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OF THE
JUDICIAL CONFERENCE OF THE UNITED STATES
WASHINGTON, D.C. 20544

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MEMORANDUM

TO: Hon. John D. Bates, Chair
Committee on Rules of Practice and Procedure

FROM: Hon. Rebecca B. Connelly, Chair
Advisory Committee on Bankruptcy Rules

RE: Report of the Advisory Committee on Bankruptcy Rules

DATE: May 10, 2024

I. Introduction

The Advisory Committee on Bankruptcy Rules met in Denver on April 11, 2024. Two Committee members attended remotely; the rest of the Committee met in person. The draft minutes of that meeting are attached.

At the meeting, the Advisory Committee voted to give final approval to amendments to Bankruptcy Rules 3002.1 (Notice Relating to Claims Secured by a Security Interest in the Debtor's Principal Residence in a Chapter 13 Case) and Bankruptcy Rule 8006 (Certifying a Direct Appeal to a Court of Appeals), as well as to six new Official Forms related to the proposed Rule 3002.1 amendments (Official Forms 410C13-M1, 410C13-M1R, 410C13-N,

410C13-NR, 410C13-M2, and 410C13-M2R) and amendments to Official Form 410 (Proof of Claim).

The Advisory Committee also agreed to seek publication for comment of proposed amendments to Bankruptcy Rules 3018 (Chapter 9 or 11 – Accepting or Rejecting a Plan); and Bankruptcy Rules 9014 (Contested Matters), 9017 (Evidence), and new Bankruptcy Rule 7043 (Taking Testimony). At the fall 2023 meeting, the Advisory Committee approved for publication amendments to Bankruptcy Rules 1007 (Lists, Schedules, Statements, and Other Documents; Time to File), 5009 (Closing a Chapter 7, 12, 13, or 15 Case; Declaring Liens Satisfied), and 9006 (Computing and Extending Time; Motions), and those amendments are also presented to the Standing Committee at this meeting.

Part II of this report presents those action items. They are organized as follows:

A. Items for Final Approval

Rules and Forms published for comment in August 2023:

- Rule 3002.1;
- Rule 8006;
- Official Forms 410C13-M1, 410C13-M1R, 410C13-N, 410C13-NR, 410C13-M2, and 410C13-M2R; and
- Official Form 410.

B. Items for Publication

- Rule 3018;
- Rules 9014, 9017, and new Rule 7043;
- Rules 1007, 5009, and 9006.

Part III of this report presents four information items. The first concerns proposals regarding social-security number redactions from public court filings. The second discusses two suggestions to allow masters to be used in bankruptcy cases and proceedings. The third is a report on technical amendments conforming certain forms and their instructions to the restyled Bankruptcy Rules. The fourth concerns reconsideration of proposed amendments to Official Forms 309A and 309B.

II. Action Items

A. Items for Final Approval

The Advisory Committee recommends that the following rule and form amendments and new Official Forms that were published for public comment in 2023 and are discussed below be given final approval. Bankruptcy Appendix A includes the rules and forms that are in this group, along with summaries of the comments that were submitted.

Action Item 1. Rule 3002.1 (Notice Relating to Claims Secured by a Security Interest in the Debtor’s Principal Residence in a Chapter 13 Case). After proposed amendments to Rule 3002.1 were published in 2021, the Advisory Committee made significant revisions in response to the comments that were received. The rule with revised amendments was republished in 2023. Ten sets of comments concerning the rule were submitted. They ranged from addressing specific wording issues and proposed deadlines to raising some broader issues, such as the scope of the rule and whether limitations should be placed on the authority to file a motion to determine the status of a mortgage.

The Advisory Committee considered these comments during its spring meeting, along with the Consumer Subcommittee’s recommendations. It now recommends that the revised rule be given final approval, with the changes to the published version of the rule discussed below.

Subdivision (a) – In General. The Advisory Committee voted to delete the word “contractual” in the first sentence of subdivision (a) so that the end of the sentence now reads, “for which the plan provides for the trustee or debtor to make payments on the debt.” Several comments were submitted suggesting this deletion. They explained that sometimes home mortgages may be modified in chapter 13—such as those paid in full or short-term mortgages—and they are paid according to the terms of the plan, rather than strictly according to the terms of the contract. The Advisory Committee thought that the rule should apply in these situations and that making this change would not require republication. The Advisory Committee also approved a change to the Committee Note’s discussion of subdivision (a) that clarifies that the amended rule applies to reverse mortgages.

Comments suggested other expansions of the rule’s applicability that the Advisory Committee decided against. These included making the rule applicable to mortgages on property other than the debtor’s principal residence and to liens not created by agreement, such as statutory liens. These suggestions may have merit, as they would assist debtors in emerging from chapter 13 with mortgages and other types of real-property liens current or paid in full. However, because proposed amendments to the rule have now been published twice, the Advisory Committee did not want to propose any changes to subdivision (a) that would require yet another publication. Members thought that expanding the rule beyond the debtor’s principal residence or making it applicable to statutory liens runs that risk. Otherwise, new types of creditors could be affected who were not given notice that the rule would apply to them.

Subdivision (b) – Notice of a Payment Change; Home-Equity Line of Credit; Effect of an Untimely Notice; Objection. In response to several of the mortgage organizations’ comments,

the Advisory Committee voted to state in subdivision (b)(3)(B) that a payment decrease is effective on the actual payment due date, even if that date is in the past. There are instances where a payment decrease is retroactively applied, and the debtor should get the benefit of that decrease. As revised, (b)(3)(B) would state that the effective date of the new payment amount is, “when the notice concerns a payment decrease, on the actual payment due date, even if prior to the notice.”

Subdivision (f) – Motion to Determine Status; Response; Court Determination. The Advisory Committee voted to make two changes to this subdivision. First, in (f)(2) it changed the deadline for responding to a trustee’s or debtor’s motion from 21 to 28 days. Mortgage organizations commented that they need that amount of time to respond properly, and it is the amount of time that subdivision (g)(3) provides for responding to the trustee’s end-of-case notice.

Second, the Advisory Committee agreed with the National Bankruptcy Conference’s comment that the phrase “and enter an appropriate order” should be added at the end of subdivision (f)(3) to be consistent with other provisions in the rule about the court’s determination.

Mortgage organizations suggested a number of limitations that they thought should be added to prevent the abusive use of this subdivision. Those restrictions included limiting the time period during which a motion to determine the status of a mortgage could be filed or limiting the number of times it could be filed, specifying potential remedies for the mortgage claimant if the provision is misused, providing that a pro se debtor must provide an attestation as to the facts set forth in the motion, and providing that it is a ground for setting aside an adverse order if the movant failed to name and serve the correct mortgage claimant/servicer. The Advisory Committee made no changes in response to these comments. If a debtor, debtor’s attorney, or trustee files a motion under this provision, Rule 9011 applies and could result in sanctions if the court determines that the motion was filed “for any improper purpose” or that the factual allegations lack evidentiary support. Furthermore, relief would be available outside of this rule if an adverse order is entered against a party that was not served.

Subdivision (g) – Trustee’s End-of-Case Notice of Payments Made; Response; Court Determination. The Advisory Committee voted to change the words “payments” and “paid” in the title and in subdivision (g)(1) to “disbursements” and “disbursed.” That terminology better describes the role of chapter 13 trustees. The Advisory Committee also deleted two uses of “contractual” in (g)(1)(B) to be consistent with the recommended change to subdivision (a).

In subdivision (g)(1)(A), the Advisory Committee deleted “if any” after “what amount” in order to avoid suggesting that a trustee who makes no disbursements to the mortgage claim holder does not need to file an end-of-case notice. It also added to the Committee Note the statement that “If the trustee has disbursed no amounts to the claim holder under either or both categories, the notice should be filed stating \$0 for the amount disbursed.”

Several comments noted that in subdivision (g)(4)(A), no deadline was stated for filing a motion to determine the status of the mortgage if the claim holder responded to the trustee’s notice. It merely said that the motion could be filed “[a]fter service of the response.” Agreeing

with the comments, the Advisory Committee voted to rewrite the first sentence of subparagraph (A) to make a 45-day deadline applicable to that situation as well as to when the claim holder does not respond to the notice.

In subdivision (g)(4)(B), the Advisor Committee changed the time for the claim holder to respond to the motion from 21 to 28 days, just as in subdivision (f)(2).

Committee Note. In addition to the changes discussed above, the Advisory Committee made conforming changes to the Committee Note.

Action Item 2. Rule 8006(g) (Request After Certification for a Court of Appeals to Authorize a Direct Appeal). Last August the Standing Committee published an amendment to Fed. R. Bankr. P. 8006(g) suggested by Bankruptcy Judge A. Benjamin Goldgar to make explicit what the Advisory Committee believed was the existing meaning of the Rule—that any party to an appeal of a case that has been certified for direct appeal may submit a request to the court of appeals to accept the direct appeal under 28 U.S.C. § 158(d)(2). The form of the amendment was developed in consultation with the Advisory Committee on Appellate Rules, which was concurrently preparing an amendment to Appellate Rule 6(c) (Appeal in a Bankruptcy Case – Direct Review by Permission Under 28 U.S.C. § 158(d)(2)) to make sure the rules worked well together. Both amended rules were published at the same time.

The only comment on the published amendment was a submission from the Minnesota State Bar Association’s Assembly supporting it (and the other published proposed amendments to the Bankruptcy Rules, Appellate Rules, and Civil Rules).

The Advisory Committee approved the amendment to Rule 8006(g) as published.

Action Item 3. Official Forms 410C13-M1, 410C13-M1R, 410C13-N, 410C13-NR, 410C13-M2, and 410C13-M2R (Rule 3002.1 Forms). Last August the Standing Committee published for comment six new Official Forms that were proposed to implement proposed amendments to Rule 3002.1. Ten sets of comments concerning these forms were submitted.

In response to the comments submitted, the Forms Subcommittee’s recommendations, changes to Rule 3002.1, and the discussion at the Advisory Committee meeting, the Advisory Committee approved the forms with the changes to the published versions discussed below.

Changes to the Motion Forms:

Official Form 410C13-M1(Motion Under Rule 3002.1(f)(1) to Determine the Status of the Mortgage Claim) and Official Form 410C13-M2 (Motion Under Rule 3002.1(g)(4) to Determine Final Cure and Payment of Mortgage Claim)

- The word “paid” was changed to “disbursed” in Part 2b, d, and e. Chapter 13 trustees act as disbursement agents; they do not “pay” the mortgage.
- In Part 3a “and allowed” was deleted before “under,” and the phrase “and not disallowed” was added at the end of that item. As noted by the National Bankruptcy

Conference, postpetition fees, expenses, and charges are not “allowed” under Rule 3002.1(c). If no motion is filed under Rule 3002.1(e), there is no court determination that the fees are allowed. Moreover, because the notice of fees is not subject to Rule 3001(f), the fees are not deemed allowed. If, however, the court did rule on them and disallowed them, they should not be included.

- The word “contractual” was deleted in Part 4 before “obligations.” This change conforms to the change to Rule 3002.1(a).
- A new Part 5 was added in brackets to allow the trustee or debtor to add other relevant information. This change was made in order to accommodate plans that provide for a less conventional treatment of the home mortgage.
- Lines for address, phone number, and email were added after the moving party’s signature to comply with Rule 9011(a).
- In addition to the changes listed above, the following change was made to Form 410C13-M2: “the” was added before “Mortgage” in the title of the form to be consistent with the other forms.

Changes to the Motion Response Forms:

Official Form 410C13-M1R (Response to [Trustee’s/Debtor’s] Motion Under Rule 3002.1(f)(1) to Determine the Status of the Mortgage Claim) and Official Form 410C13-M2R (Response to [Trustee’s/Debtor’s] Motion Under Rule 3002.1(g)(4) to Determine Final Cure and Payment of the Mortgage Claim)

- At the beginning of Part 2, the following sentence was added: “The total amount received to cure any arrearages as of the date of this response is \$ _____.” This will directly respond to Part 2e of the motion.
- In Part 2, separate responses for prepetition and postpetition arrearages were created to correspond with the breakdown of those amounts in the motion.
- The direction in Part 2 was changed to “Check all that apply” since now more than one statement could be asserted.
- Part 3 was rearranged in response to comments that a payoff statement and the information requested are needed in situations in which the claim holder says that the debtor is not current, as well as when current.
- The word “contractual” was deleted before “payments” in Part 3a to conform to the change to Rule 3002.1(a).

- The second sentence of the third box in Part 3a was moved to a new viii in Part 3b as a more appropriate place to provide that information.
- In Part 4 the requirement to use the format of Official Form 410A, Part 5, was deleted. Mortgage groups commented that this format does not work for distinguishing between prepetition arrears and postpetition defaults.
- In the third bullet point of Part 4, the phrase “assessed to the mortgage” was changed to “that the claim holder asserts are recoverable against the debtor or the debtor’s principal residence.” This language tracks the language of Rule 3002.1(c) and is clearer.
- A catch-all provision was added in brackets as Part 5 to allow the claim holder to add other information relevant to the response.

Changes to the Trustee’s Notice:
Official Form 410C13-N (Trustee’s Notice of Payments Made)

- In the title, “Payments” was changed to “Disbursements” to reflect more accurately the trustee’s role.
- In Part 2, the space for the date of the debtor’s completion of payments was deleted. Trustees commented that the date is ambiguous and is not needed.
- The title of Part 3 was changed from “Amount Needed to Cure Default” to “Arrearages.” If the debtor has been making direct payments, the trustee may not be aware of defaults.
- For the same reason, the request in Part 3 for “Allowed amount of postpetition arrearage, if any,” was deleted. Also deleted was the question asking whether the debtor has cured all arrearages.
- In Part 3a and 3c, “if any” was deleted to conform to changes made to Rule 3002.1.
- In Part 3b, c, and d, “paid” was changed to “disbursed” for the reason previously stated.
- In Part 4, “contractual” was deleted for the reason previously stated.
- A check box for “other” in Part 4 was added to allow for hybrid situations.
- In Part 4, the word “made” was changed to “disbursed” in two places.
- The statement that was formerly Part 4b about the debtor being current was removed because the trustee may lack this information. Former Part 4c was changed to Part 4b, and the instruction was updated to say “...complete a and b below;” instead of a-c.

- The statement in Part 4b was changed to the date of the trustee’s last disbursement, rather than the date the next mortgage payment is due. Commenters noted that by the time the notice is filed, additional payments may have already come due and might have been paid by the debtor. A statement explaining that future payments are the debtor’s responsibility was added.
- In Part 5, the item “Amount of allowed postpetition fees, expenses, and charges” was deleted because the trustee may not have this information.
- The phrase “as of the date of this notice” in Part 5 was deleted as unnecessary.

Changes to the Response to Notice:

Official Form 410C13-NR (Response to Trustee’s Notice of Payments Made)

- In the title, “Payments” was changed to “Disbursements” to be consistent with the proposed change to the title of the notice.
- In the first line, the citation was corrected.
- The title of Part 2 was changed to “Arrearages” to correspond with Part 3 of the notice.
- At the beginning of Part 2, the following sentence was added: “The total amount received to cure any arrearages as of the date of this response is \$ _____.” This will capture amounts paid by both the trustee and the debtor.
- In Part 3, “contractual” was deleted for the reason previously stated.
- Part 3 was rearranged to respond to comments that a payoff statement and the information requested are needed in situations in which the claim holder says that the debtor is not current, as well as when current.
- The second sentence of the third box in Part 3a was moved to a new viii in Part 3b as a more appropriate place for that information, and the phrase “due and owing” was changed to “remaining unpaid” to conform to the other response forms.
- In Part 4, the requirement to use the format of Official Form 410A, Part 5 was deleted. Mortgage groups commented that this format does not work for distinguishing between prepetition arrears and postpetition defaults.
- In the third bullet point of Part 4, the phrase “assessed to the mortgage” was changed to “that the claim holder asserts are recoverable against the debtor or the debtor’s principal residence.” This language tracks the language of Rule 3002.1(c) and is clearer.
- In Part 5, a line was added for the title of the person signing the form.

Changes to the Committee Note

Changes were made to the forms' Committee Note to conform to the changes proposed to be made to the forms and Rule 3002.1 and in response to comments.

Action Item 4. Official Form 410 (Proof of Claim). In August 2023 the Standing Committee published a proposed amendment to Official Form 410 based on a suggestion from Dana C. McWay, Chair of the Administrative Office of the U.S. Courts' Unclaimed Funds Expert Panel. She suggested that Part 1, Box 3 be modified to change the line referring to the uniform claim identifier so that it is no longer limited to use in chapter 13. The published amendment implemented that suggestion but went further than the suggestion, eliminating the entire phrase "for electronic payments in chapter 13." This would allow the UCI to be used for paper checks as well as electronic payments without regard to the bankruptcy chapter.

The only comment on the published amendment was a submission from the Minnesota State Bar Association's Assembly supporting it.

The Advisory Committee approved the amendment to Official Form 410 as published.

B. Items for Publication

The Advisory Committee recommends that the following rule amendments be published for public comment in August 2024. Bankruptcy Appendix B includes the rules that are in this group.

Action Item 5. Rule 3018 (Chapter 9 or 11 – Accepting or Rejecting a Plan). At the January Standing Committee meeting, the Advisory Committee sought publication of amendments to Rule 3018(c) in response to a suggestion from the National Bankruptcy Conference. The proposed amendments would authorize a court in a chapter 9 or 11 case to treat as an acceptance of a plan a statement on the record by a creditor's attorney or authorized agent. Conforming amendments were also proposed and approved for Rule 3018(a). The Standing Committee gave its approval.

As approved by the Standing Committee for publication, the rule provides as follows:

1 **Rule 3018. Chapter 9 or 11—Accepting or Rejecting a Plan.**

2 **(a) In General.**

3 * * * * *

4 (3) ***Changing or Withdrawing an Acceptance or Rejection.*** After notice and a hearing
5 and for cause, the court may permit a creditor or equity security holder to change
6 or withdraw an acceptance or rejection. The court may also do so as provided in
7 (c)(1)(B).

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(c) ~~Form~~ **Means** for Accepting or Rejecting a Plan; Procedure When More Than One Plan Is Filed.

(1) ~~Form~~ **Alternative Means**.

(A) In Writing. Except as provided in (B). An acceptance or rejection must:

(A*i*) be in writing;

(B*ii*) identify the plan or plans;

(C*iii*) be signed by the creditor or equity security holder—or an authorized agent; and

(D*iv*) conform to Form 314.

(B) As a Statement on the Record. The court may also permit an acceptance—or the change or withdrawal of a rejection—in a statement that is:

(i) part of the record, including an oral statement at the confirmation hearing or a stipulation; and

(ii) made by an attorney for—or an authorized agent of—the creditor or equity security holder.

(2) ***When More Than One Plan Is Distributed.*** If more than one plan is sent under Rule 3017, a creditor or equity security holder may accept or reject one or more and may indicate preferences among those accepted.

* * * * *

After the meeting a member of the Standing Committee and the committee’s reporter suggested a few wording changes to the amendments. Because publication would not occur until August and both the Advisory and Standing Committees would meet again before then, the decision was made to ask the Advisory Committee to consider these additional changes. It did so at the spring meeting and approved for publication the rule as revised. It now resubmits Rule 3018(a) and (c) to the Standing Committee for approval for publication.

Proposed Changes

1. Because new subdivision (c)(1)(B) would allow an acceptance to be made by a written stipulation, as well as by an oral statement on the record, it was suggested that the heading for subdivision (c)(1)(A) (line 15) be changed from “*In Writing*” to “*By Ballot*.” This title would more accurately indicate the difference between subparagraphs (A) and (B).

Unlike adversary proceedings, which are comparable to civil actions governed by Fed. R. Civ. P. 43, contested matters are often of very short duration and do not typically turn on the credibility of witnesses. Therefore, the concerns about the inability to confront witnesses in person are much less pressing for bankruptcy contested matters. The proposed amendments and new rule would retain the general rule that testimony in a contested matter will be in person, but give the court more discretion to permit remote testimony by setting a less stringent standard for allowing exceptions to the rule.

The Advisory Committee, at the request of Judge Bates, has conferred with the Committee on Court Administration and Case Management, which is also examining the issue of video conferencing in court proceedings, and has been assured that “the content of the proposed amendments do[es] not appear to create any conflict with existing Conference policy regarding remote access or remote proceedings” and that “the timing of the publication of the proposed amendments in 2024 is unlikely to hinder work on this issue.”

The Advisory Committee approved the amendments to Rules 9014 and 9017 and the new Rule 7043 for publication.

Action Item 7. Rules 1007 (Lists, Schedules, Statements, and Other Documents; Time to File), 5009 (Closing a Chapter 7, 12, 13, or 15 Case; Declaring Liens Satisfied), and 9006 (Computing and Extending Time; Motions). As we have previously reported, the Advisory Committee received two suggestions regarding the Bankruptcy Code’s requirements that most individual debtors complete a course on personal financial management while their case is pending in order to receive a discharge. Code § 727(a)(11) provides, subject to limited exceptions, that a debtor will not receive a discharge if “after filing the petition, the debtor failed to complete an [approved] instructional course concerning personal financial management.” This restriction applies to individual debtors in chapter 7, in certain chapter 11 cases (*see* § 1141(d)(3)), and in chapter 13 (*see* § 1328(g)(1)).

Rule 1007(b)(7) implements these provisions by requiring such a debtor to file a certificate of completion of the course.² Rule 1007(c) provides the deadline for filing the certificate: in a chapter 7 case, 60 days after the first date set for the meeting of creditors; in a chapter 11 or 13 case, no later than the date that the debtor makes the last payment as required by the plan or a motion is filed for a hardship discharge. In order to promote the debtor’s compliance with these requirements, Rule 5009(b) provides that, if an individual debtor in a chapter 7 or 13 case who is required to file a certificate under Rule 1007(b)(7) fails to do so by 45 days after the first date set for the meeting of creditors, the court must promptly notify the debtor of the obligation to do so by the prescribed deadline. The notice must also explain that the failure to comply will result in the case being closed without a discharge.

² If Congress takes no action to the contrary, an amendment to Rule 1007(b)(7) that will change the requirement for filing a statement to requiring the filing of a certificate of course completion issued by the course provider will go into effect on December 1, 2024. This report will therefore refer to the filing of a certificate.

Professor Laura Bartell submitted a suggestion (22-BK-D) to change the timing of the reminder notice to chapter 7 and 13 debtors under Rule 5009(b). Tim Truman, a chapter 13 trustee, submitted a related suggestion (22-BK-K) to change the deadline for chapter 13 debtors to file the certificate.

The Advisory Committee supports the goal of reducing the number of individual debtors who go through bankruptcy but whose cases are closed without a discharge because they either failed to take the required course on personal financial management or merely failed to file the needed documentation of their completion of the course. Some of these debtors eventually receive a discharge after getting their cases reopened—at additional expense—but others never do, despite having satisfied all of the other requirements for receiving a discharge. The question for the Advisory Committee was how best to achieve a reduction in noncompliance. The Consumer Subcommittee considered whether changing the deadlines for filing the certificate or the timing of the reminder notice would make a difference. In the end, the Subcommittee recommended amendments to Rules 1007, 5009, and 9006, and the Advisory Committee agreed that they should be published for comment. The proposed changes consist of the following:

1. *The deadlines in Rule 1007(c) for filing the certificate of course completion would be eliminated.* The Code only requires that the course be taken before a discharge can be issued, and members of the Advisory Committee were concerned that some debtors might be deprived of a discharge merely because they failed to file their certificates by the times specified in the rules.

The Advisory Committee approved for publication an amendment to Rule 1007 to eliminate the deadlines. It would delete subdivision (c)(4), which sets out the deadlines for filing the certificate of course completion in chapter 7, 11, and 13 cases. If this amendment is approved, references to the deadlines in Rule 9006(b) and (c) would also be deleted.

2. *Rule 5009(b) would provide for two reminder notices to be sent, rather than one.* This change would allow one notice to be sent early in the case—when the debtor would be more likely to be reachable and still represented by counsel—and another toward the end of the case before eligibility for a discharge would be determined. The first notice would be sent to any chapter 7 or chapter 13 debtor for whom a certificate of course completion has not been filed within 45 days after the petition was filed. This date will be 21 to 50 days earlier than Rule 5009(b)'s current requirement.³

The second notice in a chapter 7 case would be sent to any debtor for whom a certificate has not been filed within 90 days after the petition was filed, and it would advise the debtor that the case is subject to dismissal without the entry of a discharge if the certificate is not filed within the next 30 days.

³ Under the current rule, the 5009(b) notice is sent to debtors for whom a certificate has not been filed within 45 days after the first date set for the meeting of creditors. Under Rule 2003(a), the U.S. trustee must call the meeting between 21 and 40 days after the order for relief in a chapter 7 case and between 21 and 50 days after the order for relief in a chapter 13 case.

In a chapter 13 case, the second notice would be sent as part of the closing process. The proposed amendment would require the notice to be sent to any debtor for whom a certificate has not been filed when the trustee files a final report and final account. It would advise the debtor that the case is subject to being closed without the entry of a discharge at the end of 60 days.

III. Information Items

Information Item 1. Suggestions to Remove Redacted Social Security Numbers from Filed Documents and to amend Rule 2002(o) with Respect to Captions. Senator Ron Wyden of Oregon sent a letter to The Chief Justice of the United States in August 2022, in which he suggested that federal court filings should be “scrubbed of personal information before they are publicly available.” Portions of this letter, suggesting that the Rules Committees reconsider a proposal to redact the entire social security number (“SSN”) from court filings, have been filed as a suggestion with each of the Rules Committees.

The Bankruptcy Rules Committee also received a suggestion from the Clerk of Court for the Bankruptcy Court for the District of Minnesota, in which clerks of court for eight other bankruptcy courts in the Eighth Circuit joined, suggesting that Rule 2002(n) (which will be Rule 2002(o) after the restyled rules become effective) be amended to eliminate the requirement that the caption of every notice given under Rule 2002 comply with Rule 1005.⁴ The Bankruptcy Clerks Advisory Group submitted a second suggestion supporting that of the Clerk of Court for the Minnesota Bankruptcy Court and her colleagues.

With the assistance of the Federal Judicial Center, the Advisory Committee has distributed two surveys seeking reactions on these proposals from bankruptcy clerks, debtor attorneys, chapter 12/13 trustees, creditor attorneys, chapter 7 trustees, various tax authorities and representatives of the National Association of Attorneys General.

The Advisory Committee will analyze the responses and consider further action, if any, on the suggestions.

Information Item 2. Use of Masters in Bankruptcy Cases. Rule 9031 (as restyled) provides: “Fed. R. Civ. P. 53 does not apply in a bankruptcy case.” As declared by its title, the effect of this rule is that “Using Masters [Is] Not Authorized” in bankruptcy cases. Since the rule’s promulgation in 1983, the Advisory Committee has been asked on several occasions to propose an amendment to allow the appointment of masters in certain circumstances, but each time the Advisory Committee has decided not to do so. Now two new suggestions to amend Rule 9031 have been submitted to the Advisory Committee, one by Chief Bankruptcy Judge Michael B. Kaplan of the District of New Jersey (24-BK-A) and the other by the American Bar Association (24-BK-C).

⁴ Rule 1005 requires the caption to include the following information about the debtor: name, employer identification number, last four digits of the SSN or individual debtor’s taxpayer identification number, any other federal taxpayer-identification number, and all other names used within eight years before the filing of the petition.

Chief Judge Kaplan suggests that Rule 9031 be amended to provide that Civil Rule 53 applies in bankruptcy cases and proceedings. He explains that his suggestion arises out of discussions at a recent conference on the intersection of bankruptcy and MDLs, as well as his experience with his own caseload and his observation of other complex chapter 11 cases. He writes that “bankruptcy judges handling mass tort chapter 11 bankruptcies, together with large financial institution and cryptocurrency filings, have struggled to employ the tools available under the Code and bankruptcy rules to address complex issues such as corporate asset valuations, claim estimations, fraudulent transfer litigation and challenges to pre-filing liability management transactions.” Chief Judge Kaplan suggests that the “appointment of a special master would relieve the burden on the bankruptcy courts, allowing the chapter 11 case to proceed without being held hostage to litigation/discovery ‘overload.’”

The ABA’s suggestion involves the amendment of two rules and the addition of another.⁵ It would amend Rule 9031 to allow courts—“to the extent needed to facilitate the preservation of the estate”—to order the appointment of masters in the same manner and subject to the same limitations and requirements as set forth in Civil Rule 53(a)-(g)(1). It would add a new Rule 7053, applicable to adversary proceedings, that would read similarly. Finally, the ABA proposes amending Rule 9014(c) to include Rule 7053 in the list of Part VII rules generally applicable in contested matters. It argues, among other things, that much has changed since 1983 when Rule 9031 was promulgated. Bankruptcy and district judges now actively manage their cases. “In 2024, bankruptcy judges will administer billions of dollars in dispute in a fair, efficient, and economical manner day after day. Amending Rule 9031 would give them additional tools to do so.”

After a full discussion at the spring meeting, a consensus emerged that the Business Subcommittee should gather more information and proceed to consider the suggestions. It was suggested that we seek the assistance of the FJC on a potential survey of bankruptcy judges on whether they have ever needed the use of a master and how they proceeded without one. District judges might also be surveyed about their use of and the expense of masters. Carly Giffin of the FJC suggested starting with interviews of a group of judges before drafting a survey in order to determine what questions to ask.

Information Item 3. Technical Amendments to Forms to Conform to Restyled Bankruptcy Rules. The amendments to the Federal Rules of Bankruptcy Procedure to reflect the restyling project are scheduled to become effective on December 1, 2024. Because certain of the Official Forms and Director’s Forms and their instructions explicitly refer to, or quote language from, Bankruptcy Rules that have been restyled, conforming changes need to be made to those forms and instructions. Amendments are needed for Official Form 410 (Proof of Claim); to the instructions to Official Forms 309A-I (Notice of Case), 312 (Order and Notice for Hearing on Disclosure Statement), 313 (Order Approving Disclosure Statement and Fixing Time for Filing Acceptances or Rejections of Plan), 314 (Ballot for Accepting or Rejecting Plan), 315 (Order Confirming Plan), 318 (Discharge of Debtor in a Chapter 7 Case), and 420A (Notice of Motion or Objection); to Director’s Forms 1040 (Adversary Proceeding Cover Sheet) and 2630

⁵ The ABA has also suggested that the Civil Rules Committee propose an amendment to Civil Rule 53, changing the terminology from “master” to “court-appointed neutral.”

(Bill of Costs); and to the instructions for Forms 2070 (Certificate of Retention of Debtor in Possession), 2100A/B (Transfer of Claim Other Than For Security and Notice of Transfer of Claim Other Than for Security), 2300A (Order Confirming Chapter 12 Plan), and 2500E (Summons to Debtor in Involuntary Case).

The Advisory Committee gave final approval to the revisions to those forms and instructions. The conforming change to Official Form 410 is included with the amendment discussed at Action Item 4. The changes to the form instructions and to the Director's Forms require no further action.

Information Item 4. Reconsideration of proposed amendments to Official Forms 309A and 309B. At the fall 2022 Advisory Committee meeting, the Advisory Committee approved for publication an amendment to Official Form 309A (Notice of Chapter 7 Bankruptcy Case — No Proof of Claim Deadline) and Official Form 309B (Notice of Chapter 7 Bankruptcy Case — Proof of Claim Deadline Set). The amendment added to the section on deadlines in each form a reminder to debtors of the deadline for filing a certificate of completion of a course on personal financial management.

Because the Consumer Subcommittee was still considering related rule amendments, the proposed amendments to Forms 309A and 309B were held back in order to allow any rule and form amendments to be presented to the Standing Committee as a package. At the fall 2023 Advisory Committee meeting, the Consumer Subcommittee presented amendments to Rules 1007(c), 5009(b), and 9006(b) and (c), which were approved for publication. As discussed at Action Item 7, the proposed amendment to Rule 1007(c) would eliminate the deadlines for filing certificates of completion of a course in personal financial management. In light of that change, the Advisory Committee voted at the spring meeting to withdraw the amendments to Forms 309A and 309B.