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AMENDMENTS TO THE FEDERAL RULES OF BANKRUPTCY PROCEDURE

COMMUNICATION

FROM

THE CHIEF JUSTICE, THE SUPREME COURT OF THE UNITED STATES

TRANSMITTING

AMENDMENTS TO THE FEDERAL RULES OF BANKRUPTCY PROCEDURE THAT HAVE BEEN ADOPTED BY THE SUPREME COURT, PURSUANT TO 28 U.S.C. 2075.

APRIL 21, 2009.—Referred to the Committee on the Judiciary and ordered to be printed

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SUPREME COURT OF THE UNITED STATES,
Washington, DC, March 25, 2009.

Hon. NANCY PELOSI,
Speaker of the House of Representatives,
Washington, DC

DEAR MADAM SPEAKER: I have the honor to submit to the Congress the amendments to the Federal Rules of Bankruptcy Procedure that have been adopted by the Supreme Court of the United States pursuant to Section 2075 of Title 28, United States Code.

Accompanying these rules are excerpts from the report of the Judicial Conference of the United States containing the Committee Notes submitted to the Court for its consideration pursuant to Section 331 of Title 28, United States Code.

Sincerely,

JOHN G. ROBERTS, JR.,
Chief Justice.

March 26, 2009

SUPREME COURT OF THE UNITED STATES

ORDERED:

1. That the Federal Rules of Bankruptcy Procedure be, and they hereby are, amended by including therein amendments to Bankruptcy Rules 1007, 1011, 1019, 1020, 2002, 2003, 2006, 2007, 2007.2, 2008, 2015, 2015.1, 2015.2, 2015.3, 2016, 3001, 3015, 3017, 3019, 3020, 4001, 4002, 4004, 4008, 6003, 6004, 6006, 6007, 7004, 7012, 7052, 8001, 8002, 8003, 8006, 8009, 8015, 8017, 9006, 9015, 9021, 9023, 9027, and 9033, and new Rule 7058.

[See infra., pp. __ __ __.]

2. That the foregoing amendments to the Federal Rules of Bankruptcy Procedure shall take effect on December 1, 2009, and shall govern in all proceedings in bankruptcy cases thereafter commenced and, insofar as just and practicable, all proceedings then pending.

3. That THE CHIEF JUSTICE be, and hereby is, authorized to transmit to the Congress the foregoing amendments to the Federal Rules of Bankruptcy Procedure in accordance with the provisions of Section 2075 of Title 28, United States Code.

AMENDMENTS TO THE FEDERAL RULES OF BANKRUPTCY PROCEDURE

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

(a) CORPORATE OWNERSHIP STATEMENT, LIST OF CREDITORS AND EQUITY SECURITY HOLDERS, AND OTHER LISTS

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(2) *Involuntary Case.* In an involuntary case, the debtor shall file within 14 days after entry of the order for relief, a list containing the name and address of each entity included or to be included on Schedules D, E, F, G, and H as prescribed by the Official Forms.

(3) *Equity Security Holders.* In a chapter 11 reorganization case, unless the court orders otherwise, the debtor shall file within 14 days after entry of the order for relief a list of the debtor's equity security holders of each class showing the number and kind of interests registered

in the name of each holder, and the last known address or place of business of each holder.

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(c) TIME LIMITS. In a voluntary case, the schedules, statements, and other documents required by subdivision (b)(1), (4), (5), and (6) shall be filed with the petition or within 14 days thereafter, except as otherwise provided in subdivisions (d), (e), (f), and (h) of this rule. In an involuntary case, the list in subdivision (a)(2), and the schedules, statements, and other documents required by subdivision (b)(1) shall be filed by the debtor within 14 days of the entry of the order for relief. In a voluntary case, the documents required by paragraphs (A), (C), and (D) of subdivision (b)(3) shall be filed with the petition. Unless the court orders otherwise, a debtor who has filed a statement under subdivision (b)(3)(B), shall file the

documents required by subdivision (b)(3)(A) within 14 days of the order for relief. In a chapter 7 case, the debtor shall file the statement required by subdivision (b)(7) within 45 days after the first date set for the meeting of creditors under § 341 of the Code, and in a chapter 11 or 13 case no later than the date when the last payment was made by the debtor as required by the plan or the filing of a motion for a discharge under § 1141(d)(5)(B) or § 1328(b) of the Code. The court may, at any time and in its discretion, enlarge the time to file the statement required by subdivision (b)(7). The debtor shall file the statement required by subdivision (b)(8) no earlier than the date of the last payment made under the plan or the date of the filing of a motion for a discharge under §§ 1141(d)(5)(B), 1228(b), or 1328(b) of the Code. Lists, schedules, statements, and other documents filed prior to

the conversion of a case to another chapter shall be deemed filed in the converted case unless the court directs otherwise. Except as provided in § 1116(3), any extension of time to file schedules, statements, and other documents required under this rule may be granted only on motion for cause shown and on notice to the United States trustee, any committee elected under § 705 or appointed under § 1102 of the Code, trustee, examiner, or other party as the court may direct. Notice of an extension shall be given to the United States trustee and to any committee, trustee, or other party as the court may direct.

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(f) STATEMENT OF SOCIAL SECURITY NUMBER. An individual debtor shall submit a verified statement that sets out the debtor's social security number, or states that the debtor does not have a social security number. In a voluntary case, the debtor shall submit the statement with the petition. In an

involuntary case, the debtor shall submit the statement within 14 days after the entry of the order for relief.

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(h) INTERESTS ACQUIRED OR ARISING AFTER PETITION. If, as provided by § 541(a)(5) of the Code, the debtor acquires or becomes entitled to acquire any interest in property, the debtor shall within 14 days after the information comes to the debtor's knowledge or within such further time the court may allow, file a supplemental schedule in the chapter 7 liquidation case, chapter 11 reorganization case, chapter 12 family farmer's debt adjustment case, or chapter 13 individual debt adjustment case. If any of the property required to be reported under this subdivision is claimed by the debtor as exempt, the debtor shall claim the exemptions in the supplemental schedule. The duty to file a supplemental schedule in accordance with this

subdivision continues notwithstanding the closing of the case, except that the schedule need not be filed in a chapter 11, chapter 12, or chapter 13 case with respect to property acquired after entry of the order confirming a chapter 11 plan or discharging the debtor in a chapter 12 or chapter 13 case.

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Rule 1011. Responsive Pleading or Motion in Involuntary and Cross-Border Cases

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(b) DEFENSES AND OBJECTIONS; WHEN PRESENTED. Defenses and objections to the petition shall be presented in the manner prescribed by Rule 12 F. R. Civ. P. and shall be filed and served within 21 days after service of the summons, except that if service is made by publication on a party or partner not residing or found within the state in which the court sits, the court

shall prescribe the time for filing and serving the response.

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Rule 1019. Conversion of a Chapter 11 Reorganization Case, Chapter 12 Family Farmer's Debt Adjustment Case, or Chapter 13 Individual's Debt Adjustment Case to a Chapter 7 Liquidation Case

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(5) *Filing Final Report and Schedule of Postpetition Debts.*

(A) Conversion of Chapter 11 or Chapter 12 Case. Unless the court directs otherwise, if a chapter 11 or chapter 12 case is converted to chapter 7, the debtor in possession or, if the debtor is not a debtor in possession, the trustee serving at the time of conversion, shall:

(i) not later than 14 days after conversion of the case, file a schedule of unpaid debts incurred after the filing of the petition and before

conversion of the case, including the name and address of each holder of a claim; and

(ii) not later than 30 days after conversion of the case, file and transmit to the United States trustee a final report and account;

(B) Conversion of Chapter 13 Case. Unless the court directs otherwise, if a chapter 13 case is converted to chapter 7,

(i) the debtor, not later than 14 days after conversion of the case, shall file a schedule of unpaid debts incurred after the filing of the petition and before conversion of the case, including the name and address of each holder of a claim; and

(ii) the trustee, not later than 30 days after conversion of the case, shall file and transmit to the United States trustee a final report and account;

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Rule 1020. Small Business Chapter 11 Reorganization Case

(a) SMALL BUSINESS DEBTOR DESIGNATION. In a voluntary chapter 11 case, the debtor shall state in the petition whether the debtor is a small business debtor. In an involuntary chapter 11 case, the debtor shall file within 14 days after entry of the order for relief a statement as to whether the debtor is a small business debtor. Except as provided in subdivision (c), the status of the case as a small business case shall be in accordance with the debtor's statement under this subdivision, unless and until the court enters an order finding that the debtor's statement is incorrect.

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Rule 2002. Notices to Creditors, Equity Security Holders, Administrators in Foreign Proceedings, Persons Against Whom Provisional Relief is Sought in Ancillary and Other Cross-Border Cases, United States, and United States Trustee

(a) TWENTY-ONE-DAY NOTICES TO PARTIES IN INTEREST. Except as provided in subdivisions (h), (i), (*l*), (p), and (q) of this rule, the clerk, or some other person as the court may direct, shall give the debtor, the trustee, all creditors and indenture trustees at least 21 days' notice by mail of:

* * * * *

(b) TWENTY-EIGHT-DAY NOTICES TO PARTIES IN INTEREST. Except as provided in subdivision (*l*) of this rule, the clerk, or some other person as the court may direct, shall give the debtor, the trustee, all creditors and indenture trustees not less than 28 days' notice by mail of the time fixed (1) for filing objections and the hearing to consider approval of a disclosure statement or, under

§ 1125(f), to make a final determination whether the plan provides adequate information so that a separate disclosure statement is not necessary; and (2) for filing objections and the hearing to consider confirmation of a chapter 9, chapter 11, or chapter 13 plan.

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(o) NOTICE OF ORDER FOR RELIEF IN CONSUMER CASE. In a voluntary case commenced by an individual debtor whose debts are primarily consumer debts, the clerk or some other person as the court may direct shall give the trustee and all creditors notice by mail of the order for relief within 21 days from the date thereof.

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(q) NOTICE OF PETITION FOR RECOGNITION OF FOREIGN PROCEEDING AND OF COURT'S INTENTION TO COMMUNICATE WITH FOREIGN COURTS AND FOREIGN REPRESENTATIVES.

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(1) *Notice of Petition for Recognition.* The clerk, or some other person as the court may direct, shall forthwith give the debtor, all persons or bodies authorized to administer foreign proceedings of the debtor, all entities against whom provisional relief is being sought under § 1519 of the Code, all parties to litigation pending in the United States in which the debtor is a party at the time of the filing of the petition, and such other entities as the court may direct, at least 21 days' notice by mail of the hearing on the petition for recognition of a foreign proceeding. The notice shall state whether the petition seeks recognition as a foreign main proceeding or foreign nonmain proceeding.

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Rule 2003. Meeting of Creditors or Equity Security Holders

(a) DATE AND PLACE. Except as otherwise provided in § 341(e) of the Code, in a chapter 7 liquidation or a chapter 11 reorganization case, the United States trustee shall call a meeting of creditors to be held no fewer than 21 and no more than 40 days after the order for relief. In a chapter 12 family farmer debt adjustment case, the United States trustee shall call a meeting of creditors to be held no fewer than 21 and no more than 35 days after the order for relief. In a chapter 13 individual's debt adjustment case, the United States trustee shall call a meeting of creditors to be held no fewer than 21 and no more than 50 days after the order for relief. If there is an appeal from or a motion to vacate the order for relief, or if there is a motion to dismiss the case, the United States trustee may set a later date for the meeting. The meeting

may be held at a regular place for holding court or at any other place designated by the United States trustee within the district convenient for the parties in interest. If the United States trustee designates a place for the meeting which is not regularly staffed by the United States trustee or an assistant who may preside at the meeting, the meeting may be held not more than 60 days after the order for relief.

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(d) REPORT OF ELECTION AND RESOLUTION OF DISPUTES IN A CHAPTER 7 CASE.

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(2) *Disputed Election.* If the election is disputed, the United States trustee shall promptly file a report stating that the election is disputed, informing the court of the nature of the dispute, and listing the name and address of any candidate elected under any

alternative presented by the dispute. No later than the date on which the report is filed, the United States trustee shall mail a copy of the report to any party in interest that has made a request to receive a copy of the report. Pending disposition by the court of a disputed election for trustee, the interim trustee shall continue in office. Unless a motion for the resolution of the dispute is filed no later than 14 days after the United States trustee files a report of a disputed election for trustee, the interim trustee shall serve as trustee in the case.

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Rule 2006. Solicitation and Voting of Proxies in Chapter 7 Liquidation Cases

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(c) AUTHORIZED SOLICITATION.

(1) A proxy may be solicited only by (A) a creditor owning an allowable unsecured claim against the estate on the date of the filing of the petition; (B) a

committee elected pursuant to § 705 of the Code; (C) a committee of creditors selected by a majority in number and amount of claims of creditors (i) whose claims are not contingent or unliquidated, (ii) who are not disqualified from voting under § 702(a) of the Code and (iii) who were present or represented at a meeting of which all creditors having claims of over $500 or the 100 creditors having the largest claims had at least seven days' notice in writing and of which meeting written minutes were kept and are available reporting the names of the creditors present or represented and voting and the amounts of their claims; or (D) a bona fide trade or credit association, but such association may solicit only creditors who were its members or subscribers in good standing and had allowable unsecured claims on the date of the filing of the petition.

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Rule 2007. Review of Appointment of Creditors' Committee Organized Before Commencement of the Case

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

(1) it was selected by a majority in number and amount of claims of unsecured creditors who may vote under § 702(a) of the Code and were present in person or represented at a meeting of which all creditors having unsecured claims of over $1,000 or the 100 unsecured creditors having the largest claims had at least seven days' notice in writing, and of which meeting written minutes reporting the names of the creditors present or represented and voting and the amounts of their claims were kept and are available for inspection;

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Rule 2007.2. Appointment of Patient Care Ombudsman in a Health Care Business Case

(a) ORDER TO APPOINT PATIENT CARE OMBUDSMAN. In a chapter 7, chapter 9, or chapter 11 case in which the debtor is a health care business, the court shall order the appointment of a patient care ombudsman under § 333 of the Code, unless the court, on motion of the United States trustee or a party in interest filed no later than 21 days after the commencement of the case or within another time fixed by the court, finds that the appointment of a patient care ombudsman is not necessary under the specific circumstances of the case for the protection of patients.

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Rule 2008. Notice to Trustee of Selection

The United States trustee shall immediately notify the person selected as trustee how to qualify and, if applicable, the amount of the trustee's bond. A trustee

that has filed a blanket bond pursuant to Rule 2010 and has been selected as trustee in a chapter 7, chapter 12, or chapter 13 case that does not notify the court and the United States trustee in writing of rejection of the office within seven days after receipt of notice of selection shall be deemed to have accepted the office. Any other person selected as trustee shall notify the court and the United States trustee in writing of acceptance of the office within seven days after receipt of notice of selection or shall be deemed to have rejected the office.

Rule 2015. Duty to Keep Records, Make Reports, and Give Notice of Case or Change of Status

(a) TRUSTEE OR DEBTOR IN POSSESSION. A trustee or debtor in possession shall:

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(6) in a chapter 11 small business case, unless the court, for cause, sets another reporting interval, file

and transmit to the United States trustee for each calendar month after the order for relief, on the appropriate Official Form, the report required by § 308. If the order for relief is within the first 15 days of a calendar month, a report shall be filed for the portion of the month that follows the order for relief. If the order for relief is after the 15th day of a calendar month, the period for the remainder of the month shall be included in the report for the next calendar month. Each report shall be filed no later than 21 days after the last day of the calendar month following the month covered by the report. The obligation to file reports under this subparagraph terminates on the effective date of the plan, or conversion or dismissal of the case.

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(d) FOREIGN REPRESENTATIVE. In a case in which the court has granted recognition of a foreign

proceeding under chapter 15, the foreign representative shall file any notice required under § 1518 of the Code within 14 days after the date when the representative becomes aware of the subsequent information.

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Rule 2015.1. Patient Care Ombudsman

(a) REPORTS. A patient care ombudsman, at least 14 days before making a report under § 333(b)(2) of the Code, shall give notice that the report will be made to the court, unless the court orders otherwise. The notice shall be transmitted to the United States trustee, posted conspicuously at the health care facility that is the subject of the report, and served on: the debtor; the trustee; all patients; and any committee elected under § 705 or appointed under § 1102 of the Code or its authorized agent, or, if the case is a chapter 9 municipality case or a chapter 11 reorganization case and no committee of

unsecured creditors has been appointed under § 1102, on the creditors included on the list filed under Rule 1007(d); and such other entities as the court may direct. The notice shall state the date and time when the report will be made, the manner in which the report will be made, and, if the report is in writing, the name, address, telephone number, email address, and website, if any, of the person from whom a copy of the report may be obtained at the debtor's expense.

(b) AUTHORIZATION TO REVIEW CONFIDENTIAL PATIENT RECORDS. A motion by a patient care ombudsman under § 333(c) to review confidential patient records shall be governed by Rule 9014, served on the patient and any family member or other contact person whose name and address have been given to the trustee or the debtor for the purpose of providing information regarding the patient's health care,

and transmitted to the United States trustee subject to applicable nonbankruptcy law relating to patient privacy. Unless the court orders otherwise, a hearing on the motion may not be commenced earlier than 14 days after service of the motion.

Rule 2015.2. Transfer of Patient in Health Care Business Case

Unless the court orders otherwise, if the debtor is a health care business, the trustee may not transfer a patient to another health care business under § 704(a)(12) of the Code unless the trustee gives at least 14 days' notice of the transfer to the patient care ombudsman, if any, the patient, and any family member or other contact person whose name and address has been given to the trustee or the debtor for the purpose of providing information regarding the patient's health care. The

notice is subject to applicable nonbankruptcy law relating to patient privacy.

Rule 2015.3. Reports of Financial Information on Entities in Which a Chapter 11 Estate Holds a Controlling or Substantial Interest

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(b) TIME FOR FILING; SERVICE. The first report required by this rule shall be filed no later than seven days before the first date set for the meeting of creditors under § 341 of the Code. Subsequent reports shall be filed no less frequently than every six months thereafter, until the effective date of a plan or the case is dismissed or converted. Copies of the report shall be served on the United States trustee, any committee appointed under § 1102 of the Code, and any other party in interest that has filed a request therefor.

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Rule 2016. Compensation for Services Rendered and Reimbursement of Expenses

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(b) DISCLOSURE OF COMPENSATION PAID OR PROMISED TO ATTORNEY FOR DEBTOR. Every attorney for a debtor, whether or not the attorney applies for compensation, shall file and transmit to the United States trustee within 14 days after the order for relief, or at another time as the court may direct, the statement required by § 329 of the Code including whether the attorney has shared or agreed to share the compensation with any other entity. The statement shall include the particulars of any such sharing or agreement to share by the attorney, but the details of any agreement for the sharing of the compensation with a member or regular associate of the attorney's law firm shall not be required. A supplemental statement shall be filed and transmitted

to the United States trustee within 14 days after any payment or agreement not previously disclosed.

(c) DISCLOSURE OF COMPENSATION PAID OR PROMISED TO BANKRUPTCY PETITION PREPARER. Before a petition is filed, every bankruptcy petition preparer for a debtor shall deliver to the debtor, the declaration under penalty of perjury required by § 110(h)(2). The declaration shall disclose any fee, and the source of any fee, received from or on behalf of the debtor within 12 months of the filing of the case and all unpaid fees charged to the debtor. The declaration shall also describe the services performed and documents prepared or caused to be prepared by the bankruptcy petition preparer. The declaration shall be filed with the petition. The petition preparer shall file a supplemental statement within 14 days after any payment or agreement not previously disclosed.

Rule 3001. Proof of Claim

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(e) TRANSFERRED CLAIM.

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(2) *Transfer of Claim Other than for Security after Proof Filed.* If a claim other than one based on a publicly traded note, bond, or debenture has been transferred other than for security after the proof of claim has been filed, evidence of the transfer shall be filed by the transferee. The clerk shall immediately notify the alleged transferor by mail of the filing of the evidence of transfer and that objection thereto, if any, must be filed within 21 days of the mailing of the notice or within any additional time allowed by the court. If the alleged transferor files a timely objection and the court finds, after notice and a hearing, that the claim has been

transferred other than for security, it shall enter an order substituting the transferee for the transferor. If a timely objection is not filed by the alleged transferor, the transferee shall be substituted for the transferor.

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(4) *Transfer of Claim for Security after Proof Filed.* If a claim other than one based on a publicly traded note, bond, or debenture has been transferred for security after the proof of claim has been filed, evidence of the terms of the transfer shall be filed by the transferee. The clerk shall immediately notify the alleged transferor by mail of the filing of the evidence of transfer and that objection thereto, if any, must be filed within 21 days of the mailing of the notice or within any additional time allowed by the court. If a timely objection is filed by the alleged transferor, the court, after notice and a hearing, shall determine whether the claim has been transferred

for security. If the transferor or transferee does not file an agreement regarding its relative rights respecting voting of the claim, payment of dividends thereon, or participation in the administration of the estate, on motion by a party in interest and after notice and a hearing, the court shall enter such orders respecting these matters as may be appropriate.

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

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(b) CHAPTER 13 PLAN. The debtor may file a chapter 13 plan with the petition. If a plan is not filed with the petition, it shall be filed within 14 days thereafter, and such time may not be further extended except for cause shown and on notice as the court may

direct. If a case is converted to chapter 13, a plan shall be filed within 14 days thereafter, and such time may not be further extended except for cause shown and on notice as the court may direct.

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(g) MODIFICATION OF PLAN AFTER CONFIRMATION. A request to modify a plan pursuant to § 1229 or § 1329 of the Code shall identify the proponent and shall be filed together with the proposed modification. The clerk, or some other person as the court may direct, shall give the debtor, the trustee, and all creditors not less than 21 days' notice by mail of the time fixed for filing objections and, if an objection is filed, the hearing to consider the proposed modification, unless the court orders otherwise with respect to creditors who are not affected by the proposed modification. A copy of the notice shall be transmitted to the United States trustee.

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

Rule 3017. Court Consideration of Disclosure Statement in a Chapter 9 Municipality or Chapter 11 Reorganization Case

(a) HEARING ON DISCLOSURE STATEMENT AND OBJECTIONS. Except as provided in Rule 3017.1, after a disclosure statement is filed in accordance with Rule 3016(b), the court shall hold a hearing on at least 28 days' notice to the debtor, creditors, equity security

holders and other parties in interest as provided in Rule 2002 to consider the disclosure statement and any objections or modifications thereto. The plan and the disclosure statement shall be mailed with the notice of the hearing only to the debtor, any trustee or committee appointed under the Code, the Securities and Exchange Commission and any party in interest who requests in writing a copy of the statement or plan. Objections to the disclosure statement shall be filed and served on the debtor, the trustee, any committee appointed under the Code, and any other entity designated by the court, at any time before the disclosure statement is approved or by an earlier date as the court may fix. In a chapter 11 reorganization case, every notice, plan, disclosure statement, and objection required to be served or mailed pursuant to this subdivision shall be transmitted to the

United States trustee within the time provided in this subdivision.

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(f) NOTICE AND TRANSMISSION OF DOCUMENTS TO ENTITIES SUBJECT TO AN INJUNCTION UNDER A PLAN. If a plan provides for an injunction against conduct not otherwise enjoined under the Code and an entity that would be subject to the injunction is not a creditor or equity security holder, at the hearing held under Rule 3017(a), the court shall consider procedures for providing the entity with:

(1) at least 28 days' notice of the time fixed for filing objections and the hearing on confirmation of the plan containing the information described in Rule 2002(c)(3); and

(2) to the extent feasible, a copy of the plan and disclosure statement.

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

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(b) MODIFICATION OF PLAN AFTER CONFIRMATION IN INDIVIDUAL DEBTOR CASE. If the debtor is an individual, a request to modify the plan under § 1127(e) of the Code is governed by Rule 9014. The request shall identify the proponent and shall be filed together with the proposed modification. The clerk, or some other person as the court may direct, shall give the debtor, the trustee, and all creditors not less than 21 days' notice by mail of the time fixed to file objections and, if an objection is filed, the hearing to consider the proposed modification, unless the court orders otherwise with respect to creditors who are not affected by the proposed modification. A copy of the notice shall be transmitted to the United States trustee, together with a copy of the

proposed modification. Any objection to the proposed modification shall be filed and served on the debtor, the proponent of the modification, the trustee, and any other entity designated by the court, and shall be transmitted to the United States trustee.

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

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(e) STAY OF CONFIRMATION ORDER. An order confirming a plan is stayed until the expiration of 14 days after the entry of the order, unless the court orders otherwise.

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

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

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(3) *Stay of Order.* An order granting a motion for relief from an automatic stay made in accordance with Rule 4001(a)(1) is stayed until the expiration of 14 days after the entry of the order, unless the court orders otherwise.

(b) USE OF CASH COLLATERAL.

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(2) *Hearing.* The court may commence a final hearing on a motion for authorization to use cash collateral no earlier than 14 days after service of the motion. If the motion so requests, the court may conduct a preliminary hearing before such 14-day period expires, but the court may authorize the use of only that amount

of cash collateral as is necessary to avoid immediate and irreparable harm to the estate pending a final hearing.

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(c) OBTAINING CREDIT.

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(2) *Hearing*. The court may commence a final hearing on a motion for authority to obtain credit no earlier than 14 days after service of the motion. If the motion so requests, the court may conduct a hearing before such 14-day period expires, but the court may authorize the obtaining of credit only to the extent necessary to avoid immediate and irreparable harm to the estate pending a final hearing.

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Rule 4002. Duties of Debtor

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(b) INDIVIDUAL DEBTOR'S DUTY TO PROVIDE DOCUMENTATION.

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(4) *Tax Returns Provided to Creditors.* If a creditor, at least 14 days before the first date set for the meeting of creditors under § 341, requests a copy of the debtor's tax return that is to be provided to the trustee under subdivision (b)(3), the debtor, at least 7 days before the first date set for the meeting of creditors under § 341, shall provide to the requesting creditor a copy of the return, including any attachments, or a transcript of the tax return, or provide a written statement that the documentation does not exist.

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Rule 4004. Grant or Denial of Discharge

(a) TIME FOR FILING COMPLAINT OBJECTING TO DISCHARGE; NOTICE OF TIME FIXED. In a

chapter 7 liquidation case a complaint objecting to the debtor's discharge under § 727(a) of the Code shall be filed no later than 60 days after the first date set for the meeting of creditors under § 341(a). In a chapter 11 reorganization case, the complaint shall be filed no later than the first date set for the hearing on confirmation. At least 28 days' notice of the time so fixed shall be given to the United States trustee and all creditors as provided in Rule 2002(f) and (k) and to the trustee and the trustee's attorney.

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Rule 4008. Filing of Reaffirmation Agreement; Statement in Support of Reaffirmation Agreement

(a) FILING OF REAFFIRMATION AGREEMENT. A reaffirmation agreement shall be filed no later than 60 days after the first date set for the meeting of creditors under § 341(a) of the Code. The reaffirmation agreement

shall be accompanied by a cover sheet, prepared as prescribed by the appropriate Official Form. The court may, at any time and in its discretion, enlarge the time to file a reaffirmation agreement.

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Rule 6003. Interim and Final Relief Immediately Following the Commencement of the Case — Applications for Employment; Motions for Use, Sale, or Lease of Property; and Motions for Assumption or Assignment of Executory Contracts

Except to the extent that relief is necessary to avoid immediate and irreparable harm, the court shall not, within 21 days after the filing of the petition, grant relief regarding the following:

(a) an application under Rule 2014;

(b) a motion to use, sell, lease, or otherwise incur an obligation regarding property of the estate, including a motion to pay all or part of a claim that arose before the

filing of the petition, but not a motion under Rule 4001; and

(c) a motion to assume or assign an executory contract or unexpired lease in accordance with § 365.

Rule 6004. Use, Sale, or Lease of Property

* * * * *

(b) OBJECTION TO PROPOSAL. Except as provided in subdivisions (c) and (d) of this rule, an objection to a proposed use, sale, or lease of property shall be filed and served not less than seven days before the date set for the proposed action or within the time fixed by the court. An objection to the proposed use, sale, or lease of property is governed by Rule 9014.

* * * * *

(d) SALE OF PROPERTY UNDER $2,500. Notwithstanding subdivision (a) of this rule, when all of

the nonexempt property of the estate has an aggregate gross value less than $2,500, it shall be sufficient to give a general notice of intent to sell such property other than in the ordinary course of business to all creditors, indenture trustees, committees appointed or elected pursuant to the Code, the United States trustee and other persons as the court may direct. An objection to any such sale may be filed and served by a party in interest within 14 days of the mailing of the notice, or within the time fixed by the court. An objection is governed by Rule 9014.

* * * * *

(g) SALE OF PERSONALLY IDENTIFIABLE INFORMATION.

* * * * *

(2) *Appointment.* If a consumer privacy ombudsman is appointed under § 332, no later than seven days before the hearing on the motion under

§ 363(b)(1)(B), the United States trustee shall file a notice of the appointment, including the name and address of the person appointed. The United States trustee's notice shall be accompanied by a verified statement of the person appointed setting forth the person's connections with the debtor, creditors, any other party in interest, their respective attorneys and accountants, the United States trustee, or any person employed in the office of the United States trustee.

(h) STAY OF ORDER AUTHORIZING USE, SALE, OR LEASE OF PROPERTY. An order authorizing the use, sale, or lease of property other than cash collateral is stayed until the expiration of 14 days after entry of the order, unless the court orders otherwise.

Rule 6006. Assumption, Rejection or Assignment of an Executory Contract or Unexpired Lease

* * * * *

(d) STAY OF ORDER AUTHORIZING ASSIGNMENT. An order authorizing the trustee to assign an executory contract or unexpired lease under § 365(f) is stayed until the expiration of 14 days after the entry of the order, unless the court orders otherwise.

* * * * *

Rule 6007. Abandonment or Disposition of Property

(a) NOTICE OF PROPOSED ABANDONMENT OR DISPOSITION; OBJECTIONS; HEARING. Unless otherwise directed by the court, the trustee or debtor in possession shall give notice of a proposed abandonment or disposition of property to the United States trustee, all creditors, indenture trustees, and committees elected pursuant to § 705 or appointed pursuant to § 1102 of the Code. A party in interest may file and serve an objection within 14 days of the mailing of the notice, or within the

time fixed by the court. If a timely objection is made, the court shall set a hearing on notice to the United States trustee and to other entities as the court may direct.

* * * * *

Rule 7004. Process; Service of Summons, Complaint

* * * * *

(e) SUMMONS: TIME LIMIT FOR SERVICE WITHIN THE UNITED STATES. Service made under Rule 4(e), (g), (h)(1), (i), or (j)(2) F. R. Civ. P. shall be by delivery of the summons and complaint within 14 days after the summons is issued. If service is by any authorized form of mail, the summons and complaint shall be deposited in the mail within 14 days after the summons is issued. If a summons is not timely delivered or mailed, another summons shall be issued and served.

This subdivision does not apply to service in a foreign country.

* * * * *

Rule 7012. Defenses and Objections — When and How Presented — By Pleading or Motion — Motion for Judgment on the Pleadings

(a) WHEN PRESENTED. If a complaint is duly served, the defendant shall serve an answer within 30 days after the issuance of the summons, except when a different time is prescribed by the court. The court shall prescribe the time for service of the answer when service of a complaint is made by publication or upon a party in a foreign country. A party served with a pleading stating a cross-claim shall serve an answer thereto within 21 days after service. The plaintiff shall serve a reply to a counterclaim in the answer within 21 days after service of the answer or, if a reply is ordered by the court, within 21 days after service of the order, unless the order otherwise

directs. The United States or an officer or agency thereof shall serve an answer to a complaint within 35 days after the issuance of the summons, and shall serve an answer to a cross-claim, or a reply to a counterclaim, within 35 days after service upon the United States attorney of the pleading in which the claim is asserted. The service of a motion permitted under this rule alters these periods of time as follows, unless a different time is fixed by order of the court: (1) if the court denies the motion or postpones its disposition until the trial on the merits, the responsive pleading shall be served within 14 days after notice of the court's action; (2) if the court grants a motion for a more definite statement, the responsive pleading shall be served within 14 days after the service of a more definite statement.

* * * * *

Rule 7052. Findings by the Court

Rule 52 F. R. Civ. P. applies in adversary proceedings, except that any motion under subdivision (b) of that rule for amended or additional findings shall be filed no later than 14 days after entry of judgment. In these proceedings, the reference in Rule 52 F. R. Civ. P. to the entry of judgment under Rule 58 F. R. Civ. P. shall be read as a reference to the entry of a judgment or order under Rule 5003(a).

Rule 7058. Entering Judgment in Adversary Proceeding

Rule 58 F. R. Civ. P. applies in adversary proceedings. In these proceedings, the reference in Rule 58 F. R. Civ. P. to the civil docket shall be read as a reference to the docket maintained by the clerk under Rule 5003(a).

Rule 8001. Manner of Taking Appeal; Voluntary Dismissal; Certification to Court of Appeals

* * * * *

(f) CERTIFICATION FOR DIRECT APPEAL TO COURT OF APPEALS.

* * * * *

(3) *Request for Certification; Filing; Service; Contents.*

* * * * *

(D) A party may file a response to a request for certification or a cross request within 14 days after the notice of the request is served, or another time fixed by the court.

* * * * *

(4) *Certification on Court's Own Initiative.*

* * * * *

(B) A party may file a supplementary short statement of the basis for certification within 14 days after the certification.

* * * * *

Rule 8002. Time for Filing Notice of Appeal

(a) FOURTEEN-DAY PERIOD. The notice of appeal shall be filed with the clerk within 14 days of the date of the entry of the judgment, order, or decree appealed from. If a timely notice of appeal is filed by a party, any other party may file a notice of appeal within 14 days of the date on which the first notice of appeal was filed, or within the time otherwise prescribed by this rule, whichever period last expires. A notice of appeal filed after the announcement of a decision or order but before entry of the judgment, order, or decree shall be treated as filed after such entry and on the day thereof. If a notice of appeal is mistakenly filed with the district court or the

bankruptcy appellate panel, the clerk of the district court or the clerk of the bankruptcy appellate panel shall note thereon the date on which it was received and transmit it to the clerk and it shall be deemed filed with the clerk on the date so noted.

(b) EFFECT OF MOTION ON TIME FOR APPEAL. If any party makes a timely motion of a type specified immediately below, the time for appeal for all parties runs from the entry of the order disposing of the last such motion outstanding. This provision applies to a timely motion:

* * * * *

(4) for relief under Rule 9024 if the motion is filed no later than 14 days after the entry of judgment. A notice of appeal filed after announcement or entry of the judgment, order, or decree but before disposition of any of the above motions is ineffective to appeal from the

judgment, order, or decree, or part thereof, specified in the notice of appeal, until the entry of the order disposing of the last such motion outstanding. Appellate review of an order disposing of any of the above motions requires the party, in compliance with Rule 8001, to amend a previously filed notice of appeal. A party intending to challenge an alteration or amendment of the judgment, order, or decree shall file a notice, or an amended notice, of appeal within the time prescribed by this Rule 8002 measured from the entry of the order disposing of the last such motion outstanding. No additional fees will be required for filing an amended notice.

(c) EXTENSION OF TIME FOR APPEAL.

* * * * *

(2) A request to extend the time for filing a notice of appeal must be made by written motion filed before the time for filing a notice of appeal has expired,

except that such a motion filed not later than 21 days after the expiration of the time for filing a notice of appeal may be granted upon a showing of excusable neglect. An extension of time for filing a notice of appeal may not exceed 21 days from the expiration of the time for filing a notice of appeal otherwise prescribed by this rule or 14 days from the date of entry of the order granting the motion, whichever is later.

Rule 8003. Leave to Appeal

(a) CONTENT OF MOTION; ANSWER. A motion for leave to appeal under 28 U.S.C. § 158(a) shall contain: (1) a statement of the facts necessary to an understanding of the questions to be presented by the appeal; (2) a statement of those questions and of the relief sought; (3) a statement of the reasons why an appeal should be granted; and (4) a copy of the judgment, order, or decree

complained of and of any opinion or memorandum relating thereto. Within 14 days after service of the motion, an adverse party may file with the clerk an answer in opposition.

* * * * *

(c) APPEAL IMPROPERLY TAKEN REGARDED AS A MOTION FOR LEAVE TO APPEAL. If a required motion for leave to appeal is not filed, but a notice of appeal is timely filed, the district court or bankruptcy appellate panel may grant leave to appeal or direct that a motion for leave to appeal be filed. The district court or the bankruptcy appellate panel may also deny leave to appeal but in so doing shall consider the notice of appeal as a motion for leave to appeal. Unless an order directing that a motion for leave to appeal be filed provides otherwise, the motion shall be filed within 14 days of entry of the order.

Rule 8006. Record and Issues on Appeal

Within 14 days after filing the notice of appeal as provided by Rule 8001(a), entry of an order granting leave to appeal, or entry of an order disposing of the last timely motion outstanding of a type specified in Rule 8002(b), whichever is later, the appellant shall file with the clerk and serve on the appellee a designation of the items to be included in the record on appeal and a statement of the issues to be presented. Within 14 days after the service of the appellant's statement the appellee may file and serve on the appellant a designation of additional items to be included in the record on appeal and, if the appellee has filed a cross appeal, the appellee as cross appellant shall file and serve a statement of the issues to be presented on the cross appeal and a designation of additional items to be included in the record. A cross appellee may, within 14

days of service of the cross appellant's statement, file and serve on the cross appellant a designation of additional items to be included in the record. The record on appeal shall include the items so designated by the parties, the notice of appeal, the judgment, order, or decree appealed from, and any opinion, findings of fact, and conclusions of law of the court. Any party filing a designation of the items to be included in the record shall provide to the clerk a copy of the items designated or, if the party fails to provide the copy, the clerk shall prepare the copy at the party's expense. If the record designated by any party includes a transcript of any proceeding or a part thereof, the party shall, immediately after filing the designation, deliver to the reporter and file with the clerk a written request for the transcript and make satisfactory arrangements for payment of its cost. All parties shall

take any other action necessary to enable the clerk to assemble and transmit the record.

Rule 8009. Briefs and Appendix; Filing and Service

(a) BRIEFS. Unless the district court or the bankruptcy appellate panel by local rule or by order excuses the filing of briefs or specifies different time limits:

(1) The appellant shall serve and file a brief within 14 days after entry of the appeal on the docket pursuant to Rule 8007.

(2) The appellee shall serve and file a brief within 14 days after service of the brief of appellant. If the appellee has filed a cross appeal, the brief of the appellee shall contain the issues and argument pertinent to the cross appeal, denominated as such, and the response to the brief of the appellant.

(3) The appellant may serve and file a reply brief within 14 days after service of the brief of the appellee, and if the appellee has cross-appealed, the appellee may file and serve a reply brief to the response of the appellant to the issues presented in the cross appeal within 14 days after service of the reply brief of the appellant. No further briefs may be filed except with leave of the district court or the bankruptcy appellate panel.

* * * * *

Rule 8015. Motion for Rehearing

Unless the district court or the bankruptcy appellate panel by local rule or by court order otherwise provides, a motion for rehearing may be filed within 14 days after entry of the judgment of the district court or the bankruptcy appellate panel. If a timely motion for rehearing is filed, the time for appeal to the court of

appeals for all parties shall run from the entry of the order denying rehearing or the entry of subsequent judgment.

Rule 8017. Stay of Judgment of District Court or Bankruptcy Appellate Panel

(a) AUTOMATIC STAY OF JUDGMENT ON APPEAL. Judgments of the district court or the bankruptcy appellate panel are stayed until the expiration of 14 days after entry, unless otherwise ordered by the district court or the bankruptcy appellate panel.

* * * * *

Rule 9006. Computing and Extending Time

(a) COMPUTING TIME. The following rules apply in computing any time period specified in these rules, in the Federal Rules of Civil Procedure, in any local rule or

court order, or in any statute that does not specify a method of computing time.

(1) *Period Stated in Days or a Longer Unit.* When the period is stated in days or a longer unit of time:

(A) exclude the day of the event that triggers the period;

(B) count every day, including intermediate Saturdays, Sundays, and legal holidays; and

(C) include the last day of the period, but if the last day is a Saturday, Sunday, or legal holiday, the period continues to run until the end of the next day that is not a Saturday, Sunday, or legal holiday.

(2) *Period Stated in Hours.* When the period is stated in hours:

(A) begin counting immediately on the occurrence of the event that triggers the period;

(B) count every hour, including hours during intermediate Saturdays, Sundays, and legal holidays; and

(C) if the period would end on a Saturday, Sunday, or legal holiday, then continue the period until the same time on the next day that is not a Saturday, Sunday, or legal holiday.

(3) *Inaccessibility of Clerk's Office.* Unless the court orders otherwise, if the clerk's office is inaccessible:

(A) on the last day for filing under Rule 9006(a)(1), then the time for filing is extended to the first accessible day that is not a Saturday, Sunday, or legal holiday; or

(B) during the last hour for filing under Rule 9006(a)(2), then the time for filing is extended to the same time on the first accessible day that is not a Saturday, Sunday, or legal holiday.

(4) *"Last Day" Defined.* Unless a different time is set by a statute, local rule, or order in the case, the last day ends:

(A) for electronic filing, at midnight in the court's time zone; and

(B) for filing by other means, when the clerk's office is scheduled to close.

(5) *"Next Day" Defined.* The "next day" is determined by continuing to count forward when the period is measured after an event and backward when measured before an event.

(6) *"Legal Holiday" Defined.* "Legal holiday" means:

(A) the day set aside by statute for observing New Year's Day, Martin Luther King Jr.'s Birthday, Washington's Birthday, Memorial Day,

Independence Day, Labor Day, Columbus Day, Veterans' Day, Thanksgiving Day, or Christmas Day;

(B) any day declared a holiday by the President or Congress; and

(C) for periods that are measured after an event, any other day declared a holiday by the state where the district court is located. (In this rule, "state" includes the District of Columbia and any United States commonwealth or territory.)

* * * * *

(d) FOR MOTIONS — AFFIDAVITS. A written motion, other than one which may be heard ex parte, and notice of any hearing shall be served not later than seven days before the time specified for such hearing, unless a different period is fixed by these rules or by order of the court. Such an order may for cause shown be made on ex parte application. When a motion is supported by

affidavit, the affidavit shall be served with the motion; and, except as otherwise provided in Rule 9023, opposing affidavits may be served not later than one day before the hearing, unless the court permits them to be served at some other time.

* * * * *

(f) ADDITIONAL TIME AFTER SERVICE BY MAIL OR UNDER RULE 5(b)(2)(D), (E), or (F) F. R. Civ. P. When there is a right or requirement to act or undertake some proceedings within a prescribed period after service and that service is by mail or under Rule 5(b)(2)(D), (E), or (F) F.R.Civ.P., three days are added after the prescribed period would otherwise expire under Rule 9006(a).

* * * * *

Rule 9015. Jury Trials

(a) APPLICABILITY OF CERTAIN FEDERAL RULES OF CIVIL PROCEDURE. Rules 38, 39, 47-49, and 51, F. R. Civ. P., and Rule 81(c) F. R. Civ. P. insofar as it applies to jury trials, apply in cases and proceedings, except that a demand made under Rule 38(b) F. R. Civ. P. shall be filed in accordance with Rule 5005.

* * * * *

(c) APPLICABILITY OF RULE 50 F. R. CIV. P. Rule 50 F. R. Civ. P. applies in cases and proceedings, except that any renewed motion for judgment or request for a new trial shall be filed no later than 14 days after the entry of judgment.

Rule 9021. Entry of Judgment

A judgment or order is effective when entered under Rule 5003.

Rule 9023. New Trials; Amendment of Judgments

Except as provided in this rule and Rule 3008, Rule 59 F. R. Civ. P. applies in cases under the Code. A motion for a new trial or to alter or amend a judgment shall be filed, and a court may on its own order a new trial, no later than 14 days after entry of judgment.

Rule 9027. Removal

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(e) PROCEDURE AFTER REMOVAL.

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(3) Any party who has filed a pleading in connection with the removed claim or cause of action, other than the party filing the notice of removal, shall file a statement admitting or denying any allegation in the notice of removal that upon removal of the claim or cause of action the proceeding is core or non-core. If the statement alleges that the proceeding is non-core, it shall

state that the party does or does not consent to entry of final orders or judgment by the bankruptcy judge. A statement required by this paragraph shall be signed pursuant to Rule 9011 and shall be filed not later than 14 days after the filing of the notice of removal. Any party who files a statement pursuant to this paragraph shall mail a copy to every other party to the removed claim or cause of action.

* * * * *

(g) APPLICABILITY OF PART VII. The rules of Part VII apply to a claim or cause of action removed to a district court from a federal or state court and govern procedure after removal. Repleading is not necessary unless the court so orders. In a removed action in which the defendant has not answered, the defendant shall answer or present the other defenses or objections available under the rules of Part VII within 21 days

following the receipt through service or otherwise of a copy of the initial pleading setting forth the claim for relief on which the action or proceeding is based, or within 21 days following the service of summons on such initial pleading, or within seven days following the filing of the notice of removal, whichever period is longest.

* * * * *

Rule 9033. Review of Proposed Findings of Fact and Conclusions of Law in Non-Core Proceedings

* * * * *

(b) OBJECTIONS: TIME FOR FILING. Within 14 days after being served with a copy of the proposed findings of fact and conclusions of law a party may serve and file with the clerk written objections which identify the specific proposed findings or conclusions objected to and state the grounds for such objection. A party may respond to another party's objections within 14 days after

being served with a copy thereof. A party objecting to the bankruptcy judge's proposed findings or conclusions shall arrange promptly for the transcription of the record, or such portions of it as all parties may agree upon or the bankruptcy judge deems sufficient, unless the district judge otherwise directs.

(c) EXTENSION OF TIME. The bankruptcy judge may for cause extend the time for filing objections by any party for a period not to exceed 21 days from the expiration of the time otherwise prescribed by this rule. A request to extend the time for filing objections must be made before the time for filing objections has expired, except that a request made no more than 21 days after the expiration of the time for filing objections may be granted upon a showing of excusable neglect.

* * * * *

JUDICIAL CONFERENCE OF THE UNITED STATES

WASHINGTON, D.C. 20544

THE CHIEF JUSTICE
OF THE UNITED STATES
Presiding

JAMES C. DUFF
Secretary

November 26, 2008

MEMORANDUM

To: The Chief Justice of the United States and the Associate Justices of the Supreme Court

From: James C. Duff

RE: TRANSMITTAL OF PROPOSED AMENDMENTS TO THE FEDERAL RULES OF BANKRUPTCY PROCEDURE

By direction of the Judicial Conference of the United States, pursuant to the authority conferred by 28 U.S.C. § 331, I transmit herewith for consideration of the Court proposed amendments to Rules 1007, 1011, 1019, 1020, 2002, 2003, 2006, 2007, 2007.2, 2008, 2015, 2015.1, 2015.2, 2015.3, 2016, 3001, 3015, 3017, 3019, 3020, 4001, 4002, 4004, 4008, 6003, 6004, 6006, 6007, 7004, 7012, 7052, 8001, 8002, 8003, 8006, 8009, 8015, 8017, 9006, 9015, 9021, 9023, 9027, and 9033, and new Rule 7058 of the Federal Rules of Bankruptcy Procedure, which were approved by the Judicial Conference at its September 2008 session. The Judicial Conference recommends that these amendments and new rule be approved by the Court and transmitted to the Congress pursuant to law.

For your assistance in considering these proposed amendments and new rule, I am transmitting an excerpt from the Report of the Committee on Rules of Practice and Procedure to the Judicial Conference as well as the Report of the Advisory Committee on the Federal Rules of Bankruptcy Procedure.

Attachments

EXCERPT FROM THE
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:

* * * * *

TIME-COMPUTATION PROJECT

In consultation with the Committee's Time-Computation Subcommittee, the Appellate, Bankruptcy, Civil, and Criminal Rules Advisory Committees proposed amendments to Appellate Rule 26, Bankruptcy Rule 9006, Civil Rule 6, and Criminal Rule 45 to make the method of computing time consistent, simpler, and clearer. In tandem with this work, each advisory rules committee also reviewed and proposed changes to the time periods in all the rules to ensure that every deadline is reasonable and that changing the time-computation method did not have the effect of shortening existing time periods.

The time-computation project was launched in response to frequent complaints about the time, energy, and anxiety expended in calculating time periods, the potential for error, and the anomalous results of the current computation provisions.

Proposed Rules Changes

The principal simplifying change in the amended time-computation rules is the adoption of a "days-are-days" approach to computing all time periods. Under some of the current rules, intermediate weekends and holidays are omitted when computing short periods but included when computing longer periods. By contrast, under the proposed rules amendments, intermediate weekends and holidays are counted regardless of the length of the specified period.

Other changes in the amended time-computation rules clarify how to count forward when the period measured is after an event (for example, 21 days after service of a motion) and the

deadline falls on a weekend or holiday; and how to count backward when the period measured is before an event (for example, 14 days before a scheduled hearing) and the deadline falls on a weekend or holiday. The proposed amendments also provide for computing hourly time periods, to address recent legislation affecting court proceedings in which deadlines are expressed in hours (for example, 72 hours for action).

The amended time-computation rules also fill a gap in the present rules by addressing the special timing considerations that accompany electronic filing. Under the proposed amendments, unless a statute, local rule, or court order provides otherwise, the last day of a period for an electronic filing ends at midnight in the court's time zone, while the last day for a paper filing ends when the clerk's office is scheduled to close. (Additional refinements to these principles are made in proposed Appellate Rule 26(a)(4) for reasons specific to appellate practice.) Filing deadlines are extended if the clerk's office is inaccessible. The proposed amendments provide a court with flexibility to define when a deadline should be adjusted or a failure to comply with a deadline should be excused because the clerk's office was "inaccessible." The proposed amendments and the Committee Notes do not specify the meaning of "inaccessibility," which can vary depending on whether a filing is electronic or paper, leaving the definition to local rules and case law development.

The advisory committees also reviewed every rule to ensure that all time periods would be reasonable taking into account the effect of changing the time-computation method. The advisory committees concluded that virtually all short time deadlines should be extended to adjust for the effect of including intermediate weekends and holidays in calculating deadlines. To further simplify time-counting, the advisory committees proposed changing most periods of less than 30 days to multiples of 7 days. The advisory committees adopted 7, 14, 21, and 28-day periods when possible, so that deadlines will usually fall on weekdays. The advisory

committees' comprehensive review of time-computation rules and the rules containing time periods resulted in proposed amendments to a total of 91 rules.

In August 2007, proposed amendments to each set of rules were published for comment from the bench and bar. Scheduled public hearings on the amendments were canceled because no one asked to testify. The specific proposed amendments are discussed later in this report in the respective sections describing the advisory committees' recommendations.

* * * * *

FEDERAL RULES OF BANKRUPTCY PROCEDURE

Rules Recommended for Approval and Transmission

The Advisory Committee on Bankruptcy Rules submitted proposed amendments to Rules 2016, 4008, 7052, 9006, 9015, 9021, 9023, and new Rule 7058, and proposed revisions to Official Forms 8, 9F, 10, 23, and Exhibit D to Official Form 1, and new Official Form 27 with a recommendation that they be approved and transmitted to the Judicial Conference. The proposed changes were circulated to the bench and bar for comment in August 2007. The scheduled public hearings on the proposed changes were canceled because no one requested to testify. Proposed new Rule 1017.1 was also published for public comment, but it was later withdrawn because the advisory committee concluded that it was not necessary.

The proposed amendment to Rule 2016 was not published for public comment because it is a technical conforming change to correct a cross-reference to a subsection of the Bankruptcy Code that was recently changed.

The proposed amendment to Rule 4008 requires an entity filing a reaffirmation agreement also to file a cover sheet that includes sufficient information for the court to determine whether the proposed reaffirmation agreement is presumed to be an undue hardship for the debtor under § 524(m) of the Bankruptcy Code.

The proposed amendments to Rules 7052 and 9021 and new Rule 7058 account for the amendment of Civil Rule 58 in 2002, which clarifies the time when a judgment that is not set forth on a separate document becomes final for appeal purposes. With some exceptions involving posttrial motions, Civil Rule 58 requires that every judgment be set forth on a separate document and provides a 150-day default appeal period if the requirement is not met. Under proposed new Rule 7058 and amendments to Rule 7052, the separate-document requirement and the 150-day default appeal period will apply only to a judgment in an adversary proceeding. They will not apply to a judgment or order in other actions, including contested matters.

The proposed amendment to Rule 7052 clarifies that "entry of judgment" in an adversary proceeding means the entry of a judgment or order under the Bankruptcy Rules, either new Rule 7058 or Rule 9021. The proposed amendment also sets a 14-day deadline to file a postjudgment motion for amended or additional findings, which is different from the proposed increased 28-day deadline in the Civil Rules that would otherwise apply in an adversary proceeding. The proposed revision of the time deadline was not published for public comment because it is a technical conforming change that maintains the current appeal period as modified to account for the change in the time-computation method. New Rule 7058 makes Civil Rule 58, including its separate-document requirement and 150-day default appeal period, applicable only to adversary proceedings. The proposed amendment to Rule 9021 makes clear that the separate-document requirement does not apply outside of adversary proceedings.

The proposed amendment to Rule 9006 was not published for public comment because it is a technical and conforming change to correct the cross-reference to Civil Rule 5(b)(2), which was renumbered as part of the recent restyling project.

The proposed amendments to Rule 9015 and Rule 9023 were not published for public comment because they are technical and conforming changes that maintain the current appeal

period as modified to account for the change in the time-computation method. The proposed amendments set a 14-day deadline to file certain postjudgment motions, which is different from the proposed increased 28-day deadline in the Civil Rules that would otherwise apply in a bankruptcy case.

The proposed revision of Exhibit D to Official Form 1 deletes the requirement that a debtor file a separate motion for an order postponing the debtor's mandatory credit-counseling briefing before the case is filed. The debtor is warned that the court may dismiss the case if it concludes that a postponement is not warranted.

The proposed amendments to Official Form 8 require the debtor to provide additional information indicating the debtor's intentions to use leased personal property and property subject to security interests, consistent with recently enacted § 362(h) and amended § 521(a)(2) of the Bankruptcy Code.

The proposed revisions of Official Forms 9F, 10, and 23 were not published for public comment because they are technical and conforming. The reference to a debtor's telephone number in Official Form 9F would be deleted to protect the debtor's privacy. Official Form 10 would be revised to include information in the instructions about health care-related claims and to revise the definition of "creditor" and "claim" to conform to the definitions in the Bankruptcy Code. The proposed revision of Official Form 23 includes a reference to § 1141(d)(5)(B) of the Bankruptcy Code in the filing deadlines.

Proposed new Official Form 27 implements the proposed amendments to Rule 4008 scheduled to take effect on December 1, 2009. The form requires the disclosure of financial information necessary for the court to determine whether a reaffirmation agreement creates a presumption of undue hardship for the debtor under § 524(m) of the Bankruptcy Code. It also requires the debtor to identify and explain any differences between the income and expenses

reported on schedules I and J and the income and expenses reported in the debtor's statement in support of the reaffirmation agreement.

The Committee concurred with the advisory committee's recommendations.

Recommendation: That the Judicial Conference —

a. Approve the proposed amendments to Bankruptcy Rules 2016, 4008, 7052, 9006, 9015, 9021, 9023, and new Rule 7058 and transmit them to the Supreme Court for its consideration with a recommendation that they be adopted by the Court and transmitted to Congress in accordance with the law.

b. Approve the proposed revisions to Bankruptcy Official Forms 8, 9F, 10, 23, and Exhibit D to Form 1 to take effect on December 1, 2008.

c. Approve the proposed new Bankruptcy Official Form 27 to take effect on December 1, 2009.

* * * * *

The advisory committee also proposed amendments to Rules 1007, 1011, 1019, 1020, 2002, 2003, 2006, 2007, 2007.2, 2008, 2015, 2015.1, 2015.2, 2015.3, 2016, 3001, 3015, 3017, 3019, 3020, 4001, 4002, 4004, 6003, 6004, 6006, 6007, 7004, 7012, 8001, 8002, 8003, 8006, 8009, 8015, 8017, 9006, 9027, and 9033 as part of the time-computation project with a recommendation that they be approved and transmitted to the Judicial Conference. The proposed amendment to Rule 9006 simplifies and clarifies the general time-computation method. The proposed amendments to the other rules adjust time periods consistent with the change to the time-computation method.

The proposed adjustments to the time periods in the rules are minor, accounting for the inclusion of holidays and weekends in the time-computation method and the preference for stating periods in multiples of seven days. The following adjustments are proposed:

- Five days are extended to seven days in Rules 2006, 2007, 2008, 2015.3, 6004, 9006, and 9027.

• Ten days are extended to 14 days in Rules 1007, 2003, 2015.1, 2015.2, 2016, 3020, 4001, 6004, 6006, 7004, 7012, 8001, 8002, 8003, 8006, 8009, 8015, 8017, 9027, and 9033.

• Fifteen days are changed to 14 days in Rules 1007, 1019, 1020, 2015, 2015.1, 2016, 3015, 4001, 4002, 6004, 6007, and 8009.

• Twenty days are extended to 21 days in Rules 1011, 2002, 2003, 2007.2, 2015, 2015.3, 3001, 3015, 3019, 6003, 7012, 8002, 9027, and 9033.

• Twenty-five days are extended to 28 days in Rules 2002, 3017, and 4004.

The Committee concurred with the advisory committee's recommendations.

Recommendation: That the Judicial Conference —

Approve the proposed amendments to Bankruptcy Rules 1007, 1011, 1019, 1020, 2002, 2003, 2006, 2007, 2007.2, 2008, 2015, 2015.1, 2015.2, 2015.3, 2016, 3001, 3015, 3017, 3019, 3020, 4001, 4002, 4004, 6003, 6004, 6006, 6007, 7004, 7012, 8001, 8002, 8003, 8006, 8009, 8015, 8017, 9006, 9027, and 9033 as part of the project to improve the time-computation rules and transmit them to the Supreme Court for its consideration with a recommendation that they be adopted by the Court and transmitted to Congress in accordance with the law.

* * * * *

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

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TO: **Honorable Lee H. Rosenthal, Chair**
Standing Committee on Rules of Practice and Procedure

FROM: **Honorable Laura Taylor Swain, Chair**
Advisory Committee on Bankruptcy Rules

DATE: **May 14, 2008 (Revised June 30, 2008)**

RE: **Report of the Advisory Committee on Bankruptcy Rules**

I. Introduction

The Advisory Committee on Bankruptcy Rules met on March 27-28, 2008, at St. Michaels, Maryland.

The Advisory Committee considered public comments on the Time-Computation amendments proposed for Bankruptcy Rules 1007, 1011, 1019, 1020, 2002, 2003, 2006, 2007, 2007.2, 2008, 2015, 2015.1, 2015.2, 2015.3, 2016, 3001, 3015, 3017, 3019, 3020, 4001, 4002, 4004, 6003, 6004, 6006, 6007, 7004, 7012, 8001, 8002, 8003, 8006, 8009, 8015, 8017, 9006, 9027, and 9033. The Committee received numerous comments on the proposed amendment to Rule 8002 that would change the deadline for filing a notice of appeal from 10 days to 14 days, as well as comments in response to the Committee's inquiry as to whether the appeal time should be extended further to 30 days. We also received several comments on the proposed amendments to Rule 9006(a), which revises the method for computing time periods. We received no comments on the bulk of these rules amendments that simply substituted a multiple of seven days for time periods of less than 30 days in this package of amendments.

The Advisory Committee also considered public comments regarding the preliminary draft of proposed amendments to Bankruptcy Rules 4008, 7052 and 9021, and proposed new Bankruptcy Rules 1017.1 and 7058, as well as comments received on proposed amendments to Official Form 8 and proposed new Official Form 27, all of which were published in August 2007.

Since no person who submitted a written comment requested to appear at the public hearings scheduled for January 16 and 25, 2008, the hearings were canceled.

The Advisory Committee withdraws proposed Bankruptcy Rule 1017.1 and recommends that the Standing Committee approve the remaining amendments and additions to the Bankruptcy Rules and Official Forms and transmit them to the Judicial Conference. In connection with the withdrawal of proposed Rule 1017.1, the Advisory Committee recommended approval of a revision of the amendment to Exhibit D to Official Form 1 which was published in August 2006 and approved by the Standing Committee in June 2007. The Advisory Committee also recommends that the Standing Committee approve proposed technical amendments to Bankruptcy Rules 2016, 7052, 9006, 9015, and 9023 and Official Forms 9F, 10, and 23 without publication. The proposed amendments and additions and the comments received thereon are set out below in the Action Items section of this report.

* * * * *

II Action Items

A. Proposed Amendments to Bankruptcy Rules 9006, 1007, 1011, 1019, 1020, 2002, 2003, 2006, 2007, 2007.2, 2008, 2015, 2015.1, 2015.2, 2015.3, 2016, 3001, 3015, 3017, 3019, 3020, 4001, 4002, 4004, 6003, 6004, 6006, 6007, 7004, 7012, 8001, 8002, 8003, 8006, 8009, 8015, 8017, 9006, 9027, and 9033 Submitted for Final Approval by the Standing Committee and Submission to the Judicial Conference to Implement the Time-Computation Project.

The Advisory Committee on Bankruptcy Rules recommends that the Standing Committee approve the proposed amendments to Bankruptcy Rules 9006, 1007, 1011, 1019, 1020, 2002, 2003, 2006, 2007, 2007.2, 2008, 2015, 2015.1, 2015.2, 2015.3, 2016, 3001, 3015, 3017, 3019, 3020, 4001, 4002, 4004, 6003, 6004, 6006, 6007, 7004, 7012, 8001, 8002, 8003, 8006, 8009, 8015, 8017, 9006, 9027, and 9033 for submission to the Judicial Conference to implement the Time-Computation Project as set out below. These amendments are to become effective on December 1, 2009.

1. *Public Comment.*

The preliminary draft of proposed amendments to Bankruptcy Rules 9006, 1007, 1011, 1019, 1020, 2002, 2003, 2006, 2007, 2007.2, 2008, 2015, 2015.1, 2015.2, 2015.3, 2016, 3001, 3015, 3017, 3019, 3020, 4001, 4002, 4004, 6003, 6004, 6006, 6007, 7004, 7012, 8001, 8002, 8003, 8006, 8009, 8015, 8017, 9006, 9027, and 9033 were published for comment in August 2007. A public hearing on the preliminary draft of the Time-Computation Amendments was scheduled for January 16, 2008, but there were no requests to appear at the hearings.

The Advisory Committee received comments on Rule 9006(a) and the Time-Computation Rule Template as set out immediately after Rule 9006. The only other Time-Computation Amendment on which the Committee received comments was the proposed amendment to Rule 8002, on which we received 40 comments. Again, those comments are described below immediately after Rule 8002.

2. *Synopsis of Proposed Amendments to Implement the Time-Computation Project.*

(a) **Rule 9006(a) (Time Computation Template Rule)** replaces subdivision (a) with the template being adopted throughout the Federal Rules for computing time. There are minor differences from the template in the Committee Note that include changes specific to bankruptcy law and practice. The amendment is offered in conjunction with proposed amendments to the deadlines set out in 39 rules. Those amendments include changes only in the time periods.

(b) **Rules 1007, 1011, 1019, 1020, 2002, 2003, 2006, 2007, 2007.2, 2008, 2015, 2015.1, 2015.2, 2015.3, 2016, 3001, 3015, 3017, 3019, 3020, 4001, 4002, 4004, 6003, 6004, 6006, 6007, 7004, 7012, 8001, 8002, 8003, 8006, 8009, 8015, 8017, 9006, 9027, and 9033** are each amended to make the deadlines under the rules multiples of seven days for any period less than 30 days. The various deadlines in these rules are amended in the following manner:

- 5-day periods become 7-day periods
- 10-day periods become 14-day periods
- 15-day periods become 14-day periods
- 20-day periods become 21-day periods
- 25-day periods become 28-day periods

The changes to the Bankruptcy Rules to implement the Time-Computation project, other than the changes to Rule 9006(a), are limited to changes in the deadlines as set out above.

3. *Text of Proposed Bankruptcy Rules Amendments to Implement the Time-Computation Project (on next page).*

PROPOSED AMENDMENTS TO THE FEDERAL RULES OF BANKRUPTCY PROCEDURE[1]

Rule 9006. Computing and Extending Time

1 ~~(a) COMPUTATION. In computing any period of~~
2 ~~time prescribed or allowed by these rules or by the Federal~~
3 ~~Rules of Civil Procedure made applicable by these rules, by~~
4 ~~the local rules, by order of court, or by any applicable statute,~~
5 ~~the day of the act, event, or default from which the designated~~
6 ~~period of time begins to run shall not be included. The last~~
7 ~~day of the period so computed shall be included, unless it is~~
8 ~~a Saturday, a Sunday, or a legal holiday, or, when the act to be~~
9 ~~done is the filing of a paper in court, a day on which weather~~
10 ~~or other conditions have made the clerk's office inaccessible,~~
11 ~~in which event the period runs until the end of the next day~~
12 ~~which is not one of the aforementioned days. When the period~~
13 ~~of time prescribed or allowed is less than 8 days, intermediate~~
14 ~~Saturdays, Sundays, and legal holidays shall be excluded in~~
15 ~~the computation. As used in this rule and in Rule 5001(c),~~
16 ~~"legal holiday" includes New Year's Day, Birthday of Martin~~
17 ~~Luther King, Jr., Washington's Birthday, Memorial Day,~~
18 ~~Independence Day, Labor Day, Columbus Day, Veterans Day,~~
19 ~~Thanksgiving Day, Christmas Day, and any other day~~

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[1]New material is underlined; matter to be omitted is lined through.

20 ~~appointed as a holiday by the President or the Congress of the~~
21 ~~United States, or by the state in which the court is held.~~
22 (a) COMPUTING TIME. The following rules apply
23 in computing any time period specified in these rules, in the
24 Federal Rules of Civil Procedure, in any local rule or court
25 order, or in any statute that does not specify a method of
26 computing time.
27 (1) *Period Stated in Days or a Longer Unit.*
28 When the period is stated in days or a longer unit of time:
29 (A) exclude the day of the event that triggers
30 the period;
31 (B) count every day, including intermediate
32 Saturdays, Sundays, and legal holidays; and
33 (C) include the last day of the period, but if
34 the last day is a Saturday, Sunday, or legal holiday, the period
35 continues to run until the end of the next day that is not a
36 Saturday, Sunday, or legal holiday.
37 (2) *Period Stated in Hours.* When the period is
38 stated in hours:
39 (A) begin counting immediately on the
40 occurrence of the event that triggers the period;

41 (B) count every hour, including hours during
42 intermediate Saturdays, Sundays, and legal holidays; and
43 (C) if the period would end on a Saturday,
44 Sunday, or legal holiday, then continue the period until the
45 same time on the next day that is not a Saturday, Sunday, or
46 legal holiday.
47 (3) *Inaccessibility of Clerk's Office.* Unless the
48 court orders otherwise, if the clerk's office is inaccessible:
49 (A) on the last day for filing under Rule
50 9006(a)(1), then the time for filing is extended to the first
51 accessible day that is not a Saturday, Sunday, or legal holiday;
52 or
53 (B) during the last hour for filing under Rule
54 9006(a)(2), then the time for filing is extended to the same
55 time on the first accessible day that is not a Saturday, Sunday,
56 or legal holiday.
57 (4) *"Last Day" Defined.* Unless a different time
58 is set by a statute, local rule, or order in the case, the last day
59 ends:
60 (A) for electronic filing, at midnight in the
61 court's time zone; and

62 (B) for filing by other means, when the
63 clerk's office is scheduled to close.
64 (5) *"Next Day" Defined.* The "next day" is
65 determined by continuing to count forward when the period
66 is measured after an event and backward when measured
67 before an event.
68 (6) *"Legal Holiday" Defined.* "Legal holiday"
69 means:
70 (A) the day set aside by statute for observing
71 New Year's Day, Martin Luther King Jr.'s Birthday,
72 Washington's Birthday, Memorial Day, Independence Day,
73 Labor Day, Columbus Day, Veterans' Day, Thanksgiving
74 Day, or Christmas Day;
75 (B) any day declared a holiday by the
76 President or Congress; and
77 (C) for periods that are measured after an
78 event, any other day declared a holiday by the state where the
79 district court is located. (In this rule, "state" includes the
80 District of Columbia and any United States commonwealth or
81 territory.)
82 * * * * *

COMMITTEE NOTE

Subdivision (a). Subdivision (a) has been amended to simplify and clarify the provisions that describe how deadlines are computed. Subdivision (a) governs the computation of any time period found in a Federal Rule of Bankruptcy Procedure, a Federal Rule of Civil Procedure, a statute, a local rule, or a court order. In accordance with Bankruptcy Rule 9029(a), a local rule may not direct that a deadline be computed in a manner inconsistent with subdivision (a).

The time-computation provisions of subdivision (a) apply only when a time period must be computed. They do not apply when a fixed time to act is set. The amendments thus carry forward the approach taken in *Violette v. P.A. Days, Inc.*, 427 F.3d 1015, 1016 (6th Cir. 2005) (holding that Civil Rule 6(a) "does not apply to situations where the court has established a specific calendar day as a deadline"), and reject the contrary holding of *In re American Healthcare Management, Inc.*, 900 F.2d 827, 832 (5th Cir. 1990) (holding that Bankruptcy Rule 9006(a) governs treatment of date-certain deadline set by court order). If, for example, the date for filing is "no later than November 1, 2007," subdivision (a) does not govern. But if a filing is required to be made "within 10 days" or "within 72 hours," subdivision (a) describes how that deadline is computed.

Subdivision (a) does not apply when computing a time period set by a statute if the statute specifies a method of computing time. *See, e.g.*, 11 U.S.C. § 527(a)(2) (debt relief agencies must provide a written notice to an assisted person "not later than 3 business days" after providing bankruptcy assistance services).

Subdivision (a)(1). New subdivision (a)(1) addresses the computation of time periods that are stated in days. It also applies to

time periods that are stated in weeks, months, or years. *See, e.g.*, Federal Rule of Civil Procedure 60(c)(1) made applicable to bankruptcy cases under Rule 9024. Subdivision (a)(1)(B)'s directive to "count every day" is relevant only if the period is stated in days (not weeks, months, or years).

Under former Rule 9006(a), a period of eight days or more was computed differently than a period of less than eight days. Intermediate Saturdays, Sundays, and legal holidays were included in computing the longer periods, but excluded in computing the shorter periods. Former Rule 9006(a) thus made computing deadlines unnecessarily complicated and led to counterintuitive results.

Under new subdivision (a)(1), all deadlines stated in days (no matter the length) are computed in the same way. The day of the event that triggers the deadline is not counted. All other days — including intermediate Saturdays, Sundays, and legal holidays — are counted, with only one exception: If the period ends on a Saturday, Sunday, or legal holiday, then the deadline falls on the next day that is not a Saturday, Sunday, or legal holiday. An illustration is provided below in the discussion of subdivision (a)(5). Subdivision (a)(3) addresses filing deadlines that expire on a day when the clerk's office is inaccessible.

Where subdivision (a) formerly referred to the "act, event, or default" that triggers the deadline, new subdivision (a) refers simply to the "event" that triggers the deadline; this change in terminology is adopted for brevity and simplicity, and is not intended to change meaning.

Periods previously expressed as less than eight days will be shortened as a practical matter by the decision to count intermediate Saturdays, Sundays, and legal holidays in computing all periods. Many of those periods have been lengthened to compensate for the

change. *See, e.g.*, Rules 2008 (trustee's duty to notify court of acceptance of the appointment within five days is extended to seven days); 6004(b) (time for filing and service of objection to proposed use, sale or lease of property extended from five days prior to the hearing to seven days prior to the hearing); and 9006(d) (time for giving notice of a hearing extended from five days prior to the hearing to seven days).

Most of the 10-day periods were adjusted to meet the change in computation method by setting 14 days as the new period. *See, e.g.*, Rules 1007(h) (10-day period to file supplemental schedule for property debtor becomes entitled to acquire after the commencement of the case is extended to 14 days); 3020(e) (10-day stay of order confirming a chapter 11 plan extended to 14 days); 8002(a) (10-day period in which to file notice of appeal extended to 14 days). A 14-day period also has the advantage that the final day falls on the same day of the week as the event that triggered the period — the 14th day after a Monday, for example, is a Monday. This advantage of using week-long periods led to adopting seven-day periods to replace some of the periods set at less than 10 days, 21-day periods to replace 20-day periods, and 28-day periods to replace 25-day periods. Thirty-day and longer periods, however, were generally retained without change.

Subdivision (a)(2). New subdivision (a)(2) addresses the computation of time periods that are stated in hours. No such deadline currently appears in the Federal Rules of Bankruptcy Procedure. But some statutes contain deadlines stated in hours, as do some court orders issued in expedited proceedings.

Under subdivision (a)(2), a deadline stated in hours starts to run immediately on the occurrence of the event that triggers the deadline. The deadline generally ends when the time expires. If, however, the

time period expires at a specific time (say, 2:17 p.m.) on a Saturday, Sunday, or legal holiday, then the deadline is extended to the same time (2:17 p.m.) on the next day that is not a Saturday, Sunday, or legal holiday. Periods stated in hours are not to be "rounded up" to the next whole hour. Subdivision (a)(3) addresses situations when the clerk's office is inaccessible during the last hour before a filing deadline expires.

Subdivision (a)(2)(B) directs that every hour be counted. Thus, for example, a 72-hour period that commences at 10:23 a.m. on Friday, November 2, 2007, will run until 9:23 a.m. on Monday, November 5; the discrepancy in start and end times in this example results from the intervening shift from daylight saving time to standard time.

Subdivision (a)(3). When determining the last day of a filing period stated in days or a longer unit of time, a day on which the clerk's office is not accessible because of the weather or another reason is treated like a Saturday, Sunday, or legal holiday. When determining the end of a filing period stated in hours, if the clerk's office is inaccessible during the last hour of the filing period computed under subdivision (a)(2) then the period is extended to the same time on the next day that is not a weekend, holiday, or day when the clerk's office is inaccessible.

Subdivision (a)(3)'s extensions apply "[u]nless the court orders otherwise." In some circumstances, the court might not wish a period of inaccessibility to trigger a full 24-hour extension; in those instances, the court can specify a briefer extension.

The text of the rule no longer refers to "weather or other conditions" as the reason for the inaccessibility of the clerk's office. The reference to "weather" was deleted from the text to underscore

that inaccessibility can occur for reasons unrelated to weather, such as an outage of the electronic filing system. Weather can still be a reason for inaccessibility of the clerk's office. The rule does not attempt to define inaccessibility. Rather, the concept will continue to develop through caselaw. *See, e.g.*, William G. Phelps, *When Is Office of Clerk of Court Inaccessible Due to Weather or Other Conditions for Purpose of Computing Time Period for Filing Papers under Rule 6(a) of Federal Rules of Civil Procedure*, 135 A.L.R. Fed. 259 (1996) (collecting cases). In addition, many local provisions address inaccessibility for purposes of electronic filing. *See, e.g.*, D. Kan. Rule 5.4.11 ("A Filing User whose filing is made untimely as the result of a technical failure may seek appropriate relief from the court.").

Subdivision (a)(4). New subdivision (a)(4) defines the end of the last day of a period for purposes of subdivision (a)(1). Subdivision (a)(4) does not apply in computing periods stated in hours under subdivision (a)(2), and does not apply if a different time is set by a statute, local rule, or order in the case. A local rule may provide, for example, that papers filed in a drop box after the normal hours of the clerk's office are filed as of the day that is date-stamped on the papers by a device in the drop box.

28 U.S.C. § 452 provides that "[a]ll courts of the United States shall be deemed always open for the purpose of filing proper papers, issuing and returning process, and making motions and orders." A corresponding provision exists in Rule 5001(a). Some courts have held that these provisions permit an after-hours filing by handing the papers to an appropriate official. *See, e.g.*, *Casalduc v. Diaz*, 117 F.2d 915, 917 (1st Cir. 1941). Subdivision (a)(4) does not address the effect of the statute on the question of after-hours filing; instead, the rule is designed to deal with filings in the ordinary course without regard to Section 452.

Subdivision (a)(5). New subdivision (a)(5) defines the "next" day for purposes of subdivisions (a)(1)(C) and (a)(2)(C). The Federal Rules of Bankruptcy Procedure contain both forward-looking time periods and backward-looking time periods. A forward-looking time period requires something to be done within a period of time *after* an event. *See, e.g.*, Rules 1007(c) (the schedules, statements, and other documents shall be filed by the debtor within 14 days of the entry of the order for relief"); 1019(5)(B)(ii) ("the trustee, not later than 30 days after conversion of the case, shall file and transmit to the United States trustee a final report and account"); and 7012(a) ("If a complaint is duly served, the defendant shall serve an answer within 30 days after the issuance of the summons, except when a different time is prescribed by the court.").

A backward-looking time period requires something to be done within a period of time *before* an event. *See, e.g.*, Rules 6004(b) ("an objection to a proposed use, sale, or lease of property shall be filed and served not less than seven days before the date set for the proposed action"); 9006(d) ("A written motion, other than one which may be heard ex parte, and notice of any hearing shall be served not later than seven days before the time specified for such hearing"). In determining what is the "next" day for purposes of subdivisions (a)(1)(C) and (a)(2)(C), one should continue counting in the same direction — that is, forward when computing a forward-looking period and backward when computing a backward-looking period. If, for example, a filing is due within 10 days *after* an event, and the tenth day falls on Saturday, September 1, 2007, then the filing is due on Tuesday, September 4, 2007 (Monday, September 3, is Labor Day). But if a filing is due 10 days *before* an event, and the tenth day falls on Saturday, September 1, then the filing is due on Friday, August 31.

Subdivision (a)(6). New subdivision (a)(6) defines "legal holiday" for purposes of the Federal Rules of Bankruptcy Procedure, including the time-computation provisions of subdivision (a). Subdivision (a)(6) continues to include within the definition of "legal holiday" days that are declared a holiday by the President or Congress.

For forward-counted periods — *i.e.*, periods that are measured after an event — subdivision (a)(6)(C) includes certain state holidays within the definition of legal holidays, and defines the term "state" — for purposes of subdivision (a)(6) — to include the District of Columbia and any commonwealth or territory of the United States. Thus, for purposes of subdivision (a)(6)'s definition of "legal holiday," "state" includes the District of Columbia, Guam, American Samoa, the U.S. Virgin Islands, the Commonwealth of Puerto Rico, and the Commonwealth of the Northern Mariana Islands.

However, state legal holidays are not recognized in computing backward-counted periods. For both forward- and backward-counted periods, the rule thus protects those who may be unsure of the effect of state holidays. For forward-counted deadlines, treating state holidays the same as federal holidays extends the deadline. Thus, someone who thought that the federal courts might be closed on a state holiday would be safeguarded against an inadvertent late filing. In contrast, for backward-counted deadlines, not giving state holidays the treatment of federal holidays allows filing on the state holiday itself rather than the day before. Take, for example, Monday, April 21, 2008 (Patriot's Day, a legal holiday in the relevant state). If a filing is due 14 days after an event, and the fourteenth day is April 21, then the filing is due on Tuesday, April 22 because Monday, April 21 counts as a legal holiday. But if a filing is due 14 days before an event, and the fourteenth day is April 21, the filing is due on Monday, April 21; the fact that April 21 is a state holiday does not make April

21 a legal holiday for purposes of computing this backward-counted deadline. But note that if the clerk's office is inaccessible on Monday, April 21, then subdivision (a)(3) extends the April 21 filing deadline forward to the next accessible day that is not a Saturday, Sunday or legal holiday – no earlier than Tuesday, April 22.

Changes Made After Publication:

The reference to Rule 6(a)(1) in subdivision (a)(3)(A) at line 50 of the rule as it was published was corrected by referring instead to Rule 9006(a)(1).

The Standing Committee changed Rule 9006(a)(6) to exclude state holidays from the definition of "legal holiday" for purposes of computing backward-counted periods; conforming changes were made to the Committee Note to subdivision (a)(6). In addition, the term "possession" was deleted from the definition of "state" in subdivision (a)(6), and a conforming change was made to the Committee Note.

Rule 1007. Lists, Schedules, Statements, and Other Documents; Time Limits[2]

1 (a) CORPORATE OWNERSHIP STATEMENT,
2 LIST OF CREDITORS AND EQUITY SECURITY
3 HOLDERS, AND OTHER LISTS
4 * * * * *

---

[2] Incorporates amendments approved by the Supreme Court that are due to take effect on December 1, 2008, if Congress takes no action to the contrary.

5 (2) *Involuntary Case.* In an involuntary case, the
6 debtor shall file within ~~15~~ 14[3] days after entry of the order for
7 relief, a list containing the name and address of each entity
8 included or to be included on Schedules D, E, F, G, and H as
9 prescribed by the Official Forms.
10 (3) *Equity Security Holders.* In a chapter 11
11 reorganization case, unless the court orders otherwise, the
12 debtor shall file within ~~15~~ 14 days after entry of the order for
13 relief a list of the debtor's equity security holders of each
14 class showing the number and kind of interests registered in
15 the name of each holder, and the last known address or place
16 of business of each holder.
17 * * * * *
18 (c) TIME LIMITS. In a voluntary case, the schedules,
19 statements, and other documents required by subdivision
20 (b)(1), (4), (5), and (6) shall be filed with the petition or
21 within ~~15~~ 14 days thereafter, except as otherwise provided in
22 subdivisions (d), (e), (f), and (h) of this rule. In an
23 involuntary case, the list in subdivision (a)(2), and the
24 schedules, statements, and other documents required by

[3] The Committee on Practice and Procedure has approved for publication in August 2008 an amendment to this deadline. Under the proposal, the 14-day period would become a seven-day period.

25 subdivision (b)(1) shall be filed by the debtor within ~~15~~ 14
26 days of the entry of the order for relief. In a voluntary case,
27 the documents required by paragraphs (A), (C), and (D) of
28 subdivision (b)(3) shall be filed with the petition. Unless the
29 court orders otherwise, a debtor who has filed a statement
30 under subdivision (b)(3)(B), shall file the documents required
31 by subdivision (b)(3)(A) within ~~15~~ 14 days of the order for
32 relief. In a chapter 7 case, the debtor shall file the statement
33 required by subdivision (b)(7) within 45[4] days after the first
34 date set for the meeting of creditors under § 341 of the Code,
35 and in a chapter 11 or 13 case no later than the date when the
36 last payment was made by the debtor as required by the plan
37 or the filing of a motion for a discharge under § 1141(d)(5)(B)
38 or § 1328(b) of the Code. The court may, at any time and in
39 its discretion, enlarge the time to file the statement required
40 by subdivision (b)(7). The debtor shall file the statement
41 required by subdivision (b)(8) no earlier than the date of the
42 last payment made under the plan or the date of the filing of
43 a motion for a discharge under §§ 1141(d)(5)(B), 1228(b), or
44 1328(b) of the Code. Lists, schedules, statements, and other

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[4] The Committee on Practice and Procedure has approved for publication in August 2008 an amendment to this deadline. Under the proposal, the 45-day deadline would become a 60-day deadline.

45 documents filed prior to the conversion of a case to another
46 chapter shall be deemed filed in the converted case unless the
47 court directs otherwise. Except as provided in § 1116(3), any
48 extension of time to file schedules, statements, and other
49 documents required under this rule may be granted only on
50 motion for cause shown and on notice to the United States
51 trustee, any committee elected under § 705 or appointed under
52 § 1102 of the Code, trustee, examiner, or other party as the
53 court may direct. Notice of an extension shall be given to the
54 United States trustee and to any committee, trustee, or other
55 party as the court may direct.
56 * * * * *
57 (f) STATEMENT OF SOCIAL SECURITY
58 NUMBER. An individual debtor shall submit a verified
59 statement that sets out the debtor's social security number, or
60 states that the debtor does not have a social security number.
61 In a voluntary case, the debtor shall submit the statement with
62 the petition. In an involuntary case, the debtor shall submit
63 the statement within ~~15~~ 14 days after the entry of the order for
64 relief.
65 * * * * *

66 (h) INTERESTS ACQUIRED OR ARISING AFTER
67 PETITION. If, as provided by § 541(a)(5) of the Code, the
68 debtor acquires or becomes entitled to acquire any interest in
69 property, the debtor shall within ~~10~~ 14 days after the
70 information comes to the debtor's knowledge or within such
71 further time the court may allow, file a supplemental schedule
72 in the chapter 7 liquidation case, chapter 11 reorganization
73 case, chapter 12 family farmer's debt adjustment case, or
74 chapter 13 individual debt adjustment case. If any of the
75 property required to be reported under this subdivision is
76 claimed by the debtor as exempt, the debtor shall claim the
77 exemptions in the supplemental schedule. The duty to file a
78 supplemental schedule in accordance with this subdivision
79 continues notwithstanding the closing of the case, except that
80 the schedule need not be filed in a chapter 11, chapter 12, or
81 chapter 13 case with respect to property acquired after entry
82 of the order confirming a chapter 11 plan or discharging the
83 debtor in a chapter 12 or chapter 13 case.
84 * * * * *

COMMITTEE NOTE

The rule is amended to implement changes in connection with the amendment to Rule 9006(a) and the manner by which time

is computed under the rules. Each deadline in the rule of fewer than 30 days is amended to substitute a deadline that is a multiple of seven days. Throughout the rules, deadlines are amended in the following manner:

- 5-day periods become 7-day periods
- 10-day periods become 14-day periods
- 15-day periods become 14-day periods
- 20-day periods become 21-day periods
- 25-day periods become 28-day periods

Rule 1011. Responsive Pleading or Motion in Involuntary and Cross-Border Cases[5]

1 * * * * *

2 (b) DEFENSES AND OBJECTIONS; WHEN
3 PRESENTED. Defenses and objections to the petition shall
4 be presented in the manner prescribed by Rule 12
5 F. R. Civ. P. and shall be filed and served within ~~20~~ 21 days
6 after service of the summons, except that if service is made by
7 publication on a party or partner not residing or found within
8 the state in which the court sits, the court shall prescribe the
9 time for filing and serving the response.

10 * * * * *

[5] Incorporates amendments approved by the Supreme Court that are due to take effect on December 1, 2008, if Congress takes no action to the contrary.

COMMITTEE NOTE

The rule is amended to implement changes in connection with the amendment to Rule 9006(a) and the manner by which time is computed under the rules. The deadline in the rule is amended to substitute a deadline that is a multiple of seven days. Throughout the rules, deadlines are amended in the following manner:

- 5-day periods become 7-day periods
- 10-day periods become 14-day periods
- 15-day periods become 14-day periods
- 20-day periods become 21-day periods
- 25-day periods become 28-day periods

Rule 1019. Conversion of a Chapter 11 Reorganization Case, Chapter 12 Family Farmer's Debt Adjustment Case, or Chapter 13 Individual's Debt Adjustment Case to a Chapter 7 Liquidation Case

1 * * * * *

2 (5) *Filing Final Report and Schedule of*
3 *Postpetition Debts.*

4 (A) Conversion of Chapter 11 or Chapter 12
5 Case. Unless the court directs otherwise, if a chapter 11 or
6 chapter 12 case is converted to chapter 7, the debtor in
7 possession or, if the debtor is not a debtor in possession, the
8 trustee serving at the time of conversion, shall:

9 (i) not later than ~~15~~ 14 days after
10 conversion of the case, file a schedule of unpaid debts
11 incurred after the filing of the petition and before conversion
12 of the case, including the name and address of each holder of
13 a claim; and
14 (ii) not later than 30 days after
15 conversion of the case, file and transmit to the United States
16 trustee a final report and account;
17 (B) Conversion of Chapter 13 Case. Unless
18 the court directs otherwise, if a chapter 13 case is converted
19 to chapter 7,
20 (i) the debtor, not later than ~~15~~ 14 days
21 after conversion of the case, shall file a schedule of unpaid
22 debts incurred after the filing of the petition and before
23 conversion of the case, including the name and address of
24 each holder of a claim; and
25 (ii) the trustee, not later than 30 days
26 after conversion of the case, shall file and transmit to the
27 United States trustee a final report and account;
28 * * * * *

COMMITTEE NOTE

The rule is amended to implement changes in connection with the amendment to Rule 9006(a) and the manner by which time is computed under the rules. The deadlines in the rule are amended to substitute a deadline that is a multiple of seven days. Throughout the rules, deadlines are amended in the following manner:

- 5-day periods become 7-day periods
- 10-day periods become 14-day periods
- 15-day periods become 14-day periods
- 20-day periods become 21-day periods
- 25-day periods become 28-day periods

Rule 1020. Small Business Chapter 11 Reorganization Case[6]

1 (a) SMALL BUSINESS DEBTOR DESIGNATION.
2 In a voluntary chapter 11 case, the debtor shall state in the
3 petition whether the debtor is a small business debtor. In an
4 involuntary chapter 11 case, the debtor shall file within ~~15~~ 14
5 days after entry of the order for relief a statement as to
6 whether the debtor is a small business debtor. Except as
7 provided in subdivision (c), the status of the case as a small
8 business case shall be in accordance with the debtor's

[6] Incorporates amendments approved by the Supreme Court that are due to take effect on December 1, 2008, if Congress takes no action to the contrary.

9 statement under this subdivision, unless and until the court
10 enters an order finding that the debtor's statement is incorrect.
11 * * * * *

COMMITTEE NOTE

The rule is amended to implement changes in connection with the amendment to Rule 9006(a) and the manner by which time is computed under the rules. The deadline in the rule is amended to substitute a deadline that is a multiple of seven days. Throughout the rules, deadlines are amended in the following manner:

- 5-day periods become 7-day periods
- 10-day periods become 14-day periods
- 15-day periods become 14-day periods
- 20-day periods become 21-day periods
- 25-day periods become 28-day periods

Rule 2002. Notices to Creditors, Equity Security Holders, Administrators in Foreign Proceedings, Persons Against Whom Provisional Relief is Sought in Ancillary and Other Cross-Border Cases, United States, and United States Trustee[7]

1 (a) TWENTY-<u>ONE</u>-DAY NOTICES TO PARTIES IN
2 INTEREST. Except as provided in subdivisions (h), (i), (*l*),

[7] Incorporates amendments approved by the Supreme Court that are due to take effect on December 1, 2008, if Congress takes no action to the contrary.

3 (p), and (q) of this rule, the clerk, or some other person as the
4 court may direct, shall give the debtor, the trustee, all creditors
5 and indenture trustees at least ~~20~~ 21 days' notice by mail of:
6 * * * * *
7 (b) TWENTY-~~FIVE~~-EIGHT-DAY NOTICES TO
8 PARTIES IN INTEREST. Except as provided in subdivision
9 (*l*) of this rule, the clerk, or some other person as the court may
10 direct, shall give the debtor, the trustee, all creditors and
11 indenture trustees not less than ~~25~~ 28 days notice by mail of
12 the time fixed (1) for filing objections and the hearing to
13 consider approval of a disclosure statement or, under
14 § 1125(f), to make a final determination whether the plan
15 provides adequate information so that a separate disclosure
16 statement is not necessary; and (2) for filing objections and the
17 hearing to consider confirmation of a chapter 9, chapter 11, or
18 chapter 13 plan.
19 * * * * *
20 (o) NOTICE OF ORDER FOR RELIEF IN
21 CONSUMER CASE. In a voluntary case commenced by an
22 individual debtor whose debts are primarily consumer debts,
23 the clerk or some other person as the court may direct shall

24 give the trustee and all creditors notice by mail of the order for
25 relief within ~~20~~ 21 days from the date thereof.
26 * * * * *
27 (q) NOTICE OF PETITION FOR RECOGNITION OF
28 FOREIGN PROCEEDING AND OF COURT'S INTENTION
29 TO COMMUNICATE WITH FOREIGN COURTS AND
30 FOREIGN REPRESENTATIVES.
31 (1) *Notice of Petition for Recognition.* The clerk,
32 or some other person as the court may direct, shall forthwith
33 give the debtor, all persons or bodies authorized to administer
34 foreign proceedings of the debtor, all entities against whom
35 provisional relief is being sought under § 1519 of the Code, all
36 parties to litigation pending in the United States in which the
37 debtor is a party at the time of the filing of the petition, and
38 such other entities as the court may direct, at least ~~20~~ 21 days'
39 notice by mail of the hearing on the petition for recognition of
40 a foreign proceeding. The notice shall state whether the
41 petition seeks recognition as a foreign main proceeding or
42 foreign nonmain proceeding.
43 * * * * *

COMMITTEE NOTE

The rule is amended to implement changes in connection with the amendment to Rule 9006(a) and the manner by which time is computed under the rules. The deadlines in the rule are amended to substitute a deadline that is a multiple of seven days. Throughout the rules, deadlines are amended in the following manner:

- 5-day periods become 7-day periods
- 10-day periods become 14-day periods
- 15-day periods become 14-day periods
- 20-day periods become 21-day periods
- 25-day periods become 28-day periods

Rule 2003. Meeting of Creditors or Equity Security Holders[8]

1 (a) DATE AND PLACE. Except as otherwise
2 provided in § 341(e) of the Code, in a chapter 7 liquidation or
3 a chapter 11 reorganization case, the United States trustee
4 shall call a meeting of creditors to be held no fewer than ~~20~~
5 21 and no more than 40 days after the order for relief. In a
6 chapter 12 family farmer debt adjustment case, the United
7 States trustee shall call a meeting of creditors to be held no
8 fewer than ~~20~~ 21 and no more than 35 days after the order for
9 relief. In a chapter 13 individual's debt adjustment case, the

[8] Incorporates amendments approved by the Supreme Court that are due to take effect on December 1, 2008, if Congress takes no action to the contrary.

10 United States trustee shall call a meeting of creditors to be
11 held no fewer than ~~20~~ 21 and no more than 50 days after the
12 order for relief. If there is an appeal from or a motion to
13 vacate the order for relief, or if there is a motion to dismiss
14 the case, the United States trustee may set a later date for the
15 meeting. The meeting may be held at a regular place for
16 holding court or at any other place designated by the United
17 States trustee within the district convenient for the parties in
18 interest. If the United States trustee designates a place for the
19 meeting which is not regularly staffed by the United States
20 trustee or an assistant who may preside at the meeting, the
21 meeting may be held not more than 60 days after the order for
22 relief.
23 * * * * *
24 (d) REPORT OF ELECTION AND RESOLUTION
25 OF DISPUTES IN A CHAPTER 7 CASE.
26 * * * * *
27 (2) *Disputed Election.* If the election is disputed,
28 the United States trustee shall promptly file a report stating
29 that the election is disputed, informing the court of the nature
30 of the dispute, and listing the name and address of any
31 candidate elected under any alternative presented by the

32 dispute. No later than the date on which the report is filed,
33 the United States trustee shall mail a copy of the report to any
34 party in interest that has made a request to receive a copy of
35 the report. Pending disposition by the court of a disputed
36 election for trustee, the interim trustee shall continue in office.
37 Unless a motion for the resolution of the dispute is filed no
38 later than ~~10~~ 14 days after the United States trustee files a
39 report of a disputed election for trustee, the interim trustee
40 shall serve as trustee in the case.
41 * * * * *

COMMITTEE NOTE

The rule is amended to implement changes in connection with the amendment to Rule 9006(a) and the manner by which time is computed under the rules. The deadlines in the rule are amended to substitute a deadline that is a multiple of seven days. Throughout the rules, deadlines are amended in the following manner:

- 5-day periods become 7-day periods
- 10-day periods become 14-day periods
- 15-day periods become 14-day periods
- 20-day periods become 21-day periods
- 25-day periods become 28-day periods

Rule 2006. Solicitation and Voting of Proxies in Chapter 7 Liquidation Cases

1 * * * * *

2 (c) AUTHORIZED SOLICITATION.

3 (1) A proxy may be solicited only by (A) a
4 creditor owning an allowable unsecured claim against the
5 estate on the date of the filing of the petition; (B) a committee
6 elected pursuant to § 705 of the Code; (C) a committee of
7 creditors selected by a majority in number and amount of
8 claims of creditors (i) whose claims are not contingent or
9 unliquidated, (ii) who are not disqualified from voting under
10 § 702(a) of the Code and (iii) who were present or represented
11 at a meeting of which all creditors having claims of over $500
12 or the 100 creditors having the largest claims had at least ~~five~~
13 seven days notice in writing and of which meeting written
14 minutes were kept and are available reporting the names of
15 the creditors present or represented and voting and the
16 amounts of their claims; or (D) a bona fide trade or credit
17 association, but such association may solicit only creditors
18 who were its members or subscribers in good standing and
19 had allowable unsecured claims on the date of the filing of the
20 petition.

21 * * * * *

COMMITTEE NOTE

The rule is amended to implement changes in connection with the amendment to Rule 9006(a) and the manner by which time is computed under the rules. The deadline in the rule is amended to substitute a deadline that is a multiple of seven days. Throughout the rules, deadlines are amended in the following manner:

- 5-day periods become 7-day periods
- 10-day periods become 14-day periods
- 15-day periods become 14-day periods
- 20-day periods become 21-day periods
- 25-day periods become 28-day periods

Rule 2007. Review of Appointment of Creditors' Committee Organized Before Commencement of the Case

1 * * * * *

2 (b) SELECTION OF MEMBERS OF COMMITTEE.
3 The court may find that a committee organized by unsecured
4 creditors before the commencement of a chapter 9 or chapter
5 11 case was fairly chosen if:
6 (1) it was selected by a majority in number and
7 amount of claims of unsecured creditors who may vote under
8 § 702(a) of the Code and were present in person or
9 represented at a meeting of which all creditors having
10 unsecured claims of over $1,000 or the 100 unsecured
11 creditors having the largest claims had at least ~~five~~ seven days

12 notice in writing, and of which meeting written minutes
13 reporting the names of the creditors present or represented
14 and voting and the amounts of their claims were kept and are
15 available for inspection;
16 * * * * *

COMMITTEE NOTE

The rule is amended to implement changes in connection with the amendment to Rule 9006(a) and the manner by which time is computed under the rules. The deadline in the rule is amended to substitute a deadline that is a multiple of seven days. Throughout the rules, deadlines are amended in the following manner:

- 5-day periods become 7-day periods
- 10-day periods become 14-day periods
- 15-day periods become 14-day periods
- 20-day periods become 21-day periods
- 25-day periods become 28-day periods

Rule 2007.2. Appointment of Patient Care Ombudsman in a Health Care Business Case[9]

1 (a) ORDER TO APPOINT PATIENT CARE
2 OMBUDSMAN. In a chapter 7, chapter 9, or chapter 11 case

[9] Incorporates amendments approved by the Supreme Court that are due to take effect on December 1, 2008, if Congress takes no action to the contrary.

3 in which the debtor is a health care business, the court shall
4 order the appointment of a patient care ombudsman under
5 § 333 of the Code, unless the court, on motion of the United
6 States trustee or a party in interest filed no later than ~~20~~ 21
7 days after the commencement of the case or within another
8 time fixed by the court, finds that the appointment of a patient
9 care ombudsman is not necessary under the specific
10 circumstances of the case for the protection of patients.
11 * * * * *

COMMITTEE NOTE

The rule is amended to implement changes in connection with the amendment to Rule 9006(a) and the manner by which time is computed under the rules. The deadline in the rule is amended to substitute a deadline that is a multiple of seven days. Throughout the rules, deadlines are amended in the following manner:

- 5-day periods become 7-day periods
- 10-day periods become 14-day periods
- 15-day periods become 14-day periods
- 20-day periods become 21-day periods
- 25-day periods become 28-day periods

Rule 2008. Notice to Trustee of Selection

1 The United States trustee shall immediately notify the
2 person selected as trustee how to qualify and, if applicable,
3 the amount of the trustee's bond. A trustee that has filed a
4 blanket bond pursuant to Rule 2010 and has been selected as
5 trustee in a chapter 7, chapter 12, or chapter 13 case that does
6 not notify the court and the United States trustee in writing of
7 rejection of the office within ~~five~~ seven days after receipt of
8 notice of selection shall be deemed to have accepted the
9 office. Any other person selected as trustee shall notify the
10 court and the United States trustee in writing of acceptance of
11 the office within ~~five~~ seven days after receipt of notice of
12 selection or shall be deemed to have rejected the office.

COMMITTEE NOTE

The rule is amended to implement changes in connection with the amendment to Rule 9006(a) and the manner by which time is computed under the rules. The deadline in the rule is amended to substitute a deadline that is a multiple of seven days. Throughout the rules, deadlines are amended in the following manner:

- 5-day periods become 7-day periods
- 10-day periods become 14-day periods
- 15-day periods become 14-day periods
- 20-day periods become 21-day periods
- 25-day periods become 28-day periods

Rule 2015. Duty to Keep Records, Make Reports, and Give Notice of Case or Change of Status[10]

1 (a) TRUSTEE OR DEBTOR IN POSSESSION. A
2 trustee or debtor in possession shall:
3 * * * * *
4 (6) in a chapter 11 small business case, unless the
5 court, for cause, sets another reporting interval, file and
6 transmit to the United States trustee for each calendar month
7 after the order for relief, on the appropriate Official Form, the
8 report required by § 308. If the order for relief is within the
9 first 15 days of a calendar month, a report shall be filed for
10 the portion of the month that follows the order for relief. If
11 the order for relief is after the 15th day of a calendar month,
12 the period for the remainder of the month shall be included in
13 the report for the next calendar month. Each report shall be
14 filed no later than ~~20~~ 21 days after the last day of the calendar
15 month following the month covered by the report. The
16 obligation to file reports under this subparagraph terminates
17 on the effective date of the plan, or conversion or dismissal of
18 the case.

---

[10] Incorporates amendments approved by the Supreme Court that are due to take effect on December 1, 2008, if Congress takes no action to the contrary.

19 * * * * *

20 (d) FOREIGN REPRESENTATIVE. In a case in
21 which the court has granted recognition of a foreign
22 proceeding under chapter 15, the foreign representative shall
23 file any notice required under § 1518 of the Code within ~~15~~
24 14 days after the date when the representative becomes aware
25 of the subsequent information.

26 * * * * *

COMMITTEE NOTE

The rule is amended to implement changes in connection with the amendment to Rule 9006(a) and the manner by which time is computed under the rules. The deadlines in the rule are amended to substitute a deadline that is a multiple of seven days. Throughout the rules, deadlines are amended in the following manner:

- 5-day periods become 7-day periods
- 10-day periods become 14-day periods
- 15-day periods become 14-day periods
- 20-day periods become 21-day periods
- 25-day periods become 28-day periods

Rule 2015.1. Patient Care Ombudsman[11]

1 (a) REPORTS. A patient care ombudsman, at least ~~10~~
2 14 days before making a report under § 333(b)(2) of the Code,
3 shall give notice that the report will be made to the court,
4 unless the court orders otherwise. The notice shall be
5 transmitted to the United States trustee, posted conspicuously
6 at the health care facility that is the subject of the report, and
7 served on: the debtor; the trustee; all patients; and any
8 committee elected under § 705 or appointed under § 1102 of
9 the Code or its authorized agent, or, if the case is a chapter 9
10 municipality case or a chapter 11 reorganization case and no
11 committee of unsecured creditors has been appointed under
12 § 1102, on the creditors included on the list filed under Rule
13 1007(d); and such other entities as the court may direct. The
14 notice shall state the date and time when the report will be
15 made, the manner in which the report will be made, and, if the
16 report is in writing, the name, address, telephone number,
17 email address, and website, if any, of the person from whom
18 a copy of the report may be obtained at the debtor's expense.

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[11] Incorporates amendments approved by the Supreme Court that are due to take effect on December 1, 2008, if Congress takes no action to the contrary.

19 (b) AUTHORIZATION TO REVIEW
20 CONFIDENTIAL PATIENT RECORDS. A motion by a
21 patient care ombudsman under § 333(c) to review confidential
22 patient records shall be governed by Rule 9014, served on the
23 patient and any family member or other contact person whose
24 name and address has been given to the trustee or the debtor
25 for the purpose of providing information regarding the
26 patient's health care, and transmitted to the United States
27 trustee subject to applicable nonbankruptcy law relating to
28 patient privacy. Unless the court orders otherwise, a hearing
29 on the motion may not be commenced earlier than ~~15~~ 14 days
30 after service of the motion.

COMMITTEE NOTE

The rule is amended to implement changes in connection with the amendment to Rule 9006(a) and the manner by which time is computed under the rules. The deadlines in the rule are amended to substitute a deadline that is a multiple of seven days. Throughout the rules, deadlines are amended in the following manner:

- 5-day periods become 7-day periods
- 10-day periods become 14-day periods
- 15-day periods become 14-day periods
- 20-day periods become 21-day periods
- 25-day periods become 28-day periods

Rule 2015.2. Transfer of Patient in Health Care Business Case[12]

1 Unless the court orders otherwise, if the debtor is a
2 health care business, the trustee may not transfer a patient to
3 another health care business under § 704(a)(12) of the Code
4 unless the trustee gives at least ~~10~~ 14 days' notice of the
5 transfer to the patient care ombudsman, if any, the patient,
6 and any family member or other contact person whose name
7 and address has been given to the trustee or the debtor for the
8 purpose of providing information regarding the patient's
9 health care. The notice is subject to applicable nonbankruptcy
10 law relating to patient privacy.

COMMITTEE NOTE

The rule is amended to implement changes in connection with the amendment to Rule 9006(a) and the manner by which time is computed under the rules. The deadline in the rule is amended to substitute a deadline that is a multiple of seven days. Throughout the rules, deadlines are amended in the following manner:

- 5-day periods become 7-day periods
- 10-day periods become 14-day periods
- 15-day periods become 14-day periods

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[12] Incorporates amendments approved by the Supreme Court that are due to take effect on December 1, 2008, if Congress takes no action to the contrary.

- 20-day periods become 21-day periods
- 25-day periods become 28-day periods

Rule 2015.3. Reports of Financial Information on Entities in Which a Chapter 11 Estate Holds a Controlling or Substantial Interest[13]

1 * * * * *

2 (b) TIME FOR FILING; SERVICE. The first report
3 required by this rule shall be filed no later than ~~five~~ seven
4 days before the first date set for the meeting of creditors under
5 § 341 of the Code. Subsequent reports shall be filed no less
6 frequently than every six months thereafter, until the effective
7 date of a plan or the case is dismissed or converted. Copies
8 of the report shall be served on the United States trustee, any
9 committee appointed under § 1102 of the Code, and any other
10 party in interest that has filed a request therefor.

11 * * * * *

COMMITTEE NOTE

The rule is amended to implement changes in connection with the amendment to Rule 9006(a) and the manner by which time is computed under the rules. The deadline in the rule is amended to

[13]Incorporates amendments approved by the Supreme Court that are due to take effect on December 1, 2008, if Congress takes no action to the contrary.

substitute a deadline that is a multiple of seven days. Throughout the rules, deadlines are amended in the following manner:

- 5-day periods become 7-day periods
- 10-day periods become 14-day periods
- 15-day periods become 14-day periods
- 20-day periods become 21-day periods
- 25-day periods become 28-day periods

Rule 2016. Compensation for Services Rendered and Reimbursement of Expenses[14]

1 * * * * *

2 (b) DISCLOSURE OF COMPENSATION PAID OR

3 PROMISED TO ATTORNEY FOR DEBTOR. Every

4 attorney for a debtor, whether or not the attorney applies for

5 compensation, shall file and transmit to the United States

6 trustee within ~~15~~ 14 days after the order for relief, or at

7 another time as the court may direct, the statement required by

[14]The Advisory Committee on Bankruptcy Rules has recommended approval of a proposed technical amendment to Rule 2016(c), which would also take effect on December 1, 2009, if the Judicial Conference and the Supreme Court approve and if Congress takes no action to the contrary. The proposed technical amendment is on page 96.

8 § 329 of the Code including whether the attorney has shared
9 or agreed to share the compensation with any other entity.
10 The statement shall include the particulars of any such sharing
11 or agreement to share by the attorney, but the details of any
12 agreement for the sharing of the compensation with a member
13 or regular associate of the attorney's law firm shall not be
14 required. A supplemental statement shall be filed and
15 transmitted to the United States trustee within ~~15~~ 14 days
16 after any payment or agreement not previously disclosed.

17 (c) DISCLOSURE OF COMPENSATION PAID OR
18 PROMISED TO BANKRUPTCY PETITION PREPARER.
19 Before a petition is filed, every ~~Every~~ bankruptcy petition
20 preparer for a debtor shall ~~file~~ deliver to the debtor, ~~a~~ the
21 declaration under penalty of perjury ~~and transmit the~~
22 ~~declaration to the United States trustee within 10 days after~~
23 ~~the date of the filing of the petition, or at another time as the~~
24 ~~court may direct, as~~ required by § 110(h)~~(1)~~ (2). The

25 declaration shall ~~must~~ disclose any fee, and the source of any
26 fee, received from or on behalf of the debtor within 12
27 months of the filing of the case and all unpaid fees charged to
28 the debtor. The declaration shall also ~~must~~ describe the
29 services performed and documents prepared or caused to be
30 prepared by the bankruptcy petition preparer. The declaration
31 shall be filed with the petition. The petition preparer shall file
32 a ~~A~~ supplemental statement ~~shall be filed~~ within ~~10~~ 14 days
33 after any payment or agreement not previously disclosed.

COMMITTEE NOTE

The rule is amended to implement changes in connection with the amendment to Rule 9006(a) and the manner by which time is computed under the rules. The deadline in the rule is amended to substitute a deadline that is a multiple of seven days. Throughout the rules, deadlines are amended in the following manner:

- 5 day periods become 7 day periods
- 10 day periods become 14 day periods
- 15 day periods become 14 day periods
- 20 day periods become 21 day periods
- 25 day periods become 28 day periods

Subdivision (c) is amended to reflect the 2005 amendment to § 110(h)(1) of the Bankruptcy Code which now requires that the declaration be filed with the petition. The statute previously required that the petition preparer file the declaration within 10 days after the filing of the petition. The amendment to the rule also corrects the cross reference to § 110(h)(1), which was redesignated as subparagraph (h)(2) of § 110 by the 2005 amendment to the Code.

Other changes are stylistic.

Rule 3001. Proof of Claim

1 * * * * *

2 (e) TRANSFERRED CLAIM.

3 * * * * *

4 (2) *Transfer of Claim Other than for Security*
5 *after Proof Filed.* If a claim other than one based on a
6 publicly traded note, bond, or debenture has been transferred
7 other than for security after the proof of claim has been filed,
8 evidence of the transfer shall be filed by the transferee. The
9 clerk shall immediately notify the alleged transferor by mail
10 of the filing of the evidence of transfer and that objection

11 thereto, if any, must be filed within ~~20~~ 21 days of the mailing
12 of the notice or within any additional time allowed by the
13 court. If the alleged transferor files a timely objection and the
14 court finds, after notice and a hearing, that the claim has been
15 transferred other than for security, it shall enter an order
16 substituting the transferee for the transferor. If a timely
17 objection is not filed by the alleged transferor, the transferee
18 shall be substituted for the transferor.

19 * * * * *

20 (4) *Transfer of Claim for Security after Proof*
21 *Filed.* If a claim other than one based on a publicly traded
22 note, bond, or debenture has been transferred for security after
23 the proof of claim has been filed, evidence of the terms of the
24 transfer shall be filed by the transferee. The clerk shall
25 immediately notify the alleged transferor by mail of the filing
26 of the evidence of transfer and that objection thereto, if any,
27 must be filed within ~~20~~ 21 days of the mailing of the notice or

28 within any additional time allowed by the court. If a timely
29 objection is filed by the alleged transferor, the court, after
30 notice and a hearing, shall determine whether the claim has
31 been transferred for security. If the transferor or transferee
32 does not file an agreement regarding its relative rights
33 respecting voting of the claim, payment of dividends thereon,
34 or participation in the administration of the estate, on motion
35 by a party in interest and after notice and a hearing, the court
36 shall enter such orders respecting these matters as may be
37 appropriate.

38 * * * * *

COMMITTEE NOTE

The rule is amended to implement changes in connection with the amendment to Rule 9006(a) and the manner by which time is computed under the rules. The deadlines in the rule are amended to substitute a deadline that is a multiple of seven days. Throughout the rules, deadlines are amended in the following manner:

- 5-day periods become 7-day periods
- 10-day periods become 14-day periods
- 15-day periods become 14-day periods

- 20-day periods become 21-day periods
- 25-day periods become 28-day periods

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

1 * * * * *

2 (b) CHAPTER 13 PLAN. The debtor may file a
3 chapter 13 plan with the petition. If a plan is not filed with
4 the petition, it shall be filed within ~~15~~ 14 days thereafter, and
5 such time may not be further extended except for cause shown
6 and on notice as the court may direct. If a case is converted
7 to chapter 13, a plan shall be filed within ~~15~~ 14 days
8 thereafter, and such time may not be further extended except
9 for cause shown and on notice as the court may direct.

10 * * * * *

11 (g) MODIFICATION OF PLAN AFTER
12 CONFIRMATION. A request to modify a plan pursuant to

13 § 1229 or § 1329 of the Code shall identify the proponent and
14 shall be filed together with the proposed modification. The
15 clerk, or some other person as the court may direct, shall give
16 the debtor, the trustee, and all creditors not less than ~~20~~ 21
17 days notice by mail of the time fixed for filing objections and,
18 if an objection is filed, the hearing to consider the proposed
19 modification, unless the court orders otherwise with respect
20 to creditors who are not affected by the proposed
21 modification. A copy of the notice shall be transmitted to the
22 United States trustee. A copy of the proposed modification,
23 or a summary thereof, shall be included with the notice. If
24 required by the court, the proponent shall furnish a sufficient
25 number of copies of the proposed modification, or a summary
26 thereof, to enable the clerk to include a copy with each notice.
27 Any objection to the proposed modification shall be filed and
28 served on the debtor, the trustee, and any other entity
29 designated by the court, and shall be transmitted to the United

30 States trustee. An objection to a proposed modification is

31 governed by Rule 9014.

COMMITTEE NOTE

The rule is amended to implement changes in connection with the amendment to Rule 9006(a) and the manner by which time is computed under the rules. The deadlines in the rule are amended to substitute a deadline that is a multiple of seven days. Throughout the rules, deadlines are amended in the following manner:

- 5-day periods become 7-day periods
- 10-day periods become 14-day periods
- 15-day periods become 14-day periods
- 20-day periods become 21-day periods
- 25-day periods become 28-day periods

Rule 3017. Court Consideration of Disclosure Statement in a Chapter 9 Municipality or Chapter 11 Reorganization Case

1 (a) HEARING ON DISCLOSURE STATEMENT

2 AND OBJECTIONS. Except as provided in Rule 3017.1,

3 after a disclosure statement is filed in accordance with Rule

4 3016(b), the court shall hold a hearing on at least ~~25~~ 28 days'

5 notice to the debtor, creditors, equity security holders and

6 other parties in interest as provided in Rule 2002 to consider
7 the disclosure statement and any objections or modifications
8 thereto. The plan and the disclosure statement shall be mailed
9 with the notice of the hearing only to the debtor, any trustee
10 or committee appointed under the Code, the Securities and
11 Exchange Commission and any party in interest who requests
12 in writing a copy of the statement or plan. Objections to the
13 disclosure statement shall be filed and served on the debtor,
14 the trustee, any committee appointed under the Code, and any
15 other entity designated by the court, at any time before the
16 disclosure statement is approved or by an earlier date as the
17 court may fix. In a chapter 11 reorganization case, every
18 notice, plan, disclosure statement, and objection required to
19 be served or mailed pursuant to this subdivision shall be
20 transmitted to the United States trustee within the time
21 provided in this subdivision.
22 * * * * *

23 (f) NOTICE AND TRANSMISSION OF
24 DOCUMENTS TO ENTITIES SUBJECT TO AN
25 INJUNCTION UNDER A PLAN. If a plan provides for an
26 injunction against conduct not otherwise enjoined under the
27 Code and an entity that would be subject to the injunction is
28 not a creditor or equity security holder, at the hearing held
29 under Rule 3017(a), the court shall consider procedures for
30 providing the entity with:
31 (1) at least ~~25~~ 28 days' notice of the time fixed for
32 filing objections and the hearing on confirmation of the plan
33 containing the information described in Rule 2002(c)(3); and
34 (2) to the extent feasible, a copy of the plan and
35 disclosure statement.

COMMITTEE NOTE

The rule is amended to implement changes in connection with the amendment to Rule 9006(a) and the manner by which time is computed under the rules. The deadlines in the rule are amended to

substitute a deadline that is a multiple of seven days. Throughout the rules, deadlines are amended in the following manner:

- 5-day periods become 7-day periods
- 10-day periods become 14-day periods
- 15-day periods become 14-day periods
- 20-day periods become 21-day periods
- 25-day periods become 28-day periods

Rule 3019. Modification of Accepted Plan in a Chapter 9 Municipality or Chapter 11 Reorganization Case[15]

* * * * *

1 (b) MODIFICATION OF PLAN AFTER
2 CONFIRMATION IN INDIVIDUAL DEBTOR CASE. If the
3 debtor is an individual, a request to modify the plan under
4 § 1127(e) of the Code is governed by Rule 9014. The request
5 shall identify the proponent and shall be filed together with
6 the proposed modification. The clerk, or some other person
7 as the court may direct, shall give the debtor, the trustee, and
8 all creditors not less than ~~20~~ 21 days' notice by mail of the

[15] Incorporates amendments approved by the Supreme Court that are due to take effect on December 1, 2008, if Congress takes no action to the contrary.

9 time fixed to file objections and, if an objection is filed, the
10 hearing to consider the proposed modification, unless the
11 court orders otherwise with respect to creditors who are not
12 affected by the proposed modification. A copy of the notice
13 shall be transmitted to the United States trustee, together with
14 a copy of the proposed modification. Any objection to the
15 proposed modification shall be filed and served on the debtor,
16 the proponent of the modification, the trustee, and any other
17 entity designated by the court, and shall be transmitted to the
18 United States trustee.

COMMITTEE NOTE

The rule is amended to implement changes in connection with the amendment to Rule 9006(a) and the manner by which time is computed under the rules. The deadline in the rule is amended to substitute a deadline that is a multiple of seven days. Throughout the rules, deadlines are amended in the following manner:

- 5-day periods become 7-day periods
- 10-day periods become 14-day periods
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- 20-day periods become 21-day periods
- 25-day periods become 28-day periods

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

1 * * * * *

2 (e) STAY OF CONFIRMATION ORDER. An order

3 confirming a plan is stayed until the expiration of ~~10~~ 14 days

4 after the entry of the order, unless the court orders otherwise.

COMMITTEE NOTE

The rule is amended to implement changes in connection with the amendment to Rule 9006(a) and the manner by which time is computed under the rules. The deadline in the rule is amended to substitute a deadline that is a multiple of seven days. Throughout the rules, deadlines are amended in the following manner:

- 5-day periods become 7-day periods
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- 15-day periods become 14-day periods
- 20-day periods become 21-day periods
- 25-day periods become 28-day periods

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

1 (a) RELIEF FROM STAY; PROHIBITING OR
2 CONDITIONING THE USE, SALE, OR LEASE OF
3 PROPERTY.
4 * * * * *
5 (3) *Stay of Order*. An order granting a motion for
6 relief from an automatic stay made in accordance with Rule
7 4001(a)(1) is stayed until the expiration of ~~10~~ 14 days after
8 the entry of the order, unless the court orders otherwise.
9 (b) USE OF CASH COLLATERAL.
10 * * * * *
11 (2) *Hearing*. The court may commence a final
12 hearing on a motion for authorization to use cash collateral no
13 earlier than ~~15~~ 14 days after service of the motion. If the
14 motion so requests, the court may conduct a preliminary
15 hearing before such ~~15~~ 14 day period expires, but the court

16 may authorize the use of only that amount of cash collateral
17 as is necessary to avoid immediate and irreparable harm to the
18 estate pending a final hearing.

19 * * * * *

20 (c) OBTAINING CREDIT.

21 * * * * *

22 (2) *Hearing*. The court may commence a final
23 hearing on a motion for authority to obtain credit no earlier
24 than ~~15~~ 14 days after service of the motion. If the motion so
25 requests, the court may conduct a hearing before such ~~15~~ 14
26 day period expires, but the court may authorize the obtaining
27 of credit only to the extent necessary to avoid immediate and
28 irreparable harm to the estate pending a final hearing.

29 * * * * *

COMMITTEE NOTE

The rule is amended to implement changes in connection with the amendment to Rule 9006(a) and the manner by which time is computed under the rules. The deadlines in the rule are amended to

substitute a deadline that is a multiple of seven days. Throughout the rules, deadlines are amended in the following manner:

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- 25-day periods become 28-day periods

Rule 4002. Duties of Debtor[16]

1 * * * * *

2 (b) INDIVIDUAL DEBTOR'S DUTY TO PROVIDE

3 DOCUMENTATION.

4 * * * * *

5 (4) *Tax Returns Provided to Creditors.* If a

6 creditor, at least ~~15~~ 14 days before the first date set for the

7 meeting of creditors under § 341, requests a copy of the

8 debtor's tax return that is to be provided to the trustee under

9 subdivision (b)(3), the debtor, at least 7 days before the first

[16] Incorporates amendments approved by the Supreme Court that are due to take effect on December 1, 2008, if Congress takes no action to the contrary.

10 date set for the meeting of creditors under § 341, shall provide

11 to the requesting creditor a copy of the return, including any

12 attachments, or a transcript of the tax return, or provide a

13 written statement that the documentation does not exist.

14 * * * * *

COMMITTEE NOTE

The rule is amended to implement changes in connection with the amendment to Rule 9006(a) and the manner by which time is computed under the rules. The deadline in the rule is amended to substitute a deadline that is a multiple of seven days. Throughout the rules, deadlines are amended in the following manner:

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- 25-day periods become 28-day periods

Rule 4004. Grant or Denial of Discharge

1 (a) TIME FOR FILING COMPLAINT OBJECTING

2 TO DISCHARGE; NOTICE OF TIME FIXED. In a chapter

3 7 liquidation case a complaint objecting to the debtor's

4 discharge under § 727(a) of the Code shall be filed no later
5 than 60 days after the first date set for the meeting of creditors
6 under § 341(a). In a chapter 11 reorganization case, the
7 complaint shall be filed no later than the first date set for the
8 hearing on confirmation. At least ~~25~~ 28 days' notice of the
9 time so fixed shall be given to the United States trustee and
10 all creditors as provided in Rule 2002(f) and (k) and to the
11 trustee and the trustee's attorney.
12 * * * * *

COMMITTEE NOTE

The rule is amended to implement changes in connection with the amendment to Rule 9006(a) and the manner by which time is computed under the rules. The deadline in the rule is amended to substitute a deadline that is a multiple of seven days. Throughout the rules, deadlines are amended in the following manner:

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- 25-day periods become 28-day periods

Rule 6003. Interim and Final Relief Immediately Following the Commencement of the Case — Applications for Employment; Motions for Use, Sale, or Lease of Property; and Motions for Assumption or Assignment of Executory Contracts

1 Except to the extent that relief is necessary to avoid
2 immediate and irreparable harm, the court shall not, within ~~20~~
3 21 days after the filing of the petition, grant relief regarding
4 the following:
5 (a) an application under Rule 2014;
6 (b) a motion to use, sell, lease, or otherwise incur an
7 obligation regarding property of the estate, including a motion
8 to pay all or part of a claim that arose before the filing of the
9 petition, but not a motion under Rule 4001; and
10 (c) a motion to assume or assign an executory contract
11 or unexpired lease in accordance with § 365.

COMMITTEE NOTE

The rule is amended to implement changes in connection with the amendment to Rule 9006(a) and the manner by which time is computed under the rules. The deadline in the rule is amended to

substitute a deadline that is a multiple of seven days. Throughout the rules, deadlines are amended in the following manner:

- 5-day periods become 7-day periods
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- 25-day periods become 28-day periods

Rule 6004. Use, Sale, or Lease of Property[17]

1 * * * * *

2 (b) OBJECTION TO PROPOSAL. Except as
3 provided in subdivisions (c) and (d) of this rule, an objection
4 to a proposed use, sale, or lease of property shall be filed and
5 served not less than ~~five~~ seven days before the date set for the
6 proposed action or within the time fixed by the court. An
7 objection to the proposed use, sale, or lease of property is
8 governed by Rule 9014.

9 * * * * *

[17] Incorporates amendments approved by the Supreme Court that are due to take effect on December 1, 2008, if Congress takes no action to the contrary.

10 (d) SALE OF PROPERTY UNDER $2,500.
11 Notwithstanding subdivision (a) of this rule, when all of the
12 nonexempt property of the estate has an aggregate gross value
13 less than $2,500, it shall be sufficient to give a general notice
14 of intent to sell such property other than in the ordinary course
15 of business to all creditors, indenture trustees, committees
16 appointed or elected pursuant to the Code, the United States
17 trustee and other persons as the court may direct. An
18 objection to any such sale may be filed and served by a party
19 in interest within ~~15~~ 14 days of the mailing of the notice, or
20 within the time fixed by the court. An objection is governed
21 by Rule 9014.
22 * * * * *
23 (g) SALE OF PERSONALLY IDENTIFIABLE
24 INFORMATION.
25 * * * * *

26 (2) *Appointment.* If a consumer privacy
27 ombudsman is appointed under § 332, no later than ~~5~~ seven
28 days before the hearing on the motion under § 363(b)(1)(B),
29 the United States trustee shall file a notice of the appointment,
30 including the name and address of the person appointed. The
31 United States trustee's notice shall be accompanied by a
32 verified statement of the person appointed setting forth the
33 person's connections with the debtor, creditors, any other
34 party in interest, their respective attorneys and accountants,
35 the United States trustee, or any person employed in the office
36 of the United States trustee.

37 (h) STAY OF ORDER AUTHORIZING USE, SALE,
38 OR LEASE OF PROPERTY. An order authorizing the use,
39 sale, or lease of property other than cash collateral is stayed
40 until the expiration of ~~10~~ 14 days after entry of the order,
41 unless the court orders otherwise.

COMMITTEE NOTE

The rule is amended to implement changes in connection with the amendment to Rule 9006(a) and the manner by which time is computed under the rules. The deadlines in the rule are amended to substitute a deadline that is a multiple of seven days. Throughout the rules, deadlines are amended in the following manner:

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- 25-day periods become 28-day periods

Rule 6006. Assumption, Rejection or Assignment of an Executory Contract or Unexpired Lease

1 * * * * *

2 (d) STAY OF ORDER AUTHORIZING

3 ASSIGNMENT. An order authorizing the trustee to assign an

4 executory contract or unexpired lease under § 365(f) is stayed

5 until the expiration of ~~10~~ 14 days after the entry of the order,

6 unless the court orders otherwise.

7 * * * * *

COMMITTEE NOTE

The rule is amended to implement changes in connection with the amendment to Rule 9006(a) and the manner by which time is computed under the rules. The deadline in the rule is amended to substitute a deadline that is a multiple of seven days. Throughout the rules, deadlines are amended in the following manner:

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- 20-day periods become 21-day periods
- 25-day periods become 28-day periods

Rule 6007. Abandonment or Disposition of Property

1 (a) NOTICE OF PROPOSED ABANDONMENT OR
2 DISPOSITION; OBJECTIONS; HEARING. Unless
3 otherwise directed by the court, the trustee or debtor in
4 possession shall give notice of a proposed abandonment or
5 disposition of property to the United States trustee, all
6 creditors, indenture trustees, and committees elected pursuant
7 to § 705 or appointed pursuant to § 1102 of the Code. A party
8 in interest may file and serve an objection within ~~15~~ 14 days

9 of the mailing of the notice, or within the time fixed by the
10 court. If a timely objection is made, the court shall set a
11 hearing on notice to the United States trustee and to other
12 entities as the court may direct.

13 * * * * *

COMMITTEE NOTE

The rule is amended to implement changes in connection with the amendment to Rule 9006(a) and the manner by which time is computed under the rules. The deadline in the rule is amended to substitute a deadline that is a multiple of seven days. Throughout the rules, deadlines are amended in the following manner:

- 5-day periods become 7-day periods
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- 20-day periods become 21-day periods
- 25-day periods become 28-day periods

Rule 7004. Process; Service of Summons, Complaint

1 * * * * *

2 (e) SUMMONS: TIME LIMIT FOR SERVICE
3 WITHIN THE UNITED STATES. Service made under Rule

4 4(e), (g), (h)(1), (i), or (j)(2) F. R. Civ. P. shall be by delivery
5 of the summons and complaint within ~~10~~ 14 days after the
6 summons is issued. If service is by any authorized form of
7 mail, the summons and complaint shall be deposited in the
8 mail within ~~10~~ 14 days after the summons is issued. If a
9 summons is not timely delivered or mailed, another summons
10 shall be issued and served. This subdivision does not apply
11 to service in a foreign country.
12 * * * * *

COMMITTEE NOTE

The rule is amended to implement changes in connection with the amendment to Rule 9006(a) and the manner by which time is computed under the rules. The deadlines in the rule are amended to substitute a deadline that is a multiple of seven days. Throughout the rules, deadlines are amended in the following manner:

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- 15-day periods become 14-day periods
- 20-day periods become 21-day periods
- 25-day periods become 28-day periods

Rule 7012. Defenses and Objections — When and How Presented — By Pleading or Motion — Motion for Judgment on the Pleadings

1 (a) WHEN PRESENTED. If a complaint is duly
2 served, the defendant shall serve an answer within 30 days
3 after the issuance of the summons, except when a different
4 time is prescribed by the court. The court shall prescribe the
5 time for service of the answer when service of a complaint is
6 made by publication or upon a party in a foreign country. A
7 party served with a pleading stating a cross-claim shall serve
8 an answer thereto within ~~20~~ 21 days after service. The
9 plaintiff shall serve a reply to a counterclaim in the answer
10 within ~~20~~ 21 days after service of the answer or, if a reply is
11 ordered by the court, within ~~20~~ 21 days after service of the
12 order, unless the order otherwise directs. The United States
13 or an officer or agency thereof shall serve an answer to a
14 complaint within 35 days after the issuance of the summons,
15 and shall serve an answer to a cross-claim, or a reply to a

16 counterclaim, within 35 days after service upon the United
17 States attorney of the pleading in which the claim is asserted.
18 The service of a motion permitted under this rule alters these
19 periods of time as follows, unless a different time is fixed by
20 order of the court: (1) if the court denies the motion or
21 postpones its disposition until the trial on the merits, the
22 responsive pleading shall be served within ~~10~~ 14 days after
23 notice of the court's action; (2) if the court grants a motion for
24 a more definite statement, the responsive pleading shall be
25 served within ~~10~~ 14 days after the service of a more definite
26 statement.
27 * * * * *

COMMITTEE NOTE

The rule is amended to implement changes in connection with the amendment to Rule 9006(a) and the manner by which time is computed under the rules. The deadlines in the rule are amended to substitute a deadline that is a multiple of seven days. Throughout the rules, deadlines are amended in the following manner:

- 5-day periods become 7-day periods
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- 20-day periods become 21-day periods
- 25-day periods become 28-day periods

Rule 8001. Manner of Taking Appeal; Voluntary Dismissal; Certification to Court of Appeals[18]

1 * * * * *

2 (f) CERTIFICATION FOR DIRECT APPEAL TO

3 COURT OF APPEALS.

4 * * * * *

5 (3) *Request for Certification; Filing; Service;*

6 *Contents.*

7 * * * * *

8 (D) A party may file a response to a request

9 for certification or a cross request within ~~10~~ 14 days after the

[18] Incorporates amendments approved by the Supreme Court that are due to take effect on December 1, 2008, if Congress takes no action to the contrary.

10 notice of the request is served, or another time fixed by the

11 court.

12 * * * * *

13 (4) *Certification on Court's Own Initiative.*

14 * * * * *

15 (B) A party may file a supplementary short

16 statement of the basis for certification within ~~10~~ 14 days after

17 the certification.

18 * * * * *

COMMITTEE NOTE

The rule is amended to implement changes in connection with the amendment to Rule 9006(a) and the manner by which time is computed under the rules. The deadlines in the rule are amended to substitute a deadline that is a multiple of seven days. Throughout the rules, deadlines are amended in the following manner:

- 5-day periods become 7-day periods
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- 20-day periods become 21-day periods
- 25-day periods become 28-day periods

Rule 8002. Time for Filing Notice of Appeal

1 (a) ~~TEN~~FOURTEEN-DAY PERIOD. The notice of
2 appeal shall be filed with the clerk within ~~10~~ 14 days of the
3 date of the entry of the judgment, order, or decree appealed
4 from. If a timely notice of appeal is filed by a party, any other
5 party may file a notice of appeal within ~~10~~ 14 days of the date
6 on which the first notice of appeal was filed, or within the
7 time otherwise prescribed by this rule, whichever period last
8 expires. A notice of appeal filed after the announcement of a
9 decision or order but before entry of the judgment, order, or
10 decree shall be treated as filed after such entry and on the day
11 thereof. If a notice of appeal is mistakenly filed with the
12 district court or the bankruptcy appellate panel, the clerk of
13 the district court or the clerk of the bankruptcy appellate panel
14 shall note thereon the date on which it was received and
15 transmit it to the clerk and it shall be deemed filed with the
16 clerk on the date so noted.

17 (b) EFFECT OF MOTION ON TIME FOR APPEAL.
18 If any party makes a timely motion of a type specified
19 immediately below, the time for appeal for all parties runs
20 from the entry of the order disposing of the last such motion
21 outstanding. This provision applies to a timely motion:
22 * * * * *
23 (4) for relief under Rule 9024 if the motion is
24 filed no later than ~~10~~ 14 days after the entry of judgment. A
25 notice of appeal filed after announcement or entry of the
26 judgment, order, or decree but before disposition of any of the
27 above motions is ineffective to appeal from the judgment,
28 order, or decree, or part thereof, specified in the notice of
29 appeal, until the entry of the order disposing of the last such
30 motion outstanding. Appellate review of an order disposing
31 of any of the above motions requires the party, in compliance
32 with Rule 8001, to amend a previously filed notice of appeal.
33 A party intending to challenge an alteration or amendment of

34 the judgment, order, or decree shall file a notice, or an
35 amended notice, of appeal within the time prescribed by this
36 Rule 8002 measured from the entry of the order disposing of
37 the last such motion outstanding. No additional fees will be
38 required for filing an amended notice.

39 (c) EXTENSION OF TIME FOR APPEAL.

40 * * * * *

41 (2) A request to extend the time for filing a notice
42 of appeal must be made by written motion filed before the
43 time for filing a notice of appeal has expired, except that such
44 a motion filed not later than ~~20~~ 21 days after the expiration of
45 the time for filing a notice of appeal may be granted upon a
46 showing of excusable neglect. An extension of time for filing
47 a notice of appeal may not exceed ~~20~~ 21 days from the
48 expiration of the time for filing a notice of appeal otherwise
49 prescribed by this rule or ~~10~~ 14 days from the date of entry of
50 the order granting the motion, whichever is later.

COMMITTEE NOTE

The rule is amended to implement changes in connection with the amendment to Rule 9006(a) and the manner by which time is computed under the rules. The deadlines in the rule are amended to substitute a deadline that is a multiple of seven days. Throughout the rules, deadlines are amended in the following manner:

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- 25-day periods become 28-day periods

Rule 8003. Leave to Appeal

1 (a) CONTENT OF MOTION; ANSWER. A motion
2 for leave to appeal under 28 U.S.C. § 158(a) shall contain:
3 (1) a statement of the facts necessary to an understanding of
4 the questions to be presented by the appeal; (2) a statement of
5 those questions and of the relief sought; (3) a statement of the
6 reasons why an appeal should be granted; and (4) a copy of
7 the judgment, order, or decree complained of and of any
8 opinion or memorandum relating thereto. Within ~~10~~ 14 days

9 after service of the motion, an adverse party may file with the
10 clerk an answer in opposition.
11 * * * * *
12 (c) APPEAL IMPROPERLY TAKEN REGARDED
13 AS A MOTION FOR LEAVE TO APPEAL. If a required
14 motion for leave to appeal is not filed, but a notice of appeal
15 is timely filed, the district court or bankruptcy appellate panel
16 may grant leave to appeal or direct that a motion for leave to
17 appeal be filed. The district court or the bankruptcy appellate
18 panel may also deny leave to appeal but in so doing shall
19 consider the notice of appeal as a motion for leave to appeal.
20 Unless an order directing that a motion for leave to appeal be
21 filed provides otherwise, the motion shall be filed within ~~10~~
22 14 days of entry of the order.

COMMITTEE NOTE

The rule is amended to implement changes in connection with the amendment to Rule 9006(a) and the manner by which time is computed under the rules. The deadlines in the rule are amended to

substitute a deadline that is a multiple of seven days. Throughout the rules, deadlines are amended in the following manner:

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Rule 8006. Record and Issues on Appeal

1 Within ~~10~~ 14 days after filing the notice of appeal as
2 provided by Rule 8001(a), entry of an order granting leave to
3 appeal, or entry of an order disposing of the last timely
4 motion outstanding of a type specified in Rule 8002(b),
5 whichever is later, the appellant shall file with the clerk and
6 serve on the appellee a designation of the items to be included
7 in the record on appeal and a statement of the issues to be
8 presented. Within ~~10~~ 14 days after the service of the
9 appellant's statement the appellee may file and serve on the
10 appellant a designation of additional items to be included in
11 the record on appeal and, if the appellee has filed a cross

12 appeal, the appellee as cross appellant shall file and serve a
13 statement of the issues to be presented on the cross appeal and
14 a designation of additional items to be included in the record.
15 A cross appellee may, within ~~10~~ 14 days of service of the
16 cross appellant's statement, file and serve on the cross
17 appellant a designation of additional items to be included in
18 the record. The record on appeal shall include the items so
19 designated by the parties, the notice of appeal, the judgment,
20 order, or decree appealed from, and any opinion, findings of
21 fact, and conclusions of law of the court. Any party filing a
22 designation of the items to be included in the record shall
23 provide to the clerk a copy of the items designated or, if the
24 party fails to provide the copy, the clerk shall prepare the copy
25 at the party's expense. If the record designated by any party
26 includes a transcript of any proceeding or a part thereof, the
27 party shall, immediately after filing the designation, deliver to
28 the reporter and file with the clerk a written request for the

29 transcript and make satisfactory arrangements for payment of

30 its cost. All parties shall take any other action necessary to

31 enable the clerk to assemble and transmit the record.

COMMITTEE NOTE

The rule is amended to implement changes in connection with the amendment to Rule 9006(a) and the manner by which time is computed under the rules. The deadlines in the rule are amended to substitute a deadline that is a multiple of seven days. Throughout the rules, deadlines are amended in the following manner:

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- 20-day periods become 21-day periods
- 25-day periods become 28-day periods

Rule 8009. Briefs and Appendix; Filing and Service

1 (a) BRIEFS. Unless the district court or the

2 bankruptcy appellate panel by local rule or by order excuses

3 the filing of briefs or specifies different time limits:

4 (1) The appellant shall serve and file a brief
5 within ~~15~~ 14 days after entry of the appeal on the docket
6 pursuant to Rule 8007.
7 (2) The appellee shall serve and file a brief within
8 ~~15~~ 14 days after service of the brief of appellant. If the
9 appellee has filed a cross appeal, the brief of the appellee shall
10 contain the issues and argument pertinent to the cross appeal,
11 denominated as such, and the response to the brief of the
12 appellant.
13 (3) The appellant may serve and file a reply brief
14 within ~~10~~ 14 days after service of the brief of the appellee,
15 and if the appellee has cross-appealed, the appellee may file
16 and serve a reply brief to the response of the appellant to the
17 issues presented in the cross appeal within ~~10~~ 14 days after
18 service of the reply brief of the appellant. No further briefs
19 may be filed except with leave of the district court or the
20 bankruptcy appellate panel.

21 * * * * *

COMMITTEE NOTE

The rule is amended to implement changes in connection with the amendment to Rule 9006(a) and the manner by which time is computed under the rules. The deadlines in the rule are amended to substitute a deadline that is a multiple of seven days. Throughout the rules, deadlines are amended in the following manner:

- 5-day periods become 7-day periods
- 10-day periods become 14-day periods
- 15-day periods become 14-day periods
- 20-day periods become 21-day periods
- 25-day periods become 28-day periods

Rule 8015. Motion for Rehearing

1 Unless the district court or the bankruptcy appellate
2 panel by local rule or by court order otherwise provides, a
3 motion for rehearing may be filed within ~~10~~ 14 days after
4 entry of the judgment of the district court or the bankruptcy
5 appellate panel. If a timely motion for rehearing is filed, the
6 time for appeal to the court of appeals for all parties shall run

7 from the entry of the order denying rehearing or the entry of

8 subsequent judgment.

COMMITTEE NOTE

The rule is amended to implement changes in connection with the amendment to Rule 9006(a) and the manner by which time is computed under the rules. The deadline in the rule is amended to substitute a deadline that is a multiple of seven days. Throughout the rules, deadlines are amended in the following manner:

- 5-day periods become 7-day periods
- 10-day periods become 14-day periods
- 15-day periods become 14-day periods
- 20-day periods become 21-day periods
- 25-day periods become 28-day periods

Rule 8017. Stay of Judgment of District Court or Bankruptcy Appellate Panel

1 (a) AUTOMATIC STAY OF JUDGMENT ON

2 APPEAL. Judgments of the district court or the bankruptcy

3 appellate panel are stayed until the expiration of ~~10~~ 14 days

4 after entry, unless otherwise ordered by the district court or

5 the bankruptcy appellate panel.

6 * * * * *

COMMITTEE NOTE

The rule is amended to implement changes in connection with the amendment to Rule 9006(a) and the manner by which time is computed under the rules. The deadline in the rule is amended to substitute a deadline that is a multiple of seven days. Throughout the rules, deadlines are amended in the following manner:

- 5-day periods become 7-day periods
- 10-day periods become 14-day periods
- 15-day periods become 14-day periods
- 20-day periods become 21-day periods
- 25-day periods become 28-day periods

Rule 9006. Time[19]

1 * * * * *

2 (d) FOR MOTIONS — AFFIDAVITS. A written
3 motion, other than one which may be heard ex parte, and
4 notice of any hearing shall be served not later than ~~five~~ seven
5 days before the time specified for such hearing, unless a
6 different period is fixed by these rules or by order of the court.

---

[19]Additional proposed amendments to Rule 9006(f) are on page 99.

7 Such an order may for cause shown be made on ex parte
8 application. When a motion is supported by affidavit, the
9 affidavit shall be served with the motion; and, except as
10 otherwise provided in Rule 9023, opposing affidavits may be
11 served not later than one day before the hearing, unless the
12 court permits them to be served at some other time.

13 * * * * *

COMMITTEE NOTE

The rule is amended to implement changes in connection with the amendment to Rule 9006(a) and the manner by which time is computed under the rules. The deadline in the rule is amended to substitute a deadline that is a multiple of seven days. Throughout the rules, deadlines are amended in the following manner:

- 5-day periods become 7-day periods
- 10-day periods become 14-day periods
- 15-day periods become 14-day periods
- 20-day periods become 21-day periods
- 25-day periods become 28-day periods

Rule 9027. Removal

1 * * * * *

2 (e) PROCEDURE AFTER REMOVAL.

3 * * * * *

4 (3) Any party who has filed a pleading in
5 connection with the removed claim or cause of action, other
6 than the party filing the notice of removal, shall file a
7 statement admitting or denying any allegation in the notice of
8 removal that upon removal of the claim or cause of action the
9 proceeding is core or non-core. If the statement alleges that
10 the proceeding is non-core, it shall state that the party does or
11 does not consent to entry of final orders or judgment by the
12 bankruptcy judge. A statement required by this paragraph
13 shall be signed pursuant to Rule 9011 and shall be filed not
14 later than ~~10~~ 14 days after the filing of the notice of removal.
15 Any party who files a statement pursuant to this paragraph
16 shall mail a copy to every other party to the removed claim or
17 cause of action.

18 * * * * *

19 (g) APPLICABILITY OF PART VII. The rules of Part
20 VII apply to a claim or cause of action removed to a district
21 court from a federal or state court and govern procedure after
22 removal. Repleading is not necessary unless the court so
23 orders. In a removed action in which the defendant has not
24 answered, the defendant shall answer or present the other
25 defenses or objections available under the rules of Part VII
26 within ~~20~~ 21 days following the receipt through service or
27 otherwise of a copy of the initial pleading setting forth the
28 claim for relief on which the action or proceeding is based, or
29 within ~~20~~ 21 days following the service of summons on such
30 initial pleading, or within ~~five~~ seven days following the filing
31 of the notice of removal, whichever period is longest.
32 * * * * *

COMMITTEE NOTE

The rule is amended to implement changes in connection with the amendment to Rule 9006(a) and the manner by which time is

computed under the rules. The deadlines in the rule are amended to substitute a deadline that is a multiple of seven days. Throughout the rules, deadlines are amended in the following manner:

- 5-day periods become 7-day periods
- 10-day periods become 14-day periods
- 15-day periods become 14-day periods
- 20-day periods become 21-day periods
- 25-day periods become 28-day periods

Rule 9033. Review of Proposed Findings of Fact and Conclusions of Law in Non-Core Proceedings

1 * * * * *

2 (b) OBJECTIONS: TIME FOR FILING. Within ~~10~~
3 14 days after being served with a copy of the proposed
4 findings of fact and conclusions of law a party may serve and
5 file with the clerk written objections which identify the
6 specific proposed findings or conclusions objected to and
7 state the grounds for such objection. A party may respond to
8 another party's objections within ~~10~~ 14 days after being
9 served with a copy thereof. A party objecting to the
10 bankruptcy judge's proposed findings or conclusions shall

11 arrange promptly for the transcription of the record, or such
12 portions of it as all parties may agree upon or the bankruptcy
13 judge deems sufficient, unless the district judge otherwise
14 directs.

15 (c) EXTENSION OF TIME. The bankruptcy judge
16 may for cause extend the time for filing objections by any
17 party for a period not to exceed ~~20~~ 21 days from the
18 expiration of the time otherwise prescribed by this rule. A
19 request to extend the time for filing objections must be made
20 before the time for filing objections has expired, except that
21 a request made no more than ~~20~~ 21 days after the expiration
22 of the time for filing objections may be granted upon a
23 showing of excusable neglect.

24 * * * * *

COMMITTEE NOTE

The rule is amended to implement changes in connection with the amendment to Rule 9006(a) and the manner by which time is

computed under the rules. The deadlines in the rule are amended to substitute a deadline that is a multiple of seven days. Throughout the rules, deadlines are amended in the following manner:

- 5-day periods become 7-day periods
- 10-day periods become 14-day periods
- 15-day periods become 14-day periods
- 20-day periods become 21-day periods
- 25-day periods become 28-day periods

* * * * *

B. Proposed Amendments to Bankruptcy Rules 4008, 7052 and 9021, and Proposed New Bankruptcy Rule 7058, Submitted for Final Approval by the Standing Committee and Submission to the Judicial Conference.

The Advisory Committee on Bankruptcy Rules recommends that the Standing Committee approve the proposed amendments to Bankruptcy Rules 4008, 7052 and 9021, and proposed new Bankruptcy Rule 7058 for submission to the Judicial Conference. These amendments and addition to the Rules are to become effective on December 1, 2009.

1. *Public Comment.*

The preliminary draft of proposed amendments to Bankruptcy Rules 4008, 7052 and 9021, and proposed new Bankruptcy Rules 1017.1 and 7058, were published for comment in August 2007. A public hearing on the preliminary draft of the amendments and additions to the Bankruptcy Rules was scheduled for January 25, 2008, but there were no requests to appear at the hearing.

We received comments on many of the proposed additions and amendments, and the Advisory Committee reviewed these comments and, with the exception of proposed Rule 1017.1, approved the amendments to the rules either as published or with slight changes that are described in the Changes Made After Publication section.

The Advisory Committee received five comments on proposed new Rule 1017.1, which would have revised the process for granting an extension of time to complete the credit counseling requirement for individual debtors. The comments asserted that the rule is unnecessary because very few cases have arisen in which there was any request for an extension, and each of those cases was filed shortly after the effective date of the 2005 amendments to the Bankruptcy Code. The commentators noted that individual debtors and their attorneys seem to have adjusted to the new process, and the nearly universal availability of credit counseling briefing services has made the need for the time extensions almost nonexistent. Therefore, the Committee concluded that there is no need for the rules to adopt a process for these matters, and it withdraws proposed new Rule 1017.1.

2. *Synopsis of Proposed General Amendments:*

(a) **Rule 4008** is amended to insert a requirement that the Official Form of a reaffirmation cover sheet be filed with the court along with the reaffirmation agreement. The cover sheet will include the information necessary to assist the court in determining what action to take regarding the proposed reaffirmation.

(b) **Rule 7052** is amended to clarify that entry of judgment in an adversary proceeding means the entry of a judgment or order under the Bankruptcy Rules rather than under the Federal Rules of Civil Procedure.

(c) **Rule 7058** is new, and it makes Rule 58 of the Federal Rules of Civil Procedure applicable in adversary proceedings.

(d) **Rule 9021** is amended in connection with the addition of Rule 7058. Since that rule governs in adversary proceedings, Rule 9021 no longer needs to make Rule 58 of the Federal Rules of Civil Procedure applicable in those actions. This amendment and the addition of Rule 7058 results in the explicit adoption of the separate document requirement for judgments in adversary proceedings, while the effectiveness of an order or judgment in other actions within the case is determined under Rule 5003, which does not include the separate document requirement.

3. *Text of Proposed Amendments to Rules 4008, 7052, and 9021, and New Rule 7058 (on next page).*

Rule 4008. Filing of Reaffirmation Agreement; Statement in Support of Reaffirmation Agreement*

1 (a) FILING OF REAFFIRMATION AGREEMENT.
2 A reaffirmation agreement shall be filed no later than 60 days
3 after the first date set for the meeting of creditors under
4 § 341(a) of the Code. The reaffirmation agreement shall be
5 accompanied by a cover sheet, prepared as prescribed by the
6 appropriate Official Form. The court may, at any time and in
7 its discretion, enlarge the time to file a reaffirmation
8 agreement.
9 * * * * *

COMMITTEE NOTE

Subdivision (a) of the rule is amended to require that the entity filing the reaffirmation agreement with the court also include Official Form 27, the Reaffirmation Agreement Cover Sheet. The form includes information necessary for the court to determine whether the proposed reaffirmation agreement is presumed to be an undue hardship for the debtor under § 524(m) of the Code.

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*Incorporates amendments approved by the Supreme Court that are due to take effect on December 1, 2008, if Congress takes no action to the contrary.

Changes Made After Publication:

No changes since publication.

Rule 7052. Findings by the Court**

1 Rule 52 F. R. Civ. P. applies in adversary proceedings.
2 In these proceedings, the reference in Rule 52 F. R. Civ. P. to
3 the entry of judgment under Rule 58 F. R. Civ. P. shall be
4 read as a reference to the entry of a judgment or order under
5 Rule 5003(a).

**In addition, the Advisory Committee on Bankruptcy Rules has recommended approval of a proposed amendment to Rule 7052 on page 98 as part of the time-computation project, which also would take effect on December 1, 2009, if the Judicial Conference and the Supreme Court approve and if Congress takes no action to the contrary. The rule as amended provides that: "Rule 52 F. R. Civ. P. applies in adversary proceedings, except that any motion under subdivision (b) of that rule for amended or additional findings shall be filed no later than 14 days after entry of judgment. In these proceedings, the reference in Rule 52 F. R. Civ. P. to the entry of judgment under Rule 58 F. R. Civ. P. shall be read as a reference to the entry of a judgment or order under Rule 5003(a)."

COMMITTEE NOTE

The rule is amended to clarify that the reference in Rule 52 F. R. Civ. P. to Rule 58 F. R. Civ. P. and its provisions is construed as a reference to the entry of a judgment or order under Rule 5003(a).

Changes Made After Publication:

No changes since publication.

Rule 7058. Entering Judgment in Adversary Proceeding

1 Rule 58 F. R. Civ. P. applies in adversary proceedings.
2 In these proceedings, the reference in Rule 58 F. R. Civ. P. to
3 the civil docket shall be read as a reference to the docket
4 maintained by the clerk under Rule 5003(a).

COMMITTEE NOTE

This rule makes Rule 58 F. R. Civ. P. applicable in adversary proceedings and is added in connection with the amendments to Rule 9021.

Changes Made After Publication:

No changes since publication.

Rule 9021. Entry of Judgment

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

COMMITTEE NOTE

The rule is amended in connection with the amendment that adds Rule 7058. The entry of judgment in adversary proceedings is governed by Rule 7058, and the entry of a judgment or order in all other proceedings is governed by this rule.

Changes Made After Publication:

No changes since publication.

D. Proposed Amendments to Bankruptcy Rules 2016, 7052, 9006(f), 9015, and 9023 Submitted for Final Approval by the Standing Committee and Submission to the Judicial Conference Without Publication.

The Advisory Committee recommends that the following amendments be approved and submitted to the Judicial Conference without publication. The amendments to Rules 2016 and 9006(f) are technical amendments necessary to correct cross references in the rules to provisions of the Bankruptcy Code and to the Federal Rules of Civil Procedure that were amended and renumbered. The amendments to Rules 7052, 9015, and 9023 are necessary to implement the new 14-day deadline for the filing of a notice of appeal. The Advisory Committee recommends that these amendments become effective on December 1, 2009.

1. *Synopsis of Proposed Amendments to Rules 2016, 7052, 9006(f), 9015, and 9023.*

(a) **Rule 2016** is amended to correct a cross reference in the rule to a subsection of the Code that was changed by a 2005 amendment to the Code. The amendment also changes the deadline for filing a supplemental statement to conform to the time computation amendments that change all 10 day periods to 14 day periods.

(b) **Rule 7052** is amended by limiting the time for filing post judgment motions for amended or additional findings. The deadline is set at 14 days in contrast to the 28-day deadline included in the Federal Rules of Civil Procedure. This is necessary because the deadline for filing a notice of appeal under Bankruptcy Rule 8002 is 14 days rather than the 30 days allowed under Rule 4(a)(1)(A) F. R. App. P.

(c) **Rule 9006** is amended to correct a cross reference to subparagraphs of Rule 5(b)(2) F. R. Civ. P. Those subparagraphs were renumbered as a part of the civil rules restyling project.

(d) **Rule 9015** is amended by deleting the reference to Rule 50 F. R. Civ. P. from the list of civil rules that are applicable in cases and proceedings. Subdivision (c) is added to make Rule 50 applicable in cases and proceedings, but it limits the time for filing certain post judgment motions to 14 days rather than 28 days as set out in the civil rules.

(e) **Rule 9023** is amended to limit the time for filing a post judgment motion for a new trial or for the court to order sua sponte a new trial to 14 days after entry of judgment. This is necessary because the deadline for filing a notice of appeal under Rule 8002 is 14 days.

2. *Text of Proposed Amendments to Rules 2016, 7052, 9006(f), 9015, and 9023 (on next page).*

Rule 2016. Compensation for Services Rendered and Reimbursement of Expenses*

1 * * * * *

2 (c) DISCLOSURE OF COMPENSATION PAID OR
3 PROMISED TO BANKRUPTCY PETITION PREPARER.
4 Before a petition is filed, every ~~Every~~ bankruptcy petition
5 preparer for a debtor shall ~~file~~ deliver to the debtor, a the
6 declaration under penalty of perjury ~~and transmit the~~
7 ~~declaration to the United States trustee within 10 days after~~
8 ~~the date of the filing of the petition, or at another time as the~~
9 ~~court may direct, as~~ required by § 110(h)~~(1)~~(2). The
10 declaration shall ~~must~~ disclose any fee, and the source of any
11 fee, received from or on behalf of the debtor within 12
12 months of the filing of the case and all unpaid fees charged to
13 the debtor. The declaration shall also ~~must~~ describe the
14 services performed and documents prepared or caused to be

*Additional proposed amendments to Rule 2016 are on pages 38-40.

15 prepared by the bankruptcy petition preparer. The declaration

16 shall be filed with the petition. The petition preparer shall file

17 a ~~A~~ supplemental statement ~~shall be filed~~ within ~~10~~ 14 days

18 after any payment or agreement not previously disclosed.

COMMITTEE NOTE

Subdivision (c) is amended to reflect the 2005 amendment to § 110(h)(1) of the Bankruptcy Code which now requires that the declaration be filed with the petition. The statute previously required that the petition preparer file the declaration within 10 days after the filing of the petition. The amendment to the rule also corrects the cross reference to § 110(h)(1), which was redesignated as subparagraph (h)(2) of § 110 by the 2005 amendment to the Code.

Other changes are stylistic.

Rule 7052. Findings by the Court**

1 Rule 52 F. R. Civ. P. applies in adversary proceedings,
2 except that any motion under subdivision (b) of that rule for
3 amended or additional findings shall be filed no later than 14
4 days after entry of judgment.

COMMITTEE NOTE

The rule is amended by limiting the time for filing post judgment motions for amended or additional findings. In 2009, Rule 52 F. R. Civ. P. was amended to extend the deadline for filing those post judgment motions to no later than 28 days after entry of the judgment. That deadline corresponds to the 30-day deadline for filing a notice of appeal in a civil case under Rule 4(a)(1)(A) F. R. App. P. In a bankruptcy case, the deadline for filing a notice of appeal is 14 days. Therefore, the 28-day deadline for filing a motion for amended or additional findings would effectively override the notice of appeal deadline under Rule 8002(a) but for this amendment.

** In addition, the Advisory Committee on Bankruptcy Rules has recommended approval of a substantive amendment to Rule 7052 on page 90, which also would take effect on December 1, 2009, if the Judicial Conference and the Supreme Court approve and if Congress takes no action to the contrary. The rule as amended provides that: "Rule 52 F. R. Civ. P. applies in adversary proceedings, except that any motion under subdivision (b) of that rule for amended or additional findings shall be filed no later than 14 days after entry of judgment. In these proceedings, the reference in Rule 52 F. R. Civ. P. to the entry of judgment under Rule 58 F. R. Civ. P. shall be read as a reference to the entry of a judgment or order under Rule 5003(a)."

Rule 9006. Time*

1 * * * * *

2 (f) ADDITIONAL TIME AFTER SERVICE BY MAIL

3 OR UNDER RULE ~~5(b)(2)(C) or (D)~~ 5(b)(2)(D), (E), or (F)

4 F. R. Civ. P. When there is a right or requirement to act or

5 undertake some proceedings within a prescribed period after

6 service and that service is by mail or under Rule 5 ~~(b)(2)(C)~~

7 ~~or (D)~~ (b)(2)(D), (E), or (F) F.R.Civ.P., three days are added

8 after the prescribed period would otherwise expire under Rule

9 9006(a).

10 * * * * *

COMMITTEE NOTE

Subdivision (f) is amended to conform to the changes made to Rule 5(b)(2) of the Federal Rules of Civil Procedure as a part of the Civil Rules Restyling Project. As a part of that project, subparagraphs (b)(2)(C) and (D) of that rule were rewritten as subparagraphs (b)(2)(D), (E), and (F). The cross reference to those rules contained in subdivision (f) of this rule is corrected by this amendment.

***Additional proposed amendments to Rule 9006(d) are on page 80.

Rule 9015. Jury Trials

1 (a) APPLICABILITY OF CERTAIN FEDERAL
2 RULES OF CIVIL PROCEDURE. Rules 38, 39, ~~and 47-51~~
3 47-49, and 51, F. R. Civ. P., and Rule 81(c) F. R. Civ. P.
4 insofar as it applies to jury trials, apply in cases and
5 proceedings, except that a demand made ~~pursuant to~~ under
6 Rule 38(b) F. R. Civ. P. shall be filed in accordance with Rule
7 5005.
8 * * * * *
9 (c) APPLICABILITY OF RULE 50 F. R. CIV. P. Rule
10 50 F. R. Civ. P. applies in cases and proceedings, except that
11 any renewed motion for judgment or request for a new trial
12 shall be filed no later than 14 days after the entry of judgment.

COMMITTEE NOTE

The rule is amended by deleting Rule 50 F. R. Civ. P. from the list in subdivision (a) of rules made applicable in cases and proceedings. However, subdivision (c) is added to make Rule 50 applicable in cases and proceedings, but it limits the time for filing

certain post judgment motions to 14 days after the entry of judgment. The amendment is necessary because Rule 50 F. R. Civ. P. was amended in 2009 to extend the deadline for the filing of these post judgment motions to 28 days. That deadline corresponds to the 30-day deadline for filing a notice of appeal in a civil case under Rule 4(a)(1)(A) F. R. App. P. In a bankruptcy case, the deadline for filing a notice of appeal is 14 days. Therefore, the 28-day deadline for filing these post judgment motions would effectively override the notice of appeal deadline under Rule 8002(a) but for this amendment.

Other amendments are stylistic.

Rule 9023. New Trials; Amendment of Judgments

1 Except as provided in this rule and Rule 3008, Rule 59
2 F. R. Civ. P. applies in cases under the Code. ~~,except as~~
3 ~~provided in Rule 3008~~ A motion for a new trial or to alter or
4 amend a judgment shall be filed, and a court may on its own
5 order a new trial, no later than 14 days after entry of
6 judgment.

COMMITTEE NOTE

The rule is amended to limit to 14 days the time for a party to file a post judgment motion for a new trial and for the court to order sua sponte a new trial. In 2009, Rule 59 F. R. Civ. P. was amended

to extend the deadline for these actions to 28 days after the entry of judgment. That deadline corresponds to the 30-day deadline for filing a notice of appeal in a civil case under Rule 4(a)(1)(A) F. R. App. P. In a bankruptcy case, however, the deadline for filing a notice of appeal is 14 days. Therefore, the 28-day deadline for filing a motion for a new trial or a motion to alter or amend a judgment would effectively override the notice of appeal deadline under Rule 8002(a) but for this amendment.

○