rule 9034. Transmittal of Pleadings, Motion Papers, Objections, and Other Papers to the United States Trustee	111
PART II: MISCELLANEOUS PROPOSED AMENDMENTS	115
Rule 1007. Lists, Schedules, and Statements; Time Limits	117
Rule 1017. Dismissal or Conversion of Case; Suspension	118
Rule 2002. Notices to Creditors, Equity Security Holders, United States, and United States Trustee	120
Rule 4003. Exemptions	124
Rule 4004. Grant or Denial of Discharge	126
Rule 5003. Records Kept By the Clerk	128
PART III: PROPOSED FORMS AMENDMENTS	131
Official Bankruptcy Form 1 Voluntary Petition	132
Official Bankruptcy Form 7 Statement of Financial Affairs	136
Procedures for the Conduct of Business by the Judicial Conference Committees on Rules of Practice and Procedure	145
Membership of Judicial Conference Rules Committees	149
State Bar Points of Contact	152

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

ALICEMARIE H. STOTLER
CHAIR

PETER G. McCABE
SECRETARY

CHAIRS OF ADVISORY COMMITTEES

WILL L. GARWOOD
APPELLATE RULES

ADRIAN G. DUPLANTIER
BANKRUPTCY RULES

PAUL V. NIEMEYER
CIVIL RULES

W. EUGENE DAVIS
CRIMINAL RULES

FERN M. SMITH
EVIDENCE RULES

TO: Honorable Alicemarie H. Stotler, Chair
Standing Committee on Rules of Practice
and Procedure

FROM: Honorable Adrian G. Duplantier, Chair
Advisory Committee on Bankruptcy Rules

DATE: May 11, 1998

RE: Report of the Advisory Committee on Bankruptcy Rules

Introduction

The Advisory Committee on Bankruptcy Rules met on March 26-27, 1998, at the Winrock International Conference Center in Morrilton, Arkansas.

* * * * *

The Advisory Committee also approved a preliminary draft of proposed amendments that would substantially revise procedures relating to litigation (other than adversary proceedings) in bankruptcy cases. In addition to complete revisions of Rules 9013 (motions) and 9014 (contested matters), related amendments are proposed for 25 other rules. This "Litigation Package" of proposed amendments will be presented to the Standing Committee at the June 1998 meeting with a request that they be published for comment by the bench and bar.* To assist the Standing Committee and the public, the Advisory Committee has prepared an "Introduction" to explain these amendments, which the Committee recommends be published with the proposed amendments.

* The "Litigation Package" amendments are set out in Part I beginning on page 3.

The Advisory Committee also approved a preliminary draft of proposed amendments to six Bankruptcy Rules** and two Official Bankruptcy Forms*** that are not related to the Litigation Package. The Advisory Committee will also present these proposed amendments to the Standing Committee at its June 1998 meeting with a request that they be published for comment.

The preliminary drafts of proposed amendments that will be presented to the Standing Committee for final approval and transmission to the Judicial Conference, or for publication for comment, are set forth as "Action Items" in this report.

* * * * *

** The six rule amendments are set out in Part II beginning on page 115.

*** The two form amendments are set out in Part III beginning on page 131.

PART I

LITIGATION PACKAGE

I. Action Items

* * * * *

- B. The “Litigation Package” — Proposed Amendments to Bankruptcy Rules 1006, 1007, 1014, 1017, 2001, 2004, 2007, 2014, 2016, 3001, 3006, 3007, 3012, 3013, 3015, 3019, 3020, 4001, 6004, 6006, 6007, 9006, 9013, 9014, 9017, 9021, and 9034 Submitted for Approval to Publish for Comment.

1. *Introduction to Proposed Amendments.*

The Advisory Committee prepared the following introduction to the proposed amendments relating to litigation in bankruptcy cases, and requests that this introduction be published together with the preliminary draft of proposed amendments.

**Introduction to Preliminary Draft of
Proposed Amendments to the Federal Rules of
Bankruptcy Procedure Relating to
Litigation and Motion Practice**

At the request of the Advisory Committee on Bankruptcy Rules, in 1995 the Federal Judicial Center conducted an extensive survey of bankruptcy judges, lawyers, trustees, clerks and other participants in the bankruptcy system to determine their satisfaction or dissatisfaction with the Federal Rules of Bankruptcy Procedure. The Advisory Committee requested the survey in connection with the work of its Long-Range Planning Subcommittee and for the purpose of identifying areas that are in need of improvement. The survey results indicated general satisfaction with the Rules, but identified motion practice and litigation as areas of significant dissatisfaction.

The Bankruptcy Rules in Part VII govern an adversary proceeding, which is a form of litigation in bankruptcy court conducted in a manner that is similar to a civil action in district court. For example, an adversary proceeding is commenced by filing a complaint followed by service of a summons. Most Part VII Rules incorporate by reference specific Federal Rules of Civil Procedure. The Advisory Committee believes, and the Federal Judicial Center survey confirms, that the Rules governing adversary proceedings are working well.

But most requests for court orders and litigated disputes in bankruptcy court are not adversary proceedings; they are governed by some form of motion practice unrelated to any adversary proceeding. There has been confusion and criticism regarding procedures that

govern these matters, and these are the troublesome areas identified in the Federal Judicial Center survey.

One significant difference between a typical motion filed in a civil action in the district court and a typical motion filed in bankruptcy court is that the motion in district court relates to a pending lawsuit. For example, a defendant may file a motion to dismiss a complaint or for summary judgment. In contrast, a motion filed in bankruptcy court usually commences new litigation that is unrelated to any pending lawsuit. For example, a creditor may file a motion for the appointment of a trustee in a chapter 11 case or for relief from the automatic stay, or a trustee may file a motion to assume or reject an executory contract. Each of these motions commences litigation by or against specified parties who may not be parties in any pending litigation. Although these motions are made within a bankruptcy case, the bankruptcy case is not, in and of itself, litigation involving a legal dispute in the traditional sense. Under section 301 of the Bankruptcy Code, the mere filing of a voluntary bankruptcy petition constitutes an order for relief.

A serious criticism of the Bankruptcy Rules is that there is a lack of national uniformity and insufficient guidance regarding procedures governing the resolution of these important substantive disputes. Motions relating to a pending adversary proceeding — such as a motion relating to discovery in an adversary proceeding seeking to recover a preferential payment to a creditor — may be subject to minor local variation consistent with the flexibility present in district court motion practice. The local variations in procedure addressed by these proposed amendments are of much greater consequence.

Although such motions that are unrelated to pending litigation may involve millions of dollars to the litigants, the current Rules provide little specificity or uniformity as to the procedure governing them. Current Rule 9014 provides that relief is obtained by motion served in the manner provided for service of a summons, that reasonable notice and opportunity to be heard must be afforded, and that a response is not required unless the court orders otherwise. In the absence of a contrary order, certain listed Part VII rules applicable to adversary proceedings — most relating to discovery or summary judgment — apply to the motion, and the court may order that other Part VII rules shall apply. Rule 9006(d), which applies to motions generally, provides that, unless the court orders otherwise, at least five days' notice of a hearing must be given and, if the motion is supported by affidavit, the affidavit must be served at least one day before the hearing. These general provisions are often varied or supplemented with greater detail by local rule or court order. The result is that practice varies from district to district or from court to court. The Advisory Committee believes that greater specificity and national uniformity, as well as improvements to the current procedures, are desirable for such motions that are unrelated to any pending litigation.

Another criticism addressed by the Advisory Committee is confusion resulting from terminology used in the Bankruptcy Rules. For example, Rule 9014 governs “contested matters,” such as a motion to reject an executory contract or a motion to obtain court approval of a sale of assets. In many instances, “contested matters” are, in fact, uncontested. Other proceedings, such as an “application” for approval of professional fees, are not “contested matters” under the Rules, despite the fact that they are often contested by parties in interest.

The Advisory Committee has spent more than two years studying the Rules relating to litigation in bankruptcy courts and formulating proposed amendments designed to improve procedures for obtaining court orders and resolving disputes. As mentioned above, the Advisory Committee is satisfied that the rules governing adversary proceedings under Part VII are working well. But the Advisory Committee is proposing amendments that would substantially revise other procedures for obtaining court orders unrelated to pending litigation, both for routine administrative matters and for more complex disputes that require greater procedural safeguards.

The most important and fundamental changes would be made to Rules 9013 (Motions; Form and Service) and 9014 (Contested Matters), although 25 other Rules will have to be revised to conform to the new procedures. In general, the proposed amendments would increase national uniformity and provide more detailed procedural guidance when a party requests relief unrelated to pending litigation; these amendments should reduce substantially the number of local rules.

The highlights of the preliminary draft of the proposed amendments are as follows:

- (1) Rule 9013 would be replaced with a new rule on “applications.” This rule would govern specific types of relief in areas that are routine, nonsubstantive, and rarely contested. For example, Rule 9013 would govern the procedure for obtaining a court order to

6 FEDERAL RULES OF BANKRUPTCY PROCEDURE

jointly administer two or more cases, or for an order reopening a closed case. The procedures would be streamlined so as to avoid unnecessary costs or delay.

- * The application and a proposed order would be served on specified entities at any time before, or even at, the time when the application is filed with the court; advance notice is not required.
- * Although service by first class mail is available, the court by local rule may permit the application and accompanying papers to be served by electronic means.
- * A response to the application would not be required and the court may order relief without a hearing.

- (2) Rule 9014 would govern motions that are related to the administration of the bankruptcy case or the estate, but are usually unrelated to any other pending litigation. These motions are often contested and may affect significant substantive rights of the parties. For example, a motion asking the court to order the appointment of a trustee in a chapter 11 case, requesting relief from the automatic stay, requesting authorization for a debtor in possession to obtain credit, or seeking an order terminating the exclusive period in which only the debtor may file a plan of reorganization, would be an administrative proceeding

governed by Rule 9014. Certain types of proceedings, such as a chapter 11 confirmation hearing governed by Rule 3020, would be expressly excluded from the scope of the rule so that more appropriate tailor-made procedures could govern. The title of Rule 9014 would be changed from “Contested Matters” to “Administrative Proceedings.”

The significant features of an administrative proceeding under the preliminary draft of the proposed amendments to Rule 9014 include the following:

- * The proceeding would be commenced by filing and serving a motion.
- * The rule would specify the papers that must accompany the motion. A proposed order and, unless the movant is a consumer debtor, one or more supporting affidavits must be included. In certain situations, a copy of a valuation report must be included with the motion papers.
- * The motion papers, including notice of the hearing, must be served on specified entities at least 20 days before the hearing date. The court by local rule may permit the papers to be served by electronic means.

FEDERAL RULES OF BANKRUPTCY PROCEDURE

- * Interim relief, if appropriate, may be ordered on an expedited basis.
- * A response to the motion may be served and filed, but no later than five days before the scheduled hearing date. If no timely response is filed, the court may rule on the matter without a hearing or may give notice to the movant that a hearing will be held notwithstanding the absence of a response.
- * Discovery methods applicable in adversary proceedings would be available, except that mandatory disclosures required under Civil Rule 26(a)(1)-(3) and the discovery meeting required under Rule 26(f) would not apply. Certain 30-day time periods in the Civil Rules relating to discovery would be reduced to ten days consistent with the expedited nature of administrative proceedings.
- * If a timely response is filed, the court would hold a hearing to determine whether there is a genuine issue as to any material fact and, if not, whether any party is entitled to relief as a matter of law. Except for certain types of motions or if the parties otherwise consent, no testimony would be taken at the hearing. Therefore, attorneys and unrepresented parties would not have to bring witnesses to the hearing in most situations. If there is no

genuine issue as to any material fact, the court may grant the appropriate relief. If the court finds that there is a genuine issue of material fact, the court would conduct a status conference for the purpose of expediting the disposition of the proceeding and scheduling the evidentiary hearing. Alternatively, on reasonable notice to the parties, the court may order that an evidentiary hearing at which witnesses may testify will be held on the originally scheduled hearing date.

- * Rule 43(e) of the Federal Rules of Civil Procedure provides that where a motion is based on facts not appearing of record the court may hear the motion on affidavits presented by the parties. The Advisory Committee believes, however, that the assessment of witness credibility is as important at an evidentiary hearing on an administrative motion as it is at a trial in an adversary proceeding. Accordingly, the proposed amendments to Rule 9014 provide that Civil Rule 43(e) does not apply at an evidentiary hearing on an administrative motion. When there is a genuine issue of material fact, this provision would require that witnesses appear and testify, rather than give testimony by affidavit.

10 FEDERAL RULES OF BANKRUPTCY PROCEDURE

- * To provide flexibility where needed, the court for cause may order that any procedural requirement under Rule 9014 will not apply or will be amended in a particular proceeding. But the requirements of Rule 9014 may not be abrogated by local rule or general order. In accordance with Rule 9006, the court also may extend or reduce any time period set forth in Rule 9014.

It would be desirable to divide all proceedings arising in, or related to, a bankruptcy case into only three categories: applications under Rule 9013, administrative proceedings under Rule 9014, and adversary proceedings under Part VII. But there are some proceedings that do not fit well into any of these three categories. These excluded proceedings, which are listed in the proposed amendments to Rule 9014(a), would be governed by other specified rules.

Although the proposed amendments to Rules 9013 and 9014 would provide greater guidance and national uniformity, they would not govern motions that are made within a pending adversary proceeding, pending administrative proceeding, or other pending litigation. For example, Rules 9013 and 9014 would not govern a motion dealing with a discovery dispute in an adversary proceeding. Motions that are related to pending litigation in bankruptcy court — which are similar to typical motions made in a civil action in the district court — would continue to be guided by other national rules, such as Rule 7007 or 9006, and by local rules and practice.

This preliminary draft of these proposed amendments has not been approved except for the limited purpose of publication for comment. The Advisory Committee is seeking comments and suggestions from the bench and bar regarding all aspects of these proposed amendments, and is especially interested in receiving comments regarding the highlighted provisions mentioned above. All comments, whether favorable, adverse, or otherwise, will be considered by the Advisory Committee, and further revisions to the preliminary draft may be made before the Advisory Committee finally recommends the adoption of amendments to the Bankruptcy Rules relating to litigation and motion practice.

2. *Rule-by-Rule Synopsis of Proposed Amendments (“Litigation Package”)*:

Each of the following rules has been amended for stylistic improvement, as well as for substantive changes as described below.

(a) Rule 1006 is amended to provide that a request to pay the filing fee in installments may be granted without notice or a hearing. The procedural requirements for an application under Rule 9013 or for an administrative motion under Rule 9014 are not applicable. Other amendments are for clarification regarding the prohibition on paying fees to an attorney or bankruptcy petition preparer before the filing fee has been paid in full.

(b) Rule 1007(c) is amended to provide that a request for an extension of time to file schedules and

FEDERAL RULES OF BANKRUPTCY PROCEDURE

statements may be resolved without notice or a hearing. The procedural requirements for an application under Rule 9013 or for an administrative motion under Rule 9014 are not applicable.

(c) Rule 1014 is amended to conform to the proposed amendments to Rule 9014.

(d) Rule 1017 is amended to provide that a motion to dismiss a chapter 7 case under § 707(b) is governed by Rule 9014 when initiated by the United States trustee, but is not governed by Rule 9014 when initiated on the court's own motion. The amendments also clarify which entities receive notice of a motion to dismiss under § 707(b).

(e) Rule 2001(a) is amended to conform to the proposed amendments to Rule 9014 and to clarify that a motion for an interim trustee in an involuntary case is governed by Rule 9014.

(f) Rule 2004 is amended to provide that a request for an order to examine an entity under the rule is made by application under Rule 9013. The amendments also clarify that the examination 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. An attorney may issue and sign a subpoena on behalf of the court for the district in which the examination is to be held if the attorney is admitted to practice either in that court

or in the court in which the bankruptcy case is pending.

(g) Rule 2007 is amended to conform to the proposed amendments to Rule 9014.

(h) Rule 2014 has been substantially revised to provide more detailed procedures for obtaining an order authorizing the employment of professionals. A request for court authorization under this Rule is by motion, but is not governed by Rule 9013 or Rule 9014. The amendments provide new notice and service requirements, provide for interim approval of the employment of professionals, and specify requirements for initial disclosures and for supplemental disclosures.

(i) Rule 2016 is amended to provide that a request for compensation for services rendered and for reimbursement of expenses is made by motion governed by Rule 9014, rather than by application. The rule is amended to conform to the proposed amendments to Rule 9014.

(j) Rule 3001(e) is amended to provide that an objection or motion under that rule relating to a transfer of a claim is governed by Rule 9014, and to conform to the proposed amendments to Rule 9014.

(k) Rule 3006 is amended to conform to the proposed amendments to Rule 9014.

FEDERAL RULES OF BANKRUPTCY PROCEDURE

(l) Rule 3007 is amended to provide that, unless it is joined with a demand for relief that requires commencement of an adversary proceeding, an objection to the allowance of a claim is made by motion governed by Rule 9014. The rule also provides that the motion must be served at least 30 days before the hearing despite the notice provisions contained in Rule 9014(c).

(m) Rule 3012 is amended to conform to the proposed amendments to Rule 9014.

(n) Rule 3013 is amended to provide that a motion to determine classification of claims and interests is governed by Rule 9014.

(o) Rule 3015(f) is amended to provide more detailed procedures governing an objection to confirmation of a chapter 12 or chapter 13 plan, which is not governed by Rule 9014. Rule 3015(g) is amended to provide that a request to modify a chapter 12 or chapter 13 plan after confirmation is a motion governed by Rule 9014.

(p) Rule 3019 is amended to conform to the proposed amendments to Rule 9014.

(q) Rule 3020(b) is amended to provide more detailed procedures governing an objection to confirmation of a chapter 9 or chapter 11 plan, which is not governed by Rule 9014.

(r) Rule 4001 is amended to conform to the proposed amendments to Rule 9014.

(s) Rule 6004 is amended to conform to the proposed amendments to Rule 9014. If a timely objection is filed after the trustee sends to creditors a notice of a proposed use, sale, or lease of property under § 363(b), the notice is treated as a motion governed by Rule 9014 and the objection is treated as a response. But if the trustee is seeking to sell property free and clear of liens and other interests under § 363(f), the trustee must file a motion governed by Rule 9014 and any party who wants to object must file a response to the motion in accordance with Rule 9014.

(t) Rule 6006 is amended to conform to the proposed amendments to Rule 9014.

(u) Rule 6007 is amended to provide that an objection to a proposed abandonment or disposition of property is governed by Rule 9014. The objection is made by filing and serving a motion in accordance with Rule 9014 before the time to object expires.

(v) Rule 9006(d) is amended to limit it to motions made within adversary proceedings under Part VII of the rules, and to procedural or dispositive motions relating to pending administrative proceedings under Rule 9014.

(w) Rule 9013 is completely revised to govern a category of proceedings, called “applications,” that relate to certain enumerated matters which, in most instances, are nonsubstantive and noncontroversial. The provisions of Rule 9013 will enable parties to obtain certain types of relief in a much shorter time period and with less expense when compared to the procedural requirements for administrative motions under the proposed amendments to Rule 9014. See *“Introduction to Preliminary Draft of Proposed Amendments to the Federal Rules of Bankruptcy Procedure Relating to Litigation and Motion Practice,”* above, for a more detailed discussion of the proposed amendments to Rule 9013.

(x) Rule 9014 is completely revised, and the title has been changed from “Contested Matters” to “Administrative Proceedings.” The amendments provide uniform and detailed procedures for motions that relate to the administration of the bankruptcy case or the estate, such as a motion seeking the appointment of a chapter 11 trustee, a motion to reject an executory contract, or a motion for authorization to obtain credit. These motions are usually unrelated to any other pending litigation. For a more detailed discussion of the proposed amendments to Rule 9014, see *“Introduction to Preliminary Draft of Proposed Amendments to the Federal Rules of Bankruptcy Procedure Relating to Litigation and Motion Practice,”* above.

(y) Rule 9017 is amended to conform to the proposed amendments to Rule 9014, which provides that Rule 43(e) F.R.Civ.P. does not apply at an evidentiary hearing under Rule 9014. The effect of this amendment is that a witness must testify in open court, rather than by affidavit, at an evidentiary hearing in an administrative proceeding.

(z) Rule 9021 is amended to conform to the proposed amendments to Rule 9014.

(aa) Rule 9034 is amended to add several types of proceedings in which the United States trustee is entitled to receive copies of pleadings and other papers. These amendments are necessary because provisions requiring transmission of such papers to the United States trustee have been deleted from the text of several rules. The amendments also will require that papers relating to the election of a chapter 11 trustee be transmitted to the United States trustee.

3. *Text of Proposed Amendments (“Litigation Package”)*:

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

Rule 1006. Filing Fee

1 (a) GENERAL REQUIREMENT. Every petition
2 shall be accompanied by the filing fee except as provided in
3 ~~subdivision (b) of this rule~~ Rule 1006(b). For the purpose
4 purposes of this rule, “filing fee” means the ~~filing~~ fee
5 prescribed by 28 U.S.C. § 1930(a)(1)-(a)(5) and any other fee
6 prescribed by the Judicial Conference of the United States
7 under 28 U.S.C. § 1930(b) that is payable to the clerk ~~upon~~
8 ~~the commencement of a case under the Code~~ when the case is
9 commenced.

10 (b) ~~PAYING PAYMENT OF FILING FEE IN~~
11 ~~INSTALLMENTS~~.

12 (1) ~~Request Application for Permission to~~
13 ~~Pay Filing Fee in Installments~~. The clerk shall accept

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

14 for filing an individual's voluntary petition if it is A
15 ~~voluntary petition by an individual shall be accepted~~
16 ~~for filing if~~ accompanied by the debtor's signed
17 ~~application~~ request stating that the debtor is unable to
18 pay the filing fee except in installments. The
19 ~~application~~ request shall state the proposed terms of
20 the installment payments and that the ~~applicant~~ debtor
21 has neither paid any money nor transferred any
22 property to an attorney for services in connection with
23 the case.

24 (2) *Action on ~~Application~~ the Request.*
25 Before ~~Prior to~~ the meeting of creditors, with or
26 without notice or a hearing, the court may order the
27 filing fee paid to the clerk or grant leave to pay it in
28 installments and fix the number, amount, and dates of
29 payment. The number of installments shall not exceed

20 FEDERAL RULES OF BANKRUPTCY PROCEDURE

30 four, and the final installment shall be payable ~~not~~ no
31 later than 120 days after ~~filing~~ the petition is filed. For
32 cause ~~shown~~, the court may extend the time of any
33 installment to a time that is, ~~provided the last~~
34 ~~installment is paid~~ not no later than 180 days after
35 ~~filing~~ the petition is filed.

36 (3) ~~Postponement~~ Postponing Payment of
37 Attorney's Other Fees. After a petition is filed, The
38 the filing fee must be paid in full before the debtor or
39 chapter 13 trustee may pay an attorney, bankruptcy
40 petition preparer, or any other person who renders
41 services to the debtor in connection with the case.

COMMITTEE NOTE

This rule is amended to provide that a request to pay the filing fee in installments may be granted by the court without notice or a hearing. The procedural requirements for an application under Rule 9013 or an administrative motion under Rule 9014 are not applicable to these requests.

Under subdivision (b)(1), the debtor is required to state in the request for permission to pay the filing fee in installments that the debtor has neither paid money nor transferred property to an attorney for services rendered in connection with the case. A similar statement is not required with respect to bankruptcy petition preparers. A debtor who pays a bankruptcy petition preparer should not be disqualified from paying the filing fee in installments. But after the petition is filed, the debtor is prohibited by Rule 1006(b)(3) from paying fees to an attorney, bankruptcy petition preparer, or any other person for services in connection with the case until the filing fee, including every installment, is paid in full.

Rule 1007. Lists, Schedules and Statements; Time Limits

1

* * * * *

2

(c) TIME LIMITS. Except as provided in Rule

3

1007(d), (e), and (h), in a voluntary case, the debtor shall file

4

the ~~The~~ schedules and statements, other than the statement of

5

intention, ~~shall be filed~~ with the petition ~~in a voluntary case,~~

6

or, if the petition is accompanied by a list of all the debtor's

7

creditors and their addresses, within 15 days after the petition

8

is filed, ~~within 15 days thereafter, except as otherwise~~

9

~~provided in subdivisions (d), (e), and (h) of this rule.~~ In an

22 FEDERAL RULES OF BANKRUPTCY PROCEDURE

10 involuntary case, the debtor shall file the schedules and
11 statements, other than the statement of intention, ~~shall be filed~~
12 ~~by the debtor~~ within 15 days after ~~entry~~ of the order for relief
13 is entered. Unless the court directs otherwise, schedules
14 ~~Schedules~~ and statements filed ~~prior to~~ before a case is
15 converted ~~the conversion of a case to another chapter shall be~~
16 are deemed filed in the converted case ~~unless the court directs~~
17 ~~otherwise. Any A request to extend the extension of time for~~
18 ~~the filing of the schedules and statements may be granted with~~
19 or without notice or a hearing only on motion for cause shown
20 ~~and on notice to the United States trustee and to any~~
21 ~~committee elected under § 705 or appointed under § 1102 of~~
22 ~~the Code, trustee, examiner, or other party as the court may~~

23 ~~direct.~~ Notice of an extension of time shall be given to the
24 United States trustee and to any committee, trustee, or other
25 party as the court may direct.

26 * * * * *

COMMITTEE NOTE

This rule is amended to provide that a request for an extension of time to file schedules and statements under subdivision (c) may be resolved by the court without notice or a hearing. The procedural requirements for an application under Rule 9013 or an administrative motion under Rule 9014 are not applicable to the request. The other amendments are stylistic.

Rule 1014. Dismissal and Change of Venue

1 (a) DISMISSAL AND TRANSFER OF CASES.
2 (1) *Cases Filed in Proper District.* If a
3 petition is filed in a proper district and a party in
4 interest makes a,~~on~~ timely motion, ~~of a party in~~
5 ~~interest, and after hearing on notice to the petitioners,~~
6 ~~the United States trustee, and other entities as directed~~

24 FEDERAL RULES OF BANKRUPTCY PROCEDURE

7 ~~by the court, the case may be transferred~~ the court may
8 transfer the case to any other district if ~~the court it~~
9 determines that the transfer is in the interest of justice
10 or for the convenience of the parties.

11 (2) *Cases Filed in Improper District.* If a
12 petition is filed in an improper district and a party in
13 interest makes a, on timely motion, ~~of a party in~~
14 ~~interest and after hearing on notice to the petitioners,~~
15 ~~the United States trustee, and other entities as directed~~
16 ~~by the court, the case may be dismissed or transferred~~
17 ~~to any other district if the court determines that~~
18 ~~transfer is in the interest of justice or for the~~
19 ~~convenience of the parties~~ the court may dismiss the
20 case or, if it determines that transfer is in the interest
21 of justice or for the convenience of the parties,
22 transfer the case to another district.

23 (b) ~~PROCEDURE~~ WHEN PETITIONS
24 INVOLVING THE SAME DEBTOR OR RELATED
25 DEBTORS ~~ARE~~ FILED IN DIFFERENT DISTRICTS
26 COURTS. If petitions ~~commencing cases under the Code~~ are
27 filed in different districts by or against (1) the same debtor, ~~or~~
28 (2) a partnership and one or more of its general partners, ~~or~~
29 (3) two or more general partners, or (4) a debtor and an
30 affiliate, on motion filed in the district in which the petition
31 filed first is pending ~~and after hearing on notice to the~~
32 ~~petitioners, the United States trustee, and other entities as~~
33 ~~directed by the court~~, the court ~~may~~ shall determine, in the
34 interest of justice or for the convenience of the parties, the
35 district or districts in which the ~~case~~ ~~or~~ cases should proceed.
36 ~~Except as otherwise ordered by the court in the district in~~
37 ~~which the petition filed first is pending, the proceedings on~~
38 ~~the other petitions shall be stayed by the courts in which they~~

26 FEDERAL RULES OF BANKRUPTCY PROCEDURE

39 ~~have been filed until the determination is made.~~ Until that
40 determination is made, any other court where another petition
41 is pending shall stay its proceedings unless the court in which
42 the motion is pending orders otherwise.

43 (c) PROCEDURE GOVERNING MOTION. Rule
44 9014 governs a motion made under this rule. Every entity
45 filing a petition against the debtor under § 303 of the Code
46 shall be treated as an entity listed in Rule 9014(c)(1).

COMMITTEE NOTE

This rule is amended to conform to the amendments to Rules 9014 and 9034. The list of entities entitled to notice of a hearing on transfer or dismissal of a case under this rule is deleted as unnecessary because Rule 9014, which governs a motion under this rule, sets forth the list of entities entitled to service of the motion papers. Reference to the United States trustee is unnecessary because Rule 9034 includes the transfer or dismissal of a case in the list of matters with respect to which the United States trustee is entitled to receive papers.

The following text of Rule 1017 is not based on the current text of the rule. The following text embodies proposed amendments, including substantive and stylistic amendments, that have been approved by the Committee on Rules of Practice and Procedure in June 1998, and that will be presented to the Judicial Conference in September 1998 and, if approved by the Judicial Conference, to the Supreme Court for promulgation in 1999. The Advisory Committee is not requesting comment regarding the proposed amendments already approved by the Committee on Rules of Practice and Procedure, but is inviting comment regarding the proposals shown by the language underlined or lined through.

Rule 1017. Dismissal or Conversion of Case; Suspension

1

* * * * *

2

~~(c) DISMISSAL OF VOLUNTARY CHAPTER~~

3

~~7 OR CHAPTER 13 CASE FOR FAILURE TO TIMELY~~

4

~~FILE LIST OF CREDITORS, SCHEDULES, AND~~

5

~~STATEMENT OF FINANCIAL AFFAIRS. The court may~~

6

~~dismiss a voluntary chapter 7 or chapter 13 case under §~~

28 FEDERAL RULES OF BANKRUPTCY PROCEDURE

7 ~~707(a)(3) or § 1307(c)(9) after a hearing on notice served by~~
8 ~~the United States trustee on the debtor, the trustee, and any~~
9 ~~other entities as the court directs.~~

10 * * * * *

11 (e) DISMISSAL OF AN INDIVIDUAL
12 DEBTOR'S CHAPTER 7 CASE FOR SUBSTANTIAL
13 ABUSE. The court may dismiss an individual debtor's case
14 for substantial abuse under § 707(b) only on motion by the
15 United States trustee or on the court's own motion ~~and after~~
16 ~~a hearing on notice to the debtor, the trustee, the United States~~
17 ~~trustee, and any other entities as the court directs.~~

18 (1) A motion to dismiss a case for
19 substantial abuse may be filed by the United States
20 trustee only within 60 days after the first date set for
21 the meeting of creditors under § 341(a), unless, before
22 the time has expired, the court for cause extends the

23 time for filing the motion. The United States trustee
24 shall set forth in the motion all matters to be
25 submitted to the court for its consideration at the
26 hearing.

27 (2) If the hearing is set on the court's own
28 motion, notice of the hearing shall be served on the
29 debtor, the debtor's attorney, and the trustee no later
30 than 60 days after the first date set for the meeting of
31 creditors under § 341(a). The notice shall set forth all
32 matters to be considered by the court at the hearing.
33 The clerk shall transmit a copy of the notice to the
34 United States trustee.

35 (f) PROCEDURE FOR DISMISSAL,
36 CONVERSION, OR SUSPENSION.

37 (1) Rule 9014 governs a proceeding to
38 dismiss or suspend a case, or to convert a case to

30 FEDERAL RULES OF BANKRUPTCY PROCEDURE

39 another chapter, except under §§ 706(a), 1112(a),
40 1208(a) or (b), ~~or~~ 1307(a) or (b), or Rule 1017(e)(2).

41 (2) Conversion or dismissal under §§
42 706(a), 1112(a), 1208(b), or 1307(b) shall be on
43 ~~motion~~ application filed and served as required by
44 Rule 9013.

45 (3) A chapter 12 or chapter 13 case shall
46 be converted without court order when the debtor files
47 a notice of conversion under §§ 1208(a) or 1307(a).
48 The filing date of the notice becomes the date of the
49 conversion order for the purposes of applying § 348(c)
50 and Rule 1019. The clerk shall promptly transmit a
51 copy of the notice to the United States trustee.

COMMITTEE NOTE

Subdivision (e) is amended to delete the list of the entities entitled to service of the motion except when the motion is on the

court's own initiative. When the United States trustee files the motion for dismissal under § 707(b), the list of the entities to be served is in Rule 9014(c)(1).

Subdivision (f) is amended to provide that a proceeding to dismiss a case under § 707(b) is not governed by Rule 9014 if it is initiated on the court's own motion.

Rule 2001. Appointment of Interim Trustee Before Order for Relief in a Chapter 7 Liquidation Case

1 (a) APPOINTMENT. At any time after following
2 ~~the commencement of an involuntary liquidation case is~~
3 commenced under chapter 7 and before an order for relief, the
4 court on ~~written~~ motion of a party in interest may order the
5 appointment of an interim trustee under § 303(g) of the Code.
6 ~~The motion shall set forth the necessity for the appointment~~
7 ~~and may be granted only after hearing on notice to the debtor,~~
8 ~~the petitioning creditors, the United States trustee, and other~~
9 ~~parties in interest as the court may designate. Rule 9014~~
10 governs the motion. Every entity filing a petition against the

32 FEDERAL RULES OF BANKRUPTCY PROCEDURE

11 debtor under § 303 shall be treated as an entity listed in Rule

12 9014(c)(1).

13 * * * * *

COMMITTEE NOTE

This rule is amended to provide that a motion for the appointment of an interim trustee is governed by Rule 9014. The petitioners, as well as the entities listed in Rule 9014(c)(1), are entitled to be served with the motion papers. Reference to the United States trustee is unnecessary because Rule 9034 includes the appointment of an interim trustee on the list of matters as to which the United States trustee is entitled to receive papers.

Rule 2004. Examination

1 (a) EXAMINATION ON ~~MOTION~~
2 APPLICATION. On ~~motion~~ application of any party in
3 interest, the court may order the examination of any entity.
4 Rule 9013 governs the application.

5 * * * * *

6 (c) COMPELLING ATTENDANCE AND
7 PRODUCTION OF DOCUMENTS ~~DOCUMENTARY~~

8 ~~EVIDENCE~~. The attendance of an entity for examination and
9 for the production of ~~documentary evidence~~ documents,
10 whether the examination is to be conducted within or without
11 the district in which the case is pending, may be compelled ~~in~~
12 ~~the manner~~ as provided in Rule 9016 for the attendance of a
13 witness ~~witnesses~~ at a hearing or trial. As an officer of the
14 court, an attorney may issue and sign a subpoena on behalf of
15 the court for the district in which the examination is to be held
16 if the attorney is authorized to practice in that court or in the
17 court in which the case is pending.

18 * * * * *

COMMITTEE NOTE

Subdivision (a) is amended to conform to the amendments to Rule 9013, which governs an application for an order under this rule.

Subdivision (c) is amended to clarify that an examination ordered pursuant to 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 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.

Rule 2007. Review of Appointment of Creditors' Committee Organized Before Commencement of ~~the a~~ Chapter 9 or Chapter 11 Case

1 (a) MOTION TO REVIEW APPOINTMENT. If
2 a committee appointed by the United States trustee pursuant
3 to under § 1102(a) of the Code consists of the members of a
4 committee organized by creditors before ~~the commencement~~
5 of a chapter 9 or chapter 11 case was commenced, on motion
6 of a party in interest ~~and after a hearing on notice to the~~

7 ~~United States trustee and other entities as the court may~~
8 ~~direct~~, the court may determine whether the appointment of
9 ~~the committee~~ satisfies the requirements of § 1102(b)(1) of
10 ~~the Code~~. Rule 9014 governs the motion. If the court finds
11 that the appointment failed to satisfy the requirements of
12 § 1102(b)(1), the court shall direct the United States trustee to
13 vacate the appointment of the committee and may order other
14 appropriate relief.

15 (b) SELECTION OF COMMITTEE MEMBERS
16 ~~OF COMMITTEE~~. The court may find that a committee
17 organized by unsecured creditors before the commencement
18 of a chapter 9 or chapter 11 case was fairly chosen if:

19 (1) it was selected by a majority in number
20 and amount of claims of unsecured creditors who may
21 vote under § 702(a) ~~of the Code~~ and who attended
22 ~~were present~~ in person or were represented at a

36 FEDERAL RULES OF BANKRUPTCY PROCEDURE

23 meeting ~~for~~ of which all creditors having unsecured
24 claims of over \$1,000, or the 100 unsecured creditors
25 having the largest claims, had been given at least five
26 ~~days~~ days' notice in writing, and ~~of~~ at which ~~meeting~~
27 written minutes reporting the names of the creditors
28 present or represented and voting and the amounts of
29 their claims were kept and are available for
30 inspection;

31 (2) all proxies voted at the meeting for the
32 elected committee were solicited ~~pursuant to~~ in
33 accordance with Rule 2006 and the lists and
34 statements required by Rule 2006(e) ~~subdivision (e)~~
35 ~~thereof~~ have been transmitted to the United States
36 trustee; and

37 (3) the organization of the committee was
38 in all other respects fair and proper.

39 ~~(e) FAILURE TO COMPLY WITH~~
40 ~~REQUIREMENTS FOR APPOINTMENT. After a hearing~~
41 ~~on notice pursuant to subdivision (a) of this rule, the court~~
42 ~~shall direct the United States trustee to vacate the~~
43 ~~appointment of the committee and may order other~~
44 ~~appropriate action if the court finds that such appointment~~
45 ~~failed to satisfy the requirements of § 1102(b)(1) of the Code.~~

COMMITTEE NOTE

This rule is amended to conform to the amendments to Rule 9014 and to make stylistic improvements.

Rule 2014. Employment of Professional ~~Persons~~ Person

1 (a) MOTION FOR AN ORDER AUTHORIZING
2 EMPLOYMENT. A request for an order authorizing
3 employment under § 327, § 1103, or § 1114 of the Code may
4 be made only by written motion of the trustee or committee.
5 The motion shall:

38 FEDERAL RULES OF BANKRUPTCY PROCEDURE

6 (1) state specific facts showing why the
7 employment is necessary;

8 (2) state the name of the person to be
9 employed and the reasons for the selection;

10 (3) state the professional services to be
11 rendered;

12 (4) disclose any proposed arrangement for
13 compensation;

14 (5) state that, to the best of the movant's
15 knowledge, the person to be employed is eligible
16 under the Bankruptcy Code for employment for the
17 purposes set forth in the motion; and

18 (6) disclose any interest that the person to
19 be employed holds or represents that is adverse to the
20 estate.

21 (b) STATEMENT OF PROFESSIONAL. The
22 motion shall be accompanied by a verified statement of the
23 person to be employed. The statement shall:

24 (1) state that the person is eligible under
25 the Bankruptcy Code for employment for the purposes
26 set forth in the motion;

27 (2) disclose any interest that the person
28 holds or represents that is adverse to the estate;

29 (3) disclose the person's connections with
30 the debtor, creditors, or any other party in interest,
31 their respective attorneys and accountants, the United
32 States trustee, or any person employed in the office of
33 the United States trustee;

34 (4) if the professional is an attorney, state
35 the information required to be disclosed under
36 § 329(a); and

40 FEDERAL RULES OF BANKRUPTCY PROCEDURE

37 (5) state whether the person shared or has
38 agreed to share any compensation with any person
39 and, if so, the particulars of any sharing or agreement
40 to share other than the details of any agreement for the
41 sharing of compensation with a partner, employee, or
42 regular associate of the partnership, corporation, or
43 person to be employed.

44 (c) SERVICE. The motion and at least 10 days' notice
45 of the hearing shall be transmitted to the United States trustee,
46 unless the case is a chapter 9 case, and shall be served on:

47 (1) the trustee;

48 (2) any committee elected under § 705 or
49 appointed under § 1102 of the Code, or the
50 committee's authorized agent;

51 (3) the creditors included on the list filed
52 under Rule 1007(d); and

53 (4) any other entity as the court may direct.

54 (d) HEARING. The court may resolve the motion
55 without a hearing if no objection or request for a hearing is
56 filed at least 2 days before the scheduled hearing date.

57 (e) INTERIM EMPLOYMENT ORDER. If the
58 motion so requests, the court may authorize employment on
59 an interim basis without notice and a hearing pending
60 resolution of the motion. A copy of the order authorizing
61 employment on an interim basis, the motion, and at least 5
62 days' notice of the hearing shall be served forthwith on the
63 entities listed in Rule 2014(c). The hearing shall be scheduled
64 for a time that is not more than 14 days after service of the
65 order authorizing interim employment, unless the court orders
66 otherwise.

42 FEDERAL RULES OF BANKRUPTCY PROCEDURE

67 (f) SERVICES RENDERED BY MEMBER OR
68 ASSOCIATE OF FIRM OF EMPLOYED PROFESSIONAL.

69 If, under the Code and this rule, a court authorizes the
70 employment of an individual, partnership, or corporation, any
71 partner, member, or regular associate of the individual,
72 partnership, or corporation may act as the person so
73 employed, without further order of the court. If a partnership
74 is employed, a further order authorizing employment is not
75 required solely because the partnership has dissolved due to
76 the addition or withdrawal of a partner.

77 (g) SUPPLEMENTAL STATEMENT OF
78 PROFESSIONAL. Within 15 days after becoming aware of
79 any matter that is required to be disclosed under Rule
80 2014(b), but that has not yet been disclosed, a person
81 employed under this rule shall file a supplemental verified
82 statement, serve copies on the entities listed in Rule 2014(c)

83 and, unless the case is a chapter 9 municipality case, transmit
84 a copy to the United States trustee.

85 ~~(a) — APPLICATION FOR AN ORDER OF~~
86 ~~EMPLOYMENT. An order approving the employment of~~
87 ~~attorneys, accountants, appraisers, auctioneers, agents, or~~
88 ~~other professionals pursuant to § 327, § 1103, or § 1114 of the~~
89 ~~Code shall be made only on application of the trustee or~~
90 ~~committee. The application shall be filed and, unless the case~~
91 ~~is a chapter 9 municipality case, a copy of the application~~
92 ~~shall be transmitted by the applicant to the United States~~
93 ~~trustee. The application shall state the specific facts showing~~
94 ~~the necessity for the employment, the name of the person to~~
95 ~~be employed, the reasons for the selection, the professional~~
96 ~~services to be rendered, any proposed arrangement for~~
97 ~~compensation, and, to the best of the applicant's knowledge,~~
98 ~~all of the person's connections with the debtor, creditors, any~~

44 FEDERAL RULES OF BANKRUPTCY PROCEDURE

99 ~~other party in interest, their respective attorneys and~~
100 ~~accountants, the United States trustee, or any person~~
101 ~~employed in the office of the United States trustee. The~~
102 ~~application shall be accompanied by a verified statement of~~
103 ~~the person to be employed setting forth the person's~~
104 ~~connections with the debtor, creditors, any other party in~~
105 ~~interest, their respective attorneys and accountants, the United~~
106 ~~States trustee, or any person employed in the office of the~~
107 ~~United States trustee.~~

108 ~~(b) SERVICES RENDERED BY MEMBER OR~~
109 ~~ASSOCIATE OF FIRM OF ATTORNEYS OR~~
110 ~~ACCOUNTANTS. If, under the Code and this rule, a law~~
111 ~~partnership or corporation is employed as an attorney, or an~~
112 ~~accounting partnership or corporation is employed as an~~
113 ~~accountant, or if a named attorney or accountant is employed,~~
114 ~~any partner, member, or regular associate of the partnership,~~

- 115 ~~corporation or individual may act as attorney or accountant so~~
116 ~~employed, without further order of the court.~~

COMMITTEE NOTE

This rule is amended to improve the procedures for obtaining an order authorizing the employment of professionals. The trustee — which is defined in Rule 9001(10) to include a debtor in possession in a chapter 11 case — or a committee seeking authorization is required to file a motion, rather than an application, and copies of the motion must be served on the parties in interest specified in the rule. If the motion requests, the court may authorize employment on an interim basis without a hearing so as to avoid delays in obtaining professional assistance immediately.

The moving party is required to state that, to the best of the person's knowledge, the professional to be employed is eligible to serve. The rule also requires that the professional state in a verified statement that the professional is eligible to serve. Eligibility is governed by the Bankruptcy Code and may depend on the purposes for which the professional is to be employed. For example, an attorney may be employed to represent the trustee or debtor in possession under § 327(a) only if the person is disinterested. See 11 U.S.C. § 101 for the definition of "disinterested." If an attorney is retained solely as special counsel under § 327(e), the professional need not be disinterested so long as other requirements are met. Nonetheless, regardless of the purpose for which the professional is to be employed, the moving party must disclose any interest that the

person to be employed holds or represents that is adverse to the estate. The amendments to this rule also add to the matters that must be disclosed any arrangements for sharing compensation.

Subdivision (f) is expanded to cover firms when the professional is not an attorney or accountant, and is amended to clarify that, if a partnership is employed, a further order authorizing employment is not required solely because the partnership has dissolved due to the addition or withdrawal of a partner.

Subdivision (g) is added to require timely supplemental disclosure of a matter required to be disclosed, whether or not the matter to be disclosed relates to an event occurring subsequent to a statement previously filed under this rule.

Rule 2016. Compensation for Services Rendered and Reimbursement of Expenses

1 ~~(a) — APPLICATION FOR COMPENSATION OR~~
2 ~~REIMBURSEMENT. An entity seeking interim or final~~
3 ~~compensation for services, or reimbursement of necessary~~
4 ~~expenses, from the estate shall file an application setting forth~~
5 ~~a detailed statement of (1) the services rendered, time~~
6 ~~expended and expenses incurred, and (2) the amounts~~
7 ~~requested. An application for compensation shall include a~~

8 ~~statement as to what payments have theretofore been made or~~
9 ~~promised to the applicant for services rendered or to be~~
10 ~~rendered in any capacity whatsoever in connection with the~~
11 ~~case, the source of the compensation so paid or promised,~~
12 ~~whether any compensation previously received has been~~
13 ~~shared and whether an agreement or understanding exists~~
14 ~~between the applicant and any other entity for the sharing of~~
15 ~~compensation received or to be received for services rendered~~
16 ~~in or in connection with the case, and the particulars of any~~
17 ~~sharing of compensation or agreement or understanding~~
18 ~~therefor, except that details of any agreement by the applicant~~
19 ~~for the sharing of compensation as a member or regular~~
20 ~~associate of a firm of lawyers or accountants shall not be~~
21 ~~required. The requirements of this subdivision shall apply to~~
22 ~~an application for compensation for services rendered by an~~
23 ~~attorney or accountant even though the application is filed by~~

48 FEDERAL RULES OF BANKRUPTCY PROCEDURE

24 ~~a creditor or other entity. Unless the case is a chapter 9~~
25 ~~municipality case, the applicant shall transmit to the United~~
26 ~~States trustee a copy of the application.~~

27 (a) MOTION FOR COMPENSATION OR
28 REIMBURSEMENT. Rule 9014 governs a motion for interim
29 or final payment from the estate for compensation for services
30 rendered or the reimbursement of expenses.

31 (1) The motion shall state the amount
32 requested, the services rendered, the time expended,
33 and the expenses incurred. If compensation is
34 requested, the motion shall also state:

35 (A) the source and the amount of
36 any payments that have been made or
37 promised for services rendered or to
38 be rendered in any capacity in
39 connection with the case;

40 (B) whether any compensation
41 previously received has been shared
42 and whether an agreement or
43 understanding exists between the
44 movant and any other entity to share
45 compensation received or to be
46 received for services rendered in or in
47 connection with the case; and
48 (C) the particulars of any sharing
49 of compensation or any agreement or
50 understanding with respect to sharing
51 compensation, but the details of any
52 agreement by the movant to share
53 compensation as a member or regular
54 associate of a firm of lawyers or
55 accountants are not required.

50 FEDERAL RULES OF BANKRUPTCY PROCEDURE

56 (2) This Rule 2016(a) applies to a motion
57 for compensation for services rendered by an attorney
58 or accountant even if the motion is filed by a creditor
59 or other entity.

60 * * * * *

COMMITTEE NOTE

This rule is amended to provide that a proceeding for compensation or reimbursement of expenses from the estate is governed by Rule 9014. The provision requiring transmittal of papers to the United States trustee is deleted as unnecessary. *See* Rule 9034. The other amendments are stylistic.

Rule 3001. Proof of Claim

1 * * * * *

2 (e) TRANSFERRED CLAIM.

3 * * * * *

4 ~~(5) — *Service of Objection or Motion; Notice*~~
5 ~~*of Hearing.* A copy of an objection filed pursuant to~~
6 ~~paragraph (2) or (4) or a motion filed pursuant to~~

7 ~~paragraph (3) or (4) of this subdivision together with~~
8 ~~a notice of a hearing shall be mailed or otherwise~~
9 ~~delivered to the transferor or transferee, whichever is~~
10 ~~appropriate, at least 30 days prior to the hearing.~~

11 (5) Procedures. An objection under Rule
12 3001(e)(2) or (4), or a motion under Rule 3001(e)(3)
13 or (4), is governed by Rule 9014. The transferor or
14 transferee, whichever is appropriate, shall be treated
15 as an entity listed in Rule 9014(c)(1).

16 * * * * *

COMMITTEE NOTE

Paragraph (e)(5) is amended to provide that an objection or motion under Rule 3001(e) is governed by Rule 9014. An objection is made by filing a motion in accordance with Rule 9014. Since the objection or motion is governed by Rule 9014, service must be made 20 days before the hearing date, rather than 30 days as is provided under the current Rule 3001(e)(5).

The other amendments are stylistic.

Rule 3006. Withdrawal of Claim; Effect on Acceptance or Rejection of Plan

1 (a) WITHDRAWAL OF CLAIM. Except as
2 provided in this rule, a creditor may withdraw a claim as of
3 right by filing a notice of withdrawal, except as provided in
4 this rule. Unless the court orders otherwise, a creditor may not
5 withdraw a claim if, after the creditor files a proof of claim,
6 ~~If after a creditor has filed a proof of claim~~ an objection to the
7 claim is filed, there to or a complaint is filed against that the
8 creditor in an adversary proceeding, ~~or~~ the creditor has
9 accepted or rejected ~~the~~ a plan, or the creditor has otherwise
10 ~~or otherwise has~~ participated significantly in the case, ~~the~~
11 ~~creditor may not withdraw the claim except on order of the~~
12 ~~court after a hearing on notice to the trustee or debtor in~~
13 ~~possession, and any creditors' committee elected pursuant to~~
14 ~~§ 705(a) or appointed pursuant to § 1102 of the Code.~~ Rule

15 9014 governs a motion to withdraw a claim. The order may
16 include ~~order of the court shall contain such~~ terms and
17 conditions as which the court ~~deems~~ considers proper.

18 (b) EFFECT ON ACCEPTANCE OR
19 REJECTION OF A PLAN. Unless the court orders
20 otherwise, an authorized withdrawal of a claim ~~shall~~
21 ~~constitute~~ constitutes withdrawal of any related acceptance or
22 rejection of a plan.

COMMITTEE NOTE

This rule is amended to conform to the amendments to Rule 9014. The list of entities entitled to notice of the hearing on a creditor's withdrawal of a claim is deleted as unnecessary. *See* Rule 9014(c). The other amendments are stylistic.

Rule 3007. Objections to Claims

1 An objection to the allowance of a claim is treated as
2 a motion governed by Rule 9014, except that (a) the motion
3 shall be served at least 30 days before the hearing, and (b) an

54 FEDERAL RULES OF BANKRUPTCY PROCEDURE
4 objection joined with a demand for relief of the kind specified
5 in Rule 7001 is an adversary proceeding shall be in writing
6 and filed. A copy of the objection with notice of the hearing
7 thereon shall be mailed or otherwise delivered to the claimant,
8 the debtor or debtor in possession and the trustee at least 30
9 days prior to the hearing. If an objection to a claim is joined
10 with a demand for relief of the kind specified in Rule 7001, it
11 becomes an adversary proceeding.

COMMITTEE NOTE

This rule is amended to clarify that an objection to the allowance of a claim is an administrative proceeding governed by Rule 9014. An objection is made by filing a motion in accordance with Rule 9014(b). But service of the motion must be made at least 30 days before the hearing date, rather than 20 days as is required for administrative motions under Rule 9014(c). The claimant may file a response under Rule 9014(d).

If an objection to a claim is joined with relief of the kind specified in Rule 7001, the objecting party must file and serve a complaint commencing an adversary proceeding under Part VII of these Rules.

The other amendments are stylistic.

Rule 3012. Valuation of the Estate's Property Securing Lien Security

1 On motion, the court may determine the value of a
2 secured creditor's interest in the estate's interest in property
3 ~~a claim secured by a lien on property in which the estate has~~
4 ~~an interest on motion of any party in interest and after a~~
5 ~~hearing on notice to the holder of the secured claim and any~~
6 ~~other entity as the court may direct. The motion is governed~~
7 by Rule 9014, and the holder of the secured claim shall be
8 treated as an entity listed in Rule 9014(c)(1).

COMMITTEE NOTE

This rule is amended to conform to the amendments to Rule 9014. Other amendments are stylistic.

Rule 3013. Classification of Claims and Interests

1 ~~For the purposes of the plan and its acceptance, the~~
2 ~~court may, on motion after hearing on notice as the court may~~

56 FEDERAL RULES OF BANKRUPTCY PROCEDURE
3 ~~direct,~~ On motion, the court may determine classes of
4 creditors and equity security holders ~~pursuant to §§~~ under
5 § 1122, § 1222(b)(1), and or § 1322(b)(1) of the Code for
6 purposes of the plan and its acceptance. The motion is
7 governed by Rule 9014.

COMMITTEE NOTE

This rule is amended to provide that the motion to determine classification of claims and interests is governed by Rule 9014. The other amendments are stylistic.

Rule 3015. Filing, Objection to Confirmation, and Modification of a Plan in a Chapter 12 Family Farmer's Debt Adjustment Case or a Chapter 13 Individual's Debt Adjustment Case

1 * * * * *
2 (f) OBJECTION TO CONFIRMATION;
3 DETERMINATION OF GOOD FAITH IN THE ABSENCE
4 OF AN OBJECTION. A party in interest may object to
5 confirmation of a plan by filing an objection before the plan

6 is confirmed. The objecting party shall serve a copy of the
7 objection ~~An objection to confirmation of a plan shall be filed~~
8 ~~and served~~ on the debtor, the debtor's attorney, and the
9 ~~trustee, and any other entity designated by the court in the~~
10 manner provided in Rule 9014(c)(2), and shall be transmitted
11 transmit a copy to the United States trustee, before the plan is
12 confirmed ~~confirmation of the plan. An objection to~~
13 ~~confirmation is governed by Rule 9014. Discovery may be~~
14 obtained in the manner provided in Rule 9014(h). If no
15 objection is ~~timely~~ filed, the court may determine, without
16 receiving evidence, that the plan has been proposed in good
17 faith and not by any means forbidden by law ~~without~~
18 ~~receiving evidence on such issues.~~

19 (g) MODIFICATION OF PLAN AFTER
20 CONFIRMATION. A request to modify a plan under
21 pursuant to § 1229 or § 1329 of the Code is made by motion

58 FEDERAL RULES OF BANKRUPTCY PROCEDURE

22 governed by Rule 9014. Every creditor that would be affected
23 by the proposed modification shall be treated as an entity
24 listed in Rule 9014(c)(1), but a respondent is not required to
25 serve the response on any creditor other than the movant
26 unless the court directs otherwise. The motion shall include
27 a copy or summary of the proposed modification. shall
28 ~~identify the proponent and shall be filed together with the~~
29 ~~proposed modification. The clerk, or some other person as the~~
30 ~~court may direct, shall give the debtor, the trustee, and all~~
31 ~~creditors not less than 20 days notice by mail of the time fixed~~
32 ~~for filing objections and, if an objection is filed, the hearing~~
33 ~~to consider the proposed modification, unless the court orders~~
34 ~~otherwise with respect to creditors who are not affected by the~~
35 ~~proposed modification. A copy of the notice shall be~~
36 ~~transmitted to the United States trustee. A copy of the~~
37 ~~proposed modification, or a summary thereof, shall be~~

38 ~~included with the notice. If required by the court, the~~
 39 ~~proponent shall furnish a sufficient number of copies of the~~
 40 ~~proposed modification, or a summary thereof, to enable the~~
 41 ~~clerk to include a copy with each notice. Any objection to the~~
 42 ~~proposed modification shall be filed and served on the debtor,~~
 43 ~~the trustee, and any other entity designated by the court, and~~
 44 ~~shall be transmitted to the United States trustee. An objection~~
 45 ~~to a proposed modification is governed by Rule 9014.~~

COMMITTEE NOTE

Subdivision (f) is amended to conform to Rule 9014(a) which, as amended, will provide that an objection to confirmation of a plan under this rule is not governed by Rule 9014. Although an objection under Rule 3015(f) is not an administrative proceeding under Rule 9014, service of the objection must be made in the manner provided in Rule 9014(c)(2) and discovery may be obtained in the manner provided in Rule 9014(h).

Deletion of the phrase “any other entity designated by the court” from the entities entitled to receive copies of an objection is intended to avoid the appearance that an objecting party, before serving the objection, must inquire as to the proper parties to be served. This amendment is not intended to deprive the court of the

power to require, in a particular case, that a copy of an objection be served on another entity.

Consistent with the amendments to Rule 9014, a copy of an objection must be served on the debtor's attorney.

Subdivision (g) is amended to provide that a request to modify a chapter 12 or chapter 13 plan after confirmation is an administrative proceeding governed by Rule 9014. The movant is required to serve all creditors that would be affected by the proposed modification.

The other amendments are stylistic.

Rule 3019. Modification of Accepted Plan Before Confirmation in a Chapter 9 Municipality Case or a Chapter 11 Reorganization Case

1 In a chapter 9 or chapter 11 case, after a plan has been
2 accepted and before its confirmation, the proponent may file
3 a modification of the plan. If on motion the court finds ~~after~~
4 ~~hearing on notice to the trustee, any committee appointed~~
5 ~~under the Code, and any other entity designated by the court~~
6 that the proposed modification does not adversely change the
7 treatment of the claim of any creditor or the interest of any

8 equity security holder who has not accepted the modification
9 in writing ~~the modification~~, the plan as modified ~~it~~ shall be
10 deemed accepted by all creditors and equity security holders
11 who have previously accepted the plan. Rule 9014 governs
12 the motion.

COMMITTEE NOTE

This rule is amended to conform to the amendments to Rule 9014. The list of entities entitled to notice is deleted as unnecessary because Rule 9014, which governs motions under this rule, includes a list of entities to be served. *See* the amendments to Rule 9014(c)(1).

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

1 * * * * *

2 (b) ~~OBJECTION TO AND HEARING ON~~
3 ~~CONFIRMATION~~ CONFIRMATION OF A PLAN IN A
4 CHAPTER 9 OR CHAPTER 11 CASE.

5 (1) *Objection to Confirmation.* Within the
6 time fixed by the court, any ~~An~~ objection to

62 FEDERAL RULES OF BANKRUPTCY PROCEDURE

7 confirmation of ~~the~~ a plan shall be filed and served in
8 the manner provided in Rule 9014(c)(2) on the debtor,
9 the debtor's attorney, the trustee, the proponent of the
10 plan, and any committee appointed under the Code,
11 ~~and any other entity designated by the court, within a~~
12 ~~time fixed by the court.~~ In a chapter 11 reorganization
13 case, Unless the case is a chapter 9 municipality case,
14 the objecting party shall transmit a copy of the every
15 ~~objection to confirmation shall be transmitted by the~~
16 ~~objecting party~~ to the United States trustee within the
17 time fixed for filing objections. Discovery may be
18 obtained in the manner provided in Rule 9014(h). ~~An~~
19 ~~objection to confirmation is governed by Rule 9014.~~

20 * * * * *

COMMITTEE NOTE

Subdivision (b)(1) is amended to conform to Rule 9014(a) which, as amended, will provide that an objection to confirmation of a plan under this rule is not governed by Rule 9014. Although an objection to confirmation under Rule 3020(b) is not an administrative proceeding under Rule 9014, service of an objection must be made in the manner provided in Rule 9014(c)(2) and discovery may be obtained in the manner provided in Rule 9014(h).

Deletion of the phrase that provided that the court may designate other entities to receive copies of an objection is intended to avoid the appearance that an objecting party, before serving an objection, must inquire as to the proper parties to be served. This amendment is not intended to deprive the court of the power to require, in a particular case, that a copy of an objection be served on any other entity.

Consistent with the amendments to Rule 9014, a copy of an objection must be served on the debtor's attorney.

The other amendments are stylistic.

Rule 4001. Relief from Automatic Stay; Prohibiting or Conditioning the Use, Sale, or Lease of Property; Use of Cash Collateral; Obtaining Credit; Agreements

1 (a) RELIEF FROM STAY; PROHIBITING OR
2 CONDITIONING THE USE, SALE, OR LEASE OF
3 PROPERTY.

4 (1) *Procedures Governing Motion.* Rule
5 9014 governs a ~~A~~ motion for relief from an automatic
6 stay provided by the Code or a motion to prohibit or
7 condition the use, sale, or lease of property under
8 ~~pursuant to § 363(e) shall be made in accordance with~~
9 ~~Rule 9014 and shall be served on any committee~~
10 ~~elected pursuant to § 705 or appointed pursuant to §~~
11 ~~1102 of the Code or its authorized agent, or, if the~~
12 ~~case is a chapter 9 municipality case or a chapter 11~~
13 ~~reorganization case and no committee of unsecured~~
14 ~~creditors has been appointed pursuant to § 1102, on~~

15 ~~the creditors included on the list filed pursuant to Rule~~
16 ~~1007(d), and on such other entities as the court may~~
17 ~~direct.~~

18 * * * * *

19 (b) USE OF CASH COLLATERAL.

20 (1) ~~*Procedures Governing Motion Motion;*~~
21 ~~*Service.*~~ Rule 9014 governs a ~~A~~ motion for
22 ~~authorization~~ authority to use cash collateral ~~shall be~~
23 ~~made in accordance with Rule 9014 and shall be~~
24 ~~served on any entity which has an interest in the cash~~
25 ~~collateral, on any committee elected pursuant to § 705~~
26 ~~or appointed pursuant to § 1102 of the Code or its~~
27 ~~authorized agent, or, if the case is a chapter 9~~
28 ~~municipality case or a chapter 11 reorganization case~~
29 ~~and no committee of unsecured creditors has been~~
30 ~~appointed pursuant to § 1102, on the creditors~~

66 FEDERAL RULES OF BANKRUPTCY PROCEDURE

31 ~~included on the list filed pursuant to Rule 1007(d),~~
32 ~~and on such other entities as the court may direct.~~

33 Every entity having an interest in the cash collateral
34 shall be treated as an entity listed in Rule 9014(c)(1).

35 * * * * *

36 ~~(3) — *Notice.* Notice of hearing pursuant to~~
37 ~~this subdivision shall be given to the parties on whom~~
38 ~~service of the motion is required by paragraph (1) of~~
39 ~~this subdivision and to such other entities as the court~~
40 ~~may direct.~~

41 (c) OBTAINING CREDIT.

42 (1) ~~*Procedure Governing Motion Motion;*~~
43 ~~*Service.* Rule 9014 governs a ~~Δ~~ motion for authority~~
44 ~~to obtain credit shall be made in accordance with Rule~~
45 ~~9014 and shall be served on any committee elected~~
46 ~~pursuant to § 705 or appointed pursuant to § 1102 of~~

47 ~~the Code or its authorized agent, or, if the case is a~~
48 ~~chapter 9 municipality case or a chapter 11~~
49 ~~reorganization case and no committee of unsecured~~
50 ~~creditors has been appointed pursuant to § 1102, on~~
51 ~~the creditors included on the list filed pursuant to Rule~~
52 ~~1007(d), and on such other entities as the court may~~
53 ~~direct. The motion shall include ~~be accompanied~~ by a~~
54 ~~copy of the agreement relating to the credit to be~~
55 ~~obtained.~~

56 * * * * *

57 ~~(3) — Notice. Notice of hearing pursuant to~~
58 ~~this subdivision shall be given to the parties on whom~~
59 ~~service of the motion is required by paragraph (1) of~~
60 ~~this subdivision and to such other entities as the court~~
61 ~~may direct.~~

68 FEDERAL RULES OF BANKRUPTCY PROCEDURE

62 (d) AGREEMENT RELATING TO RELIEF
63 FROM THE AUTOMATIC STAY, PROHIBITING OR
64 CONDITIONING THE USE, SALE, OR LEASE OF
65 PROPERTY, PROVIDING ADEQUATE PROTECTION,
66 USE OF CASH COLLATERAL, ~~AND~~ OR OBTAINING
67 CREDIT.

68 (1) Administrative Proceeding. ~~Motion;~~
69 Service. Except as provided in Rule 4001(d)(3), Rule
70 9014 governs a ~~A~~ motion for approval of an
71 agreement;

72 (A) ~~to provide~~ providing adequate
73 protection;

74 (B) ~~to prohibit or condition~~
75 prohibiting or conditioning the use,
76 sale, or lease of property;

77 (C) ~~to modify or terminate~~
78 modifying or terminating the stay
79 provided ~~for~~ in § 362;
80 (D) ~~to use~~ providing for the use of
81 cash collateral; or
82 (E) consenting to the creation of a
83 lien senior or equal to an existing lien
84 or interest in property of the estate
85 ~~between the debtor and an entity that~~
86 ~~has a lien or interest in property of the~~
87 ~~estate pursuant to which the entity~~
88 ~~consents to the creation of a lien~~
89 ~~senior or equal to the entity's lien or~~
90 ~~interest in such property shall be~~
91 ~~served on any committee elected~~
92 ~~pursuant to § 705 or appointed~~

70 FEDERAL RULES OF BANKRUPTCY PROCEDURE

93 ~~pursuant to § 1102 of the Code or its~~
94 ~~authorized agent, or, if the case is a~~
95 ~~chapter 9 municipality case or a~~
96 ~~chapter 11 reorganization case and no~~
97 ~~committee of unsecured creditors has~~
98 ~~been appointed pursuant to § 1102, on~~
99 ~~the creditors included on the list filed~~
100 ~~pursuant to Rule 1007(d), and on such~~
101 ~~other entities as the court may direct.~~

102 (2) Copy of the Agreement. The motion
103 shall ~~be accompanied by~~ include a copy of the
104 agreement.

105 (2) ~~Objection.~~ Notice of the motion and
106 ~~the time within which objections may be filed and~~
107 ~~served on the debtor in possession or trustee shall be~~
108 ~~mailed to the parties on whom service is required by~~

109 ~~paragraph (1) of this subdivision and to such other~~
110 ~~entities as the court may direct. Unless the court fixes~~
111 ~~a different time, objections may be filed within 15~~
112 ~~days of the mailing of notice.~~

113 ~~(3) — *Disposition; Hearing.* If no objection~~
114 ~~is filed, the court may enter an order approving or~~
115 ~~disapproving the agreement without conducting a~~
116 ~~hearing. If an objection is filed or if the court~~
117 ~~determines a hearing is appropriate, the court shall~~
118 ~~hold a hearing on no less than five days' notice to the~~
119 ~~objector, the movant, the parties on whom service is~~
120 ~~required by paragraph (1) of this subdivision and such~~
121 ~~other entities as the court may direct.~~

122 ~~(4)(3) *Procedure For Approval of Agreement*~~
123 ~~*Agreement in Settlement of Motion.* The court may~~
124 ~~direct that the procedures prescribed in Rule~~

72 FEDERAL RULES OF BANKRUPTCY PROCEDURE
125 4001(d)(1) and (2) do ~~paragraphs (1), (2), and (3) of~~
126 ~~this subdivision shall~~ not apply, and that an the
127 agreement of the kind listed in Rule 4001(d)(1) may
128 be approved without further notice, if the court
129 determines that a motion made under Rule 4001(a),
130 (b) or (c) pursuant to subdivisions (a), (b), or (c) of
131 ~~this rule~~ was sufficient to afford reasonable notice of
132 the material provisions of the agreement and an
133 opportunity ~~for a hearing~~ to be heard.

COMMITTEE NOTE

This rule is amended to conform to the amendments to Rule 9014. The list of parties entitled to service of the motion and notice of the hearing is deleted from Rule 4001(a), (b), and (c), because Rule 9014(c)(1) lists the entities that must be served. Other amendments are stylistic.

Rule 6004. Use, Sale, or Lease of Property

1 (a) NOTICE OF PROPOSED USE, SALE, OR
2 LEASE OF PROPERTY. Notice of a proposed use, sale, or

3 lease of property, other than cash collateral, not in the
 4 ordinary course of business shall be given in accordance with
 5 ~~pursuant to~~ Rule 2002(a)(2), (c)(1), (i), and (k) and, if
 6 applicable, in accordance with § 363(b)(2) of the Code. The
 7 notice may include a date for a hearing to be held if a timely
 8 objection is filed.

9 (b) OBJECTION TO PROPOSAL. Except as
 10 provided in Rule 6004(c) or (d) subdivisions (c) and (d) of
 11 ~~this rule~~, an objection to a proposed use, sale, or lease of
 12 property ~~shall~~ may be filed and served ~~not~~ no less than five
 13 days before the date set for the proposed action or within the
 14 time fixed by the court. The objection shall be served on the
 15 entities listed in Rule 9014(c)(1). If a timely objection is filed
 16 and served, the notice sent under Rule 6004(a) is treated as a
 17 motion for authority to use, sell, or lease the property, the
 18 objection is treated as a response, and Rule 9014 governs the

19 proceeding. If the notice does not include a hearing date, a
20 hearing date shall be included in the objection. An objection
21 to the proposed use, sale, or lease of property is governed by
22 Rule 9014.

23 (c) SALE FREE AND CLEAR OF LIENS AND
24 OTHER INTERESTS. Rule 9014 governs a ~~A~~ motion for
25 authority to sell property free and clear of liens or other
26 interests ~~shall be made in accordance with Rule 9014 and~~
27 ~~shall be served on the parties who have liens or other interests~~
28 ~~in the property to be sold.~~ The notice required by Rule
29 6004(a) subdivision (a) of this rule shall include the date of
30 the hearing on the motion and the time within which
31 objections may be filed and served ~~on the debtor in~~
32 ~~possession or trustee.~~ An objection is treated as a response to
33 a motion under Rule 9014(d).

34 (d) SALE OF PROPERTY VALUED UNDER
35 \$2,500. ~~Notwithstanding subdivision (a) of this rule, when~~ If
36 all of the nonexempt property of the estate has an aggregate
37 gross value less than \$2,500, it shall be sufficient to give all
38 creditors, indenture trustees, committees appointed or elected
39 under the Code, the United States trustee and other persons as
40 the court may direct a general notice of intent to sell ~~such~~ the
41 property other than in the ordinary course of business ~~to all~~
42 ~~creditors, indenture trustees, committees appointed or elected~~
43 ~~pursuant to the Code, the United States trustee and other~~
44 ~~persons as the court may direct.~~ A party may object to the
45 proposed sale ~~An objection to any such sale may be filed and~~
46 ~~served by a party in interest~~ within 15 days after ~~of the~~
47 ~~mailing of the notice is mailed,~~ or within the time fixed by the
48 court. An objection is governed by Rule 9014.
49

76 FEDERAL RULES OF BANKRUPTCY PROCEDURE

50 [(e) HEARING. (Abrogated)]

51 ~~(e) HEARING. If a timely objection is made~~
52 ~~pursuant to subdivision (b) or (d) of this rule, the date of the~~
53 ~~hearing thereon may be set in the notice given pursuant to~~
54 ~~subdivision (a) of this rule.~~

55 * * * * *

COMMITTEE NOTE

This rule is amended to conform to the amendments to Rule 9014. Although the trustee or debtor in possession who sends a notice of proposed use, sale, or lease of property under § 363(b) does not need to obtain a court order and is not required to file a motion, if a timely objection is filed the notice is treated as a motion and the objection is treated as a response in a proceeding governed by Rule 9014.

The procedure is different if the property is to be sold free and clear of liens and other interests. The trustee or debtor in possession that wants to sell the property must file and serve a motion for authorization to sell it free and clear of liens and other interests. Notice of the proposed sale must be sent to all creditors and others under Rule 2002(a) and (c)(1), and the motion must be served in accordance with Rule 9014(c). An objection to the proposed sale is treated as a response to the motion, which is governed by Rule 9014.

Other amendments are stylistic.

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

1 (a) PROCEEDING TO ASSUME, REJECT, OR
2 ASSIGN. A proceeding to assume, reject, or assign an
3 executory contract or unexpired lease, other than as part of a
4 plan, is governed by Rule 9014. The other party to the
5 contract or lease shall be treated as an entity listed in Rule
6 9014(c)(1).

7 (b) PROCEEDING TO REQUIRE TRUSTEE TO
8 ACT. A proceeding by a party to an executory contract or
9 unexpired lease in a chapter 9 municipality case, chapter 11
10 reorganization case, chapter 12 family farmer's debt
11 adjustment case, or chapter 13 individual's debt adjustment
12 case, to require the trustee, debtor in possession, or debtor to
13 determine whether to assume or reject the contract or lease is

78 FEDERAL RULES OF BANKRUPTCY PROCEDURE

14 governed by Rule 9014. The other party to the contract or
15 lease shall be treated as an entity listed in Rule 9014(c)(1).

16 ~~(c) — NOTICE. Notice of a motion made pursuant~~
17 ~~to subdivision (a) or (b) of this rule, shall be given to the other~~
18 ~~party to the contract or lease, to other parties in interest as the~~
19 ~~court may direct, and, except in a chapter 9 municipality case,~~
20 ~~to the United States trustee.~~

COMMITTEE NOTE

This rule is amended to conform to the amendments to Rules 9014 and 9034. Subdivision (c) is deleted as unnecessary. Rule 9014(c)(1) lists the entities entitled to receive the motion papers and Rule 9034 requires transmittal of the motion papers to the United States trustee.

**Rule 6007. Abandoning or Disposing ~~Abandonment or~~
~~Disposition of Property~~**

1 (a) NOTICE OF PROPOSED ABANDONMENT
2 OR DISPOSITION; OBJECTION ~~OBJECTIONS;~~
3 ~~HEARING.~~ Unless the court directs otherwise ~~directed by the~~

4 ~~court~~, the trustee or debtor in possession shall give notice of
5 a proposed abandonment or disposition of property to the
6 United States trustee, all creditors, indenture trustees, and
7 committees elected ~~pursuant to~~ under § 705 or appointed
8 ~~pursuant to~~ under § 1102 of the Code. A party in interest may
9 file an objection to the proposed abandonment or disposition
10 no later than 15 days after the notice is mailed ~~and serve an~~
11 ~~objection within 15 days of the mailing of the notice, or~~
12 within the time fixed by the court. ~~If a timely objection is~~
13 ~~made, the court shall set a hearing on notice to the United~~
14 ~~States trustee and to other entities as the court may direct.~~
15 The objection is treated as a motion governed by Rule 9014.

16 (b) MOTION BY PARTY IN INTEREST. A party
17 in interest may file and serve a motion to require ~~requiring~~ the
18 trustee or debtor in possession to abandon property of the
19 estate. Rule 9014 governs the motion.

COMMITTEE NOTE

This rule is amended to provide that an objection to a proposed abandonment or disposition of property is governed by Rule 9014. The objection is made by filing and serving a motion in accordance with Rule 9014 before the time for objecting expires. Other amendments are stylistic.

Rule 9006. Time

2 (d) FOR MOTIONS RELATING TO A
3 PENDING ADVERSARY PROCEEDING OR
4 ADMINISTRATIVE PROCEEDING — AFFIDAVITS. A
5 written motion made in an adversary proceeding under Part
6 VII of these rules or a written motion of the type described in
7 Rule 9014(a)(4), other than one which may be heard ex parte,
8 and notice of any hearing shall be served ~~not~~ no later than five
9 days before the time specified for the ~~such~~ hearing, unless a
10 different period is fixed by these rules or by ~~order~~ of the court.

11 ~~Such an order may for cause shown be made on ex parte~~
12 ~~application.~~ For cause shown, the order fixing a different
13 period may be made on ex parte application. When a the
14 motion is supported by affidavit, the movant shall serve the
15 ~~affidavit shall be served~~ with the motion, ~~; and, except as~~
16 ~~otherwise~~ Except as provided in Rule 9023, opposing
17 affidavits may be served ~~not~~ no later than one day before the
18 hearing, unless the court permits them to be served at some
19 other time.

20 * * * * *

COMMITTEE NOTE

Subdivision (d) is amended to limit it to motions made within adversary proceedings under Part VII of these rules, and to procedural or dispositive motions relating to pending administrative proceedings under Rule 9014. The time limits set forth in Rule 9006(d) do not apply if the motion is governed by another rule that fixes different time periods. For example, a motion for summary judgment under Rule 7056, which applies in an administrative proceeding under Rule 9014(l), is governed by the time periods fixed by Rule 56 F.R.Civ.P., rather than by Rule 9006(d).

Rule 9013. Application for an Order Motions: Form and Service

- 1 (a) SCOPE OF THIS RULE. This rule governs a
2 request for an order relating to any of the following:
- 3 (1) payment of income to a trustee under
4 § 1225(c) or § 1325(c) of the Code;
- 5 (2) joint administration under Rule 1015;
- 6 (3) conversion of a case under § 706(a) or
7 § 1112(a);
- 8 (4) dismissal of a case under § 1208(b) or
9 § 1307(b);
- 10 (5) approval of the appointment of an
11 examiner or trustee in a chapter 11 case under § 1104
12 and in accordance with Rule 2007.1;
- 13 (6) enlargement of time under Rule
14 9006(b) if the request is made before the original or

15 enlarged period has expired other than an order
16 enlarging the time to take action under Rule 1007(c),
17 1017(e), 3015(a), 4003(b), 4004(a), 4007(c), 8002, or
18 9033;

19 (7) form of, manner of sending, or
20 publication of a notice in a chapter 7, chapter 12, or
21 chapter 13 case;

22 (8) notice to a committee under Rule
23 2002(i);

24 (9) notice under Rule 9020(b);

25 (10) examination of an entity under Rule
26 2004;

27 (11) deferral of the entry of an order
28 granting a discharge under Rule 4004(c);

29 (12) reopening a case under § 350(b);

84 FEDERAL RULES OF BANKRUPTCY PROCEDURE

30 (13) conditional approval of a disclosure
31 statement under Rule 3017.1; and

32 (14) protection of a secret, confidential,
33 scandalous, or defamatory matter under Rule 9018.

34 (b) REQUEST FOR RELIEF. A request for an
35 order governed by this rule shall be made by application. The
36 application shall be in writing, unless it is made orally at a
37 status conference or hearing at which all parties entitled to
38 notice of the application are present. The application shall:

39 (1) state with particularity the relief sought
40 and the grounds for that relief; and

41 (2) if in writing, be accompanied by proof
42 of service under Rule 9013(c) and by a proposed order
43 for the relief requested.

44 (c) SERVICE OF APPLICATION. No later than
45 the time when a written application is filed, the applicant shall

46 serve a copy of the application, any paper filed with the
47 application, and the proposed order on the debtor, the debtor's
48 attorney, the trustee, any committee elected under § 705 or
49 appointed under § 1102, and any other entity required by
50 federal law or these rules, and shall transmit a copy to the
51 United States trustee. Service shall be made in the manner
52 provided in Rule 7004 for service of a summons, but the court
53 by local rule may permit the notice to be served by electronic
54 means that are consistent with technical standards, if any, that
55 the Judicial Conference of the United States establishes.

56 (d) NO RESPONSE REQUIRED; ORDER
57 WITHOUT A HEARING. A response to the application is
58 not required, and the court may order relief without a hearing.

59 (e) SERVICE OF ORDER. If the court issues an
60 order, the clerk shall serve a copy on the applicant, the entities

86 FEDERAL RULES OF BANKRUPTCY PROCEDURE

61 listed in Rule 9013(c), and any other entity as the court
62 directs.

63 ~~A request for an order, except when an application is~~
64 ~~authorized by these rules, shall be by written motion, unless~~
65 ~~made during a hearing. The motion shall state with~~
66 ~~particularity the grounds therefor, and shall set forth the relief~~
67 ~~or order sought. Every written motion other than one which~~
68 ~~may be considered ex parte shall be served by the moving~~
69 ~~party on the trustee or debtor in possession and on those~~
70 ~~entities specified by these rules or, if service is not required or~~
71 ~~the entities to be served are not specified by these rules, the~~
72 ~~moving party shall serve the entities the court directs.~~

COMMITTEE NOTE

Rules 9013 and 9014 have been amended to substantially revise the rules governing motion practice in bankruptcy cases.

Rule 9013 is amended to govern a category of procedures, called "applications," that relate to certain enumerated matters which,

in most instances, are nonsubstantive and noncontroversial. This rule, as amended, is designed to enable parties to obtain court orders relating to these matters in a relatively short period of time. This rule does not preclude any party from requesting appropriate relief after an application is granted and an order is entered. *See, e.g.*, Rule 9024.

These amendments provide greater detail relating to procedures for obtaining the enumerated types of orders. They are intended to increase uniformity in litigation practice among districts and to reduce the necessity for local rules governing these matters.

In most situations, a request to enlarge a time period under these rules is noncontroversial and may be made under Rule 9013. But the enlargement of time to take certain action under these rules may be controversial and, therefore, warrant the procedural safeguards afforded in an administrative proceeding under Rule 9014. In particular, a request for an order enlarging the time to file a motion to dismiss a chapter 7 case under § 707(b) and Rule 1017(e), to file a chapter 12 plan in accordance with Rule 3015(a), to file an objection to the list of property claimed as exempt in accordance with Rule 4003(b), to file a complaint objecting to discharge under Rule 4004(a), to file a complaint to determine the dischargeability of a debt under § 523(c) and Rule 4007(c), to file a notice of appeal under Rule 8002, or to file an objection to proposed findings of fact and conclusions of law under Rule 9033, is an administrative proceeding governed by Rule 9014. In contrast, a request for an order enlarging the time to file schedules and statements is governed by Rule 1007(c), rather than Rule 9013 or Rule 9014, so that the order may be issued without any notice.

Rule 9014. Administrative Proceeding Contested Matters

1 (a) SCOPE OF THIS RULE. This rule governs any
2 request for an order other than the following:

3 (1) a petition commencing a case under
4 § 301, § 302, or § 303 of the Code, or a petition
5 commencing a case ancillary to a foreign proceeding
6 under § 304;

7 (2) a proceeding or request for relief of the
8 type described in Rule 1006(b), 1007(c), 1010, 1011,
9 1013, 1017(e)(2), 1018, 2014, 3015(f), 3017, 3020(b),
10 4001(a)(2), 7001, or 9013(a);

11 (3) a motion made in an adversary
12 proceeding under Part VII of these rules;

13 (4) a motion that addresses only a
14 procedural matter relating to, or a dispositive motion
15 within, a pending administrative proceeding, except as
16 provided in Rule 9014(h) or Rule 9014(m); and

17 (5) a motion under Part VIII of these rules
18 or any motion relating to an appeal to the district court
19 or the bankruptcy appellate panel.

20 (b) REQUEST FOR RELIEF. A request for an
21 order governed by this rule shall be made by written motion
22 entitled “administrative motion.” The motion shall:

23 (1) state with particularity the relief sought
24 and the grounds for that relief;

25 (2) be accompanied by proof of service
26 and by a proposed order for the relief requested; and

90 FEDERAL RULES OF BANKRUPTCY PROCEDURE

27 (3) unless the movant is an individual
28 debtor whose debts are primarily consumer debts, be
29 accompanied by:

30 (A) one or more supporting
31 affidavits; and

32 (B) if the value of property is an
33 issue, a valuation report has been
34 prepared, and the movant intends to
35 introduce the valuation report as
36 evidence, a copy of that report, with
37 the name, address, and telephone
38 number of the person who prepared it.

39 (c) SERVICE OF MOTION AND NOTICE OF
40 HEARING.

41 (1) Except as provided in Rule 3007 or
42 9014(f), at least 20 days before the hearing date, the

43 movant shall serve a copy of the administrative
44 motion, a copy of any paper filed with it, and notice of
45 the hearing on the following:

46 (A) any entity against whom relief
47 is sought;

48 (B) the debtor;

49 (C) the debtor's attorney;

50 (D) the trustee;

51 (E) any committee elected under
52 § 705 or appointed under § 1102, or, if
53 the case is a chapter 9 case or a
54 chapter 11 case and no committee of
55 unsecured creditors has been
56 appointed, on the creditors included in
57 the list filed under Rule 1007(d);

58 (F) any entity that has a lien on or

92 FEDERAL RULES OF BANKRUPTCY PROCEDURE

59 other interest in property if the lien or
60 interest may be affected by the
61 requested relief; and
62 (G) any other entity entitled to
63 service by federal law or these rules.

64 (2) Service shall be made in the manner
65 provided in Rule 7004 for service of a summons, but
66 the court by local rule may permit service by
67 electronic means that are consistent with technical
68 standards, if any, that the Judicial Conference
69 establishes.

70 (3) The notice of the hearing shall conform
71 to any appropriate Official Form and shall include:

72 (A) the date, time, and place of the
73 hearing;

74 (B) the time to file a response; and

75 (C) a statement that if a response is
76 not timely filed, the court may grant
77 the motion without a hearing.

78 (d) RESPONSE.

79 (1) A response to an administrative motion
80 may be filed no later than 5 days before the hearing
81 date.

82 (2) No later than the time when a response
83 is filed, the responding party shall serve a copy of the
84 response on the movant and the entities listed in Rule
85 9014(c)(1) in the manner prescribed by Rule
86 9014(c)(2).

87 (3) A response shall be accompanied by
88 proof of service and, unless the respondent is an
89 individual debtor whose debts are primarily consumer
90 debts, by:

94 FEDERAL RULES OF BANKRUPTCY PROCEDURE

91 (A) a proposed order for the relief
92 requested;

93 (B) one or more supporting
94 affidavits if there is a factual dispute;

95 and

96 (C) if the value of property is an
97 issue, a valuation report has been
98 prepared, and the respondent intends
99 to introduce the valuation report as
100 evidence, a copy of that report with
101 the name, address, and telephone
102 number of the person who prepared it.

103 (e) AFFIDAVITS. An affidavit filed in an
104 administrative proceeding shall comply with Rule 56(e)
105 F.R.Civ.P.

106 (f) INTERIM RELIEF. If a request for interim
107 relief is included in an administrative motion, the movant
108 shall take reasonable steps to provide all parties with the most
109 expeditious service and notice of a preliminary hearing
110 feasible and shall file an affidavit specifying the efforts made.
111 If a response is filed before the preliminary hearing, the
112 respondent shall take reasonable steps to provide all parties
113 with the most expeditious service and notice feasible before
114 the preliminary hearing. At the preliminary hearing, the court
115 shall determine the adequacy of the notice under the
116 circumstances. Interim relief may be granted under Rule
117 4001(b)(2) or Rule 4001(c)(2), to the extent and under the
118 conditions stated in those rules.

119 (g) ORDER WITHOUT A HEARING. If no
120 response is timely filed, the court may order relief without a

96 FEDERAL RULES OF BANKRUPTCY PROCEDURE

121 hearing to the extent provided in § 102(1), or may notify the
122 movant, and any other entity the court considers appropriate,
123 that a hearing will be held.

124 (h) DISCOVERY. Unless the court directs
125 otherwise, Rules 26 and 28-37 F.R.Civ.P. apply, except that:

126 (1) the parties are not required to make the
127 disclosures mandated by Rule 26(a)(1)-(3),
128 F.R.Civ.P., other than as provided in Rule 9014(b)
129 and (d), but the information described in Rule
130 26(a)(1)-(3) F.R.Civ.P. may be obtained by discovery
131 methods prescribed by Rule 26(a)(5) F.R.Civ.P.;

132 (2) the parties are not required to meet in
133 accordance with Rule 26(f) F.R.Civ.P.;

134 (3) the time periods provided in Rules
135 30(e), 33(b)(3), 34(b), and 36(a) F.R.Civ.P. are
136 reduced to 10 days or as directed by the court; and

137 (4) the movant may begin discovery only
138 after a response is filed or a respondent begins
139 discovery. A respondent may begin discovery at any
140 time.

141 (i) HEARING; STATUS CONFERENCE.

142 (1) HEARING.

143 (A) Except as provided in Rule
144 9014(i)(1)(B) or (i)(3), if a timely
145 response to an administrative motion
146 is filed, the court shall hold a hearing
147 to determine whether there is a
148 genuine issue as to any material fact
149 and, if not, whether any party is
150 entitled to relief as a matter of law.
151 No testimony may be taken at the
152 hearing, unless the movant and all

153 respondents consent. If the court finds
154 that there is no genuine issue as to any
155 material fact, it shall order appropriate
156 relief. If the court finds that there is a
157 genuine issue of material fact, it shall
158 conduct a status conference.

159 (B) On request or on its own
160 initiative and on reasonable notice to
161 the parties, the court may order that an
162 evidentiary hearing at which witnesses
163 may testify shall be held on the
164 scheduled hearing date.

165 (2) STATUS CONFERENCE. A status
166 conference under Rule 9014(i)(1)(A) may be held at
167 the time fixed for the hearing, or immediately
168 afterward without further notice to the parties. The

169 attorneys for the movant and for every party against
170 whom relief is sought that filed a timely response, and
171 every party not represented by an attorney, shall
172 appear and participate at the status conference. The
173 purpose of the status conference is to expedite the
174 disposition of the administrative proceeding. The
175 court may enter a pretrial order requiring the
176 disclosure of information of the type described in
177 Rule 26(a)(1)-(3) F.R.Civ.P., scheduling pretrial
178 discovery, fixing the time for a hearing on factual
179 issues, and otherwise providing for the just, speedy,
180 and economical disposition of the proceeding.

181 (3) RELIEF FROM AUTOMATIC STAY;
182 PRELIMINARY HEARING ON USE OF CASH
183 COLLATERAL OR OBTAINING CREDIT. If an
184 administrative motion requests relief from an

100 FEDERAL RULES OF BANKRUPTCY PROCEDURE

185 automatic stay of any act against property of the estate
186 under § 362(d), or includes a request for a preliminary
187 hearing as provided in Rule 4001(b)(2) or (c)(2), a
188 hearing at which witnesses may testify may be held at
189 the time fixed for the hearing.

190 (j) TESTIMONY OF WITNESSES. Rule 43(e)
191 F.R.Civ.P. does not apply at an evidentiary hearing on an
192 administrative motion.

193 (k) SERVICE OF NOTICE THAT ORDER HAS
194 BEEN ENTERED. Notice of the entry of any order shall be
195 served in accordance with Rule 9022 on the movant, the
196 entities listed in Rule 9014(c)(1), and any other entity as the
197 court directs.

198 (l) APPLICATION OF PART VII RULES.
199 Unless the court orders otherwise, the following rules apply
200 in an administrative proceeding: Rules 7009, 7017, 7019-

201 7021, 7025, 7041, 7042, 7052, 7054-7056, 7064, 7069, and
202 7071. The court may at any stage in a particular matter order
203 that one or more of the other rules in Part VII apply. The
204 court shall give the parties notice of any order issued under
205 this paragraph to afford them a reasonable opportunity to
206 comply with the procedures made applicable by the order.

207 (m) PROCEDURAL OR DISPOSITIVE MOTION
208 RELATING TO PENDING ADMINISTRATIVE
209 PROCEEDING. Rule 7(b)(1) F.R.Civ.P. and Rule 9006(d)
210 apply to a motion that addresses only a procedural matter
211 relating to, or a dispositive motion made within, a pending
212 administrative proceeding.

213 (n) TRANSMISSION TO UNITED STATES
214 TRUSTEE. A copy of every paper filed and every order
215 entered in connection with an administrative proceeding shall

102 FEDERAL RULES OF BANKRUPTCY PROCEDURE

216 be transmitted to the United States trustee if required by Rule
217 9034.

218 (o) RELIEF FROM PROCEDURAL
219 REQUIREMENTS. The court for cause may order that any
220 procedural requirement provided in this rule shall not apply
221 or shall be amended in a particular proceeding. The court
222 shall give the parties notice of the order to afford them a
223 reasonable opportunity to comply with any amended
224 procedural requirements.

225 ~~In a contested matter in a case under the Code not~~
226 ~~otherwise governed by these rules, relief shall be requested by~~
227 ~~motion, and reasonable notice and opportunity for hearing~~
228 ~~shall be afforded the party against whom relief is sought. No~~
229 ~~response is required under this rule unless the court orders an~~
230 ~~answer to a motion. The motion shall be served in the manner~~
231 ~~provided for service of a summons and complaint by Rule~~

232 ~~7004, and, unless the court otherwise directs, the following~~
233 ~~rules shall apply: 7021, 7025, 7026, 7028-7037, 7041, 7042,~~
234 ~~7052, 7054-7056, 7062, 7064, 7069, and 7071. The court may~~
235 ~~at any stage in a particular matter direct that one or more of~~
236 ~~the other rules in Part VII shall apply. An entity that desires~~
237 ~~to perpetuate testimony may proceed in the same manner as~~
238 ~~provided in Rule 7027 for the taking of a deposition before an~~
239 ~~adversary proceeding. The clerk shall give notice to the~~
240 ~~parties of the entry of any order directing that additional rules~~
241 ~~of Part VII are applicable or that certain of the rules of Part~~
242 ~~VII are not applicable. The notice shall be given within such~~
243 ~~time as is necessary to afford the parties a reasonable~~
244 ~~opportunity to comply with the procedures made applicable~~
245 ~~by the order.~~

COMMITTEE NOTE

Rules 9013 and 9014 have been amended to substantially revise the rules governing motion practice in bankruptcy cases.

Rule 9014 had been limited to the category of disputes called “contested matters.” Confusion as to whether a particular motion was a contested matter, rather than a different type of proceeding, and uncertainty as to the procedural requirements relating to a contested matter, have led to the amendment of this rule.

These amendments provide more detailed procedural guidance than provided in the past. This change is intended to increase uniformity in litigation practice among districts and to reduce the number of local rules.

This rule, as amended, governs a proceeding that is not an application (governed by Rule 9013), an adversary proceeding (governed by Part VII), a request to pay the filing fee in installments (governed by Rule 1006), a request for an extension of time to file schedules and statements (governed by Rule 1007(c)), a proceeding commenced on the court’s own initiative to dismiss a case for substantial abuse of chapter 7 (governed by Rule 1017(e)(2)), a motion for an order approving the employment of a professional person (governed by Rule 2014), or a request for an order approving a disclosure statement or confirming a plan (governed by Rule 3015(f), 3017, or 3020(b)).

A motion made in either a pending adversary proceeding or in a pending administrative proceeding — such as a motion for summary judgment, a motion to dismiss, or a motion for a protective

order relating to discovery — is not an administrative proceeding governed by this rule. However, a procedural or dispositive motion relating to a pending administrative proceeding is governed by Rule 9014(m) and a motion relating to discovery is governed by Rule 9014(h). Any motion made in connection with an appeal to the district court or bankruptcy appellate panel (including a motion for a stay pending appeal, a motion for leave to appeal, or any motion under a rule in Part VIII) is excluded from the scope of Rule 9014.

Rule 9014(a) also clarifies that this rule does not apply to a petition commencing a case under the Code (governed by §§ 301-303 of the Code and Rules 1002-1005, 1010, 1011, 1013, and 1018), or a petition commencing a case ancillary to a foreign proceeding (governed by § 304 of the Code and Rules 1002, 1005, 1010, 1011, and 1018).

Numerous rules require or refer to the filing of a motion for certain relief. Unless the motion to which the rule refers is of the type listed in Rule 9014(a) as being outside the scope of this rule, the motion would commence an administrative proceeding and would be governed by Rule 9014. For example, Rule 3008 provides that a party in interest “may move for reconsideration of an order allowing or disallowing a claim against the estate.” A motion requesting reconsideration under Rule 3008 commences an administrative proceeding and is governed by Rule 9014.

The amendments also increase certain time periods relating to these types of proceedings. For example, current Rule 9006(d) — which formerly applied in contested matters — provides that a motion and notice of hearing must be served at least 5 days before the scheduled hearing date. In contrast, amended Rule 9014 provides for

service at least 20 days before the date scheduled for the hearing. This time period may be enlarged in accordance with Rules 9006(b) and 9013, or reduced in accordance with Rule 9006(c) or Rule 9014(o). The three-day "mail rule" under Rule 9006(f) does not apply with respect to these time periods because the time for acting in accordance with this rule is not triggered by service of any notice or other paper.

The amendments provide that a response may be filed no later than 5 days before the scheduled hearing date. See Rule 9014(d). It is important for practitioners to be aware of Rule 9006(a), which provides that time periods in the rules that are less than 8 days are determined without including in the computation intervening Saturdays, Sundays, and legal holidays.

Rule 9014(c) requires service of both the administrative motion and notice of the hearing, but there is no requirement that the motion and notice of hearing be in separate documents.

The court may order appropriate relief without a hearing if a timely response is not filed. If the judge wants to hold a hearing nonetheless, subdivision (g) requires that the court notify the movant that a hearing will be held. The court may hold the hearing at the originally scheduled time or on a subsequent date.

A hearing must be held if a response is filed. But attorneys and unrepresented parties do not have to bring witnesses to the hearing unless (1) the proceeding is for relief from the automatic stay of acts against property of the estate, (2) the proceeding is for preliminary authority to use cash collateral or to obtain credit, or (3) the court gives reasonable notice to the parties that an evidentiary

hearing may be held on the date when the hearing is scheduled. Otherwise, if a response is filed, the court will hold a hearing only for purposes of determining whether an evidentiary hearing is necessary to resolve questions of fact and, if an evidentiary hearing is not necessary, to resolve the proceeding. If an evidentiary hearing is needed, the court will hold a status conference under Rule 9014(i)(2) to facilitate settlement discussions, set a discovery schedule, schedule an evidentiary hearing, or formulate any other pretrial order designed to expedite the proceeding. It is anticipated that the status conference will be held immediately following the court's determination that there is a genuine issue of material fact and, therefore, attorneys and unrepresented parties should attend the hearing prepared for an immediate status conference. Subdivision (i) does not preclude the court from ordering a status conference under § 105(d) of the Code.

If the court determines based on affidavits that there are genuine issues of material fact, and an evidentiary hearing is held to resolve the issues, witnesses must testify orally in open court in accordance with Rule 9017 and Rule 43(a) F.R. Civ. P. Under Rule 9014(j), the court may not resolve these factual issues based on affidavits.

The amendments also require automatic disclosure regarding valuation reports when the value of property is at issue, the report has been prepared, and the party intends to introduce it as evidence. As used in this rule, the term "valuation report" includes a formal appraisal of the property, as well as any less formal written report on the value of the property.

Any party that files a paper in connection with an administrative proceeding is required to transmit a copy to the United

108 FEDERAL RULES OF BANKRUPTCY PROCEDURE

States trustee, if the proceeding relates to any of the matters listed in Rule 9034.

Subdivision (o) gives the court discretion to order, for cause and in a particular proceeding, that any procedural requirement under this rule does not apply or is amended. But the requirements of this rule may not be abrogated by local rule or general order. The court for cause shown may enlarge or reduce any time periods prescribed by this rule in accordance with Rule 9006.

Rule 9017. Evidence

- 1 Except as provided in Rule 9014(j), The Federal Rules
2 of Evidence and Rules 43, 44, and 44.1 F.R. Civ. P. apply in
3 cases under the Code.

COMMITTEE NOTE

This rule is amended to conform to Rule 9014(j), which provides that Rule 43(e) F.R. Civ. P. does not apply at an evidentiary hearing in an administrative proceeding. The effect of Rule 9014(j) is that a witness must testify in open court, rather than by affidavit, at an evidentiary hearing in an administrative proceeding governed by Rule 9014.

Rule 9021. Entry of Judgment

1 Except as otherwise provided ~~herein~~ in this rule, Rule
2 58 F.R. Civ. P. applies in cases under the Code. Every
3 judgment entered in an adversary proceeding or ~~contested~~
4 ~~matter~~ in an administrative proceeding shall be set forth on a
5 separate document. A judgment is effective when entered as
6 provided in Rule 5003. The reference in Rule 58 F.R. Civ. P.
7 to Rule 79(a) ~~F.R. Civ. P.~~ shall be read as a reference to Rule
8 5003 of these rules.

COMMITTEE NOTE

This rule is amended to conform to the amendments to Rule 9014.

Rule 9034. Transmittal of Pleadings, Motion Papers, Objections, and Other Papers to the United States Trustee

1 Unless the United States trustee requests otherwise or
2 the case is a chapter 9 municipality case, an ~~any~~ entity that
3 files a pleading, motion, objection, or similar paper relating

110 FEDERAL RULES OF BANKRUPTCY PROCEDURE

4 to any of the following matters shall transmit a copy thereof
5 to the United States trustee within the time required by these
6 rules for service of the paper:

7 (a) a proposed use, sale, or lease of property of the
8 estate other than in the ordinary course of business;

9 (b) a rejection, assumption, or assignment of an
10 executory contract or unexpired lease;

11 ~~(b)(c)~~ the approval of a compromise or settlement of
12 a controversy;

13 ~~(e)(d)~~ the dismissal of a case, transfer of a case to
14 another district, or conversion of a case to another chapter;

15 ~~(d)(e)~~ the employment of a professional person
16 persons;

17 ~~(e)(f)~~ an application for compensation or
18 reimbursement of expenses;

19 ~~(f)~~(g) a motion for, or approval of an agreement
20 relating to, the use of cash collateral or authority to obtain
21 credit;

22 (h) the appointment of an interim trustee before an
23 order for relief in an involuntary case;

24 ~~(g)~~(i) the election of a trustee or the appointment of
25 a trustee or examiner in a chapter 11 reorganization case;

26 (j) a review of the appointment of a creditors'
27 committee ;

28 ~~(h)~~(k) the approval of a disclosure statement;

29 ~~(i)~~(l) the confirmation of a plan;

30 ~~(j)~~(m) an objection to, or the waiver or revocation of,
31 the debtor's discharge; or

32 ~~(k)~~(n) any other matter ~~in which~~ when the United
33 States trustee requests ~~copies~~ a copy of filed papers or the
34 court orders ~~copies~~ a copy transmitted to the United States

35 trustee.

COMMITTEE NOTE

Several rules have contained provisions requiring that notice of a hearing on a particular matter be transmitted to the United States trustee. *See, e.g.*, Rules 1014, 2001(a), 2007(a), and 6007. Those provisions have been deleted and replaced with the additional matters added to the list in Rule 9034. In addition, the election of a chapter 11 trustee under § 1104 is added to the list in this rule so that the United States trustee will receive all papers relating to the election. Other amendments are stylistic.

PART II

MISCELLANEOUS PROPOSED AMENDMENTS

C. Proposed Amendments to Bankruptcy Rules 1007, 1017, 2002, 4003, 4004, and 5003
Submitted for Approval to Publish.

1. *Synopsis of Proposed Amendments.*

(a) Rule 1007(m) is amended to provide that, if a governmental unit is a creditor, the debtor is required to identify in the lists and schedules filed under this rule the applicable department, agency, or instrumentality of the governmental unit, if known to the debtor. This amendment is designed to facilitate more effective notice to governmental creditors.

(b) Rule 1017(e) is amended to permit the court to grant a timely request 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 time limit for filing the extension request.

(c) Rule 2002(a)(6) is amended to increase the dollar amount from \$500 to \$1,000 and to clarify that notice is required only if a particular entity is requesting more than \$1,000 as compensation or reimbursement of expenses. Rule 2002(j) is amended to require that the address of any notice mailed to the United States attorney under this paragraph identify the particular department, agency, or instrumentality through which the debtor is indebted to the United States. This amendment is designed to better enable the United States attorney to direct notices to the appropriate governmental officials.

114 FEDERAL RULES OF BANKRUPTCY PROCEDURE

(d) Rule 4003(b) is amended to permit the court to grant a timely request for an extension of time to object to a list of claimed exemptions, whether the court rules on the request before or after the expiration of the 30-day time limit for filing an objection.

(e) Rule 4004(c)(1) is amended to delay the granting of a discharge in a chapter 7 case while a motion for an extension of time to file a motion to dismiss the case under § 707(b) is pending.

(f) Rule 5003 is amended to permit the United States and the state in which the court is located to file statements designating safe harbor mailing addresses for notice purposes. The amendment requires the clerk to maintain a register of these addresses. Failure to use a mailing address in the register does not invalidate any notice that is otherwise effective under applicable law.

2. *Text of Proposed Amendments to Rules 1007, 1017, 2002, 4003, 4004, and 5003.*

Rule 1007. Lists, Schedules, and Statements; Time Limits

1 * * * * *

2 (m) Identifying a Governmental Unit. If the debtor

3 lists a governmental unit as a creditor in any list or schedule

4 filed under Rule 1007, the debtor shall identify, if known to

5 the debtor, any department, agency, or instrumentality of the

6 governmental unit through which the debtor is indebted.

7 Failure to comply with this paragraph does not affect the

8 debtor's legal rights.

COMMITTEE NOTE

Governmental units, including federal, state and municipal governments, may have difficulty or may experience delay in identifying the particular department or agency through which a debt is owed. To facilitate earlier and more effective participation by governmental units who are creditors in bankruptcy cases, Rule 1007(m) has been added to require the debtor to identify in the lists and schedules filed under this rule the particular department, agency, or instrumentality of the governmental unit through which the debtor is indebted, if the debtor knows this information. But if the debtor fails to comply with this requirement, such failure does not affect the debtor's legal rights.

The following text of Rule 1017 is not based on the current text of the rule. The following text embodies proposed amendments, including substantive and stylistic amendments, that have been approved by the Committee on Rules of Practice and Procedure in June 1998, and that will be presented to the Judicial Conference in September 1998 and, if approved by the Judicial Conference, to the Supreme Court for promulgation in 1999. The Advisory Committee is not requesting comment regarding the proposed amendments already approved by the Committee on Rules of Practice and Procedure, but is inviting comment regarding the proposals shown by the language underlined or lined through.

Rule 1017. Dismissal or Conversion of Case; Suspension

1 * * * * *

2 (e) DISMISSAL OF AN INDIVIDUAL

3 DEBTOR'S CHAPTER 7 CASE FOR SUBSTANTIAL

4 ABUSE. The court may dismiss an individual debtor's case

5 for substantial abuse under § 707(b) only on motion by the

6 United States trustee or on the court's own motion and after

7 a hearing on notice to the debtor, the trustee, the United States

8 trustee, and any other entities as the court directs.

9 (1) A motion to dismiss a case for
10 substantial abuse may be filed by the United States
11 trustee only within 60 days after the first date set for
12 the meeting of creditors under § 341(a), unless, on
13 request filed by the United States trustee before the
14 time has expired, the court for cause extends the time
15 for filing the motion to dismiss. The United States
16 trustee shall set forth in the motion all matters to be
17 submitted to the court for its consideration at the
18 hearing.

19 * * * * *

COMMITTEE NOTE

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.

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

1 (a) TWENTY-DAY NOTICES TO PARTIES IN
2 INTEREST. Except as provided in subdivisions (h), (i), and
3 (l) of this rule, the clerk, or some other person as the court
4 may direct, shall give the debtor, the trustee, all creditors and
5 indenture trustees at least 20 days' notice by mail of:

6 * * * * *

7 (6) ~~hearings on all applications for~~
8 ~~compensation or reimbursement of expenses totaling~~
9 ~~in excess of \$500~~ a hearing on any entity's request for
10 compensation or reimbursement of expenses if the
11 request exceeds \$1,000;

12 * * * * *

13 (j) NOTICES TO THE UNITED STATES.

14 Copies of notices required to be mailed to all creditors under
15 this rule shall be mailed:

16 (1) in a chapter 11 reorganization case in
17 which the Securities Exchange Commission has filed
18 either a notice of appearance in the case or a written
19 request to receive notices, to the Securities and
20 Exchange Commission at any place the Commission
21 designates has designated in the notice of appearance
22 or the written request, ~~if the Commission has filed~~
23 ~~either a notice of appearance in the case or a written~~
24 ~~request to receive notices~~;

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

120 FEDERAL RULES OF BANKRUPTCY PROCEDURE

28 (3) in a chapter 11 case, to the District
29 Director of Internal Revenue for the district in which
30 the case is pending;

31 (4) if the papers filed in the case disclose
32 a stock interest of the United States, to the Secretary
33 of the Treasury at Washington, D.C.; and

34 ~~(4)(5)~~ if the papers in the case disclose a debt
35 to the United States other than for taxes, to the United
36 States attorney for the district in which the case is
37 pending and to the department, agency, or
38 instrumentality of the United States through which the
39 debtor became is indebted, ~~;~~ or if the ~~filed papers~~
40 ~~disclose a stock interest of the United States, to the~~
41 ~~Secretary of the Treasury at Washington, D.C. The~~ The

42 department, agency, or instrumentality shall be
43 identified in the address of the notice mailed to the
44 United States attorney.

45 * * * * *

COMMITTEE NOTE

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.

Subdivision (j) is amended to require that the address of any notice mailed to the United States attorney under Rule 2002(j)

identify the particular department, agency or instrumentality through which the debtor is indebted to the United States. This requirement may be satisfied by including in the address either the name or an acronym commonly used to identify the department. For example, this requirement may be satisfied by addressing the notice to "United States Attorney (SBA)" if the debt is owed through the Small Business Administration. If the debtor is indebted to the United States through more than one department, agency or instrumentality, each should be identified in the address.

Other amendments to Rule 2002 are stylistic.

Rule 4003. Exemptions

1
2
3
4
5
6
7
8
9

* * * * *

(b) ~~OBJECTIONS~~ OBJECTIONS OBJECTING TO A CLAIM
OF EXEMPTIONS. ~~The trustee or any creditor may file~~
~~objections~~ An objection to the list of property claimed as
exempt may be filed by the trustee or a creditor only within
30 days after ~~the conclusion of~~ the meeting of creditors held
~~pursuant to Rule 2003(a),~~ under § 341(a) is concluded or
within 30 days after the filing of any amendment to the list or
supplemental schedules is filed, whichever is later. ~~unless,~~

10 ~~within such period, further time is granted by the court.~~ The
11 court may, for cause, extend the time for filing objections if,
12 before the time to object expires, the trustee or a creditor files
13 a request for an extension. Copies of the objections shall be
14 delivered or mailed to the trustee, ~~and to~~ the person filing the
15 list, and the attorney for ~~such~~ that person.

COMMITTEE NOTE

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); *In re Stoulig*, 45 F.3d 957 (5th Cir. 1995); *In re Brayshaw*, 912 F.2d 1255 (10th Cir. 1990). The amendment also clarifies that the extension may be granted only for cause.

Other amendments are stylistic.

Rule 4004. Grant or Denial of Discharge

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15

* * * * *

(c) GRANT OF DISCHARGE.

(1) In a chapter 7 case, on expiration of the time fixed for filing a complaint objecting to discharge and the time fixed for filing a motion to dismiss the case ~~pursuant to~~ under Rule 1017(e), the court shall forthwith grant the discharge unless:

- (a) the debtor is not an individual,
- (b) a complaint objecting to the discharge has been filed,
- (c) the debtor has filed a waiver under § 727(a)(10),
- (d) a motion to dismiss the case pursuant to Rule 1017(e) is pending,
- (e) a motion to extend the time for

16 filing a complaint objecting to
17 discharge is pending, or
18 (f) a motion to extend the time for
19 filing a motion to dismiss the case
20 under Rule 1017(e)(1) is pending, or
21 ~~(f)~~(g) the debtor has not paid in full
22 the filing fee prescribed by 28 U.S.C.
23 § 1930(a) and any other fee prescribed
24 by the Judicial Conference of the
25 United States under 28 U.S.C.
26 § 1930(b) that is payable to the clerk
27 upon the commencement of a case
28 under the Code.

29 * * * * *

COMMITTEE NOTE

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.

Rule 5003. Records Kept By the Clerk

1 * * * * *

2 (e) REGISTER OF MAILING ADDRESSES OF
3 FEDERAL AND STATE GOVERNMENTAL UNITS. The
4 United States or the state or territory in which the court is
5 located may file a statement designating its mailing address.
6 The clerk shall keep, in the form and manner as the Director
7 of the Administrative Office of the United States Courts may
8 prescribe, a register that includes these mailing addresses, but
9 the clerk is not required to include in the register more than
10 one mailing address for each department, agency, or
11 instrumentality of the United States or the state or territory.
12 If more than one address for a department, agency, or
13 instrumentality is included in the register, the clerk shall also

14 include information that would enable a user of the register to
15 determine the circumstances when each address is applicable,
16 and mailing notice to only one applicable address is sufficient
17 to provide effective notice. The clerk shall update the register
18 annually, effective January 2 of each year. The mailing
19 address in the register is conclusively presumed to be a proper
20 address for the governmental unit, but the failure to use that
21 mailing address does not invalidate any notice that is
22 otherwise effective under applicable law.

23 (e)(f) OTHER BOOKS AND RECORDS OF THE
24 CLERK. The clerk shall ~~also keep such~~ any other books and
25 records ~~as may be~~ required by the Director of the
26 Administrative Office of the United States Courts.

COMMITTEE NOTE

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.

PART III

PROPOSED FORMS AMENDMENTS

- C. Proposed Amendments to Official Bankruptcy Form 1 (Voluntary Petition) and Official Bankruptcy Form 7 (Statement of Financial Affairs) Submitted for Approval to Publish.
1. Synopsis of Proposed Amendments to Official Forms.
 - (a) Form 1 (Voluntary Petition) is amended to require the debtor to disclose whether the debtor owns or has possession of any property that poses a threat of imminent and identifiable harm to public health or safety. If there is such property, the debtor must complete a new exhibit to the petition containing relevant information. The exhibit will alert the United States trustee and the person selected as trustee in the case that immediate precautionary action may be necessary.
 - (b) Form 7 (Statement of Financial Affairs) is amended to provide more information about the debtor that will be useful to taxing authorities, pension plan supervisors, and governmental units charged with environmental protection and regulation.
 2. *Copy of Proposed Amendments to Official Bankruptcy Forms 1 and 7.*

FORM B1	United States Bankruptcy Court District of _____	Voluntary Petition
Name of Debtor (if individual, enter Last, First, Middle):	Name of Joint Debtor (Spouse) (Last, First, Middle):	
All Other Names used by the Debtor in the last 6 years (include married, maiden, and trade names):	All Other Names used by the Joint Debtor in the last 6 years (include married, maiden, and trade names):	
Soc. Sec./Tax I.D. No. (if more than one, state all):	Soc. Sec./Tax I.D. No. (if more than one, state all):	
Street Address of Debtor (No. & Street, City, State & Zip Code):	Street Address of Joint Debtor (No. & Street, City, State & Zip Code):	
County of Residence or of the Principal Place of Business:	County of Residence or of the Principal Place of Business:	
Mailing Address of Debtor (if different from street address):	Mailing Address of Joint Debtor (if different from street address):	
Location of Principal Assets of Business Debtor (if different from street address above):		

Information Regarding the Debtor (Check the Applicable Boxes)

Venue (Check any applicable box)

- Debtor has been domiciled or has had a residence, principal place of business, or principal assets in this District for 180 days immediately preceding the date of this petition or for a longer part of such 180 days than in any other District.
- There is a bankruptcy case concerning debtor's affiliate, general partner, or partnership pending in this District.

Type of Debtor (Check all boxes that apply)

- | | |
|--|---|
| <input type="checkbox"/> Individual(s) | <input type="checkbox"/> Railroad |
| <input type="checkbox"/> Corporation | <input type="checkbox"/> Stockbroker |
| <input type="checkbox"/> Partnership | <input type="checkbox"/> Commodity Broker |
| <input type="checkbox"/> Other _____ | |

Chapter or Section of Bankruptcy Code Under Which the Petition is Filed (Check one box)

- | | | |
|--|-------------------------------------|-------------------------------------|
| <input type="checkbox"/> Chapter 7 | <input type="checkbox"/> Chapter 11 | <input type="checkbox"/> Chapter 13 |
| <input type="checkbox"/> Chapter 9 | <input type="checkbox"/> Chapter 12 | |
| <input type="checkbox"/> Sec. 304 - Case ancillary to foreign proceeding | | |

Nature of Debts (Check one box)

- Consumer/Non-Business Business

Chapter 11 Small Business (Check all boxes that apply)

- Debtor is a small business as defined in 11 U.S.C. § 101
- Debtor is and elects to be considered a small business under 11 U.S.C. § 1121(e) (Optional)

Filing Fee (Check one box)

- Full Filing Fee attached
- Filing Fee to be paid in installments (Applicable to individuals only) Must attach signed application for the court's consideration certifying that the debtor is unable to pay fee except in installments. Rule 1006(b). See Official Form No. 3.

Statistical/Administrative Information (Estimates only)

- Debtor estimates that funds will be available for distribution to unsecured creditors.
- Debtor estimates that, after any exempt property is excluded and administrative expenses paid, there will be no funds available for distribution to unsecured creditors.

THIS SPACE IS FOR COURT USE ONLY

Estimated Number of Creditors	1-15	16-49	50-99	100-199	200-999	1000-over
	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Estimated Assets							
\$0 to \$50,000	\$50,001 to \$100,000	\$100,001 to \$500,000	\$500,001 to \$1 million	\$1,000,001 to \$10 million	\$10,000,001 to \$50 million	\$50,000,001 to \$100 million	More than \$100 million
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Estimated Debts							
\$0 to \$50,000	\$50,001 to \$100,000	\$100,001 to \$500,000	\$500,001 to \$1 million	\$1,000,001 to \$10 million	\$10,000,001 to \$50 million	\$50,000,001 to \$100 million	More than \$100 million
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Voluntary Petition
(This page must be completed and filed in every case)

Name of Debtor(s):

Prior Bankruptcy Case Filed Within Last 6 Years (If more than one, attach additional sheet)

Location Where Filed:

Case Number:

Date Filed:

Pending Bankruptcy Case Filed by any Spouse, Partner or Affiliate of this Debtor (If more than one, attach additional sheet)

Name of Debtor:

Case Number:

Date Filed:

District:

Relationship:

Judge:

Signatures

Signature(s) of Debtor(s) (Individual/Joint)

I declare under penalty of perjury that the information provided in this petition is true and correct.
[If petitioner is an individual whose debts are primarily consumer debts and has chosen to file under chapter 7] I am aware that I may proceed under chapter 7, 11, 12 or 13 of title 11, United States Code, understand the relief available under each such chapter, and choose to proceed under chapter 7.

I request relief in accordance with the chapter of title 11, United States Code, specified in this petition.

X _____
Signature of Debtor

X _____
Signature of Joint Debtor

Telephone Number (If not represented by attorney)

Date

Signature of Attorney

X _____
Signature of Attorney for Debtor(s)

Printed Name of Attorney for Debtor(s)

Firm Name

Address

Telephone Number

Date

Signature of Debtor (Corporation/Partnership)

I declare under penalty of perjury that the information provided in this petition is true and correct, and that I have been authorized to file this petition on behalf of the debtor.

The debtor requests relief in accordance with the chapter of title 11, United States Code, specified in this petition.

X _____
Signature of Authorized Individual

Printed Name of Authorized Individual

Title of Authorized Individual

Date

Exhibit A

(To be completed if debtor is required to file periodic reports (e.g., forms 10K and 10Q) with the Securities and Exchange Commission pursuant to Section 13 or 15(d) of the Securities Exchange Act of 1934 and is requesting relief under chapter 11)

Exhibit A is attached and made a part of this petition.

Exhibit B

(To be completed if debtor is an individual whose debts are primarily consumer debts)

I, the attorney for the petitioner named in the foregoing petition, declare that I have informed the petitioner that [he or she] may proceed under chapter 7, 11, 12, or 13 of title 11, United States Code, and have explained the relief available under each such chapter.

X _____
Signature of Attorney for Debtor(s) Date

Exhibit C

Does the debtor own or have possession of any property that poses a threat of imminent and identifiable harm to public health or safety?

Yes, and Exhibit C is attached and made a part of this petition.
 No

Signature of Non-Attorney Petition Preparer

I certify that I am a bankruptcy petition preparer as defined in 11 U.S.C. § 110, that I prepared this document for compensation, and that I have provided the debtor with a copy of this document.

Printed Name of Bankruptcy Petition Preparer

Social Security Number

Address

Names and Social Security numbers of all other individuals who prepared or assisted in preparing this document:

If more than one person prepared this document, attach additional sheets conforming to the appropriate official form for each person.

X _____
Signature of Bankruptcy Petition Preparer

Date

A bankruptcy petition preparer's failure to comply with the provisions of title 11 and the Federal Rules of Bankruptcy Procedure may result in fines or imprisonment or both 11 U.S.C. § 110; 18 U.S.C. § 156.

Exhibit "C"

[If, to the best of the debtor's knowledge, the debtor owns or has possession of property that poses a threat of imminent and identifiable harm to the public health or safety, attach this Exhibit "C" to the petition.]

[Caption as in Form 16B]

Exhibit "C" to Voluntary Petition

1. Identify and briefly describe all real or personal property owned by or in possession of the debtor that, to the best of the debtor's knowledge, poses a threat of imminent and identifiable harm to the public health or safety (attach additional sheets if necessary):

.....
.....
.....
.....

2. With respect to each parcel of real property or item of personal property identified in question 1, describe the nature and location of the dangerous condition, whether environmental or otherwise, that poses a threat of imminent and identifiable harm to the public health or safety (attach additional sheets if necessary):

.....
.....
.....
.....

COMMITTEE NOTE

The form has been amended to require the debtor to disclose whether the debtor owns or has possession of any property that poses a threat of imminent and identifiable harm to public health or safety. If any such property exists, the debtor must complete and attach Exhibit "C" describing the property, its location, and the potential danger it poses. Exhibit "C" will alert the United States trustee and any person selected as trustee that immediate precautionary action may be necessary.

FORM 7. STATEMENT OF FINANCIAL AFFAIRS
UNITED STATES BANKRUPTCY COURT

_____ DISTRICT OF _____

In re: _____, Case No. _____
(Name) Debtor (if known)

STATEMENT OF FINANCIAL AFFAIRS

This statement is to be completed by every debtor. Spouses filing a joint petition may file a single statement on which the information for both spouses is combined. If the case is filed under chapter 12 or chapter 13, a married debtor must furnish information for both spouses whether or not a joint petition is filed, unless the spouses are separated and a joint petition is not filed. An individual debtor engaged in business as a sole proprietor, partner, family farmer, or self-employed professional, should provide the information requested on this statement concerning all such activities as well as the individual's personal affairs.

Questions 1 - ~~45~~ 17 are to be completed by all debtors. Debtors that are or have been in business, as defined below, also must complete Questions ~~16-21~~ 18 - 25. If the answer to any question is "None," or the question is not applicable, mark the box labeled "None." If additional space is needed for the answer to any question, use and attach a separate sheet properly identified with the case name, case number (if known), and the number of the question.

DEFINITIONS

"In business." A debtor is "in business" for the purpose of this form if the debtor is a corporation or partnership. An individual debtor is "in business" for the purpose of this form if the debtor is or has been, within the ~~two~~ six years immediately preceding the filing of this bankruptcy case, any of the following: an officer, director, managing executive, or ~~person in control~~ owner of 5 percent or more of the voting or equity securities of a corporation; a partner, other than a limited partner, of a partnership; a sole proprietor or self-employed.

"Insider." The term "insider" includes but is not limited to: relatives of the debtor; general partners of the debtor and their relatives; corporations of which the debtor is an officer, director, or person in control; officers, directors, and any ~~person in control~~ owner of 5 percent or more of the voting or equity securities of a corporate debtor and their relatives; affiliates of the debtor and insiders of such affiliates; any managing agent of the debtor. 11 U.S.C. § 101.

1. Income from employment or operation of business

None

State the gross amount of income the debtor has received from employment, trade, or profession, or from operation of the debtor's business from the beginning of this calendar year to the date this case was commenced. State also the gross amounts received during the two years immediately preceding this calendar year. (A debtor that maintains, or has maintained, financial records on the basis of a fiscal rather than a calendar year may report fiscal year income. Identify the beginning and ending dates of the debtor's fiscal year.) If a joint petition is filed, state income for each spouse separately. (Married debtors filing under chapter 12 or chapter 13 must state income of both spouses whether or not a joint petition is filed, unless the spouses are separated and a joint petition is not filed.)

AMOUNT

SOURCE (if more than one)

There are no proposed amendments to
pages 2 through 5 of the form.

15. Prior address of debtorNone

If the debtor has moved within the **two years** immediately preceding the commencement of this case, list all premises which the debtor occupied during that period and vacated prior to the commencement of this case. If a joint petition is filed, report also any separate address of either spouse.

ADDRESS	NAME USED	DATES OF OCCUPANCY
---------	-----------	--------------------

[The following question is new]

16. Spouses and Former SpousesNone

If the debtor resides or resided in a community property state, commonwealth, or territory (Arizona, California, Idaho, Louisiana, Nevada, New Mexico, Puerto Rico, Texas, Washington, or Wisconsin) within the six-year period immediately preceding the commencement of the case, identify the name of the debtor's spouse and of any former spouse who resides or resided with the debtor in the community property state.

NAME

16 17. Nature, location and name of businessNone

a. If the debtor is an individual, list the names, addresses, taxpayer identification numbers, nature of the businesses, and addresses beginning and ending dates of all businesses in which the debtor was an officer, director, partner, or managing executive of a corporation, partnership, sole proprietorship, or was a self-employed professional within the **two six years** immediately preceding the commencement of this case, or in which the debtor owned 5 percent or more of the voting or equity securities within the **two six years** immediately preceding the commencement of this case.

If the debtor is a partnership, list the names, addresses, taxpayer identification numbers, nature of the businesses, and addresses beginning and ending dates of all businesses in which the debtor was a partner or owned 5 percent or more of the voting or equity securities, within the **two six years** immediately preceding the commencement of this case.

If the debtor is a corporation, list the names, addresses, taxpayer identification numbers, nature of the businesses, and addresses beginning and ending dates of all businesses in which the debtor was a partner or owned 5 percent or more of the voting or equity securities within the **two six years** immediately preceding the commencement of this case.

NAME	<u>TAXPAYER I.D. NUMBER</u>	ADDRESS	NATURE OF BUSINESS	<u>BEGINNING AND ENDING DATES OF OPERATION</u>
------	---------------------------------	---------	--------------------	--

None

b. Identify any business listed in response to subdivision a., b., or c., above, that is "single asset real estate" as defined in 11 U.S.C. § 101.

NAME	ADDRESS
------	---------

The following questions are to be completed by every debtor that is a corporation or partnership and by any individual debtor who is or has been, within the ~~two~~ six years immediately preceding the commencement of this case, any of the following: an officer, director, managing executive, or owner of more than 5 percent of the voting or equity securities of a corporation; a partner, other than a limited partner, of a partnership; a sole proprietor or otherwise self-employed.

*(An individual or joint debtor should complete this portion of the statement **only** if the debtor is or has been in business, as defined above, within the ~~two~~ six years immediately preceding the commencement of this case.)*

~~17~~ 18. Books, records and financial statements

- None a. List all bookkeepers and accountants who within the ~~six~~ two years immediately preceding the filing of this bankruptcy case kept or supervised the keeping of books of account and records of the debtor.

NAME AND ADDRESS

DATES SERVICES RENDERED

- None b. List all firms or individuals who within the two years immediately preceding the filing of this bankruptcy case have audited the books of account and records, or prepared a financial statement of the debtor.

NAME

ADDRESS

DATES SERVICES RENDERED

- None c. List all firms or individuals who at the time of the commencement of this case were in possession of the books of account and records of the debtor. If any of the books of account and records are not available, explain.

NAME

ADDRESS

- None d. List all financial institutions, creditors and other parties, including mercantile and trade agencies, to whom a financial statement was issued within the two years immediately preceding the commencement of this case by the debtor.

NAME AND ADDRESS

DATE ISSUED

~~18~~ 19. Inventories

- None a. List the dates of the last two inventories taken of your property, the name of the person who supervised the taking of each inventory, and the dollar amount and basis of each inventory.

DATE OF INVENTORY

INVENTORY SUPERVISOR

DOLLAR AMOUNT OF INVENTORY
(Specify cost, market or other basis)

None

b. List the name and address of the person having possession of the records of each of the two inventories reported in a., above.

DATE OF INVENTORY

NAME AND ADDRESSES OF CUSTODIAN
OF INVENTORY RECORDS

1920 . Current Partners, Officers, Directors and Shareholders

None

a. If the debtor is a partnership, list the nature and percentage of partnership interest of each member of the partnership.

NAME AND ADDRESS

NATURE OF INTEREST

PERCENTAGE OF INTEREST

None

b. If the debtor is a corporation, list all officers and directors of the corporation, and each stockholder who directly or indirectly owns, controls, or holds 5 percent or more of the voting or equity securities of the corporation.

NAME AND ADDRESS

TITLE

NATURE AND PERCENTAGE
OF STOCK OWNERSHIP

2021 . Former partners, officers, directors and shareholders

None

a. If the debtor is a partnership, list each member who withdrew from the partnership within one year immediately preceding the commencement of this case.

NAME

ADDRESS

DATE OF WITHDRAWAL

None

b. If the debtor is a corporation, list all officers, or directors whose relationship with the corporation terminated within one year immediately preceding the commencement of this case.

NAME AND ADDRESS

TITLE

DATE OF TERMINATION

2122. Withdrawals from a partnership or distributions by a corporationNone

If the debtor is a partnership or corporation, list all withdrawals or distributions credited or given to an insider, including compensation in any form, bonuses, loans, stock redemptions, options exercised and any other perquisite during **one year** immediately preceding the commencement of this case.

NAME & ADDRESS OF RECIPIENT, RELATIONSHIP TO DEBTOR	DATE AND PURPOSE OF WITHDRAWAL	AMOUNT OF MONEY OR DESCRIPTION AND VALUE OF PROPERTY
---	-----------------------------------	--

[The following three questions are new]

23. Tax Consolidation Group.None

If the debtor is a corporation, list the name and federal taxpayer identification number of the parent corporation of any consolidated group for tax purposes of which the debtor has been a member at any time within the six-year period immediately preceding the commencement of the case.

NAME OF PARENT CORPORATION	TAXPAYER IDENTIFICATION NUMBER
----------------------------	--------------------------------

24. Pension Funds.None

If the debtor is not an individual, list the name and federal taxpayer identification number of any pension fund to which the debtor, as an employer, has been responsible for contributing at any time within the six-year period immediately preceding the commencement of the case.

NAME OF PENSION FUND	TAXPAYER IDENTIFICATION NUMBER
----------------------	--------------------------------

25. Environmental Information.

For the purpose of this question, the following definitions apply:

"Environmental Law" means any federal, state, or local statute or regulation regulating pollution, contamination, releases of hazardous or toxic substances, wastes or material into the air, land, soil, surface water, groundwater, or other medium, including, but not limited to statutes or regulations regulating the cleanup of these substances, wastes, or material.

"Site" means any location, facility, or property as defined under any Environmental Law, whether or not presently or formerly owned or operated by the debtor, including, but not limited to, disposal sites.

"Hazardous Material" means anything defined as a hazardous waste, hazardous substance, toxic substance, hazardous material, pollutant, or contaminant or similar term under an Environmental Law

None

- a. List the name and address of every site for which the debtor has received notice in writing by a governmental unit that it may be liable or potentially liable under or in violation of an Environmental Law. Indicate the governmental unit, the date of the notice, and, if known, the Environmental Law:

SITE NAME AND ADDRESS	NAME AND ADDRESS OF GOVERNMENTAL UNIT	DATE OF NOTICE	ENVIRONMENTAL LAW
--------------------------	--	-------------------	----------------------

None b. List the name and address of every site for which the debtor provided notice to a governmental unit of a release of Hazardous Material. Indicate the governmental unit to which the notice was sent and the date of the notice.

SITE NAME AND ADDRESS	NAME AND ADDRESS OF GOVERNMENTAL UNIT	DATE OF NOTICE	ENVIRONMENTAL LAW
--------------------------	--	-------------------	----------------------

None c. List all judicial or administrative proceedings, including settlements or orders, under any Environmental Law with respect to which the debtor is or was a party. Indicate the name and address of the governmental unit that is or was a party to the proceeding, and the docket number.

NAME AND ADDRESS OF GOVERNMENTAL UNIT	DOCKET NUMBER	STATUS OR DISPOSITION
--	---------------	--------------------------

* * * * *

There are no proposed amendments to
page 11 (signature page) of the form.

COMMITTEE NOTE

The form has been amended to provide more information to taxing authorities, pension fund supervisors, and governmental units charged with environmental protection and regulation. Four new questions have been added to the form, covering community property owned by a debtor and the debtor's non-filing spouse or former spouse (Question 16), any consolidated tax group of a corporate debtor (Question 23), the debtor's contributions to any employee pension fund (Question 24), and environmental information (Question 25). In addition, every debtor will be required to state on the form whether the debtor has been in business within six years before filing the petition and, if so, must answer the remaining questions on the form (Questions 18 - 25). This is an enlargement of the two-year period previously specified. One reason for the longer "reach back" period is that business debtors often owe taxes that have been owed for more than two years. Another is that some of the questions already addressed to business debtors request information for the six-year period before the commencement of the case. Application of a six-year period to this section of the form will assure disclosure of all relevant information.

**PROCEDURES FOR THE CONDUCT OF BUSINESS BY
THE JUDICIAL CONFERENCE COMMITTEES
ON RULES OF PRACTICE AND PROCEDURE**

Scope

These procedures govern the operations of the Judicial Conference Committee on Rules of Practice, Procedure, and Evidence (Standing Committee) and the various Judicial Conference Advisory Committees on Rules of Practice and Procedure in drafting and recommending new rules of practice, procedure, and evidence and amendments to existing rules.

Part I - Advisory Committees

1. Functions

Each Advisory Committee shall carry on "a continuous study of the operation and effect of the general rules of practice and procedure now or hereafter in use" in its particular field, taking into consideration suggestions and recommendations received from any source, new statutes and court decisions affecting the rules, and legal commentary.

2. Suggestions and Recommendations

Suggestions and recommendations with respect to the rules should be sent to the Secretary, Committee on Rules of Practice and Procedure, Administrative Office of the United States Courts, Washington, D.C. 20544, who shall, to the extent feasible, acknowledge in writing every written suggestion or recommendation so received and shall refer all suggestions and recommendations to the appropriate Advisory Committee. To the extent feasible, the Secretary, in consultation with the Chairman of the Advisory Committee, shall advise the person making a recommendation or suggestion of the action taken thereon by the Advisory Committee.

3. Drafting Rules Changes

- a. An Advisory Committee shall meet at such times and places as the Chairman may authorize. All Advisory Committee meetings shall be open to the public, except when the committee so meeting, in open session and with a majority present, determines that it is in the public interest that all or part of the remainder of the meeting on that day shall be closed to the public and states the reason for closing the meeting. Each meeting shall be preceded by notice of the time and place of the meeting, including publication in the Federal Register, sufficient to permit interested persons to attend.
- b. The reporter assigned to each Advisory Committee shall, under the direction of the Committee or its Chairman, prepare initial draft rules changes, "Committee Notes"

explaining their purpose and intent, copies or summaries of all written recommendations and suggestions received by the Advisory Committee, and shall forward them to the Advisory Committee.

- c. The Advisory Committee shall then meet to consider the draft proposed new rules and rules amendments, together with Committee Notes, make revisions therein, and submit them for approval of publication to the Standing Committee, or its Chairman, with a written report explaining the Committee's action, including any minority or other separate views.

4. Publication and Public Hearings

- a. When publication is approved by the Standing Committee, the Secretary shall arrange for the printing and circulation of the proposed rules changes to the bench and bar, and to the public generally. Publication shall be as wide as practicable. Notice of the proposed rule shall be published in the Federal Register and copies provided to appropriate legal publishing firms with a request that they be timely included in their publications. The Secretary shall also provide copies to the chief justice of the highest court of each state and, insofar as is practicable, to all individuals and organizations that request them.
- b. In order to provide full notice and opportunity for comment on proposed rule changes, a period of at least six months from the time of publication of notice in the Federal Register shall be permitted, unless a shorter period is approved under the provisions of subparagraph d of this paragraph.
- c. An Advisory Committee shall conduct public hearings on all proposed rules changes unless elimination of such hearings is approved under the provisions of subparagraph d of this paragraph. The hearings shall be held at such times and places as determined by the chairman of the Advisory Committee and shall be preceded by adequate notice, including publication in the Federal Register. Proceedings shall be recorded and a transcript prepared. Subject to the provisions of paragraph six, such transcript shall be available for public inspection.
- d. Exceptions to the time period for public comment and the public hearing requirement may be granted by the Standing Committee or its chairman when the Standing Committee or its chairman determines that the administration of justice requires that a proposed rule change should be expedited and that appropriate public notice and comment may be achieved by a shortened comment period, without public hearings, or both. The Standing Committee may eliminate the public notice and comment requirement if, in the case of a technical or conforming amendment, it determines that notice and comment are not appropriate or necessary. Whenever such an exception is made, the Standing Committee shall advise the Judicial Conference of the exception and the reasons for the exception.

5. Subsequent Procedures

- a. At the conclusion of the comment period the reporter shall prepare a summary of the written comments received and the testimony presented at public hearings. The Advisory Committee shall review the proposed rules changes in the light of the comments and testimony. If the Advisory Committee makes any substantial change, an additional period for public notice and comment may be provided.
- b. The Advisory Committee shall submit proposed rules changes and Committee Notes, as finally agreed upon, to the Standing Committee. Each submission shall be accompanied by a separate report of the comments received and shall explain any changes made subsequent to the original publication. The submission shall also include minority views of Advisory Committee members who wish to have separate views recorded.

6. Records

- a. The Chairman of the Advisory Committee shall arrange for the preparation of minutes of all Advisory Committee meetings.
- b. The records of an Advisory Committee shall consist of the written suggestions received from the public; the written comments received on drafts of proposed rules, responses thereto, transcripts of public hearings, and summaries prepared by the reporter; all correspondence relating to proposed rules changes; minutes of Advisory Committee meetings; approved drafts of rules changes; and reports to the Standing Committee. The records shall be maintained at the Administrative Office of the United States Courts for a minimum of two years and shall be available for public inspection during reasonable office hours. Thereafter the records may be transferred to a Government Records Center in accordance with applicable Government retention and disposition schedules.
- c. Any portion of minutes, relating to a closed meeting and made available to the public, may contain such deletions as may be necessary to avoid frustrating the purposes of closing the meeting as provided in subparagraph 3a.
- d. Copies of records shall be furnished to any person upon payment of a reasonable fee for the cost of reproduction.

Part II - Standing Committee

7. Functions

The Standing Committee shall coordinate the work of the several Advisory Committees, make suggestions of proposals to be studied by them, consider proposals recommended by the Advisory Committees, and transmit such proposals with its recommendation to the Judicial

Conference, or recommit them to the appropriate Advisory Committee for further study and consideration.

8. Procedures

- a. The Standing Committee shall meet at such times and places as the Chairman may authorize. All Committee meetings shall be open to the public, except when the committee so meeting, in open session and with a majority present, determines that it is in the public interest that all or part of the remainder of the meeting on that day shall be closed to the public and states the reason for closing the meeting. Each meeting shall be preceded by notice of the time and place of the meeting, including publication in the Federal Register, sufficient to permit interested persons to attend.
- b. When an Advisory Committee's final recommendations for rules changes have been submitted, the Chairman and Reporter of the Advisory Committee shall attend the Standing Committee meeting to present the proposed rules changes and Committee Notes.
- c. The Standing Committee may accept, reject, or modify a proposal. If a modification effects a substantial change, the proposal will be returned to the Advisory Committee with appropriate instructions.
- d. The Standing Committee shall transmit to the Judicial Conference the proposed rules changes and Committee Notes approved by it, together with the Advisory Committee report. The Standing Committee's report to the Judicial Conference shall include its recommendations and explain any changes it has made.

9. Records

- a. The Secretary shall prepare minutes of all Standing Committee meetings.
- b. The records of the Standing Committee shall consist of the minutes of Standing and Advisory Committee meetings, reports to the Judicial Conference, and correspondence concerning rules changes including correspondence with Advisory Committee Chairmen. The records shall be maintained at the Administrative Office of the United States Courts for a minimum of two years and shall be available for public inspection during reasonable office hours. Thereafter the records may be transferred to a Government Records Center in accordance with applicable Government retention and disposition schedules.
- c. Copies of records shall be furnished to any person upon payment of a reasonable fee for the cost of reproduction.

**STANDING COMMITTEE ON RULES OF PRACTICE
AND PROCEDURE**

Judge Alicemarie H. Stotler, Chair

Judge Anthony J. Scirica	Chief Justice E. Norman Veasey Supreme Court of Delaware
Judge Phyllis A. Kravitch	Professor Geoffrey C. Hazard, Jr.
Judge A. Wallace Tashima	Alan C. Sundberg, Esquire
Judge William R. Wilson, Jr.	Sol Schreiber, Esquire
Judge James A. Parker	Gene W. Lafitte, Esquire
Chief Judge Frank W. Bullock, Jr.	Patrick F. McCartan, Esquire
Chief Judge Morey L. Sear	Honorable Eric H. Holder, Jr. Deputy Attorney General United States Department of Justice

Professor Daniel R. Coquillette, Reporter

Peter G. McCabe, Secretary

Rules Committees Support Office
John K. Rabiej, Chief

ADVISORY COMMITTEE ON APPELLATE RULES

Judge Will L. Garwood, Chair

Judge Diana Gribbon Motz	Luther T. Munford, Esquire
Judge Samuel A. Alito, Jr.	Michael J. Meehan, Esquire
Judge Stanwood R. Duval, Jr.	John Charles Thomas, Esquire
Chief Justice Pascal F. Calogero, Jr. Supreme Court of Louisiana	Honorable Seth P. Waxman Solicitor General
Professor Carol Ann Mooney	

Associate Professor Patrick J. Schiltz, Reporter

ADVISORY COMMITTEE ON BANKRUPTCY RULES

Judge Adrian G. Duplantier, Chair

Judge Eduardo C. Robreno	Professor Charles J. Tabb
Judge Robert W. Gettleman	Professor Kenneth N. Klee
Judge Bernice B. Donald	Henry J. Sommer, Esquire
Judge Robert J. Kressel	Gerald K. Smith, Esquire
Judge Donald E. Cordova	Leonard M. Rosen, Esquire
Chief Judge A. Jay Cristol	Neal Batson, Esquire
Chief Judge A. Thomas Small	J. Christopher Kohn, Esquire Director, Commercial Litigation Branch, Civil Division United States Department of Justice

Professor Alan N. Resnick, Reporter

ADVISORY COMMITTEE ON CIVIL RULES

Judge Paul V. Niemeyer, Chair

Judge David S. Doty	Justice Christine M. Durham Utah Supreme Court
Chief Judge C. Roger Vinson	Professor Thomas D. Rowe, Jr.
Judge David F. Levi	Mark O. Kasanin, Esquire
Judge Lee H. Rosenthal	Francis H. Fox, Esquire
Judge John L. Carroll	Phillip A. Wittmann, Esquire
Honorable Frank W. Hunger Assistant Attorney General Civil Division United States Department of Justice	Sheila L. Birnbaum, Esquire

Professor Edward H. Cooper, Reporter

ADVISORY COMMITTEE ON CRIMINAL RULES

Judge W. Eugene Davis, Chair

Judge Edward E. Carnes

Chief Justice Daniel E. Wathen
Maine Supreme Judicial Court

Judge George M. Marovich

Professor Kate Stith

Judge David D. Dowd, Jr.

Robert C. Josefsberg, Esquire

Judge D. Brooks Smith

Darryl W. Jackson, Esquire

Judge John M. Roll

Henry A. Martin, Esquire
Federal Public Defender

Judge Tommy E. Miller

Roger A. Pauley, Esquire
Director, Office of Legislation
Criminal Division
United States Department of
Justice

Professor David A. Schlueter, Reporter

ADVISORY COMMITTEE ON EVIDENCE RULES

Judge Fern M. Smith, Chair

Judge Jerry E. Smith

Professor Kenneth S. Broun

Judge Milton I. Shadur

Gregory P. Joseph, Esquire

Judge David C. Norton

John M. Kobayashi, Esquire

Judge James T. Turner

Fredric F. Kay, Esquire
Federal Public Defender

Dean James K. Robinson

Mary Frances Harkenrider, Esquire
Counsel, Criminal Division
United States Department of Justice

Professor Daniel J. Capra, Reporter

**STATE BAR ASSOCIATIONS'
POINTS OF CONTACT
TO THE RULES COMMITTEES**

Alabama State Bar
Frank M. Bainbridge, Esquire

Alaska Bar Association
Monica Jenicek, Esquire

State Bar of Arizona
Anthony R. Lucia, Esquire

Arkansas Bar Association
J. Thomas Ray, Esquire

The State Bar of California
Pamela L. Johnston, Esquire

The Colorado Bar Association
Charles C. Turner, Esquire

Connecticut Bar Association
Francis J. Brady, Esquire

Delaware State Bar Association
Gregory P. Williams, Esquire

Bar Association of District of Columbia
Thomas Earl Patton, Esquire

The District of Columbia Bar
William J. Carter, Esquire

The Florida Bar
James E. Cobb, Esquire

Georgia State Bar Association
Glenn Darbyshire

Hawaii State Bar Association
Margery Bronster, Esquire

Idaho State Bar
Diane K. Minnich, Esquire

Illinois State Bar Association
Dennis Rendleman, Esquire

Indiana State Bar Association
Thomas A. Pyrz, Esquire

The Iowa State Bar Association
John C. Hendricks, Esquire

Kansas Bar Association
Brian G. Grace, Esquire

Kentucky Bar Association
Norman E. Harned, Esquire

Louisiana State Bar Association
Patrick A. Talley, Esquire

Maine State Bar
Martha C. Gaythwaite, Esquire

Maryland State Bar Association
Roger W. Titus, Esquire

Massachusetts Bar Association
Martin W. Healy, Esquire

State Bar of Michigan
Jon R. Muth, Esquire

Minnesota State Bar Association
Judge Marilyn Justman

The Mississippi Bar
Larry Houchins

The Missouri Bar
Robert T. Adams, Esquire

State Bar of Montana
Lawrence F. Daly, Esquire

Nebraska State Bar Association
Terrence D. O'Hare, Esquire

State Bar of Nevada
Wayne Blevins

New Jersey State Bar Association
Raymond A. Noble, Esquire

State Bar of New Mexico
Carl J. Butkus, Esquire

New York State Bar Association
Bernice K. Leber, Esquire

North Carolina Bar Association
G. Gray Wilson, Esquire

The North Carolina State Bar
L. Thomas Lundsford, Esquire

State Bar Association of North Dakota
Sandi Tabor, Esquire

Ohio State Bar Association
William K. Weisenberg, Esquire

Oregon State Bar
Honorable Robert E. Jones

Pennsylvania Bar Association
H. Robert Fiebach, Esquire

Rhode Island Bar Association
Benjamin V. White, III, Esquire

South Carolina Bar
Justin S. Kahn, Esquire

State Bar of Texas
Ronald F. Ederer, Esquire

Tennessee Bar Association
Allan F. Ramsaur, Esquire

Vermont Bar Association
Samuel Hoar, Jr., Esquire

The Virginia Bar Association
C.B. Arrington, Jr., Esquire

Virginia State Bar
Mary Yancey Spencer, Esquire

Washington State Bar Association
Jan Michels

The West Virginia State Bar
Thomas R. Tinder, Esquire

State Bar of Wisconsin
Gary E. Sherman, Esquire

Wyoming State Bar
Richard E. Day, Esquire