

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

The Committee on Rules of Practice and Procedure recommends that the Judicial Conference:

1. Approve the proposed amendments to Official Bankruptcy Forms 1, 3, 6, 7, 8, 9A, 9C, 9D, 9E, 9E(Alt.), 9F, 9F(Alt.), 9G, 9H, 9I, 10, 16A, 16B, 16C, 17, and 18 and the adoption of new Official Bankruptcy Forms 16D and 19 pp. 4-5
2. Approve proposed amendments to Civil Rule 26 and transmit them to the Supreme Court for its consideration with the recommendation that they be adopted by the Court and transmitted to Congress in accordance with the law pp. 6-8
3. Recommend to Congress that it delete the service provisions in 46 U.S.C. § 742 pp. 9-10
4. Oppose legislation regulating the composition of committees constituted to advise the Judicial Conference and the Chief Justice of the United States pp. 13-14

The remainder of the report is for information and the record.

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

Agenda F-19
Rules
March 1995

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

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

Your Committee on Rules of Practice and Procedure met on January 11-13, 1995. All members of the committee attended the meeting.

Representing the advisory committees were: Judge James K. Logan, Chair, and Professor Carol Ann Mooney, Reporter, of the Advisory Committee on Appellate Rules; Judge Paul Mannes, Chair, and Professor Alan N. Resnick, Reporter, of the Advisory Committee on Bankruptcy Rules; Judge Patrick E. Higginbotham, Chair, and Professor Edward H. Cooper, Reporter, of the Advisory Committee on Civil Rules; Judge D. Lowell Jensen, Chair, and Professor David A. Schlueter, Reporter, of the Advisory Committee on Criminal Rules; Judge Ralph K. Winter, Jr., Chair, and Professor Margaret A. Berger, Reporter, of the Advisory Committee on Evidence Rules.

Participating in the meeting were Peter G. McCabe, Secretary to the Committee; Professor Daniel R. Coquillette, Reporter to the Committee; John K. Rabiej, Chief, and Mark D. Shapiro, attorney, of the Administrative Office's Rules

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Committee Support Office; Professor Mary P. Squiers, Director of the Local Rules Project; Bryan A. Garner and Joseph F. Spaniol, consultants to the Committee. Geoffrey M. Klineberg of the Department of Justice and William B. Eldridge of the Federal Judicial Center attended the meeting. Members of the public were present at the meeting as observers.

I. AMENDMENTS TO THE FEDERAL RULES OF APPELLATE PROCEDURE

In addition to reviewing comments submitted on proposed amendments to Appellate Rules 21, 25, 26, 27, 28, 29, and 32, published for public comment on September 1, 1994, the advisory committee is in various stages of considering other proposed amendments.

Style Revisions

At its October meeting the advisory committee reviewed Appellate Rules 1 through 23 that were revised by your committee's subcommittee on style. The revisions are part of a comprehensive effort to clarify and simplify all rules of practice and procedure. The advisory committee reviewed the proposed style changes for accuracy and determined whether any unintended substantive changes were made. It made further improvements to the stylized appellate rules.

The advisory committee recognized that some of the changes may implicate substantive questions and that other changes were needed to eliminate ambiguities in the existing rules. These changes, by their nature, involve decisions beyond "style" and will be specifically identified in the committee notes to the rules for

public comment. The advisory committee will consider stylizing the remaining Appellate Rules 24 through 48 at its spring and fall meetings. The committee is planning to present the entire package of revised rules to your committee in January 1996.

II. AMENDMENTS TO THE FEDERAL RULES OF BANKRUPTCY PROCEDURE

In addition to reviewing comments submitted on proposed amendments to twelve Bankruptcy Rules published for public comment on September 1, 1994, the advisory committee is in various stages of consideration of other proposed amendments.

A. Interim Rules

The Bankruptcy Reform Act of 1994 amended the Bankruptcy Code and took effect on the date of enactment - October 22, 1994. (Pub. L. 103-394, 108 Stat. 4106.) The Advisory Committee on Bankruptcy Rules submitted to your committee three suggested interim rules designed to implement immediately certain provisions of the Act.

Amendments to the Federal Rules of Bankruptcy Procedure implementing the Bankruptcy Reform Act will take effect no earlier than December 1, 1997, under the Rules Enabling Act rulemaking process. Pending promulgation of the amendments, the interim rules are necessary and will serve as model local rules for the courts.

Suggested Interim Rule 1 establishes procedures for the election of a chapter 11 trustee. Before enactment of the Act, creditors did not have the right to elect a trustee in a chapter 11 case. The Act now provides that, on request of a party within 30 days after the court orders the appointment of a trustee, the United States trustee must convene a meeting of the creditors for the purpose of electing a trustee. The interim rule sets forth the election procedures, including court approval of the appointment of the elected person.

Suggested Interim Rule 2 implements some of the Act's provisions relating to small businesses in chapter 11 cases. The rule establishes procedures, including time limits, for making a small business election and procedures relating to conditional approval of the disclosure statement.

Suggested Interim Rule 3 implements the Act's provision authorizing a bankruptcy judge to conduct a jury trial if a party has a right to trial by jury, the bankruptcy judge is designated by the district court to conduct a jury trial, and the parties consent. Suggested Interim Rule 3 incorporates by reference the Federal Rules of Civil Procedure relating to jury trials.

Your committee approved distribution of the interim rules to the courts.

B. Official Bankruptcy Forms

The Bankruptcy Reform Act affects not only specific Bankruptcy Rules, but also the Official Bankruptcy Forms. Since the Act is now in effect, immediate revisions of the Forms to conform to the Act are necessary. Unlike rule amendments, amendments of Official Bankruptcy Forms take effect on approval by

the Judicial Conference. Under these circumstances, the Advisory Committee on Bankruptcy Rules submitted to your committee proposed amendments to the Official Bankruptcy Forms and requested expedited approval of the Forms by the Judicial Conference without publication for comment.

The advisory committee proposed amendments to Official Bankruptcy Forms 1, 3, 6, 7, 8, 9A, 9C, 9D, 9E, 9E(Alt.), 9F, 9F(Alt.), 9G, 9H, 9I, 10, 16A, 16B, 16C, 17, and 18 and recommended new Official Bankruptcy Forms 16D and 19. The revisions are technical and conforming. Several of the changes add identification items to some of the Forms in accordance with the Bankruptcy Reform Act, e.g., signature line for bankruptcy petition preparer. Other changes reflect other informational items required by the Act.

Bankruptcy Rule 9009 authorizes courts to make "alternative amendments as may be appropriate" to the Official Bankruptcy Forms. The revised Official Bankruptcy Forms were distributed in January 1995, and the courts were advised of their authority to adopt them under Rule 9009 pending final approval by the Judicial Conference. The proposed revisions to the Official Bankruptcy Forms, as recommended by your committee, are in *Appendix A*.

Recommendation: That the Judicial Conference approve the proposed amendments to Official Bankruptcy Forms 1, 3, 6, 7, 8, 9A, 9C, 9D, 9E, 9E(Alt.), 9F, 9F(Alt.), 9G, 9H, 9I, 10, 16A, 16B, 16C, 17, and 18 and the adoption of new Official Bankruptcy Forms 16D and 19.

III. AMENDMENTS TO THE FEDERAL RULES OF CIVIL PROCEDURE

The advisory committee is reviewing comments submitted on proposed amendments to Civil Rule 5 published for public comment on September 1, 1994. It is also studying several other proposed amendments.

A. Rules Recommended for Approval and Transmission

The Advisory Committee on Civil Rules submitted to your committee proposed amendments to Civil Rules 26 and 43. The proposed amendments were circulated to the bench and bar in October 1993, and a public hearing was held immediately before the committee's meeting in April 1994.

Amended Rule 26(c) grew out of a cooperative process in which the advisory committee sought to respond to concerns expressed by Congress in a number of legislative proposals. Many members of Congress have feared that protective orders may conceal information that could protect against ongoing risks to public health and safety. The advisory committee sought to adapt Rule 26(c) to meet this concern squarely, without imposing onerous procedural requirements that might weaken the benefits of protective orders in litigation over issues that do not involve any risk to public health or safety.

The approach chosen by the committee in new Rule 26(c)(3) was to make it clear that protective orders may be modified or dissolved - on motion by a party, a person bound by the order, or a person permitted to intervene for this purpose - for any appropriate reason. The rule includes a list of illustrative factors to be

considered, including any risk to public health or safety. It is believed that the amended rule meets the concerns expressed in Congress.

Amendments to rules are normally transmitted to the Judicial Conference at its Fall session, rather than the Spring session, to provide the Supreme Court with adequate time to review them by the annual May 1 statutory deadline. Your committee concluded that transmission of amendments to Rule 26 to the Court now is appropriate because of Congressional concerns over further delay. If the amendment is transmitted to the Court after the Fall Conference session, it would take effect no earlier than December 1, 1996 - rather than December 1, 1995, if approved now.

Your committee approved the proposed amendments to Rule 26 for approval and transmission to the Judicial Conference with a recommendation that the Conference transmit them immediately to the Supreme Court.

The proposed amendments to Rule 43 make two changes. The first makes it clear that a witness who testifies in open court need not testify "orally" if the witness is able to communicate only by other means, such as signing or writing. The second permits contemporaneous transmission of testimony from a different location, but only when good cause is shown in compelling circumstances, and only upon appropriate safeguards. The Committee Note emphasizes that live testimony in open court is strongly preferred. Your committee approved the proposed amendments to Rule 43, but decided to delay transmitting them to the Judicial Conference until its Fall session.

The proposed amendments to Rule 26 of the Federal Rules of Civil Procedure, as recommended by your committee, are in *Appendix B*.

Recommendation: That the Judicial Conference approve proposed amendments to Civil Rule 26 and transmit them to the Supreme Court for its consideration with the recommendation that they be adopted by the Court and transmitted to Congress in accordance with the law.

B. Rules Submitted for Publication and Comment

The advisory committee also submitted proposed amendments to Civil Rules 47 and 48 to your committee, and recommended that they be published for comment.

Rule 47 (Selection of Jurors) would be amended to establish a limited right of party participation in the examination of prospective jurors. The advisory committee recognized the abuses of *voir dire* that occur in some state courts that allow attorney participation in *voir dire*. The committee believes that the proposed amendments contain adequate safeguards against such abuses.

The proposed amendments would explicitly state that the court must conduct the examination of prospective jurors. The parties would be restricted to supplement the court's examination "within reasonable limits of time, manner, and subject matter set by the court in its discretion."

It is expected that with adequate *voir dire* by the trial judge, lawyers will seldom need to ask many additional questions. If extensive or improper questions are attempted, effective control can be exercised by the court. The abuse of discretion standard would apply to appellate review of a trial judge's decision to limit attorney questioning.

Your committee decided to defer further consideration of the proposed amendments to Civil Rule 47 to allow the Advisory Committee on Criminal Rules to complete its consideration of similar amendments to Criminal Rule 24 regarding selection of jurors in criminal cases.

Rule 48 (Number of Jurors - Participation in Verdict) would be amended to require a twelve-person jury in all civil cases, in the absence of a stipulation by counsel. The advisory committee reviewed many scholarly studies of the subject, virtually all critical of six-person juries. Perhaps the most serious deficiency of six-person juries identified in the articles was that they are less likely than twelve-person juries to include minority representation.

The literature also contained extensive discussions of the sociological and psychological dynamics of jury deliberation. Proponents in the articles argue that a twelve-person jury is superior because members of a twelve-person jury are less likely to be dominated by an aggressive juror, better able to recall evidence, more likely to rise above the biases and prejudices of individual members, and enriched by a broader base of community experiences. These factors may help to explain the further conclusion that six-person jury verdicts are more erratic.

Your committee voted to circulate next fall the proposed amendments to Rule 48 to the bench and bar for comment.

C. Suits in Admiralty Act

The advisory committee proposed that your committee recommend that the Judicial Conference recommend to Congress that the service provisions contained in

the Suits in Admiralty Act, 46 U.S.C. § 742, which are different from the service provisions in Civil Rule 4, be deleted. Section 742 requires that a party "forthwith serve" process on the United States in admiralty cases.

"Forthwith" has been interpreted by some courts to require service within a period much shorter than the 120-day period provided for effecting service under Civil Rule 4(m). Some courts have further ruled that Rule 4(m) does not supersede § 742 because the service requirement is a condition on the United States' waiver of sovereign immunity. Under these circumstances, the inconsistent time periods for service of process have posed traps for inexperienced counsel and caused loss of rights for their clients.

The Government voiced no objection to the proposal. Section 742 was enacted before the Civil Rules were adopted, and there is no apparent remaining reason to treat suits in admiralty different from other civil actions. Your committee concurred in the recommendation to delete the inconsistent service of process provision in § 742.

Recommendation: That the Judicial Conference recommend to Congress that it amend 46 U.S.C. § 742 by deleting its service provisions.

D. Decisions Not to Amend Certain Rules

The advisory committee has been studying at length possible amendments to Rule 53 (Masters). At its October 1994 meeting the committee ultimately concluded that the need to clarify the courts' practices regarding masters was not sufficient to require amendment of the rule at this time. The committee also has

devoted considerable time, over a period of several meetings, to proposed amendments to the offer-of-judgment provisions of Rule 68. A study of Rule 68 practice by the Federal Judicial Center has yet to be completed. The committee is wary of various proposals for comprehensive revision, but continues to study such proposals along with the possibility of narrower changes.

IV. AMENDMENTS TO THE FEDERAL RULES OF CRIMINAL PROCEDURE

The Advisory Committee on the Criminal Rules is reviewing comments submitted on proposed amendments to Criminal Rules 16 and 32 published for public comment on September 1, 1994.

The advisory committee presented no items for your committee's action. The committee is considering amendments to several rules, including a proposed amendment to Rule 24 (*voir dire*).

V. AMENDMENTS TO THE FEDERAL RULES OF EVIDENCE

A. Rules Approved for Publication and Comment

The Advisory Committee on the Rules of Evidence has submitted proposed amendments to Evidence Rules 103 and 407, and recommended that they be published for comment.

The proposed amendments to Rule 103 (Rulings on Evidence) add a new subdivision (e) to clarify differing practices among the courts regarding the finality of rulings on pretrial motions concerning the admissibility of evidence, e.g., motions

in limine. The proposed amendments explicitly state a default rule requiring counsel to renew at trial any pretrial objection or proffer that was earlier denied to preserve the objection for appeal purposes. Renewal of the objection is not required if "the court expressly states on the record, or the context clearly demonstrates" the finality of the pretrial ruling.

The proposed amendments to Evidence Rule 407 (Subsequent Remedial Measures) make two changes. First, Rule 407 is amended to apply expressly to product liability actions, which reflects the position of a majority of the circuits. It provides that remedial measures may not be used to prove "a defect in a product or its design, or that a warning or instruction should have accompanied a product." Second, the words "an injury or harm allegedly caused by" were added to clarify that the rule applies only to changes made after the occurrence that produced the damages giving rise to the action. Evidence of safety measures taken by the defendant prior to the "event" do not fall within the exclusionary scope of Rule 407 even if they occur after the manufacture or design of the product.

Your committee voted to circulate (next fall) the proposed amendments to Rules 103 and 407 to the bench and bar for comment.

B. Informational Statement Approved for Publication and Comment

Since its inception in 1992, the advisory committee has been engaged in a comprehensive review of all the Evidence Rules. Although some rules initially caused interpretational problems, the committee concluded that amendments to clarify meanings that have become settled would ultimately be counterproductive.

The committee had published for comment a list of twenty-five rules in September 1994 that it had decided not to amend. The advisory committee decided at this time not to amend an additional three rules and recommends that public comment be requested on its tentative decision not to amend Evidence Rules 406, 605, and 606.

Your committee voted to circulate (next fall) to the bench and bar for comment a list of the rules that the advisory committee decided not to amend along with the proposed amendments to Rules 103 and 407.

VI. LEGISLATIVE ISSUES

Senate Bill 3, the *Violent Crime Control and Law Enforcement Improvement Act of 1995*, was introduced on January 4, 1995. Section 540 would affect the composition of the Judicial Conference rules committees by requiring that the number of representatives from the Department of Justice on the Appellate, Criminal, Evidence, and Standing Rules Committees be equal to the number of non-judge committee members who represent defendants. Your committee discussed and agreed with the views expressed in the Chief Justice's year-end report - "this system [rulemaking] has worked well, and that Congress should not seek to regulate the composition of rules committees any more than it already has."

In addition to issues relating to the Chief Justice's prerogative to appoint members to committees expressly established to provide advice to the Judicial Conference, your committee believes that the provision appears to be premised on faulty assumptions. Committee votes are neither prosecution nor defense oriented.

Moreover, many committee members have had substantial experience as prosecutors. Finally, the Department of Justice already has an institutional advantage since a representative has always been a member of the respective committees.

RECOMMENDATION: That the Judicial Conference oppose legislation regulating the composition of committees constituted to advise the Judicial Conference and the Chief Justice of the United States.

VII. INFORMATIONAL ITEMS

A. Self-Study Evaluation

As part of its long-range planning, your committee authorized a self-study inviting comments from the public to evaluate the federal rulemaking process. A preliminary draft report has been prepared by your committee's Long-Range Planning Subcommittee. It is to be reviewed by the advisory committees at their respective meetings, with comments to be reported to the subcommittee. The subcommittee will issue its final report for your committee's consideration at its next meeting.

B. Ninth Circuit Local Rule on Capital Cases

Five attorneys general from States within the Ninth Circuit requested the Judicial Conference to exercise its authority under 28 U.S.C. § 331 to modify or abrogate the local rules of the Ninth Circuit regarding capital cases. The request asserted that the local rules were inconsistent with federal rules or laws. Their request was referred to the rules committees for appropriate action. Until the

instant matter, the rules committees have never been presented with a request to modify or abrogate a local rule of a court of appeals.

Your committee reviewed the report of the Advisory Committee on Appellate Rules on this issue, which was prepared under severe time constraints. The advisory committee had determined that based on the information before it, no provision in the local rules was inconsistent with federal rules or law. The vote of the advisory committee on two particular provisions was decided by one vote and several members expressed frustration with the available material on such a sensitive and complex matter.

Your committee concluded that additional information was needed and provided the attorneys general and the Ninth Circuit with an opportunity to supplement their materials.

After reviewing the supplemental information, your committee determined that the Ninth Circuit Local Rule on capital cases was inconsistent with federal law on two points. The first permits a single judge to convene an *en banc* hearing, notwithstanding the provisions of 28 U.S.C. § 46(c) and Fed. R. App. P. 35(a) that require an affirmative vote of the majority of the active circuit judges. The second provides an automatic issuance of a certificate of probable cause on a first petition (if the district court has failed to do so), despite 28 U.S.C. § 2253 as construed by the Supreme Court in *Barefoot v. Estelle*, 463 U.S. 880, 892-893 (1983). The chief judge of the court of appeals for the Ninth Circuit has been advised of your committee's views.

C. New Evidence Rules 413-415

In February 1995 the Judicial Conference transmitted to Congress, in accordance with the *Violent Crime Control and Law Enforcement Act of 1994*, a report containing recommendations for amending the Federal Rules of Evidence as they affect the admission of character evidence in certain cases.

Under the Act, new Rules 413-415 would be added to the Federal Rules of Evidence, unless the Judicial Conference submitted alternative amendments by February 10, 1995, in which case Evidence Rules 413-415 would take effect on July 10, 1995, unless Congress adopted the alternative amendments. The new rules would admit evidence of a defendant's past similar acts in criminal and civil cases involving a sexual assault or child molestation offense for its bearing on any matter to which it is relevant. After careful study by the Advisory Committee on Evidence, the Advisory Committee on Civil Rules, the Advisory Committee on Criminal Rules, and your committee, the Judicial Conference by mail ballot adopted your committee's recommendations and urged the Congress to reconsider its decision on policy questions underlying the new rules. The Judicial Conference also agreed, in the alternative, to recommend incorporation of the provisions of new Rules 413-415 as amendments to Rules 404 and 405 of the Federal Rules of Evidence approved by your committee. The amendments do not change the substance of the congressional enactment but would clarify drafting ambiguities and eliminate possible constitutional infirmities.

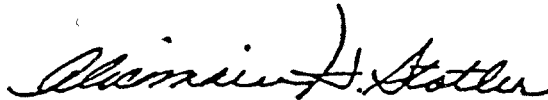
D. Report to the Chief Justice on Proposed Amendments Generating Controversy

In accordance with the standing request of the Chief Justice, a summary of issues concerning the proposed amendments generating controversy is set forth in *Appendix C*.

E. Chart Showing Status of Proposed Amendments

A chart prepared by the Administrative Office (reduced print) is attached as *Appendix D*, which shows the status of the proposed amendments to the rules.

Respectfully submitted,



Alicemarie H. Stotler, Chair
Thomas E. Baker
William O. Bertelsman
Frank H. Easterbrook
Thomas S. Ellis, III
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Geoffrey C. Hazard, Jr.
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James A. Parker
Alan W. Perry
George C. Pratt
Sol Schreiber
Alan C. Sundberg
E. Norman Veasey
William R. Wilson, Jr.

Appendix A: Proposed Amendments to the Official Bankruptcy Forms
Implementing the Federal Rules of Bankruptcy Procedure

Appendix B: Proposed Amendments to Rule 26(c) of the Federal Rules of Civil
Procedure

Appendix C: Proposed Rule Amendments Generating Controversy

Appendix D: Chart Summarizing Status of Rules Amendments

OFFICIAL FORMS

FORM 1. VOLUNTARY PETITION

United States Bankruptcy Court _____ District of _____	VOLUNTARY PETITION
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DEBTOR (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. and street, city, state, and zip code)	STREET ADDRESS OF JOINT DEBTOR (No. and street, city, state, and zip code)
COUNTY OF RESIDENCE OR PRINCIPAL PLACE OF BUSINESS	COUNTY OF RESIDENCE OR 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 addresses listed above)	VENUE (Check one box) <input type="checkbox"/> 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 <input type="checkbox"/> There is a bankruptcy case concerning debtor's affiliate, general partner, or partnership pending in this District

INFORMATION REGARDING DEBTOR (Check applicable boxes)	
TYPE OF DEBTOR (Check one box) <input type="checkbox"/> Individual <input type="checkbox"/> Joint (Husband & Wife) <input type="checkbox"/> Partnership <input type="checkbox"/> Other, _____ <input type="checkbox"/> Corporation Publicly Held <input type="checkbox"/> Corporation Not Publicly Held <input type="checkbox"/> Municipality NATURE OF DEBT (Check one box) <input type="checkbox"/> Non-Business/Consumer <input type="checkbox"/> Business—Complete A & B below A. TYPE OF BUSINESS (Check one box) <input type="checkbox"/> Farming <input type="checkbox"/> Professional <input type="checkbox"/> Retail/Wholesale <input type="checkbox"/> Railroad <input type="checkbox"/> Transportation <input type="checkbox"/> Manufacturing/ Mining <input type="checkbox"/> Stockbroker <input type="checkbox"/> Commodity Broker <input type="checkbox"/> Construction <input type="checkbox"/> Real Estate <input type="checkbox"/> Other Business B. BRIEFLY DESCRIBE NATURE OF BUSINESS	CHAPTER OR SECTION OF BANKRUPTCY CODE UNDER WHICH THE PETITION IS FILED (Check one box) <input type="checkbox"/> Chapter 7 <input type="checkbox"/> Chapter 9 <input type="checkbox"/> Chapter 11 <input type="checkbox"/> Chapter 12 <input type="checkbox"/> Chapter 13 <input type="checkbox"/> Sec 304—Case Ancillary to Foreign Proceeding SMALL BUSINESS (Chapter 11 only) <input type="checkbox"/> Debtor is a small business as defined in 11 U.S.C. § 101 <input type="checkbox"/> Debtor is and elects to be considered a small business under 11 U.S.C. § 1121(e) (Optional) FILING FEE (Check one box) <input type="checkbox"/> Filing fee attached <input type="checkbox"/> 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 NAME AND ADDRESS OF LAW FIRM OR ATTORNEY Telephone No _____ NAME(S) OF ATTORNEY(S) DESIGNATED TO REPRESENT THE DEBTOR (Print or Type Names) <input type="checkbox"/> Debtor is not represented by an attorney Telephone No. of Debtor not represented by an attorney ()
STATISTICAL/ADMINISTRATIVE INFORMATION (28 U.S.C. § 604) (Estimates only) (Check applicable boxes)	

<input type="checkbox"/> Debtor estimates that funds will be available for distribution to unsecured creditors <input type="checkbox"/> Debtor estimates that, after any exempt property is excluded and administrative expenses paid, there will be no funds available for distribution to unsecured creditors					
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 (in thousands of dollars)					
Under 50	50-99	100-499	500-999	1000-9999	10,000-99,000
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
ESTIMATED LIABILITIES (in thousands of dollars)					
Under 50	50-99	100-499	500-999	1000-9999	10,000-99,000
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
EST. NO. OF EMPLOYEES—CH 11 & 12 ONLY					
0	1-19	20-99	100-999	1000-over	
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
EST. NO. OF EQUITY SECURITY HOLDERS—CH 11 & 12 ONLY					
0	1-19	20-99	100-999	1000-over	
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	

THIS SPACE FOR COURT USE ONLY

FILING OF PLAN

For Chapter 9, 11, 12 and 13 cases only Check appropriate box.

 A copy of debtor's proposed plan dated _____ is attached Debtor intends to file a plan within the time allowed by statute, rule, or order of the court**PRIOR BANKRUPTCY CASE FILED WITHIN LAST 6 YEARS (If no 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

Relationship

District

Judge

REQUEST FOR RELIEF

Debtor is eligible for and requests relief in accordance with the chapter of title 11, United States Code, specified in this petition.

SIGNATURES**ATTORNEY**

Signature

Date

INDIVIDUAL/JOINT DEBTOR(S)**CORPORATE OR PARTNERSHIP DEBTOR**

I declare under penalty of perjury that the information provided in this petition is true and correct

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.

Signature of Debtor

Signature of Authorized Individual

Date

Print or Type Name of Authorized Individual

Signature of Joint Debtor

Title of Individual Authorized by Debtor to File this Petition

Date

Date

If debtor is a corporation filing under chapter 11, Exhibit "A" is attached and made part of this petition.

TO BE COMPLETED BY INDIVIDUAL CHAPTER 7 DEBTOR WITH PRIMARILY CONSUMER DEBTS (See P.L. 98-353 § 322)

I am aware that I may proceed under chapter 7, 11, or 12, or 13 of title 11, United States Code, understand the relief available under each such chapter, and choose to proceed under chapter 7 of such title.

If I am represented by an attorney, exhibit "B" has been completed.

Signature of Debtor

Date

Signature of Joint Debtor

Date

CERTIFICATION AND SIGNATURE OF NON-ATTORNEY BANKRUPTCY PETITION PREPARER (See 11 U.S.C. § 110)

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 or Typed Name of Bankruptcy Petition Preparer

Social Security Number

Address

Tel. No.

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 signed sheets conforming to the appropriate Official Form for each person.

Signature of Bankruptcy Petition Preparer

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 "B"**(To be completed by attorney for individual chapter 7 debtor(s) with primarily consumer debts.)**

I, the attorney for the debtor(s) named in the foregoing petition, declare that I have informed the debtor(s) that (he, she, or they) may proceed under chapter 7, 11, 12, or 13 of title 11, United States Code, and have explained the relief available under such chapter.

Signature of Attorney

Date

COMMITTEE NOTE

The form is amended to provide space for signing by a "bankruptcy petition preparer," as required under section 110 of the Code, which was added by the Bankruptcy Reform Act of 1994. In addition to signing, a bankruptcy petition preparer is required by section 110 to disclose the information requested. All signatories of Form 1 are requested to provide the clerk's office with a telephone number.

A chapter 11 debtor that qualifies as a "small business" under section 101 of the Code, as amended by the 1994 Act, may elect special, expedited treatment under amendments made to chapter 11 by the 1994 Act. The court may order that a creditors committee not be appointed in a small business case. Accordingly, the first page of the petition is amended to require a small business filing under chapter 11 to identify itself. The petition also is amended to offer a small business chapter 11 debtor an opportunity to exercise its right to elect to be considered a small business at the commencement of the case.

Several clarifying and technical amendments also have been made to indicate that a debtor is to check only one box with respect to "Type of Debtor" and "Nature of Debt," to clarify the intent that the individual signing on behalf of a corporation or partnership is authorized to file the petition, and to require a debtor to represent that it is eligible for relief under the chapter of title 11 specified in the petition.

Form 3. APPLICATION AND ORDER TO PAY FILING FEE IN INSTALLMENTS

[Caption as in Form 16B]

APPLICATION TO PAY FILING FEES IN INSTALLMENTS

In accordance with Fed. R. Bankr. P. 1006, application is made for permission to pay the filing fee on the following terms:

\$ _____ with the filing of the petition, and the balance of

\$ _____ in _____ installments, as follows:

\$ _____ on or before _____

\$ _____ on or before _____

\$ _____ on or before _____

\$ _____ on or before _____

I certify that I am unable to pay the filing fee except in installments. I further certify that I have not paid any money or transferred any property to an attorney or any other person for services in connection with this case or in connection with any other pending bankruptcy case and that I will not make any payment or transfer any property for services in connection with the case until the filing fee is paid in full.

Date: _____

Applicant

Attorney for Applicant

CERTIFICATION AND SIGNATURE OF NON-ATTORNEY BANKRUPTCY PETITION PREPARER (See 11 U.S.C. § 110)

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 debtor with a copy of this document.

Printed or Typed Name of Bankruptcy Petition Preparer

Social Security No.

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 signed 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.

ORDER

IT IS ORDERED that the debtor pay the filing fee in installments on the terms set forth in the foregoing application.

IT IS FURTHER ORDERED that until the filing fee is paid in full the debtor shall not pay, and no person shall accept, any money for services in connection with this case, and the debtor shall not relinquish, and no person shall accept, any property as payment for services in connection with this case.

BY THE COURT

United States Bankruptcy Judge

COMMITTEE NOTE

This form is a "document for filing" that may be prepared by a "bankruptcy petition preparer" as defined in 11 U.S.C. § 110, which was added to the Code by the Bankruptcy Reform Act of 1994; accordingly, a signature line is provided for such preparer. In addition to signing, a bankruptcy petition preparer is required by section 110 to disclose the information requested. A signature line for a debtor's attorney also is added, as required by Rule 9011.

In Re _____
Debtor

Case No. _____
(if known)

SCHEDULE E - CREDITORS HOLDING UNSECURED PRIORITY CLAIMS

A complete list of claims entitled to priority, listed separately by type of priority, is to be set forth on the sheets provided. Only holders of unsecured claims entitled to priority should be listed in this schedule. In the boxes provided on the attached sheets, state the name and mailing address, including zip code, and account number, if any, of all entities holding priority claims against the debtor or the property of the debtor, as of the date of the filing of the petition.

If any entity other than a spouse in a joint case may be jointly liable on a claim, place an "X" in the column labeled "Codebtor," include the entity on the appropriate schedule of creditor, and complete Schedule H-Codebtors. If a joint petition is filed, state whether husband, wife, both of them or the marital community may be liable on each claim by placing an "H," "W," "J," or "C" in the column labeled "Husband, Wife, Joint, or Community."

If the claim is contingent, place an "X" in the column labeled "Contingent." If the claim is unliquidated, place an "X" in the column labeled "Unliquidated." If the claim is disputed, place an "X" in the column labeled "Disputed." (You may need to place an "X" in more than one of these three columns.)

Report the total of claims listed on each sheet in the box labeled "Subtotal" on each sheet. Report the total of all claims listed on this Schedule E in the box labeled "Total" on the last sheet of the completed schedule. Repeat this total also on the Summary of Schedules.

Check this box if debtor has no creditors holding unsecured priority claims to report on this Schedule E.

TYPES OF PRIORITY CLAIMS (Check the appropriate box(es) below if claims in that category are listed on the attached sheets)

Extensions of credit in an involuntary case

Claims arising in the ordinary course of the debtor's business or financial affairs after the commencement of the case but before the earlier of the appointment of a trustee or the order for relief. 11 U.S.C. § 507(a)(2).

Wages, salaries, and commissions

Wages, salaries, and commissions, including vacation, severance, and sick leave pay owing to employees and commissions owing to qualifying independent sales representatives up to \$4000* per person earned within 90 days immediately preceding the filing of the original petition, or the cessation of business, whichever occurred first, to the extent provided in 11 U.S.C. § 507(a)(3).

Contributions to employee benefit plans

Money owed to employee benefit plans for services rendered within 180 days immediately preceding the filing of the original petition, or the cessation of business, whichever occurred first, to the extent provided in 11 U.S.C. § 507(a)(4).

Certain farmers and fishermen

Claims of certain farmers and fishermen, up to \$4000* per farmer or fisherman, against the debtor, as provided in 11 U.S.C. § 507(a)(5).

Deposits by individuals

Claims of individuals up to \$1,800* for deposits for the purchase, lease, or rental of property or services for personal, family, or household use, that were not delivered or provided. 11 U.S.C. § 507(a)(6).

In Re _____

Case No. _____

Debtor

(if known)

Alimony, Maintenance, or Support

Claims of a spouse, former spouse, or child of the debtor for alimony, maintenance, or support, to the extent provided in 11 U.S.C. § 507(a)(7).

Taxes and Certain Other Debts Owed to Governmental Units

Taxes, customs duties, and penalties owing to federal, state, and local governmental units as set forth in 11 U.S.C. § 507(a)(8).

Commitments to Maintain the Capital of an Insured Depository Institution

Claims based on commitments to the FDIC, RTC, Director of the Office of Thrift Supervision, Comptroller of the Currency, or Board of Governors of the Federal Reserve System, or their predecessors or successors, to maintain the capital of an insured depository institution. 11 U.S.C. § 507 (a)(9).

* Amounts are subject to adjustment on April 1, 1998, and every three years thereafter with respect to cases commenced on or after the date of adjustment.

____ continuation sheets attached

In re _____
Debtor

Case No. _____
(If known)

DECLARATION CONCERNING DEBTOR'S SCHEDULES

DECLARATION UNDER PENALTY OF PERJURY BY INDIVIDUAL DEBTOR

I declare under penalty of perjury that I have read the foregoing summary and schedules, consisting of _____ sheets, and that they are true and correct to the best of my knowledge, information, and belief. (Total shown on summary page plus 1.)

Date _____

Signature: _____
Debtor

Date _____

Signature: _____
(Joint Debtor, if any)

[If joint case, both spouses must sign.]

CERTIFICATION AND SIGNATURE OF NON-ATTORNEY BANKRUPTCY PETITION PREPARER (See 11 U.S.C. § 110)

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 or Typed Name of Bankruptcy Petition Preparer _____

Social Security No. _____

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 signed 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.

DECLARATION UNDER PENALTY OF PERJURY ON BEHALF OF A CORPORATION OR PARTNERSHIP

I, the _____ [the president or other officer or an authorized agent of the corporation or a member or an authorized agent of the partnership] of the _____ [corporation or partnership] named as debtor in this case, declare under penalty of perjury that I have read the foregoing summary and schedules, consisting of _____ sheets, and that they are true and correct to the best of my knowledge, information, and belief. (Total shown on summary page plus 1.)

Date _____

Signature: _____

[Print or type name of individual signing on behalf of debtor.]

[An individual signing on behalf of a partnership or corporation must indicate position or relationship to debtor.]

COMMITTEE NOTE

Schedule E - Creditors Holding Unsecured Priority Claims is amended to add the new seventh priority afforded to debts for alimony, maintenance, or support of a spouse, former spouse, or child of the debtor by the Bankruptcy Reform Act of 1994. Statutory references are amended to conform to the paragraph numbers of section 507(a) of the Code as renumbered by the 1994 Act. Schedule E also is amended to add commissions owed to certain independent sales representatives and to raise the maximum dollar amounts for certain priorities in accordance with amendments made by the 1994 Act to section 507(a) of the Code. The 1994 Act also amended section 104 of the Code to provide for future adjustment of the maximum dollar amounts specified in section 507(a) to be made by administrative action at three-year intervals to reflect changes in the consumer price index. Schedule E is amended to give notice that these dollar amounts are subject to change without formal amendment to the official form.

The Schedules are a "document for filing" that may be prepared by a "bankruptcy petition preparer" as defined in 11 U.S.C. § 110, which was added to the Code by the 1994 Act; accordingly, a signature line for such preparer is added. In addition to signing, a bankruptcy petition preparer is required by section 110 to disclose the information requested.

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 - 15 are to be completed by all debtors. Debtors that are or have been in business, as defined below, also must complete Questions 16 - 21. 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.

This is a multi-page form. The only amendments are to the final, or signature, page. Accordingly, the body of the form is omitted here.

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)

[If completed by an individual or individual and spouse]

I declare under penalty of perjury that I have read the answers contained in the foregoing statement of financial affairs and any attachments thereto and that they are true and correct.

Date _____

Signature _____
of Debtor

Date _____

Signature _____
of Joint Debtor
(if any)

CERTIFICATION AND SIGNATURE OF NON-ATTORNEY BANKRUPTCY PETITION PREPARER (See 11 U.S.C. § 110)

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 or Typed Name of Bankruptcy Petition Preparer _____

Social Security No. _____

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 signed 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 II and the Federal Rules of Bankruptcy Procedure may result in fines or imprisonment or both. 11 U.S.C. § 156.

[If completed on behalf of a partnership or corporation]

I, declare under penalty of perjury that I have read the answers contained in the foregoing statement of financial affairs and any attachments thereto and that they are true and correct to the best of my knowledge, information and belief.

Date _____

Signature _____

_____ Print Name and Title

[An individual signing on behalf of a partnership or corporation must indicate position or relationship to debtor.]

_____ continuation sheets attached

Penalty for making a false statement: Fine of up to \$500,000 or imprisonment for up to 5 years, or both. 18 U.S.C. § 152 and 3571

COMMITTEE NOTE

This form is a "document for filing" that may be prepared by a "bankruptcy petition preparer" as defined in 11 U.S.C. § 110, which was added to the Code by the Bankruptcy Reform Act of 1994; accordingly, a signature line for such preparer is added. In addition to signing, a bankruptcy petition preparer is required by section 110 to disclose the information requested.

Form 8. INDIVIDUAL DEBTOR'S STATEMENT OF INTENTION
[Caption as in Form 16B]

CHAPTER 7 INDIVIDUAL DEBTOR'S STATEMENT OF INTENTION

- I, the debtor, have filed a schedule of assets and liabilities which includes consumer debts secured by property of the estate.
- My intention with respect to the property of the estate which secures those consumer debts is as follows:

a. Property to Be Surrendered.

Description of Property	Creditor's name
1. _____	_____
2. _____	_____
3. _____	_____

b. Property to Be Retained. [Check applicable statement of debtor's intention concerning reaffirmation, redemption, or lien avoidance.]

Description of property	Creditor's name	Debt will be reaffirmed pursuant to § 524(c)	Property is claimed as exempt and will be redeemed pursuant to § 722	Lien will be avoided pursuant to § 522(f) and property will be claimed as exempt
1. _____	_____	_____	_____	_____
2. _____	_____	_____	_____	_____
3. _____	_____	_____	_____	_____
4. _____	_____	_____	_____	_____
5. _____	_____	_____	_____	_____

3. I understand that § 521(2)(B) of the Bankruptcy Code requires that I perform the above stated intention within 45 days of the filing of this statement with the court, or within such additional time as the court, for cause, within such 45-day period fixes.

Date: _____

Signature of Debtor

CERTIFICATION OF NON-ATTORNEY BANKRUPTCY PETITION PREPARER (See 11 U.S.C. § 110)

I certify that I am a bankruptcy petitioner 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 or Typed Name of Bankruptcy Petition Preparer

Social Security No.

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 signed 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 provision of title 11 and the Federal Rules of Bankruptcy Procedures may result in fines or imprisonment or both. 11 U.S.C. § 110; 18 U.S.C. § 156.

COMMITTEE NOTE

This form is a "document for filing" that may be prepared by a "bankruptcy petition preparer" as defined in 11 U.S.C. § 110, which was added to the Code by the Bankruptcy Reform Act of 1994; accordingly, a signature line for such preparer is added. In addition to signing, a bankruptcy petition preparer is required by section 110 to disclose the information requested.

United States Bankruptcy Court

Case Number _____

_____ District of _____

NOTICE OF COMMENCEMENT OF CASE UNDER CHAPTER 7 OF THE BANKRUPTCY CODE. MEETING OF CREDITORS, AND FIXING DATES (Individual or Joint Debtor No Asset Case)

In re (Name of Debtor)	Address of Debtor	Soc. Sec./Tax Id. Nos.
	Date Case Filed (or Converted)	
Name and Address of Attorney for Debtor	Name and Address of Trustee	
Telephone Number	Telephone Number	

This is a converted case originally filed under chapter _____ on _____ (date).

DATE, TIME, AND LOCATION OF MEETING OF CREDITORS

DISCHARGE OF DEBTS

Deadline to File a Complaint Objecting to Discharge of the Debtor or to Determine Dischargeability of Certain Types of Debts:

AT THIS TIME THERE APPEAR TO BE NO ASSETS AVAILABLE FROM WHICH PAYMENT MAY BE MADE TO UNSECURED CREDITORS. DO NOT FILE A PROOF OF CLAIM UNTIL YOU RECEIVE NOTICE TO DO SO.

COMMENCEMENT OF CASE. A petition for liquidation under chapter 7 of the Bankruptcy Code has been filed in this court by or against the person or persons named above as the debtor, and an order for relief has been entered. You will not receive notice of all documents filed in this case. All documents filed with the court, including lists of the debtor's property, debts, and property claimed as exempt are available for inspection at the office of the clerk of the bankruptcy court.

CREDITORS MAY NOT TAKE CERTAIN ACTIONS. A creditor is anyone to whom the debtor owes money or property. Under the Bankruptcy Code, the debtor is granted certain protection against creditors. Common examples of prohibited actions by creditors are contacting the debtor to demand repayment, taking action against the debtor to collect money owed to creditors or to take property of the debtor, and starting or continuing foreclosure actions, repossessions, or wage deductions. If unauthorized actions are taken by a creditor against a debtor, the court may penalize that creditor. A creditor who is considering taking action against the debtor or the property of the debtor should review 362 of the Bankruptcy Code and may wish to seek legal advice. The staff of the clerk of the bankruptcy court is not permitted to give legal advice.

MEETING OF CREDITORS. The debtor (both husband and wife in a joint case) is required to appear at the meeting of creditors on the date and at the place set forth above for the purpose of being examined under oath. Attendance by creditors at the meeting is welcomed, but not required. At the meeting, the creditors may elect a trustee other than the one named above, elect a committee of creditors, examine the debtor, and transact such other business as may properly come before the meeting. The meeting may be continued or adjourned from time to time by notice at the meeting, without further written notice to creditors.

LIQUIDATION OF THE DEBTOR'S PROPERTY. The trustee will collect the debtor's property and turn any that is not exempt into money. At this time, however, it appears from the schedules of the debtor that there are no assets from which any distribution can be paid to creditors. If at a later date it appears that there are assets from which a distribution may be paid, the creditors will be notified and given an opportunity to file claims.

EXEMPT PROPERTY. Under state and federal law, the debtor is permitted to keep certain money or property as exempt. If a creditor believes that an exemption of money or property is not authorized by law, the creditor may file an objection. An objection must be filed not later than 30 days after the conclusion of the meeting of creditors.

DISCHARGE OF DEBTS. The debtor is seeking discharge of debts. A discharge means that certain debts are made unenforceable against the debtor personally. Creditors whose claims against the debtor are discharged may never take action against the debtor to collect the discharged debts. If a creditor believes that the debtor should not receive any discharge of debts under § 727 of the Bankruptcy Code or that a debt owed to the creditor is not dischargeable under § 523(a) (2), (4), (6), or (15) of the Bankruptcy Code, timely action must be taken in the bankruptcy court by the deadline set forth above in the box labeled "Discharge of Debts." Creditors considering taking such action may wish to seek legal advice.

DO NOT FILE A PROOF OF CLAIM UNLESS YOU RECEIVE A COURT NOTICE TO DO SO

Address of the Clerk of the Bankruptcy Court	For the Court:
	Clerk of the Bankruptcy Court
	Date

United States Bankruptcy Court

Case Number _____

District of _____

NOTICE OF COMMENCEMENT OF CASE UNDER CHAPTER 7 OF THE BANKRUPTCY CODE. MEETING OF CREDITORS, AND FIXING DATES (Individual or Joint Asset Case)

In re (Name of Debtor)	Address of Debtor	Soc. Sec./Tax Id. Nos.
	Date Case Filed (or Converted)	
Name and Address of Attorney for Debtor	Name and Address of Trustee	
Telephone Number	Telephone Number	

This is a converted case originally filed under chapter _____ on _____ (date).

DEADLINE TO FILE A PROOF OF CLAIM

For creditors other than governmental units:

For governmental units:

DATE, TIME, AND LOCATION OF MEETING OF CREDITORS

DISCHARGE OF DEBTS

Deadline to File a Complaint Objecting to Discharge of the Debtor or to Determine Dischargeability of Certain Types of Debts:

COMMENCEMENT OF CASE: A petition for liquidation under chapter 7 of the Bankruptcy Code has been filed in this court by or against the person or persons named above as the debtor, and an order for relief has been entered. You will not receive notice of all documents filed in this case. All documents filed with the court, including lists of the debtor's property, debts, and property claimed as exempt are available for inspection at the office of the clerk of the bankruptcy court.

CREDITORS MAY NOT TAKE CERTAIN ACTIONS. A creditor is anyone to whom the debtor owes money or property. Under the Bankruptcy Code, the debtor is granted certain protection against creditors. Common examples of prohibited actions by creditors are contacting the debtor to demand repayment, taking action against the debtor to collect money owed to creditors or to take property of the debtor, and starting or continuing foreclosure actions, repossessions, or wage deductions. If unauthorized actions are taken by a creditor against a debtor, the court may penalize that creditor. A creditor who is considering taking action against the debtor or the property of the debtor should review § 362 of the Bankruptcy Code and may wish to seek legal advice. The staff of the clerk of the bankruptcy court is not permitted to give legal advice.

MEETING OF CREDITORS. The debtor (both husband and wife in a joint case) is required to appear at the meeting of creditors on the date and at the place set forth above for the purpose of being examined under oath. Attendance by creditors at the meeting is welcomed, but not required. At the meeting, the creditors may elect a trustee other than the one named above, elected a committee of creditors, examine the debtor, and transact such other business as may properly come before the meeting. The meeting may be continued or adjourned from time to time by notice at the meeting, without further written notice to creditors.

LIQUIDATION OF THE DEBTOR'S PROPERTY. The trustee will collect the debtor's property and turn any that is not exempt into money. If the trustee can collect enough money and property from the debtor, creditors may be paid some or all of the debts owed to them.

EXEMPT PROPERTY. Under state and federal law, the debtor is permitted to keep certain money or property as exempt. If a creditor believes that an exemption of money or property is not authorized by law, the creditor may file an objection. An objection must be filed not later than 30 days after the conclusion of the meeting of creditors.

DISCHARGE OF DEBTS. The debtor is seeking a discharge of debts. A discharge means that certain debts are made unenforceable against the debtor personally. Creditors whose claims against the debtor are discharged may never take action against the debtor to collect the discharged debts. If a creditor believes that the debtor should not receive any discharge of debts under § 727 of the Bankruptcy Code or that a debt owed to the creditor is not dischargeable under § 523(a)(2), (4), (6), or (15) of the Bankruptcy Code, timely action must be taken in the bankruptcy court by the deadline set forth above in the box labeled "Discharge of Debts." Creditors considering taking such action may wish to seek legal advice.

PROOF OF CLAIM. Except as otherwise provided by law, in order to share in any payment from the estate, a creditor must file a proof of claim by the date set forth above in the box labeled "Deadline to File a Proof of Claim." The place to file the proof of claim, either in person or by mail, is the office of the clerk of the bankruptcy court. Proof of claim forms are available in the clerk's office of any bankruptcy court.

Address of the Clerk of the Bankruptcy Court	For the Court:
	<i>Clerk of the Bankruptcy Court</i>
	<i>Date</i>

United States Bankruptcy Court

Case Number _____

District of _____

NOTICE OF COMMENCEMENT OF CASE UNDER CHAPTER 7 OF THE BANKRUPTCY CODE. MEETING OF CREDITORS, AND FIXING OF DATES (Corporation/Partnership Asset Case)

In re (Name of Debtor)	Address of Debtor	Soc. Sec./Tax Id. Nos.
	Date Case Filed (or Converted)	

Corporation Partnership

Name and Address of Attorney for Debtor	Name and Address of Trustee
Telephone Number	Telephone Number

This is a converted case originally filed under chapter _____ on _____ (date).

DEADLINE TO FILE A PROOF OF CLAIM

For creditors other than governmental units: _____ For governmental units: _____

DATE, TIME, AND LOCATION OF MEETING OF CREDITORS

COMMENCEMENT OF CASE. A petition for liquidation under chapter 7 of the Bankruptcy Code has been filed in this court by or against the debtor named above, and an order for relief has been entered. You will not receive notice of all documents filed in this case. All documents filed with the court, including lists of the debtor's property and debts, are available for inspection at the office of the clerk of the bankruptcy court.

CREDITORS MAY NOT TAKE CERTAIN ACTIONS. A creditor is anyone to whom the debtor owes money or property. Under the Bankruptcy Code, the debtor is granted certain protection against creditors. Common examples of prohibited actions by creditors are contacting the debtor to demand repayment, taking action against the debtor to collect money owed to creditors or to take property of the debtor, and starting or continuing foreclosure actions or repossessions. If unauthorized actions are taken by a creditor against a debtor, the court may penalize that creditor. A creditor who is considering taking action against the debtor or the property of the debtor should review § 362 of the Bankruptcy Code and may wish to seek legal advice. If the debtor is a partnership, remedies otherwise available against general partners are not necessarily affected by the commencement of this partnership case. The staff of the clerk of the bankruptcy court is not permitted to give legal advice.

MEETING OF CREDITORS. The debtor's representative, as specified in Bankruptcy Rule 9001(5), is required to appear at the meeting of the creditors on the date and at the place set forth above for the purpose of being examined under oath. Attendance by creditors at the meeting is welcomed, but not required. At the meeting, the creditors may elect a trustee other than the one named above, elect a committee of creditors, examine the debtor, and transact such as other business as may properly come before the meeting. The meeting may be continued or adjourned from time to time by notice at the meeting, without further written notice to the creditors.

LIQUIDATION OF THE DEBTOR'S PROPERTY. The trustee will collect the debtor's property, if any, and turn it into money. If the trustee can collect enough money and property from the debtor, creditors may be paid some or all of the debts owed to them.

PROOF OF CLAIM. Except as otherwise provided by law, in order to share in any payment from the estate, a creditor must file a proof of claim by the date set forth above in the box labeled "Deadline to File a Proof of Claim." The place to file the proof of claim, either in person or by mail, is the office of the clerk of the bankruptcy court. Proof of claim forms are available in the clerk's office of any bankruptcy court.

Address of the Clerk of the Bankruptcy Court	For the Court:
	<i>Clerk of the Bankruptcy Court</i>
	<i>Date</i>

United States Bankruptcy Court

Case Number _____

District of _____

NOTICE OF COMMENCEMENT OF CASE UNDER CHAPTER 11 OF THE BANKRUPTCY CODE. MEETING OF CREDITORS, AND FIXING DATES (Individual or Joint Debtor Case)

In re (Name of Debtor)	Address of Debtor	Soc. Sec./Tax Id. Nos.
	Date Case Filed (or Converted)	
Name and Address of Attorney for Debtor	Name and Address of Trustee	
Telephone Number	Telephone Number	

This is a converted case originally filed under chapter _____ on _____ (date).

DATE, TIME, AND LOCATION OF MEETING OF CREDITORS

DISCHARGE OF DEBTS

Deadline to File a Complaint to Determine Dischargeability of Certain Types of Debts:

COMMENCEMENT OF CASE: A petition for reorganization under chapter 11 of the Bankruptcy Code has been filed in this court by or against the person or persons named above as the debtor, and an order for relief has been entered. You will not receive notice of all documents filed in this case. All documents filed with the court, including lists of the debtor's property, debts, and property claimed as exempt are available for inspection at the office of the clerk of the bankruptcy court.

CREDITORS MAY NOT TAKE CERTAIN ACTIONS. A creditor is anyone to whom the debtor owes money or property. Under the Bankruptcy Code, the debtor is granted certain protection against creditors. Common examples of prohibited actions by creditors are contacting the debtor to demand repayment, taking action against the debtor to collect money owed to creditors or to take property of the debtor, and starting or continuing foreclosure actions, repossessions, or wage deductions. If unauthorized actions are taken by a creditor against a debtor, the court may penalize that creditor. A creditor who is considering taking action against the debtor or the property of the debtor should review § 362 of the Bankruptcy Code and may wish to seek legal advice. The staff of the clerk of the bankruptcy court is not permitted to give legal advice.

MEETING OF CREDITORS. The debtor (both husband and wife in a joint case) is required to appear at the meeting of creditors on the date and at the place set forth above for the purpose of being examined under oath. Attendance by creditors at the meeting is welcomed, but not required. At the meeting, the creditors may examine the debtor and transact such other business as may properly come before the meeting. The meeting may be continued or adjourned from time to time by notice at the meeting, without further written notice to creditors.

EXEMPT PROPERTY. Under state and federal law, the debtor is permitted to keep certain money or property as exempt. If a creditor believes that an exemption of money or property is not authorized by law, the creditor may file an objection. An objection must be filed not later than 30 days after the conclusion of the meeting of creditors.

DISCHARGE OF DEBTS. The debtor may seek a discharge of debts. A discharge means that certain debts are made unenforceable against the debtor personally. Creditors whose claims against the debtor are discharged may never take action against the debtor to collect the discharged debts. If a creditor believes that the debtor should not receive a discharge under § 1141(d)(3)(C) of the Bankruptcy Code, timely action must be taken in the bankruptcy court in accordance with Bankruptcy Rule 4004(a). If a creditor believes that a debt owed to the creditor is not dischargeable under § 523(a)(2), (4), (6), or (15) of the Bankruptcy Code, timely action must be taken in the bankruptcy court by the deadline set forth above in the box labeled "Discharge of Debts." Creditors considering taking such action may wish to seek legal advice.

PROOF OF CLAIM. Schedules of creditors have been or will be filed pursuant to Bankruptcy Rule 1007. Any creditor holding a scheduled claim which is not listed as disputed, contingent, or unliquidated as to amount may, but it is not required to, file a proof of claim in this case. Creditors whose claims are not scheduled or whose claims are listed as disputed, contingent, or unliquidated as to amount and who desire to participate in the case or share in any distribution must file their proofs of claim. A creditor who desires to rely on the schedules of creditors has the responsibility for determining that the claim is listed accurately. If the court sets a deadline for filing a proof of claim, you will be notified. The place to file a proof of claim, either in person or by mail, is the office of the clerk of the bankruptcy court. Proof of claim forms are available in the clerk's office of any bankruptcy court.

PURPOSE OF CHAPTER 11 FILING. Chapter 11 of the Bankruptcy Code enables a debtor to reorganize pursuant to a plan. A plan is not effective unless approved by the court at a confirmation hearing. Creditors will be given notice concerning any plan, or in the event the case is dismissed or converted to another chapter of the Bankruptcy Code. The debtor will remain in possession of its property and will continue to operate any business unless a trustee is appointed.

Address of the Clerk of the Bankruptcy Court	For the Court:
	<i>Clerk of the Bankruptcy Court</i>
	Date

United States Bankruptcy Court

Case Number _____

District of _____

NOTICE OF COMMENCEMENT OF CASE UNDER CHAPTER 11 OF THE BANKRUPTCY CODE. MEETING OF CREDITORS, AND FIXING OF DATES (Individual or Joint Debtor Case)

In re (Name of Debtor)	Address of Debtor	Soc. Sec./Tax Id. Nos
	Date Filed (or Converted)	

Addressee:	Address of the Clerk of the Bankruptcy Court
------------	--

Name and Address of Attorney for Debtor	Name and Address of Trustee
Telephone Number	Telephone Number

This is a converted case originally filed under chapter _____ on _____

DEADLINE TO FILE A PROOF OF CLAIM

For creditors other than governmental units: _____ For governmental units: _____
[or "If the court sets a deadline, creditors will be notified."]

DATE, TIME, AND LOCATION OF MEETING OF CREDITORS

DISCHARGE OF DEBTS

_____ is the Deadline to File a Complaint to Determine Dischargeability of Certain Types of Debts.

COMMENCEMENT OF CASE. A petition for reorganization under chapter 11 of the Bankruptcy Code has been filed in this court by or against the person or persons named above as the debtor, and an order for relief has been entered. You will not receive notice of all documents filed in this case. All documents filed with the court, including lists of the debtor's property, debts, and property claimed as exempt are available for inspection at the office of the clerk of the bankruptcy court.

CREDITORS MAY NOT TAKE CERTAIN ACTIONS. A creditor is anyone to whom the debtor owes money or property. Under the Bankruptcy Code, the debtor is granted certain protection against creditors. Common examples of prohibited actions by creditors are contacting the debtor to demand repayment, taking action against the debtor to collect money owed to creditors or to take property of the debtor, and starting or continuing foreclosure actions, repossessions, or wage deductions. If unauthorized actions are taken by a creditor against a debtor, the court may penalize that creditor. A creditor who is considering taking action against the debtor or the property of the debtor should review § 362 of the Bankruptcy Code and may wish to seek legal advice. The staff of the clerk of the bankruptcy court is not permitted to give legal advice.

MEETING OF CREDITORS. The debtor (both husband and wife in a joint case) is required to appear at the meeting of creditors on the date and at the place set forth above for the purpose of being examined under oath. Attendance by creditors at the meeting is welcomed, but not required. At the meeting, the creditors may examine the debtor and transact such other business as may properly come before the meeting. The meeting may be continued or adjourned from time to time by notice at the meeting, without further written notice to creditors.

EXEMPT PROPERTY. Under state and federal law, the debtor is permitted to keep certain money or property as exempt. If a creditor believes that an exemption of money or property is not authorized by law, the creditor may file an objection. An objection must be filed not later than 30 days after the conclusion of the meeting of creditors.

DISCHARGE OF DEBTS. The debtor may seek a discharge of debts. A discharge means that certain debts are made unenforceable against the debtor personally. Creditors whose claims against the debtor are discharged may never take action against the debtor to collect the discharged debts. If a creditor believes that the debtor should not receive a discharge under § 1141(d)(3)(C) of the Bankruptcy Code, timely action must be taken in the bankruptcy court in accordance with Bankruptcy Rule 4004(a). If a creditor believes that a debt owed to the creditor is not dischargeable under § 523(a)(2), (4), (6), or (15) of the Bankruptcy Code, timely action must be taken in the bankruptcy court by the deadline set forth above in the box labeled "Discharge of Debts." Creditors considering taking such action may wish to seek legal advice.

PROOF OF CLAIM. Schedules of creditors have been or will be filed pursuant to Bankruptcy Rule 1007. Any creditor holding a scheduled claim which is not listed as disputed, contingent, or unliquidated as to amount may, but is not required to, file a proof of claim in this case. Creditors whose claims are not scheduled or whose claims are listed as disputed, contingent, or unliquidated as to amount and who desire to participate in the case or share in any distribution must file their proofs of claim. A creditor who desires to rely on the schedule of creditors has the responsibility for determining that the claim is listed accurately. The place to file a proof of claim, either in person or by mail, is the office of the clerk of the bankruptcy court. Proof of claim forms are available in the clerk's office of any bankruptcy court.

PURPOSE OF CHAPTER 11 filing. Chapter 11 of the Bankruptcy Code enables a debtor to reorganize pursuant to a plan. A plan is not effective unless approved by the court at a confirmation hearing. Creditors will be given notice concerning any plan, or in the event the case is dismissed or converted to another chapter of the Bankruptcy Code. The debtor will remain in possession of its property and will continue to operate any business unless a trustee is appointed.

For the Court: _____
Clerk of the Bankruptcy Court _____ Date _____

United States Bankruptcy Court

Case Number _____

District of _____

NOTICE OF COMMENCEMENT OF CASE UNDER CHAPTER 11 OF THE BANKRUPTCY CODE. MEETING OF CREDITORS, AND FIXING OF DATES (Corporation/Partnership Case)

In re (Name of Debtor)	Address of Debtor	Soc. Sec./Tax Id. Nos.
	Date Filed (or Converted)	

Addressee:	Address of the Clerk of the Bankruptcy Court
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Corporation Partnership

Name and Address of Attorney for Debtor	Name and Address of Trustee
Telephone Number	Telephone Number

This is a converted case originally filed under chapter _____ on _____

DEADLINE TO FILE A PROOF OF CLAIM

For creditors other than governmental units: For governmental units:
[or "If the court sets a deadline, creditors will be notified."]

DATE, TIME, AND LOCATION OF MEETING OF CREDITORS

COMMENCEMENT OF CASE. A petition for reorganization under chapter 11 of the Bankruptcy Code has been filed in this court by or against the debtor named above, and an order for relief has been entered. You will not receive notice of all documents filed in this case. All documents filed with the court, including lists of the debtor's property and debts, are available for inspection at the office of the clerk of the bankruptcy court.

CREDITORS MAY NOT TAKE CERTAIN ACTIONS. A creditor is anyone to whom the debtor owes money or property. Under the Bankruptcy Code, the debtor is granted certain protection against creditors. Common examples of prohibited actions by creditors are contacting the debtor to demand repayment, taking action against the debtor to collect money owed to creditors or to take property of the debtor, and starting or continuing foreclosure actions, or repossessions. If unauthorized actions are taken by a creditor against a debtor, the court may penalize that creditor. A creditor who is considering taking action against the debtor or the property of the debtor should review § 362 of the Bankruptcy Code and may wish to seek legal advice. If the debtor is a partnership, remedies otherwise available against general partners are not necessarily affected by the filing of this partnership case. The staff of the clerk of the bankruptcy court is not permitted to give legal advice.

MEETING OF CREDITORS. The debtor's representative, as specified in Bankruptcy Rule 9001(5) is required to appear at the meeting of creditors on the date and at the place set forth above for the purpose of being examined under oath. Attendance by creditors at the meeting is welcomed, but not required. At the meeting, the creditors may examine the debtor and transact such other business as may properly come before the meeting. The meeting may be continued or adjourned from time to time by notice at the meeting, without further written notice to creditors.

PROOF OF CLAIM. Schedules of creditors have been or will be filed pursuant to Bankruptcy Rule 1007. Any creditor holding a scheduled claim which is not listed as disputed, contingent, or unliquidated as to amount may, but is not required to, file a proof of claim in this case. Creditors whose claims are not scheduled or whose claims are listed as disputed, contingent, or unliquidated as to amount and who desire to participate in the case or share in any distribution must file their proof of claim. A creditor who desires to rely on the schedule of creditors has the responsibility for determining that the claim is listed accurately. The place to file a proof of claim, either in person or by mail, is the office of the clerk of the bankruptcy court. Proof of claim forms are available in the clerk's office of any bankruptcy court.

PURPOSE OF CHAPTER 11 FILING. Chapter 11 of the Bankruptcy Code enables a debtor to reorganize pursuant to a plan. A plan is not effective unless approved by the court at a confirmation hearing. Creditors will be given notice concerning any plan, or in the event the case is dismissed or converted to another chapter of the Bankruptcy Code. The debtor will remain in possession of its property and will continue to operate any business unless a trustee is appointed.

For the Court: _____
Clerk of the Bankruptcy Court Date

United States Bankruptcy Court

Case Number

District of _____

NOTICE OF COMMENCEMENT OF CASE UNDER CHAPTER 12 OF THE BANKRUPTCY CODE. MEETING OF CREDITORS, AND FIXING OF DATES (Individual or Joint Debtor Family Farmer)

In re (Name of Debtor)	Address of Debtor	Soc. Sec./Tax Id. Nos.
	Date Case Filed (or Converted)	
Name and Address of Attorney for Debtor	Name and Address of Trustee	
Telephone Number	Telephone Number	

This is a converted case originally filed under chapter _____ on _____ (date).

DEADLINE TO FILE A PROOF OF CLAIM

For creditors other than governmental units: _____ For governmental units: _____

DATE, TIME, AND LOCATION OF MEETING OF CREDITORS

FILING OF PLAN AND DATE, TIME, AND LOCATION OF HEARING ON CONFIRMATION OF PLAN

- The debtor has filed a plan. The plan or a summary of the plan is enclosed. Hearing on confirmation will be held:
_____ (Date) _____ (Time) _____ (Location)
- The debtor has filed a plan. The plan or a summary of the plan and notice of the confirmation hearing will be sent separately.
- A plan has not been filed as of this date. Creditors will be given separate notice of the hearing on confirmation of the plan.

DISCHARGE OF DEBTS

Deadline to File a Complaint to Determine Dischargeability of Certain Types of Debts:

COMMENCEMENT OF CASE. A family farmer's debt adjustment case under chapter 12 of the Bankruptcy Code has been filed in this court by the family farmer named above as the debtor, and an order for relief has been entered. You will not receive notice of all documents filed in this case: All documents filed with the court, including lists of the debtor's property and debts are available for inspection at the office of the clerk of the bankruptcy court.

CREDITORS MAY NOT TAKE CERTAIN ACTIONS. A creditor is anyone to whom the debtor owes money or property. Under the Bankruptcy Code, the debtor is granted certain protection against creditors. Common examples of prohibited actions by creditors are contacting the debtor to demand repayment, taking action against the debtor to collect money owed to creditors or to take property of the debtor, and starting or continuing foreclosure actions, repossessions, or wage deductions. Some protection is also given to certain codebtors of consumer debts. If unauthorized actions are taken by a creditor against a debtor, or a protected codebtor, the court may punish that creditor. A creditor who is considering taking action against the debtor or the property of the debtor, or any codebtor, should review §§ 362 and 1201 of the Bankruptcy Code and may wish to seek legal advice. The staff of the clerk of the bankruptcy court is not permitted to give legal advice.

MEETING OF CREDITORS. The debtor (both husband and wife in a joint case) is required to appear at the meeting of creditors on the date and at the place set forth above for the purpose of being examined under oath. Attendance by creditors at the meeting is welcomed, but not required. At the meeting, the creditors may examine the debtor and transact such other business as may properly come before the meeting. The meeting may be continued or adjourned from time to time by notice at the meeting, without further written notice to creditors.

EXEMPT PROPERTY. Under state and federal law, the debtor is permitted to keep certain money or property as exempt. If a creditor believes that an exemption of money or property is not authorized by law, the creditor may file an objection. An objection must be filed not later than 30 days after the conclusion of the meeting of creditors.

DISCHARGE OF DEBTS. The debtor may seek a discharge of debts. A discharge means that certain debts are made unenforceable against the debtor personally. Creditors whose claims against the debtor are discharged may never take action against the debtor to collect the discharged debts. If a creditor believes a specific debt owed to the creditor is not dischargeable under § 523(a)(2), (4), (6), or (15) of the Bankruptcy Code, timely action must be taken in the bankruptcy court by the deadline set forth above in the box labeled "Discharge of Debts." Creditors considering taking such action may wish to seek legal advice.

PROOF OF CLAIM. Except as otherwise provided by law, in order to share in any payment from the estate, a creditor must file a proof of claim by the date set forth above in the box labeled "Deadline to File a Proof of Claim." The place to file the proof of claim, either in person or by mail, is the office of the clerk of the bankruptcy court. Proof of claim forms are available in the clerk's office of any bankruptcy court.

PURPOSE OF A CHAPTER 12 FILING. Chapter 12 of the Bankruptcy Code enables family farmers to reorganize pursuant to a plan. A plan is not effective unless approved by the bankruptcy court at a confirmation hearing. Creditors will be given notice in the event the case is dismissed or converted to another chapter of the Bankruptcy Code.

Address of the Clerk of the Bankruptcy Court	For the Court:
	Clerk of the Bankruptcy Court
	Date

United States Bankruptcy Court

Case Number _____

District of _____

NOTICE OF COMMENCEMENT OF CASE UNDER CHAPTER 12 OF THE BANKRUPTCY CODE. MEETING OF CREDITORS, AND FIXING OF DATES (Corporation/Partnership Family Farmer)

In re (Name of Debtor)	Address of Debtor	Soc. Sec./Tax Id. Nos.
	Date Case Filed (or Converted)	

Corporation

Partnership

Name and Address of Attorney for Debtor	Name and Address of Trustee
Telephone Number	Telephone Number

This is a converted case originally filed under chapter _____ on _____ (date).

DEADLINE TO FILE A PROOF OF CLAIM

For creditors other than governmental units:

For governmental units:

DATE, TIME, AND LOCATION OF MEETING OF CREDITORS

FILING OF PLAN AND DATE, TIME, AND LOCATION OF HEARING ON CONFIRMATION OF PLAN

- The debtor has filed a plan. The plan or a summary of the plan is enclosed. Hearing on confirmation will be held:
 _____ (Date) _____ (Time) _____ (Location)
- The debtor has filed a plan. The plan or a summary of the plan and notice of the confirmation hearing will be sent separately.
- A plan has not been filed as of this date. Creditors will be given separate notice of the hearing on confirmation of the plan.

DISCHARGE OF DEBTS

Deadline to file a Complaint to Determine Dischargeability of Certain Types of Debts:

COMMENCEMENT OF CASE: A family farmer's debt adjustment case under chapter 12 of the Bankruptcy Code has been filed in this court by the family farmer named above as the debtor, and an order for relief has been entered. You will not receive notice of all documents filed in this case. All documents filed with the court, including lists of the debtor's property and debts, are available for inspection at the office of the clerk of the bankruptcy court.

CREDITORS MAY NOT TAKE CERTAIN ACTIONS. A creditor is anyone to whom the debtor owes money or property. Under the Bankruptcy Code, the debtor is granted certain protection against creditors. Common examples of prohibited actions by creditors are contacting the debtor to demand repayment, taking action against the debtor to collect money owed to creditors or to take property of the debtor, and starting or continuing foreclosure actions or repossessions. Some protection is also given to certain codebtors of consumer debts. If unauthorized actions are taken by a creditor against a debtor or a protected codebtor, the court may penalize that creditor. A creditor who is considering taking action against the debtor, the property of the debtor, or a codebtor, should review §§ 362 and 1201 of the Bankruptcy Code and may wish to seek legal advice. If the debtor is a partnership, remedies otherwise available against general partners are not necessarily affected by the commencement of this partnership case. The staff of the clerk of the bankruptcy court is not permitted to give legal advice.

MEETING OF CREDITORS. The debtor's representative, as specified in Bankruptcy Rule 9001(5), is required to appear at the meeting of creditors on the date and at the place set forth above in the box labeled "Date, Time, and Location of Meeting of Creditors" for the purpose of being examined under oath. Attendance by creditors at the meeting is welcomed, but not required. At the meeting, the creditors may examine the debtor and transact such other business as may properly come before the meeting. The meeting may be continued or adjourned from time to time by notice at the meeting, without further written notice to the creditors.

DISCHARGE OF DEBTS. The debtor may seek a discharge of debts. A discharge means that certain debts are made unenforceable against the debtor. Creditors whose claims against the debtor are discharged may never take action against the debtor to collect the discharged debts. If a creditor believes a specific debt owed to the creditor is not dischargeable under § 523(a) (2), (4), (6), or (15) of the Bankruptcy Code, timely action must be taken in the bankruptcy court by the deadline set forth above in the box labeled "Discharge of Debts." Creditors considering taking such action may wish to seek legal advice.

PROOF OF CLAIM. Except as otherwise provided by law, in order to share in any payment from the estate, a creditor must file a proof of claim by the date set forth above in the box labeled "Deadline to File a Proof of Claim." The place to file the proof of claim, either in person or by mail, is the office of the clerk of the bankruptcy court. Proof of Claim forms are available in the clerk's office of any bankruptcy court.

PURPOSE OF A CHAPTER 12 FILING. Chapter 12 of the Bankruptcy Code enables family farmers to reorganize pursuant to a plan. A plan is not effective unless approved by the bankruptcy court at a confirmation hearing. Creditors will be given notice in the event the case is dismissed or converted to another chapter of the Bankruptcy Code.

Address of the Clerk of the Bankruptcy Court	For the Court:
	Clerk of the Bankruptcy Court
	Date

United States Bankruptcy Court

Case Number _____

_____ District of _____

NOTICE OF COMMENCEMENT OF CASE UNDER CHAPTER 13 OF THE BANKRUPTCY CODE. MEETING OF CREDITORS, AND FIXING OF DATES

In re (Name of Debtor)	Address of Debtor	Soc. Sec./Tax Id. Nos.
	Date Case Filed (or Converted)	
Name and Address of Attorney for Debtor	Name and Address of Trustee	
Telephone Number	Telephone Number	

This is a converted case originally filed under chapter _____ on _____ (date).

DEADLINE TO FILE A PROOF OF CLAIM

For creditors other than governmental units:

For governmental units:

DATE, TIME, AND LOCATION OF MEETING OF CREDITORS

FILING OF PLAN AND DATE, TIME, AND LOCATION OF HEARING ON CONFIRMATION OF PLAN

- The debtor has filed a plan. The plan or a summary of the plan is enclosed. Hearing on confirmation will be held: _____ (Date) _____ (Time) _____ (Location)
- The debtor has filed a plan. The plan or a summary of the plan and notice of the confirmation hearing will be sent separately.
- A plan has not been filed as of this date. Creditors will be given separate notice of the hearing on confirmation of the plan.

COMMENCEMENT OF CASE. An individual's debt adjustment case under chapter 13 of the Bankruptcy Code has been filed in this court by the debtor or debtors named above, and an order for relief has been entered. You will not receive notice of all documents filed in this case. All documents filed with the court, including lists of the debtor's property and debts, are available for inspection at the office of the clerk of the bankruptcy court.

CREDITORS MAY NOT TAKE CERTAIN ACTIONS. A creditor is anyone to whom the debtor owes money. Under the Bankruptcy Code, the debtor is granted certain protection against creditors. Common examples of prohibited actions by creditors are contacting the debtor to demand repayment, taking action against the debtor to collect money owed to creditors or to take property of the debtor, and starting or continuing foreclosure actions, repossessions, or wage reductions. Some protection is also given to certain codebtors of consumer debts. If unauthorized actions are taken by a creditor against a debtor, or a protected codebtor, the court may punish that creditor. A creditor who is considering taking action against the debtor or the property of the debtor, or any codebtor, should review §§ 362 and 1301 of the Bankruptcy Code and may wish to seek legal advice. The staff of the clerk of the bankruptcy court is not permitted to give legal advice.

MEETING OF CREDITORS. The debtor (both husband and wife in a joint case) is required to appear at the meeting of creditors on the date and at the place set forth above in the box labeled "Date, Time, and Location of Meeting of Creditors" for the purpose of being examined under oath. Attendance by creditors at the meeting is welcome, but not required. At the meeting, the creditors may examine the debtor and transact such other business as may properly come before the meeting. The meeting may be continued or adjourned from time by notice at the meeting, without further written notice to creditors.

PROOF OF CLAIM. Except as otherwise provided by law, in order to share in any payment from the estate, a creditor must file a proof of claim by the date set forth above in the box labeled "Deadline to File a Proof of Claim." The place to file the proof of claim, either in person or by mail, is the office of the clerk of the bankruptcy court. Proof of claim forms are available in the clerk's office of any bankruptcy court.

PURPOSE OF A CHAPTER 13 FILING. Chapter 13 of the Bankruptcy Code is designed to enable a debtor to pay debts in full or in part over a period of time pursuant to a plan. A plan is not effective unless approved by the bankruptcy court at a confirmation hearing. Creditors will be given notice in the event the case is dismissed or converted to another chapter of the Bankruptcy Code.

Address of the Clerk of the Bankruptcy Court	For the Court:
	Clerk of the Bankruptcy Court
	Date

COMMITTEE NOTE

The form is amended to provide notice of the claims filing period provided to "a governmental unit" by section 502(b)(9) of the Code as amended by the Bankruptcy Reform Act of 1994. A court that routinely sets a deadline for filing proofs of claim at the outset of chapter 11 cases and, accordingly, uses Form 9E(Alt.) or Form 9F(Alt.) retains the option in any case in which no deadlines actually are set to substitute a message stating that creditors will be notified if the court fixes a deadline.

The form also is amended to add, in the paragraph labeled "Discharge of Debts," a reference to dischargeability actions under section 523(a)(15) of the Code, which was added by the 1994 Act.

United States Bankruptcy Court _____ District of _____	<h1 style="margin: 0;">PROOF OF CLAIM</h1>
--	--

In re (Name of Debtor)	Case Number
------------------------	-------------

NOTE: This form should not be used to make a claim for an administrative expense arising after the commencement of the case. A "request" for payment of an administrative expense may be filed pursuant to 11 U.S.C. § 503.

Name of Creditor <i>(The person or other entity to whom the debtor owes money or property)</i>	<input type="checkbox"/> Check box if you are aware that anyone else has filed a proof of claim relating to your claim. Attach copy of statement giving particulars. <input type="checkbox"/> Check box if you have never received any notices from the bankruptcy court in this case. <input type="checkbox"/> Check box if the address differs from the address on the envelope sent to you by the court.
Name and Address Where Notices Should be Sent	
Telephone No.	

THIS SPACE IS FOR
COURT USE ONLY

ACCOUNT OR OTHER NUMBER BY WHICH CREDITOR IDENTIFIES DEBTOR:	Check here if this claim <input type="checkbox"/> replaces <input type="checkbox"/> amends a previously filed claim, dated: _____
--	---

1. BASIS FOR CLAIM

<input type="checkbox"/> Goods sold <input type="checkbox"/> Services performed <input type="checkbox"/> Money loaned <input type="checkbox"/> Personal injury/wrongful death <input type="checkbox"/> Taxes <input type="checkbox"/> Other (Describe briefly)	<input type="checkbox"/> Retiree benefits as defined in 11 U.S.C. § 1114(a) <input type="checkbox"/> Wages, salaries, and compensation (Fill out below) Your social security number _____ Unpaid compensation for services performed from _____ (date) to _____ (date)
---	--

2. DATE DEBT WAS INCURRED	3. IF COURT, JUDGMENT, DATE OBTAINED:
----------------------------------	--

4. CLASSIFICATION OF CLAIM. Under the Bankruptcy Code all claims are classified as one or more of the following: (1) Unsecured nonpriority, (2) Unsecured Priority, (3) Secured. It is possible for part of a claim to be in one category and part in another. CHECK THE APPROPRIATE BOX OR BOXES that best describe your claim and STATE THE AMOUNT OF THE CLAIM AT TIME CASE FILED.

<input type="checkbox"/> SECURED CLAIM \$ _____ Attach evidence of perfection of security interest Brief Description of Collateral: <input type="checkbox"/> Real Estate <input type="checkbox"/> Motor Vehicle <input type="checkbox"/> Other (Describe briefly) Amount of arrearage and other charges at time case filed included in secured claim above, if any \$ _____ <input type="checkbox"/> UNSECURED NONPRIORITY CLAIM \$ _____ A claim is unsecured if there is no collateral or lien on property of the debtor securing the claim or to the extent that the value of such property is less than the amount of the claim. <input type="checkbox"/> UNSECURED PRIORITY CLAIM \$ _____ Specify the priority of the claim.	<input type="checkbox"/> Wages, salaries, or commissions (up to \$4000)* earned not more than 90 days before filing of the bankruptcy petition or cessation of the debtor's business, whichever is earlier—11 U.S.C. § 507(a)(3) <input type="checkbox"/> Contributions to an employee benefit plan—11 U.S.C. § 507(a)(4) <input type="checkbox"/> Up to \$1,800* of deposits toward purchase, lease, or rental of property or services for personal, family, or household use—11 U.S.C. § 507(a)(6) <input type="checkbox"/> Alimony, maintenance, or support owed to a spouse, former spouse, or child—11 U.S.C. § 507(a)(7) <input type="checkbox"/> Taxes or penalties of governmental units—11 U.S.C. § 507(a)(8) <input type="checkbox"/> Other—Specify applicable paragraph of 11 U.S.C. § 507(a) _____ <small>*Amounts are subject to adjustment on 4/1/98 and every 3 years thereafter with respect to cases commenced on or after the date of adjustment.</small>
---	---

5. TOTAL AMOUNT OF CLAIM AT TIME CASE FILED:

\$ _____ (Unsecured)	\$ _____ (Secured)	\$ _____ (Priority)	\$ _____ (Total)
----------------------	--------------------	---------------------	------------------

Check this box if claim includes charges in addition to the principal amount of the claim. Attach itemized statement of all additional charges.

6. CREDITS AND SETOFFS: The amount of all payments on this claim has been credited and deducted for the purpose of making this proof of claim. In filing this claim, claimant has deducted all amounts that claimant owes to debtor.

7. SUPPORTING DOCUMENTS: *Attach copies of supporting documents*, such as promissory notes, purchase orders, invoices, itemized statements of running accounts, contracts, court judgments, or evidence of security interests. If the documents are not available, explain. If the documents are voluminous, attach a summary.

8. TIME-STAMPED COPY: To receive an acknowledgement of the filing of your claim, enclose a stamped, self-addressed envelope and copy of this proof of claim.

THIS SPACE IS FOR
COURT USE ONLY

Date	Sign and print the name and title, if any, of the creditor or other person authorized to file this claim (attach copy of power of attorney, if any)
------	---

COMMITTEE NOTE

The form is amended to add the seventh priority granted by the Bankruptcy Reform Act of 1994 to debts for alimony, maintenance, or support of a spouse, former spouse, or child of the debtor. The form also amends the Code reference to the priority afforded to tax debts and the dollar maximums for the priorities granted to wages and customer deposits in conformity with amendments made by the 1994 Act to section 507(a) of the Code. The 1994 Act also amended section 104 of the Code to provide for future adjustment of the dollar amounts specified in section 507(a) to be made by administrative action at three-year intervals to reflect changes in the consumer price index. The form is amended to include notice that these dollar amounts are subject to change without formal amendment to the official form.

Form 16A. CAPTION (FULL)

UNITED STATES BANKRUPTCY COURT
DISTRICT OF _____

In re _____)

*Set forth here all names including married,
maiden, and trade names used by debtor within
last 6 years.]*)

Debtor)

Case No. _____)

Address _____)

_____)

Chapter _____)

Social Security No(s). _____ and all)
Employer's Tax Identification No(s). [if any] _____)

_____)

[Designation of Character of Paper]

COMMITTEE NOTE

The form is amended to provide for the debtor's address to appear in the caption in furtherance of the duty of the debtor to include this information on every notice given by the debtor. The Bankruptcy Reform Act of 1994 amended section 342 of the Code to add this requirement.

FORM 16B. CAPTION (SHORT TITLE)

(May be used if 11 U.S.C. § 342(c) is not applicable)

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF _____**

In re _____,
Debtor

Case No. _____

Chapter _____

[Designation of Character of Paper]

COMMITTEE NOTE

The title of this form is amended to specify that it can be used when section 342(c) of the Code, as added by the Bankruptcy Reform Act of 1994, is not applicable.

COMMITTEE NOTE

The form is amended to conform to the amendments made to section 342 of the Code by the Bankruptcy Reform Act of 1994.

**Form 16D. CAPTION FOR USE IN ADVERSARY PROCEEDING
OTHER THAN FOR A COMPLAINT FILED BY A DEBTOR**

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF _____**

In re _____
Debtor

_____)
Plaintiff)

v.)

_____)
Defendant)

Case No. _____

Chapter _____

Adv. Proc. No. _____

COMPLAINT [or other Designation]

[If used in a Notice of Appeal (see Form 17) or other notice filed and served by a debtor, this caption must be altered to include the debtor's address and Employer's Tax Identification Number(s) or Social Security Number(s) as in Form 16C.]

COMMITTEE NOTE

This form of caption may be used in an adversary proceeding when section 342(c) of the Code, as added by the Bankruptcy Reform Act of 1994, is not applicable.

**FORM 17. NOTICE OF APPEAL UNDER 28 U.S.C. § 158(a) or (b)
FROM A JUDGMENT, ORDER, OR DECREE OF A
BANKRUPTCY COURT**

In re _____,
Debtor

Case No. _____

Chapter _____

NOTICE OF APPEAL

_____, the plaintiff [or defendant or other party] appeals under 28 U.S.C. § 158(a) or (b) from the judgment, order, or decree of the bankruptcy court (describe) entered in this adversary proceeding [or other proceeding, describe type] on the _____ day of _____, 19__.

The parties to the order appealed from and the names of their respective attorneys are as follows:

Dated: _____

Signed: _____
Attorney for Appellant

Address: _____

If a Bankruptcy Appellate Panel is authorized to hear this appeal, each party has a right to have the appeal heard by the district court. The appellant may exercise this right only by filing a separate statement of election at the time of the filing of this notice of appeal.

COMMITTEE NOTE

The form is amended to reflect the amendments to 28 U.S.C. § 158 concerning bankruptcy appellate panels made by the Bankruptcy Reform Act of 1994. Section 158(d) requires an appellant who elects to appeal to a district court rather than a bankruptcy appellate panel to do so "at the time of filing the appeal."

The 1994 Act also amended 28 U.S.C. § 158(a) to permit immediate appeal of interlocutory orders increasing or reducing a chapter 11 debtor's exclusive period to file a plan under section 1121 of the Code. The form is amended to provide appropriate flexibility.

Form 18. DISCHARGE OF DEBTOR

[Caption as in 16A]

DISCHARGE OF DEBTOR

It appears that a petition commencing a case under title 11, United States Code, was filed by or against the person named above on _____, and that an order for relief was entered under chapter 7, and that
(date)
no complaint objecting to the discharge of the debtor was filed within the time fixed by the court [*or* that a complaint objecting to discharge of the debtor was filed and, after due notice and hearing, was not sustained].

IT IS ORDERED THAT:

1. The above-named debtor is released from all dischargeable debts.
2. Any judgment heretofore or hereafter obtained in any court other than this court is null and void as a determination of the personal liability of the debtor with respect to any of the following:
 - (a) debts dischargeable under 11 U.S.C. § 523;
 - (b) unless heretofore or hereafter determined by order of this court to be nondischargeable, debts alleged to be excepted from discharge under clauses (2), (4), (6), and (15) of 11 U.S.C. § 523(a);
 - (c) debts determined by this court to be discharged.
3. All creditors whose debts are discharged by this order and all creditors whose judgments are declared null and void by paragraph 2 above are enjoined from instituting or continuing any action or employing any process or engaging in any act to collect such debts as personal liabilities of the above-named debtor.

BY THE COURT

Dated: _____

United States Bankruptcy Judge

COMMITTEE NOTE

The form is amended to include debts described in section 523(a)(15) of the Code, which was added by the Bankruptcy Reform Act of 1994, in the list of debts discharged unless determined by the court to be nondischargeable.

**Form 19. CERTIFICATION AND SIGNATURE OF NON-ATTORNEY
BANKRUPTCY PETITION PREPARER (See 11 U.S.C. § 110)**

[Caption as in Form 16B.]

**CERTIFICATION AND SIGNATURE OF NON-ATTORNEY
BANKRUPTCY PETITION PREPARER (See 11 U.S.C. § 110)**

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 or Typed Name of Bankruptcy Petition Preparer

Social Security No.

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 signed 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.

COMMITTEE NOTE

This form is new. The Bankruptcy Reform Act of 1994 requires a "bankruptcy petition preparer," as defined in 11 U.S.C. § 110, to sign any "document for filing" that the bankruptcy petition preparer prepares for compensation on behalf of a debtor, to disclose on the document certain information, and to provide the debtor with a copy of the document. This form or adaptations of this form have been incorporated into the official forms of the voluntary petition, the schedules, the statement of financial affairs, and other official forms that typically would be prepared for a debtor by a bankruptcy petition preparer. This form is to be used in connection with any other document that a bankruptcy petition preparer prepares for filing by a debtor in a bankruptcy case.

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

AGENDA F-19
(Appendix B)
Rules
March, 1995

ALICEMARIE H. STOTLER
CHAIR

December 13, 1994

CHAIRS OF ADVISORY COMMITTEES

PETER G. McCABE
SECRETARY

JAMES K. LOGAN
APPELLATE RULES

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BANKRUPTCY RULES

PATRICK E. HIGGINBOTHAM
CIVIL RULES

D. LOWELL JENSEN
CRIMINAL RULES

RALPH K. WINTER, JR.
EVIDENCE RULES

TO: Committee on Rules of Practice and Procedure
Standing Committee

Re: Report of Advisory Committee on Civil Rules

Dear Colleagues:

The Advisory Committee on Civil Rules met on October 20-21, 1994. Professor Ed Cooper, Reporter to the committee, has prepared draft Minutes of the meeting, a copy of which is attached. I will refer to these Minutes in this report.

This was the first meeting for two new members. Justice Christine Durham of the Utah Supreme Court replaces Chief Justice Holmes. Judge David Levi, United States District Court in Sacramento replaces Magistrate Judge Wayne Brazil. The American College of Trial Lawyers was represented by Robert Campbell, and the Litigation Section of the American Bar Association by Barry McNeil. This was the first meeting attended by a representative of the Litigation Section.

I.

Five items require action by the Standing Committee:

1. Rule 4(m) - Suits in Admiralty Act (Minutes pp. 1-2). The Advisory Committee recommends that the Standing Committee urge Judicial Conference approval of a recommendation that Congress delete the service provisions from 42 U.S.C. § 742.
2. Rule 26(c) (Minutes p. 6). The Minutes set out the history of the proposed changes to Rule 26(c). Following extensive discussion at the meeting in Tucson, the committee voted by ballot as follows:

BALLOT NO. 1

Expanded Version of (c) (3), Without "Intervention"

- (3) On motion, the court may dissolve or modify a protective order. In ruling, the court must consider, among other matters, the following:
- (A) the extent of reliance on the order;
 - (B) the public and private interests affected by the order, including any risk to public health or safety;
 - (C) the movant's consent to submit to the terms of the order;
 - (D) the reasons for entering the order, and any new information that bears on the order; and
 - (E) the burden that the order imposes on persons seeking information relevant to other litigation.

Votes for the published version: 3
Votes for the expanded version: 10

BALLOT NO. 2

Expanded Version, With "Intervention" Provision

- (3) (A) The court may modify or dissolve a protective order on motion made by a party, a person bound by the order, or a person who has been allowed to intervene to seek modification or dissolution.
- (B) In ruling on a motion to dissolve or modify a protective order, the court must consider, among other matters, the following: (The same list as above, cast as (i), etc., rather than A through E.)

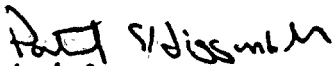
Votes to add the intervention language to whichever version of (c) (3) wins: 8

Votes against adding the intervention language to the winning (c) (3) version: 5

It is the judgment of the committee that these changes will not require a second publication. We recommend that Rule 26(c) be transmitted to the Judicial Conference for approval. The full text of Rule 26(c) with changes shown is attached as Exhibit 1, with a summary of public comments on the published version.

* * * * *

Sincerely yours,


Patrick E. Higginbotham

Attachment: Excerpt from minutes

GAP Report
Advisory Committee on Civil Rules

**Explanation of Changes Made Subsequent to the Circulation for
Public Comment of Proposed Amendments to Rule 26(c).**

Rule 26(c) Comments

Many suggestions for change were made by the written comments on the version of Rule 26(c) published for comment on October 15, 1993. They can be roughly grouped in several categories.

Initial Sealing Standard

Rule 26(c)(1) should be amended to require consideration of the public interest as part of the initial determination whether to enter a protective order. (An alternative version would require that at least the parties stipulate that a protective order will not conceal information about a risk to public health or safety.)

It should be made clear that there is a presumption against secrecy.

Unfiled Discovery Materials

The Note should say that the Rule does not address access to unfiled discovery materials.

The Rule should explicitly recognize the post-judgment power to require that unfiled discovery materials be filed.

Standards for Modification or Dissolution

It is a mistake to attempt to list standards for modification or dissolution. No list can be complete; an incomplete list is misleading, even if it is written in nonexclusionary terms.

"Good cause" should be adopted as the sole standard for modification.

It should be made clear that the "public interest" that may justify modification does not include mere curiosity.

Reliance

The reference to reliance is wrong. The only question on motion for modification or dissolution is whether there is a continuing need for protection. The court should order access to any information that would not be protected on the basis of all information available at the time of the request for access, without regard to claims of "reliance."

Standing

It should be made clear that nonparties and the media have standing to seek modification for dissolution. Intervention should not be required.

The Note should say that the amendment does not address the question of standing.

Other Litigation

The draft reference to persons seeking information relevant to other litigation is undesirable because it implies undue restrictions on access. Access should be allowed simply on agreement to be bound by the protective order and, perhaps, agreement to submit to the jurisdiction of the court for purposes of enforcing the protective order.

Access for purposes of "other litigation" should be narrowed by requiring that the litigation be "similar," "related," or "collateral."

Litigated versus Stipulated Orders

A distinction should be made between protective orders entered after consideration by the court and those that result from agreement of the parties. The burden should be on anyone seeking to modify or undo an order that results from active consideration by the court. If the order results from agreement of the parties, however, the burden should be on anyone who seeks to maintain protection.

No reference should be made to blanket protective orders. They are not authorized under present practice.

Alternative Means of Access

A person who has access to information by subpoena or other means of public compulsion should be treated differently than those who have no alternative means; greater justification must be shown for overcoming protection.

Burdens at Time of Modification

One suggestion is that when modification or dissolution of a protective order is sought, the burden of justification should be placed on any party who seeks to preserve confidentiality.

Materials Used in Litigation

It should be made clear that different rules apply to materials used in support of motions or at trial.

Final Judgments

The amendment should be extended to reach secrecy provisions in final judgments.

It should be made clear that there is continuing jurisdiction to modify or dissolve after final judgment.

"Return or Destroy"

The Rule should provide that "return or destroy" provisions are available only if the party providing discovery responses retains both the request and the responding materials in readily accessible form for the benefit of future litigants.

* * * * *

Rule 26(c)

Proposed amendments to Rule 26(c) were published in October, 1993. The proposal, and public comments on the proposal, were discussed at the April, 1994 meeting of the Committee. The proposal was not acted on at the April meeting. New materials were provided for consideration at this meeting, including two alternative drafts of Rule 26(c) and a proposed amendment of Rule 5(d).

The draft Rule 5(d) amendment would add a new sentence: "A party may agree to destroy unfiled discovery materials, or return them to the person who produced them, only if the person who produced them undertakes to retain the materials and the corresponding discovery requests for five years after the conclusion of all discovery in the action." The Committee did not consider this amendment, and did not consider whether it should remain on the agenda for consideration at a future meeting.

One of the alternative Rule 26(c) drafts was included with the

agenda materials for the meeting. This version was intended to incorporate all of the comments on the published draft that urged various proposals for narrowing the scope of protection afforded by a protective order. The other alternative draft incorporated additional provisions capturing concerns reflected in ongoing legislative proposals, and was presented to Committee members for the first time at the meeting in an effort to focus discussion on the differences between the 1993 proposal and the legislative proposals.

Discussion began with review of the history of attempts to consider legislative proposals to amend Rule 26(c). As at the April meeting, it was agreed that careful attention should be paid to the concerns reflected in these legislative proposals. Although the Committee cannot urge adoption of undesirable rules changes for purposes of political expediency, it must be sensitive to the concerns of Congress. Just as public comment on proposed rules provides much valuable information for consideration by the Committee, so legislative proposals reflect information gathered by the legislative process that can prove invaluable in framing the best possible rules proposals. Thoughtful consideration of the concerns that trouble Congress can have a real impact on committee deliberations.

It is clear that there is much concern that materials in the federal judicial system "ought to be public." The ongoing political debate is not limited to the particulars of discovery practice, but focuses on larger issues of public information. There is a natural and sharp focus on discovery protective orders, however, and legislation has been proposed that would alter the framework for dealing with protective orders. Judge Higginbotham testified before a Senate Committee, where attention focused on protective orders in products liability and other mass tort settings. It is clear that there is continuing concern in Congress that protective orders may have the effect of preventing access to information that is important to protect the public health and safety, and of making it more costly to litigate parallel claims. There is a risk that this concern, whether or not well-founded in light of actual present practice, will lead to remedies that interfere with the vital lubricating function of discovery protective orders. Over-eager remedies could greatly increase the number of litigated discovery disputes, and ultimately restrict the actual flow of discovery information. It is most important to attempt to achieve a rule that addresses all legitimate needs for limiting protective orders without imposing undue burdens on the courts or causing positive harm to the discovery process.

The proposal published in 1993 dealt with modification or dissolution of protective orders, not with the standards for initial consideration of protective orders. A deliberate decision

was made not to address the questions whether modification or dissolution can be sought by nonparties, or whether action is proper after judgment as well as before judgment. In his Senate committee testimony, however, Judge Higginbotham noted that courts frequently have permitted nonparties to seek modification or dissolution and that the 1993 proposal would permit continuation of this practice.

Preliminary results of the Federal Judicial Center study of protective orders were presented in a paper by Elizabeth C. Wiggins and Melissa J. Pecherski. Several aspects of the study were noted during the discussion. Studying three different districts for three years each, there was protective order activity in a range of 4.7% to 10.0% of all cases. Of course the figure would be higher as a percentage only of cases in which there was some discovery. It seems likely that the figure would be higher still as a percentage of cases in which there was a substantial amount of discovery activity, but the preliminary data do not provide this information. Most protective order activity is initiated by motion, not by stipulation of the parties; the highest figure for initiation by party stipulation was 26%. It was noted, however, that the data do not permit differentiation between types of cases; it would be consistent with these data to find that stipulated protective orders are commonplace in "complex" litigation. Approximately half the motions are met by a response in opposition; almost none were met by a "response in concurrence." The rate of hearings on motions was highly variable: in the District of Columbia, it was 12%, in Eastern Michigan 59%, and in Eastern Pennsylvania, 2%. Of the motions that were ruled upon by a judge, approximately equal numbers were denied, or granted in whole or in part. (By some chance, in all three districts 41% of the motions were granted in whole or in part.) Protective orders included a wide variety of provisions, but many included restrictions on disclosure or established procedures for handling confidential material. Of the suits in which an order was entered to restrict access to discovery materials, contract, civil rights, and "other statutes" actions accounted for large portions of the total. Personal injuries accounted for 8% or 9% of the total, depending on the district. Protective orders were modified or dissolved, whether by court order or agreement, in very few of the cases; there is no indication yet as to the types of cases involved or the reasons for modification or dissolution.

The first change in the 1993 draft would incorporate in (c)(1) an express provision recognizing and confirming the common practice of entering protective orders on stipulation by the parties. This change was accepted, on the express understanding that the court may refuse to enter an order notwithstanding stipulation of all parties. Rule 26(c)(1), as redrafted, simply provides that the court "may" enter the order; in keeping with the Committee's style

conventions, "may" is a word of permission, not mandate.

Throughout the discussion of other proposed changes, several members voiced concern with the substantive effects of protective orders. Information produced in discovery often is not public information. It can be reached, if at all, only by specified procedures limited to specified purposes. There is a substantive right of privacy that should not be violated by rules of procedure. The determination that privacy can be compromised by discovery appropriate to the needs of particular litigation does not justify allowing access to private information for other purposes. Public access to personnel files produced for employment discrimination litigation, for example, cannot be justified by vague invocations of the "public interest." Private information may be property protected against taking by the Fifth Amendment.

The distinction between limiting the scope of protective orders and establishing a positive right of access also ran throughout the discussion. The mere absence of a protective order does not establish a right of public access to discovery information that has not been filed with the court, nor to discovery proceedings. Care must be taken in drafting lest inadvertent references to "access" create a freedom-of-information act in the guise of protective order limits.

Discussion of the alternative draft began with paragraph (2). The draft provided that the court might protect materials only to the extent that the interest in confidentiality substantially outweighs the interest in access to the materials. It was suggested that the burden should lie in the opposite direction - that the rule should provide that discovery material should be protected unless the public interest substantially outweighs the interest in privacy. It also was suggested that the unrestricted reference to denying protection "when a nonparty has an interest in access" was too broad. Concern was expressed that as with other proposals, this approach might require extensive satellite litigation of the questions of public interest and the balance between the interests in access and in privacy. Such attempts to add to the open-ended "good cause" approach of paragraph (1) were feared as adding another layer of litigation. Concern also was expressed that there is a tension with the provision that expressly permits entry of a protective order on stipulation of the parties: that the draft might be read to limit the court's power to enter a stipulated protective order by requiring that it independently determine the balance between the interests in confidentiality and openness. It was suggested that in most litigation there is no public interest, but the draft might require explicit consideration and rejection of this possibility in all cases. Even imposing the burden on the person asserting that the public interest overcomes the interest in confidentiality does not clearly avoid this

problem. All of these shortcomings could be addressed by limiting these issues to consideration on a motion to modify or dissolve. Present practice could continue. There has been no showing that protective orders are entered improvidently, or that they conceal the very nature or existence of the litigation. Allowing unimpeded entry of protective orders, perhaps with greater guidance as to the circumstances that justify modification or dissolution, would be better.

A motion to delete paragraph (2) of the alternative draft, leaving its provisions for incorporation in the provision on modification or dissolution, carried by vote of 9 to 3.

Paragraph (5) of the alternative draft provided that the court must allow a nonparty access to protected materials if the nonparty agreed to submit to the terms of the protective order and either had a claim or defense factually related to the protected materials or was a state or federal agency with jurisdiction over matters related to the protected materials. Discussion of this paragraph included reference again to the concern that there is a difference between denying protection and ordering access. It also was asked why this provision should be separate from the more general modification or dissolution provisions of the following paragraph (6). As with paragraph (2), it was suggested that this provision should be combined with the more general provisions on modification or dissolution. As a more specific matter, it was urged that a public agency should not be allowed access to materials without regard to whether it would have authority to compel production by its own independent proceedings. In the same vein, it was suggested that submission to the protective order might not be enough to protect against forced disclosure under a freedom-of-information act, not only with respect to federal agencies but also with respect to state agencies governed by a wide variety of state acts. Discussion of the aspect of the draft that would require the court to defeat protection produced general agreement that the verb should be changed to provide that the court "may," not must, defeat protection. No formal action was taken on paragraph (5).

Subparagraph (6) of the alternate draft provided detailed guidance for modification or dissolution of a protective order. One feature was discarded by consensus. The draft would have allocated the burden of justification according to the nature of the protective order. If the order had been entered on stipulation of the parties, the burden of establishing the need for continued protection would be on the party asserting the need. If the order was contested, the burden of establishing the need for modification or dissolution would be on the person seeking access to protected material. This distinction had been vigorously urged by a committee of the Association of the Bar of the City of New York in commenting on the October, 1993 published draft. Concern was

expressed that it might be difficult to determine whether an order had been contested, and that the distinction almost certainly would discourage stipulated orders because of the desire to secure the greater protection of a contested order. Half-hearted contests could lead to further confusion through arguments that an order was not genuinely contested. The values of stipulated protective orders should not be defeated by this provision.

The procedures for nonparty motions to modify or dissolve were discussed at length. It was recognized from the outset that the question of procedures is bound up with the importance of permitting extensive nonparty applications. Although it was noted that one possible means of raising the issue would be a subpoena issued in separate proceedings, commanding production of material subject to a protective order, there was no suggestion that such procedures should be encouraged. A protective order in one action ordinarily does not protect against production in independent proceedings by the party who initially controlled information that has been produced under a protective order. An effort to get the material from a party who received the information subject to a protective order, however, is better made by application to the court that entered the protective order. The alternative draft provided for motions in the court that entered the order by nonparties as well as parties. The motive for this approach was the belief that it should be as easy to deny an ill-founded motion directly as to deny intervention. Intervention, on the other hand, avoids the awkwardness of recognizing a nonparty's standing to make a motion.

Discussion of intervention by nonparty applicants began with recognition that intervention has been the procedure regularly used as the foundation for a motion to modify or dissolve. The rule could provide for use of an intervention procedure without invoking the intervention standards of Rule 24, and without directly addressing the question of "standing" to seek intervention. Intervention, moreover, makes it clear that the nonparty has submitted to the jurisdiction of the court to make binding orders that limit the use of any information released from the full reach of the original protective order.

Robert Campbell observed that the Federal Rules Committee of the American College of Trial Lawyers had spent several hours discussing the Rule 26(c) proposal, but had not anticipated this particular turn of the discussion to intervention. He asked, however, how Rule 24 intervention tests would apply to an applicant urging a public interest, particularly a generalized public interest in health or safety. It was responded that Rule 24 intervention tests are elastic, as shown by regular invocation of Rule 24 in present practice dealing with motions to modify or dissolve. It was further suggested that an open invitation for

nonparty motions might lead to unnecessary work for everyone involved - that an intervention procedure would permit an initial narrow focus on the question whether a plausible claim for modification or dissolution had been stated, sorting out claims that do not justify the burdens of full-scale argument and consideration.

A motion was made to adopt the first sentence of the alternative draft paragraph (6) as modified to refer to intervention. As a working model, it might begin: "A party - or a nonparty who has been granted intervention for this purpose - may move at any time before or after judgment to dissolve or modify * * ." This motion was not acted on. Discussion of the motion, however, further explored the usefulness of intervention along lines similar to the earlier discussion. Although Rule 24 intervention standards may seem to fit poorly the situation of a person who is not interested in the merits of an action, the intervention device allows a court to focus on the nature of the interest asserted as a matter separate from actual application of the standards for modifying or dissolving a protective order. If an applicant obviously cannot justify full-scale consideration of the issue, intervention can be denied. One approach would be to refer to intervention in the text of Rule 26(c) and to explain in the Note that Rule 24 does not identify the standards for intervention.

Another motion was made to strike paragraphs (2), (5), and (6) of the alternative draft. In their place, paragraph (3) of the October 1993 draft would be restored with additional discussion of public interest factors. The problems of nonparty motions, motions after judgment, and other matters would be left to continuing decisional development. This motion rested on doubts about the capacity of the Committee to discharge well the responsibility of drafting in greater detail. It was suggested that this motion was premature because the Committee had not yet finished discussion of all possibilities. The motion was not brought to a vote.

Further discussion noted that relief from a protective order might be sought by a nonparty bound by the order, as well as by a nonparty who simply wished to free someone else from the order.

Discussion of these issues led the Committee to conclude by consent that it would be better to avoid immediate decisions. One or two revised drafts will be prepared, reflecting the discussion, and circulated to the Committee. One draft might hew rather close to the 1993 proposal, while the other might venture into greater detail. If agreement can be reached, either to adhere to the proposal published in October, 1993, or to adopt a revised draft, the topic will be reported to the Standing Committee in time for its January, 1995 meeting. It was agreed that if the

recommendation should be adoption of a draft with significant additions to the published draft, the recommendation would include publication for comment before reaching a final recommendation to the Standing Committee.

* * * * *

**PROPOSED AMENDMENTS TO
RULES OF CIVIL PROCEDURE'**

**Rule 26. General Provisions Governing
Discovery; Duty of Disclosure**

* * * * *

1 (c) **Protective Orders.**~~(1)~~ Upon ~~On~~ motion by a
2 party or by the person from whom discovery is
3 sought, accompanied by a certification that the
4 movant has in good faith conferred or attempted to
5 confer with other affected parties in an effort to
6 resolve the dispute without court action, ~~and for good~~
7 ~~cause shown~~, the court ~~in which~~ where the action is
8 pending ~~or — and alternatively~~, on matters relating
9 to a deposition, also the court in the district where
10 the deposition ~~is to~~ will be taken ~~— may, for good~~
11 cause shown or on stipulation of the parties, make
12 any order ~~which~~ that justice requires to protect a

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

13 party or person from annoyance, embarrassment,
14 oppression, or undue burden or expense, including
15 one or more of the following:

16 ~~(1A) that precluding~~ the disclosure or
17 discovery ~~—not be had;~~

18 ~~(2B) that specifying conditions, including time~~
19 ~~and place, for the disclosure or discovery may~~
20 ~~be had only on specified terms and conditions,~~
21 ~~including a designation of the time or place;~~

22 ~~(3C) that the discovery may be had only by~~
23 ~~prescribing a discovery method of discovery~~
24 other than that selected by the party seeking
25 discovery;

26 ~~(4D) that excluding~~ certain matters ~~not be~~
27 ~~inquired into, or that limiting~~ the scope of the
28 disclosure or discovery ~~be limited to certain~~

29 matters;

30 ~~(5E) designating the persons who may be~~

31 ~~present while that the discovery is be~~

32 ~~conducted with no one present except persons~~

33 ~~designated by the court;~~

34 ~~(6F) that a deposition, after being sealed,~~

35 ~~directing that a sealed deposition be opened~~

36 ~~only by order of the upon court order;~~

37 ~~(7G) ordering that a trade secret or other~~

38 ~~confidential research, development, or~~

39 ~~commercial information not be revealed or be~~

40 ~~revealed only in a designated way; and or~~

41 ~~(8H) directing that the parties simultaneously~~

42 ~~file specified documents or information~~

43 ~~enclosed in sealed envelopes, to be opened as~~

44 ~~directed by the court directs.~~

45 (2) If the a motion for a protective order is wholly or
46 partly denied in whole or in part, the court may, on
47 such just terms and conditions as are just, order that
48 any party or other person provide or permit discovery
49 or disclosure. The provisions of Rule 37(a)(4)
50 applies to the award of expenses incurred in relation
51 to the motion.

52 (3) (A) The court may modify or dissolve a protective
53 order on motion made by a party, a person bound by
54 the order, or a person who has been allowed to
55 intervene to seek modification or dissolution.

56 (B) In ruling on a motion to dissolve or modify a
57 protective order, the court must consider, among
58 other matters, the following:

59 (i) the extent of reliance on the order;

- 60 **(ii)** the public and private interests affected
61 by the order, including any risk to
62 public health or safety;
- 63 **(iii)** the movant's consent to submit to the
64 terms of the order;
- 65 **(iv)** the reasons for entering the order, and
66 any new information that bears on the
67 order; and
- 68 **(v)** the burden that the order imposes on
69 persons seeking information relevant to
70 other litigation.

* * * * *

Committee Note

Subdivisions (1) and (2) are revised to conform to the style conventions adopted for simplifying the present rules. No change in meaning is intended by these style changes.

Subdivision (1) also is amended to confirm the common practice of entering a protective order on

stipulation of the parties. Stipulated orders can provide a valuable means of facilitating discovery without frequent requests for action by the court, particularly in actions that involve intensive discovery. If a stipulated protective order thwarts important interests, relief may be sought by a motion to modify or dissolve the order under subdivision (3).

Subdivision (3) is added to the rule to dispel any doubt whether the power to enter a protective order includes power to modify or vacate the order. The power is made explicit, and includes orders entered by stipulation of the parties as well as orders entered after adversary contest. The power to modify or dissolve should be exercised after careful consideration of the conflicting policies that shape protective orders. Protective orders serve vitally important interests by ensuring that privacy is invaded by discovery only to the extent required by the needs of litigation. Protective orders entered by agreement of the parties also can serve the important need to facilitate discovery without requiring repeated court rulings. A blanket protective order may encourage the exchange of information that a court would not order produced, or would order produced only under a protective order. Parties who rely on protective orders in these circumstances should not risk automatic disclosure simply because the material was once produced in discovery and someone else might want it.

Modification of a protective order may be sought to increase the level of protection afforded as well as to reduce it. Among the grounds for increasing protection might be violation of the order, enhanced appreciation of the extent

to which discovery threatens important interests in privacy, or the need of a nonparty to protect interests that the parties have not adequately protected.

Modification or dissolution of a protective order does not, without more, ensure access to the once-protected information. If discovery responses have been filed with the court, access follows from a change of the protective order that permits access. If discovery responses remain in the possession of the parties, however, the absence of a protective order does not without more require that any party share the information with others.

Despite the important interests served by protective orders, concern has been expressed that protective orders can thwart other interests that also are important. Two interests have drawn special attention. One is the interest in public access to information that involves matters of public concern. Information about the conduct of government officials is frequently used to illustrate an area of public concern. The most commonly offered example focuses on information about dangerous products or situations that have caused injury and may continue to cause injury until the information is widely disseminated. The other interest involves the efficient conduct of related litigation, protecting adversaries of a common party from the need to engage in costly duplication of discovery efforts.

The first sentence of subparagraph (A) recognizes that a motion to modify or dissolve a protective order may be made by a party, a person bound by the order, or a person allowed to intervene for this purpose. A motion to

intervene for this purpose is made for the limited purpose of establishing standing to pursue the request for modification or dissolution. Intervention should be granted if the applicant asserts an interest that justifies full argument and consideration of the motion to modify or dissolve. Because intervention is for this limited purpose, there is no need to invoke the Rule 24 standards that would apply to a request to intervene as a party. Several courts have relied on limited intervention in this setting, and the procedure has worked well.

Subparagraph (B) lists some of the matters that must be considered on a motion to dissolve or modify a protective order. The list is not all-inclusive; the factors that may enter the decision are too varied even to be foreseen.

The most important form of reliance on a protective order is the production of information that the court would not have ordered produced without the protective order. Often this reliance will take the form of producing information under a blanket protective order without raising the objection that the information is not subject to disclosure or discovery. The information may be protected by privilege or work-product doctrine, the outer limits of Rule 26(b)(1), or other rules. Reliance also may take other forms, including the court's own reliance on a protective order less sweeping than an order that flatly prohibits discovery. If the court would not have ordered discovery over proper objection, it should not later defeat protection of information that need not have been produced at all. Reliance also deserves consideration in other settings, but a finding that information is properly discoverable directs

attention to the question of the terms — if any — on which protection should continue.

The public and private interests affected by a protective order include all of the myriad interests that weigh both for and against discovery. The question whether to modify or dissolve a protective order is, apart from the question of reliance, much the same as the initial determination whether there is good cause to enter the order. An almost infinite variety of interests must be weighed. The public and private interests in defeating protection may be great or small, as may be the interests in preserving protection. Special attention must be paid to a claim that protection creates a risk to public health or safety. If a protective order actually thwarts publication of information that might help protect against a significant threat of serious injury to person or property, only compelling reasons could justify protection. Claims of commercial disadvantage should be examined with particular care. On the other hand, it is proper to demand a realistic showing that there is a need for disclosure of protected information. Often there is full opportunity to publicize a risk without access to protected discovery information. Paradoxically, the cases that pose the most realistic public risk also may be the cases that involve the greatest interests in privacy, such as a yet-to-be-proved claim that a party is infected with a communicable disease.

Consent to submit to the terms of a protective order may provide strong reason to modify the order. Submission to the terms of the order should include submission to the jurisdiction of the court to enforce the order. Submission,

however, does not establish an automatic right to modification. The court still must balance the need for access to information against the interests of privacy. If the need for access arises from pending or impending litigation of parallel claims, it may prove better to defer to the protective order discretion of the court responsible for the other litigation, or even to work out a cooperative approach that allows each court to consider the factors most familiar to it.

The role of the court in considering the reasons for entering the protective order is affected by the distinction between contested and stipulated orders. If the order was entered on stipulation of the parties, the motion to modify or dissolve requires the court to consider the reasons for protection for the first time. All of the information that bears on the order is new to the court and must be considered. If the order was entered after argument, however, the court may justifiably focus attention on information that was not considered in entering the order initially.

Rule 26(c)(3) applies only to the dissolution or modification of protective orders entered by the court under subdivision (c)(1). It does not address private agreements entered into by litigants that are not submitted to the court for its approval. Nor does Rule 26(c)(3) apply to motions seeking to vacate or modify final judgments that occasionally contain restrictions on the disclosure of specified information. Rules 59 and 60 govern such motions.

PROPOSED RULE AMENDMENTS GENERATING CONTROVERSY

At its January 11-13, 1995 meeting, the Committee on Rules of Practice and Procedure reviewed proposed amendments to Rule 26(c) of the Federal Rules of Civil Procedure submitted by the Advisory Committee on the Rules of Civil Procedure. No amendments were proposed to the Federal Rules of Appellate, Bankruptcy, and Criminal Procedure and the Federal Rules of Evidence.

Deliberations of the Advisory Committee on the Rules of Civil Procedure

At its April and October 1994 meetings, the Advisory Committee on Rules of Civil Procedure considered written comments and testimony concerning proposed amendments to Rule 26(c), which would clarify the procedures for dissolving protective orders.

The proposed amendments to Rule 26(c), which were published for comment in October 1993, were prepared in response to concerns reflected in several bills introduced in Congress since 1991. In the last Congress, legislation was introduced that would have permitted a judge to enter a protective order under Rule 26(c) only after making particularized findings that the order would not restrict disclosure of information relevant to the public health or safety, or that any such restriction was required by an overriding and specific interest in confidentiality. The bill was narrowly defeated in the Senate and further legislative action on it was deferred after a request from the rules committees to allow the Rules Enabling Act rulemaking process to go forward.

The proposed amendments are different from the Congressional proposals and do not require findings of fact on every request for a protective order. Public comment on the proposed amendments to Rule 26(c) covered the full array of views. Some comments reflected the belief that in general district courts are sensitive to the needs to modify or dissolve protective orders to meet the concerns addressed by the amendment. Other comments suggested that the published version was not sufficiently pointed -- that it should provide more directive detail to ensure that protective orders do not thwart important public interests or efficient conduct of related litigation.

In the end, the advisory committee divided in two votes. The first vote, by a margin of 10 to 3, adopted the version that is now proposed in lieu of the version that was published for comment: an express reference to public health and safety is added to item (ii) in paragraph (3)(B), and items (iii) and (iv) were added. These new details simply make explicit matters that were implicit in the original version. The second vote, by a margin of 8 to 5, added the language in paragraph (A) that

refers to motions by a party, a person bound by the order, or a person who has been allowed to intervene. The provision for intervention recognizes a common practice adopted in the cases, providing clear notice of a regularized procedure.

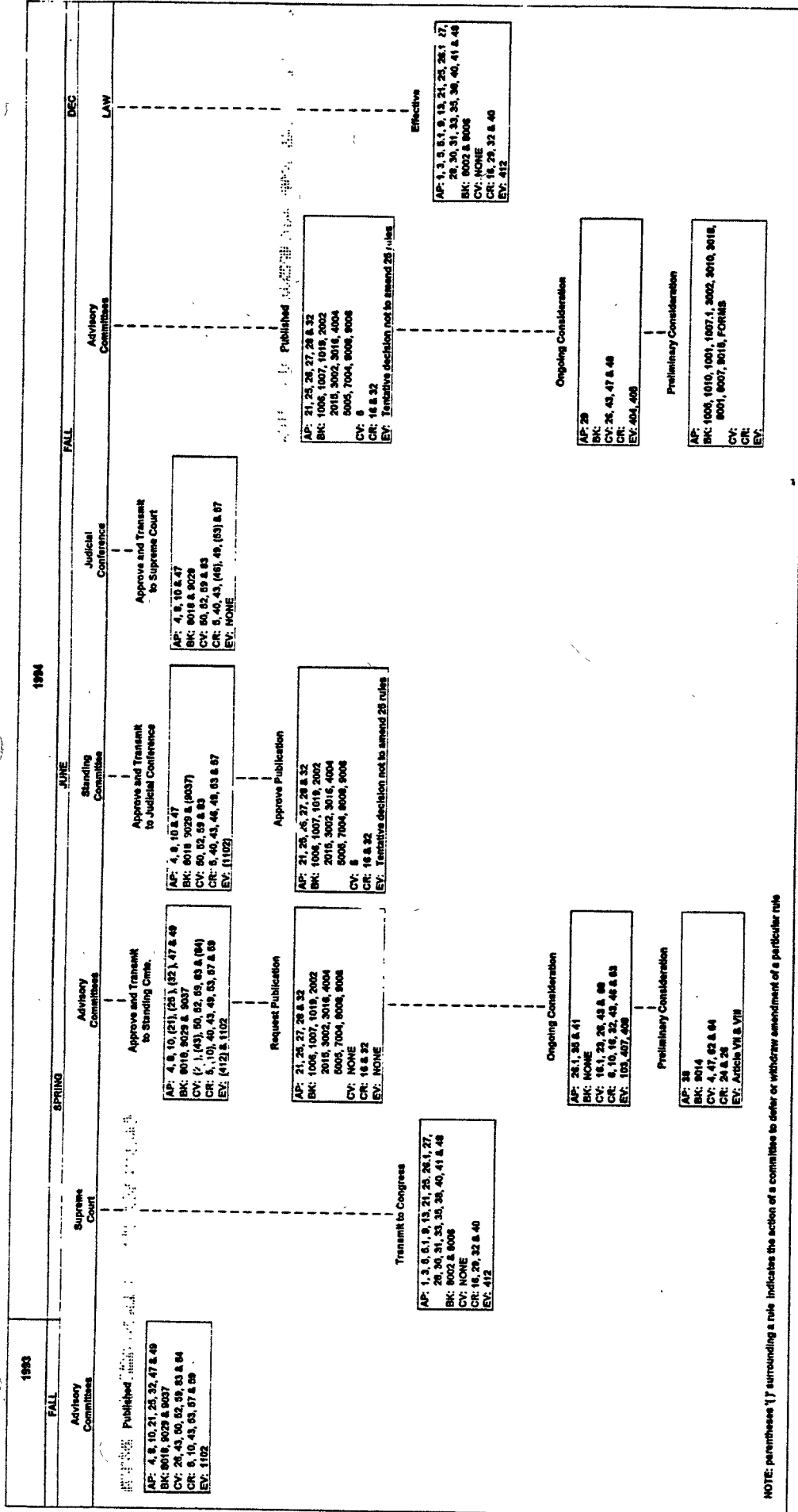
Deliberations of the Standing Committee

The Standing Committee unanimously approved the present version, finding the revisions sufficiently within the scope of the initial publication to warrant going forward without republication.

The recommendation of the rules committees to submit proposed amendments to the Judicial Conference for transmission to the Supreme Court immediately after the March 14-15 Conference session, rather than wait until the September Conference session, is unusual. Deferring submission of the amendments until the September Conference session, however, would delay the effective date of the amendments from December 1, 1995 to December 1, 1996. In light of the longstanding Congressional concerns evident in this area, the prior requests to Congress to defer direct legislative amendment of Rule 26 pending completion of the rulemaking process, and the expressed intent of some Congressional members to move expeditiously on this matter, the rules committees believe that an earlier submission to the Court would be appropriate.

PROMULGATION OF RULES AMENDMENTS

AGENDA F-19
(Appendix D)
Rules
March, 1995



NOTE: parentheses () surrounding a rule indicates the action of a committee to defer or withdraw amendment of a particular rule

PROMULGATION OF RULES AMENDMENTS

