ADVISORY COMMITTEE ON BANKRUPTCY RULES
Meeting of April 11, 2024
Denver, CO and on Microsoft Teams

The following members attended the meeting in person:

Circuit Judge Daniel A. Bress
Bankruptcy Judge Rebecca Buehler Connelly
Jenny Doling, Esq.
Bankruptcy Judge Michelle M. Harner
David A. Hubbert, Esq.
Bankruptcy Judge Benjamin A. Kahn
District Judge Joan H. Lefkow
Bankruptcy Judge Catherine Peek McEwen
Professor Scott F. Norberg
District Judge J. Paul Oetken
Jeremy L. Retherford, Esq.
Nancy Whaley, Esq.
District Judge George H. Wu

The following members attended the meeting remotely:

District Judge Jeffery P. Hopkins
Damien S. Schaible, Esq.

The following persons also attended the meeting in person:

Professor S. Elizabeth Gibson, Reporter
Professor Laura B. Bartell, Associate Reporter
Senior District Judge John D. Bates, Chair of the Committee on Rules of Practice and Procedure (the Standing Committee)
Professor Catherine T. Struve, reporter to the Standing Committee
Ramona D. Elliott, Esq., Deputy Director/General Counsel, Executive Office for U.S. Trustees
Kenneth S. Gardner, Clerk, U.S. Bankruptcy Court for the District of Colorado
Bankruptcy Judge Sarah Hall, acting as liaison to the Committee on the Administration of the Bankruptcy System
H. Thomas Byron III, Administrative Office
Shelly Cox, Administrative Office
Allison A. Bruff, Administrative Office
Rakita Johnson, Administrative Office
Zachary Hawari, Rules Law Clerk
Carly E. Giffin, Federal Judicial Center
Rebecca Garcia, National Association of Chapter Thirteen Trustees
Susan Steinman, American Association for Justice
John Rabiej, Rabiej Litigation Center

The following persons also attended the meeting remotely:

Professor Daniel R. Coquillette, consultant to the Standing Committee
Bridget M. Healy, Administrative Office
S. Scott Myers, Esq., Administrative Office
Susan Jensen, Administrative Office
Tim Reagan, Federal Judicial Center
Circuit Judge William J. Kayatta, liaison from the Standing Committee
Christopher Coyle, Sussman Shank LLP
Crystal Williams
Daniel Steen, Lawyers for Civil Justice
John Hawkinson, freelance journalist
Kathleen McLeroy, Calton Fields
Mathew Hindman
Lauren O'Neil Funseth, Wells Fargo
Alice Whitten, Wells Fargo
Sai
Sylvia Mayer, Mayer Law
Kaiya Lyons, American Association for Justice

Discussion Agenda

1. Greetings and Introductions

Judge Rebecca Connelly, chair of the Advisory Committee, welcomed the group and thanked everyone for joining this meeting, including those attending virtually. She thanked the members of the public attending in person or remotely for their interest. She welcomed Rakita Johnson to the administrative team.

Judge Connelly then reviewed the anticipated timing of the meeting and stated that there would be a mid-morning break and another break for lunch. In-person participants were asked to turn on their microphones when they spoke and state their name before speaking for the benefit of those not present. Remote participants were asked to keep their cameras on and mute themselves and use the raise-hand function or physically raise their hands if they wished to speak. She noted that the meeting would be recorded.

She then introduced Andrew Henderson and Jesus Cardona of the Judicial Security Division, and Mr. Henderson provided a brief security announcement.

Scott Myers reviewed the status of all pending rules and legislation. The Supreme Court has adopted all rules submitted by all advisory committees and sent them to Congress. The restyled bankruptcy rules, amendments to Bankruptcy Rules 1007(b)(7) and related rules (eliminating the financial management course certificate); and 70001 (exempting from the list of adversary proceedings a proceeding by an individual debtor to recover tangible personal property

under § 542(a)) and new Bankruptcy Rule 8023.1 (substitution of parties) with are among those rules. Zachary Hawari noted that the status of legislation that directly or effectively amends the federal rules appears in the agenda book.

2. Approval of Minutes of Meeting Held on Sept. 14, 2023

The minutes were approved with the correction of one reference to "Professor Harner" to "Judge Harner."

3. Oral Reports on Meetings of Other Committees

(A) *Jan. 4, 2024, Standing Committee Meeting*

Judge Connelly gave the report.

(1) Joint Committee Business

(a) *Joint Subcommittee on Attorney Admission*

Professor Catherine Struve gave a report on the work of the Joint Subcommittee and will be giving a similar report to the Advisory Committee at this meeting.

(b) *Pro Se Electronic-Filing Project*

Professor Catherine Struve provided the Standing Committee a status report on the discussions of the working group considering filing methods for self-represented litigants and will be giving a similar report to the Advisory Committee at this meeting.

(c) *Presumptive Deadline for Electronic Filing*

The E-Filing Deadlines Joint Subcommittee reported that the Appellate, Bankruptcy, Civil, and Criminal Rules Advisory Committees all endorsed the recommendation of the E-Filing Joint Subcommittee to take no action on the suggestion to amend the national time-computation rules to set a presumptive electronic-filing deadline earlier than midnight.

(2) Bankruptcy Rules Committee Business

Approval for Publication for Public Comment

The Standing Committee approved for publication Rule 1007(h) (Interests in Property Acquired or Arising After a Petition Is Filed); Rule 3018 (Acceptance or Rejection of Plan in a Chapter 9 Municipality or a Chapter 11 Reorganization Case); and Official Form 410S1 (Notice of Mortgage Payment Change). Because additional comments were provided on Rule 3018 after

the meeting, Judge Connelly decided to bring back the revised rule to the Standing Committee with a renewed request for publication at the June meeting.

Information Items

Judge Connelly, Professor Gibson, and Professor Bartell also reported on six information items.

(a) Report on the Advisory Committee's reconsideration of the proposed sanctions provision in Rule 3002.1 (Chapter 13—Claim Secured by a Security Interest in the Debtor's Principal Residence).

(b) Update concerning suggestion to remove redacted social security numbers from filed documents made by Sen. Ron Wyden.

(c) Update on suggestions to eliminate requirement that all notices given under Rule 2002 comply with the caption requirements in Rule 1005.

(d) Update on proposed amendments to Rules 9014 and 9017 and creation of a new Rule 7043 dealing with remote testimony in contested matters.

(e) Update on consideration of proposed amendments to Director's Form 1340 by which applicants may seek payment of unclaimed funds.

(f) Update on consideration of suggestion regarding contempt proceedings.

(B) ***Meeting of the Advisory Committee on Appellate Rules***

The Advisory Committee on Appellate Rules met on April 10, 2024. Judge Bress provided the report.

The Appellate Committee gave final approval to the proposed amendments to Appellate Rule 6, dealing with appeals in bankruptcy cases. It also gave final approval to an amendment to Appellate Rule 39 on taxation of costs.

The Appellate Committee approved for publication amendments to Appellate Rule 29 on amicus briefs after extensive discussion. Appellate Form 4, dealing with in forma pauperis status, was also discussed. Other matters were referred to appropriate subcommittees.

(C) ***Meeting of the Advisory Committee on Civil Rules***

The Advisory Committee on Civil Rules met on Oct. 17, 2023, and April 9, 2024. Judge McEwen provided the report.

The Civil Committee gave final approval to proposed amendments to Civil Rules 16(b)(3) and 26(f)(3) on privilege logs. The proposed amendments require the parties to discuss the timing and method for complying with Rule 26(a)(5) on information that is privileged or subject to protection as trial-preparation material, and if there is disagreement, the issue should be raised at a pretrial conference. The proposed amendments will be referred to the Standing Committee to consider for publication. Civil Rules 16 and 26 apply in adversary proceedings in bankruptcy cases under Bankruptcy Rules 7016 and 7026 (Civil Rule 16 and Civil Rule 26(f) are not automatically adopted by reference in Bankruptcy Rule 9014 for contested matters but are subject to application by court order).

The Discovery Subcommittee noted that it is still considering a concern expressed to the Civil Committee (as well as the Bankruptcy Rules Committee) by Judge Catherine McEwen, as liaison to the Civil Rules Committee, on the manner of service of a subpoena under Civil Rule 45. The Discovery Subcommittee will be considering eliminating the requirement for in-person service in every instance. The current sketch of the proposed amendment adopts certain parts of Rule 4 (4(d), 4(e), 4(f), 4(h) and 4(i)) as permissible methods of service. Whether to include the *Mullane* language "reasonably calculated to give actual notice" in the rule or perhaps in the Advisory Committee Notes is still under consideration. In addition, the subcommittee has expanded its review of Civil Rule 45 to consider the requirement and method of delivering a witness fee as well as the amount of advance notice that should be required when documents are subpoenaed for deposition or trial. The expanded scope appeared to be well received by the full committee. Civil Rule 45 applies to adversary proceedings and contested matters in bankruptcy cases under Bankruptcy Rule 9016.

The Discovery Subcommittee is also considering proposed amendments to Civil Rule 26(c)(4) and Civil Rule 5(d)(5) dealing with filing under seal. The variations in scenarios to which sealing may be sought and applied pose a challenge to constructing proposed amendments. Both of these rules apply in adversary proceedings in bankruptcy cases. (Civil Rule 5(d)(5) does not apply in contested matters under Bankruptcy Rule 9014, but Civil Rule 26(c)(4) does). The subcommittee has more work to do on the issue.

The Rule 41 Subcommittee reported on its work considering amendments to Civil Rule 41 dealing with the scope of a voluntary dismissal and expects to bring a proposal to the full committee in October. Lawyers generally want a rule change to clarify that dismissal of a party or single claim rather than the entire "action" is permitted. Other tweaks to Rule 41 may include an earlier deadline for unilateral dismissal and a limit on who needs to sign a stipulation for dismissal. As a historical aside, the apparent original intent of the use of the word "action" in Rule 41 supports the contention that it was meant to be a cause of action, now known as a claim,

and not the entire lawsuit. Civil Rule 41 applies to adversary proceedings in bankruptcy under Bankruptcy Rule 7041 and to contested matters under Bankruptcy Rule 9014.

The Rule 7.1 Subcommittee reported on its work considering whether the current disclosure requirement in Civil Rule 7.1 adequately informs judges of beneficial ownership interests in a corporate party. The Appellate Committee provided feedback, especially on whether the disclosure rule should incorporate subsidiary ownership disclosure. Bankruptcy Rule 7007.1 deals with corporate ownership statements in bankruptcy cases and is modeled on Civil Rule 7.1. The subcommittee noted the new guidance provided by the recently updated Codes of Conduct Advisory Opinion 57, which includes consideration of the subject matter of litigation if the judge is invested in industry-specific assets or mutual funds and the industry is the subject of the litigation. Another issue posing a challenge is a company's shifting ownership interests over time. The subcommittee intends to propose language to examine at the October meeting.

A Cross-Border Discovery Subcommittee was formed after the October 2023 meeting. At the April meeting, it reported on its discussions so far. It will undertake a listening tour of affected parties to determine what problems exist and how they are manifesting.

Other information items were presented to the Civil Committee: (1) a proposal to adopt a rule requiring random case assignment, (2) proposed amendments to Civil Rule 45(c) dealing with remote testimony, and (3) use of the term "master" in Civil Rule 53 and other rules and replacing it with "court-appointed neutral."

Regarding random case assignment, given the March 12, 2024, guidance memo from the Committee on Court Administration and Case Management (CACM), which is not binding on the district courts, the Civil Committee wants to monitor how the districts respond. Further, the reporters are still researching whether the Rules Enabling Act and its supersession clause would even permit rulemaking on the issue. The issue will remain on the agenda.

The proposed amendments to Rule 45(c)(1)'s subpoena power would permit, under a new subsection (C), compelled appearance at a deposition or trial remotely so long as the point of transmission is within the geographical confines of Rule 45(c)(1)(A) and (B). However, the amendment should not conflict, for purposes of a subpoena for trial, with Rule 43(a) and its requirement that remote trial testimony is appropriate only under compelling circumstances. Consequently, the amendment compelling appearance by subpoena remotely may include a limitation by cross-reference to Rule 43. Civil Rule 43 currently applies to bankruptcy cases under Bankruptcy Rules 9014(d) and 9017 (although the Bankruptcy Rules Committee is considering amendments to those rules).

The proposed nomenclature change concerning masters would affect a number of rules and statutory provisions. There is some precedent for a global nomenclature change in the rules,

such as when they went gender neutral. The Civil Committee seemed to prefer "court-appointed adjunct officer" instead of "court-appointed neutral." The issue will remain on the agenda.

There were also brief reports on joint committee or working group matters – redaction of social security numbers (SSNs), e-filing by self-represented litigants, and unified bar admission in federal courts. As to the SSNs, the Committee may ask the Standing Committee to appoint a joint committee or let another committee take the lead. On e-filing, the joint committee will work on a proposal over the summer. On unified admissions the general sentiment appeared to be to leave it to the local level (state bars) to regulate the conduct of its members.

The amendment to Civil Rule 12(a) will become effective absent Congressional action on December 1, 2024. The change clarifies that a federal statute specifying a time for serving a responsive pleading supersedes the response times otherwise set by any subpart of Civil Rule 12(a). Bankruptcy Rule 7012 does not adopt by reference subsection (a) of Civil Rule 12. Absent any unexpected change by Congress, the Bankruptcy Committee may wish to consider a like change by grafting the exception language into Bankruptcy Rule 7012(a).

(D) ***December 7-8, 2023, Meeting of the Committee on the Administration of the Bankruptcy System (the "Bankruptcy Committee")***

Judge Sarah Hall provided the report.

Ther December 2023 meeting was the first meeting for the new liaison from this committee, Judge Harner, and new chair, Judge William Osteen. The Committee appreciated Judge Harner's thoughtful contributions. And Judge Osteen has hit the ground running as chair, picking up right where Judge Darrow left off. The next meeting will be held in June in Salt Lake City, Utah.

Legislative Proposal Regarding Emergency Authority and Proposed Rule 9038

Over the past several years, the Bankruptcy Committee has been regularly updated on the status of Rule 9038, the rule to address emergency measures that may be taken by the courts, which became effective on December 1, 2023. The Bankruptcy Committee appreciates the Rules Committee's work on this important effort.

Judge Isicoff previously reported that, in parallel with the Bankruptcy Rules Committee's work on Rule 9038, the Bankruptcy Committee was considering a broader legislative proposal, one that would have provided a permanent grant of authority to extend statutory deadlines and toll statutory time periods during an ongoing emergency and could enable bankruptcy courts to respond more quickly to future emergency or major disaster declarations.

The Bankruptcy Committee researched this issue in depth and solicited feedback from relevant stakeholders. Based on this research and feedback, at the December 2023 meeting, the

Bankruptcy Committee ultimately determined not to recommend that the Judicial Conference pursue it in Congress. So, this proposal will not be moving forward.

Legislative Proposal Regarding Chapter 7 Debtors' Attorney Fees

One proposal that has been adopted by the Judicial Conference on recommendation of the Bankruptcy Committee pertains to chapter 7 debtors' attorney fees. As Judge Isicoff has reported at previous meetings, this proposal would amend the Bankruptcy Code to (1) except from discharge chapter 7 debtors' attorney fees due under any agreement for payment of such fees; (2) add an exception to the automatic stay to allow for post-petition payment of chapter 7 debtors' attorney fees; and (3) provide for judicial review of fee agreements at the beginning of a chapter 7 case to ensure reasonable chapter 7 debtors' attorney fees. This legislative proposal seeks to address concerns about access to justice and access to the bankruptcy system related to the compensation of chapter 7 debtors' attorneys.

As Judge Isicoff previously reported, the administrative office (AO) transmitted the legislative proposal to Congress most recently in July 2023 to coincide with the start of the new Congressional session. The proposal continues to be reviewed by Congressional staff and several bankruptcy judges and AO staff have met with members of Congress to answer questions raised in connection with this proposal. If Congress enacts amendments to the Code based on this position, at a minimum conforming changes to the Bankruptcy Rules would be required. The Bankruptcy Committee will continue to update the Rules Committee on any progress in this area.

Remote Public Access to Bankruptcy Proceedings

The Bankruptcy Committee continues to monitor the status of the work of CACM on remote public access to court proceedings.

In September, the Judicial Conference approved judges presiding over civil and bankruptcy cases to provide the public live audio access to non-trial proceedings that do not involve witness testimony. CACM recommended this revised policy change with the endorsement of the Bankruptcy Committee and the Committee on the Administration of the Magistrate Judges System. To the extent this change necessitates any revision to the Bankruptcy Rules, the Bankruptcy Committee stands ready to assist.

The Bankruptcy Committee and the CACM Committee are continuing to collaborate in considering other potential changes to the Conference's remote access policy that could affect the bankruptcy system.

Remote Testimony in Bankruptcy Contested Matters

At its December meeting, the Bankruptcy Committee reviewed suggested amendments to the Bankruptcy Rules concerning remote testimony in bankruptcy contested matters, with a focus on whether those amendments conflict with the Conference remote public access policy just referenced.

After discussion, the Bankruptcy Committee determined that the proposed amendments concerning remote testimony in bankruptcy contested matters do not conflict with existing Judicial Conference policy regarding remote access and remote proceedings. It then communicated this view, through staff, to the CACM Committee. The CACM Committee chair later sent a letter to Judge Connelly conveying the views of the two committees. The Bankruptcy Committee will continue to monitor the status of this suggestion.

Special Masters in Bankruptcy Cases

The suggestion to allow appointment of special masters in bankruptcy cases is an area in which the Bankruptcy Committee was historically very engaged.

If the Advisory Committee or the Standing Committee is interested in working with Bankruptcy Committee to evaluate this issue at any stage, the Bankruptcy Committee would be honored and happy to assist.

Judge Connelly commented that the Rules Committee has a great working relationship with the Bankruptcy Committee.

4. **Intercommittee Items**

(A) ***Report of Reporters' Privacy Rules Working Group***.

Tom Byron gave the report.

He noted that the memo describing the working group progress is included in the agenda book. The group has met a couple of times to consider Senator Wyden's suggestion about removing redacted social security numbers from filed documents and related issues concerning the privacy rules. The working group has tentatively concluded that any amendments to the Civil and Criminal Rules concerning the redaction of SSNs should not be considered in isolation but should be part of a more considered review of the privacy rules, including the pending Bankruptcy Rules Committee work.

The recommendation is to broaden the focus of the working group to include, for example, Criminal Rule 49.1 on the use of initials of a known minor instead of the minor's name.

All Committees have received a suggestion to replace those initials with a pseudonym to be more protective. The Criminal Rules Committee will take the lead on this suggestion.

The working group might also look at how the current privacy rules are operating given that it is 20 years since the Rules Committees initially considered them. For example, the exemptions from the redaction requirements in subdivision (b) of each of the privacy rules includes language that could be ambiguous or overlapping, and the waiver provision in subdivision (h) might warrant clarification.

The working group would be interested in any suggestions the Rules Committees might make to guide the scope of its work.

Two related issues: First, the mandatory report to Congress required to be made every two years on the privacy rules is underway, and the Administrative Office has been working the CACM committee staff to produce a draft that will be shared with the Standing Committee at its June meeting. Second, the FJC study to update its privacy report is also progressing, with the first phase expected to be completed in time to be shared with the Standing Committee at the June meeting as well. There will be subsequent phases of that report in the future.

(B) ***Report on Unified Bar Admissions***.

Professor Struve gave the report.

The Subcommittee consists of members of the Criminal, Civil and Bankruptcy Rules Committee (Judge J. Paul Oetken representing the Bankruptcy Rules Committee and chairs that Subcommittee), and it has been tasked with considering the proposal by Alan Morrison and others for adoption of national rules concerning admission to the bars of the federal district courts which has been docketed as a suggestion before all three Committees. Most districts require admission to the bar to the state as a condition to admission to the district court in that state. This is time-consuming, expensive, and creates inappropriate hurdles to outside lawyers.

The suggestion that there be a national rule that would create a national "Bar of the District Court for the United States" administered by the Administrative Office of the U.S. Courts was rejected by the Subcommittee. In addition to its practical challenges, the Subcommittee was concerned that the Rules Enabling Act may not authorize a rule to create a new bar. The Standing Committee supported the Subcommittee's decision.

Other approaches may be more promising, including a rule that would bar U.S. district courts from having a local rule requiring (as a condition to admission to the district court's bar) that the applicant reside in, or be a member of the bar of, the state in which the district court is located.

The Subcommittee believes that there may also be other models to consider, including a extending the approach of Appellate Rule 46. The Standing Committee provided a lot of valuable feedback on the suggestion at its meeting in January. Tim Reagan of the Federal

Judicial Center and Zachary Hawari have provided valuable research support. Many more comments were made at the Civil Rules Committee meeting on April 9.

The Subcommittee will continue to consider the suggestion, keeping in mind the importance of providing access to attorneys without undue time and expense, the interest of the district courts in controlling who may practice before them in order to maintain the quality and integrity of the district court bar, and the effect any approach may have on court revenue.

(C) ***Report on the Work of the Pro-Se Electronic Filing Working Group***

Professor Struve gave the report.

The working group has been studying two broad topics: (1) increases to electronic access to court by self-represented litigants (whether via CM/ECF or alternative means) and (2) service (of papers subsequent to the complaint) by self-represented litigants on litigants who will receive a notice of electronic filing (NEF) through CM/ECF or a court-based electronic-noticing program. Professor Struve had hoped to be able to circulate a set of proposed rule amendments designed to eliminate the requirement of paper service on those receiving NEFs in time for the spring advisory committee meetings, but she is still working on them.

5. **Report by the Consumer Subcommittee**

(A) ***Recommendation of Approval of Proposed Amendments to Rule 3002.1***

Judge Harner and Professor Gibson provided the report.

Proposed amendments to Rule 3002.1 were republished for comment last August. Ten sets of comments were submitted. The Subcommittee recommended making the following changes to the published amendments:

(1) In Subdivision (a), dealing with the scope of the rule, delete the word "contractual" before the word "payment" and modify the clause to read "for which the plan provides for the trustee or debtor to make payment on the debt."

This change would allow the rule to pick up home mortgage payments that are paid according to the plan but not strictly in accordance to the terms of the contract. The Subcommittee does not think this change requires republication.

Other comments made on the republished rule were rejected which would require republication that would expand the applicability of the rule to more transactions.

The Subcommittee also recommends deleting the word "installment" to clarify that the rule applies to reverse mortgages on which there are no installment payments. The Committee Note was expanded to make the reason for this change more clear.

(2) In Subdivision (b), dealing with the required notice of payment changes by the holder of the claim, the Subcommittee recommends stating in subdivision (b)(3)(B) that a payment decrease is effective on the actual payment due date, even if that date is in the past to give the debtor the benefit of a payment decrease on a retroactive basis.

The National Bankruptcy Conference also suggested a conforming change to the related Official Form, and the change had already been made.

(3) The Subcommittee declined to make any changes to Subdivision (e) dealing with the deadline for filing a challenge to changes in fees, expenses and charges. Some commentors wanted the period to be longer and others wanted it shorter, so the Subcommittee decided not to change it.

(4) In Subdivision (f), dealing with requests for status of the mortgage and responses to those requests, the Subcommittee recommends making two changes. First, in (f)(2) it recommends extending the deadline for responding to a trustee's or debtor's motion from 21 days to 28 days. Second, the Subcommittee agreed to insert the phrase "and enter an appropriate order" at the end of the sentence for consistency.

Other comments were considered but the Subcommittee decided not to modify the rule in response.

(5) In Subdivision (g), dealing with the trustee's end-of-case notice, the Subcommittee recommends that in the title and in subdivision (g)(1) the words "payments" and "paid" be changed to "disbursements" and "disbursed." This terminology better reflects the role of the chapter 13 trustee. The Subcommittee also recommends deleting two uses of "contractual" in (g)(1)(B) to be consistent with the recommended change to subdivision (a).

In subdivision (g)(1)(A) the Subcommittee recommends deleting "if any" after "what amount" to avoid suggesting that a trustee who makes no disbursements need not file an end-of-case notice. An addition will be made to the Committee Note to give direction on what should be reflected on the notice in such a case.

The Subcommittee also recommends that the first sentence of (g)(4)(A) be rewritten to make a 45-day deadline applicable to that situation as well as to when the claim holder does not respond to the notice.

In subdivision (g)(4)(B), the Subcommittee recommends that the time for the claimholder to response to the motion be changed from 21 to 28 days, consistent with the proposed change to (f)(2).

(6) The Subcommittee recommends no change to subdivision (h) dealing with sanctions after considering the comments on that subdivision suggesting importing sanctions for contempt. This is not violation of a court order.

The Subcommittee recommends conforming changes to the Committee Note to reflect any of the changes recommended above that are approved by the Advisory Committee.

Judge Harner again noted that the Subcommittee believes that these changes do not require republication.

Judge Kahn noted that Civil Rule 37 has a contempt remedy, and the discharge injunction under Section 524(i) of the Bankruptcy Code creates a contempt remedy. He views Rule 3002.1 as functionally the same as Section 524 in that it is aimed at protecting the discharge and expressed the view that the contempt remedy should also be available. He admitted that there may be Rules Enabling Act issues.

Professor Gibson said that in Civil Rule 37 there is a court order that is being violated, and under Rule 3002.1 the court does not enter an order. Judge Kahn remains concerned about whether we are undermining the fresh start if we don't have an enforcement mechanism. Section 524(i) gives the court contempt powers even without court order. But Professor Gibson noted that Congress can give that power where the rules do not. Judge Harner agreed with Professor Gibson's analysis on this issue. Without an order, Rule 3002.1 should not go that far. Professor Gibson noted that we are not changing the current rule on this issue.

The Advisory Committee gave final approval to the amended Rule 3002.1 and the Committee Note and directed their submission to the Standing Committee for approval.

6. **Report by the Forms Subcommittee**

(A) ***Reconsideration of Proposed Amendments to Official Forms 309A and 309B***

Judge Kahn and Professor Gibson provided the report.

At its fall meeting in 2022, the Advisory Committee approved for publication an amendment to part 9 (Deadlines) in Form 309A and 309B to set out the deadline to file the financial management course certificate and alert the debtor that the debtor must take an approved course about personal financial management and file with the court the certificate showing completion of the course unless the provider has done so.

Because the Consumer Subcommittee was considering whether the deadline in Rule 1007(c)(4) for filing the certificate of course completion should be eliminated, the Advisory Committee did not seek publication of the amended Forms for public comment in June 2023. The Consumer Subcommittee has now recommended, and the Advisory Committee has approved, amendments to Rule 1007(c)(4) eliminating a deadline for filing the certificate. The Subcommittee considered whether there should be an amended notice to the debtor reminding the debtor of the requirement for completing the course, or

rather to just withdraw the previously-approved amendments to the Forms. The Subcommittee recommends the latter approach.

The Advisory Committee concurred in this recommendation.

(B) ***Recommendation for Final Approval of New Official Forms related to Proposed Rule 3002.1 Amendments***

Judge Kahn and Professor Gibson provided the report.

Last August the Standing Committee published for comment six new official forms that were proposed to implement proposed amendments to Rule 3002.1 (Chapter 13—Claim Secured by a Security Interest in the Debtor's Principal Residence). Ten sets of comments concerning these forms were submitted. The Subcommittee held two meetings to consider the comments and recommended several changes to the Forms and Committee Note as a result.

Professor Gibson discussed each change proposed to be made to each of the motion forms (Official Forms 410C13-M1 and 410C13-M2), the motion response forms (Official Forms 410C13-M1R and 410C13-M2R), the Truste's Notice (Official Form 410C13-N), the response to notice (Official Form 410C13-NR) and the Committee Note.

1. Motion Forms. The Subcommittee recommends that the following changes be made to both of these forms from the published versions:

- Change "paid" to "disbursed" in Part 2b, d, and e. Chapter 13 trustees act as disbursement agents; they do not "pay" the mortgage.

- Delete "and allowed" before "under" in Part 3a and add "and not disallowed" at the end of that item. As noted by the National Bankruptcy Conference, postpetition fees, expenses, and charges are not "allowed" under Rule 3002.1(c). If no motion is filed under Rule 3002.1(e), there is no court determination that the fees are allowed. Moreover, because the notice of fees is not subject to Rule 3001(f), the fees are not deemed allowed. If, however, the court did rule on them and disallowed them, they should not be included.

- Delete "contractual" in Part 4 before "obligations." This change conforms to a change to Rule 3002.1(a) being recommended by the Consumer Subcommittee.

- Add a new section 5 in brackets to allow the trustee or debtor to add other relevant information. This change was suggested after the Subcommittee's meetings and has not been discussed or approved by it. The Advisory Committee should consider whether this change should be made in order to accommodate plans that provide for a less conventional treatment of the home mortgage.

- Add lines for address, phone number, and email after the moving party's signature to comply with Rule 9011(a).

In addition to the changes listed above, the Subcommittee recommends the following change to Form 410C13-M2:

- Add "the" before "Mortgage" in the title of the form to be consistent with the other forms.

Nancy Whaley suggested inserting the bracketed section 5 in the forms of response as well as the forms of motion. No suggestions were made for changes to the motion forms.

2. Response Forms.

On the response forms, the Subcommittee recommends the following changes from the published versions of the forms:

- Add at the beginning of Part 2: "The total amount received to cure any arrearages as of the date of this response is $_____." This will directly respond to Part 2e of the motion.

- In Part 2, create separate responses for prepetition and postpetition arrearages to correspond with the breakdown of those amounts in the motion.

- Also in Part 2, Change the direction to "Check all that apply" since now more than one statement could be asserted.

- Put all three check boxes at the beginning of Part 3, and make that section subpart (a).

- Move the direction to attach a payoff statement to subpart (b) of Part 3, along with the seven items of information to be supplied. These changes respond to the comments that a payoff statement and the information requested are needed in situations in which the claimholder says that the debtor is not current, as well as when current.

- Delete "contractual" before "payments" in Part 3(a) for the reason previously stated.

- In Part 4 delete the requirement to use the format of Official Form 410A, Part 5. Mortgage groups commented that this format does not work for distinguishing between prepetition arrears and postpetition defaults.

- In the third bullet point of Part 4, change "assessed to the mortgage" to "that the claim holder asserts are recoverable against the debtor or the debtor's principal residence." This language tracks the language of Rule 3002.1(c) and is clearer.

Professor Gibson suggested inserting bracketed section 5 language from the motion forms into the response forms as Nancy Whaley suggested. Judge Kahn suggested putting it at the end as a new Part 5.

Scott Myers noted that the instructions have not yet been drafted, and will be drafted over the summer. They do not need to be approved by the Standing Committee. These forms are on track for an effective date of Dec. 1, 2025.

Judge McEwen expressed her view that some of the lines on postpetition arrearages in Part 2 seem to cover the same payments and are confusing. Judge Kahn said the attached payoff schedule will provide the payoff number, and the rest of the form includes various elements that go into that number. Judge McEwen remained concerned that the lines don't add up to the third box under Part 2. Judge Connelly said some companies would not count postpetition fees, taxes and other charges as arrearages.

Judge Kahn suggested moving the substance of the second sentence of the third box in Part 3(a) to become 3(b)(viii) and eliminating it in 3(a). The new (viii) would read "viii. Total amount of fees, charges, expenses, negative escrow amounts, or costs remaining unpaid: $_____." The Subcommittee was supportive of this change.

Jenny Doling suggested adding a date for the payoff number. Judge Kahn responded that the attached payoff statement will show the date. Judge McEwen continued to express the view that the postpetition arrearages should be broken down. Judge Harner said that she wanted the form to be simple enough that claim holders would be encourages to file it. Judge Kahn said that he thinks Part 2 has adequate information. The payoff statement will have the date and the amount. Judge McEwen wants them to be able to see why they are not current. Judge Harner thinks the form will not help them if they do not know it.

3. Trustee's Notice

On the trustee's notice, the Subcommittee has approved the following changes to the published version:

- In the title, change "Payments" to "Disbursements" to reflect more accurately the trustee's role.

- In Part 2, delete the space for the date of the debtor's completion of payments. Trustees commented that the date is ambiguous and is not needed

- Change the title of Part 3 from "Amount Needed to Cure Default" to "Arrearages." If the debtor has been making direct payments, the trustee may not be aware of defaults.

- Delete the request for "Allowed amount of postpetition arrearage, if any." Also delete the question asking whether the debtor has cured all arrearages. If the debtor has been making direct payments, the trustee may not be aware of this.

- In 3b, c, and d, change "paid" to "disbursed" for the reason previously stated.

- Delete the words "if any" in Part 3(a) and (c). (This change was erroneously not reflected in the version of the notice in the agenda book.)

- In Part 4, delete "contractual" for the reason previously stated.

- Add a check box for "other" to allow for hybrid situations.

Since the meeting of the Subcommittee, Judge Connelly suggested that 4(b) should be deleted. This is a statement made after the final disbursement has cleared. In that 45 days after the debtor completes all payments due to the trustee when the trustee must file this notice under Rule 3002.1(g), another mortgage payment may become due and the trustee may not know whether the debtor is current when the trustee notice is sent. Existing (c) will be redesignated as (b).

Judge McEwen asked whether payments should be changed to disbursements in Part 4. Judge Connelly thinks payments is the correct term here. This is not the action of the trustee as in Part 3. However, the suggestion was made to change the word "made" to "disbursed" in 4(a) and the language before 4(a).

- Change the statement in Part 4c to the date of the trustee's last disbursement, rather than when the next mortgage payment is due. Commenters noted that by the time the notice is filed, additional payments may have already come due and might have been paid by the debtor. Add a statement explaining that future payments are the debtor's responsibility.

- In Part 5, delete "Amount of allowed postpetition fees, expenses, and charges." The trustee may not have this information.

- Delete "as of the date of this notice" as unnecessary.

Professor Gibson asked Nancy Whaley whether the open-ended bracketed language was needed in trustee's notice. Ms. Whaley said this could be addressed in the instructions inviting additional information in any area.

4. Response to Trustee's Notice.

As to the response to the trustee's notice, the Subcommittee recommends the following changes to the published version of the form:

- In the title, change "Payments" to "Disbursements" to be consistent with the proposed change to the title of the notice.

- In the first line, correct the citation. Change to Rule 3002.1(g)(3).

- Change the title of Part 2 to "Arrearages" to correspond with Part 3 of the notice.

- Add at the beginning of Part 2: "The total amount received to cure any arrearages as of the date of this response is $_____." This will capture amounts paid by both the trustee and the debtor.

- In Part 3, delete "contractual" for the reason previously stated.

- Put all three check boxes at the beginning of Part 3 and make that section subpart (a). Move the direction to attach a payoff statement to subpart (b), along with the seven items of information to be supplied. These changes respond to the comments that a payoff statement and the information requested are needed in situations in which the claim holder says that the debtor is not current, as well as when current.

- In Part 4, delete the requirement to use the format of Official Form 410A, Part 5. Mortgage groups commented that this format does not work for distinguishing between prepetition arrears and postpetition defaults.

- In the third bullet point of Part 4, change "assessed to the mortgage" to "that the claim holder asserts are recoverable against the debtor or the debtor's principal residence." This language tracks the language of Rule 3002.1(c) and is clearer.

Professor Struve suggests making the same change in Part 3 as made in the response to notice forms by moving the substance of the language in the second sentence in the third box to create a new (b)(viii). This suggestion was accepted. The new clause viii would read "Total amount of fees, charges, expenses, negative escrow amounts, or costs remaining unpaid: $_____."

Jenny Doling suggested there be someplace in the signature block to put the title of the person who is filing the response and the organization name like on the proof of claim form. The suggestion was also accepted.

Changes to the Committee Note reflect the changes to the Forms.

Judge Kahn noted that Nancy Whaley, Deb Miller and Tara Twomey provided a great deal of assistance on these forms.

The Advisory Committee gave final approval to the six forms as they appeared in the agenda book with the following changes:

- Forms 410C13-M1R and M2R -- add a new bracketed Part 5 to allow additional information
- Forms 410C13-M1R, M2R and NR – Remove 2nd sentence in 3d bullet point in Part 3(a) and move to Part 4 under new romanette (viii), with categorical language restated
- Form 410C13-N – delete "if any" in Part 3(a) and (c), change "paid" to "disbursed" in two places in Part 4, delete paragraph b in the 3d box of Part 4 and change designation of current c to b
- Form 410C13-NR -- in Part 5, add title of person executing response by using signature block used on proof of claim

(C) ***Consider Technical Amendments to Conform Certain Bankruptcy Forms to the Restyled Bankruptcy Rules***

Judge Kahn and Professor Bartell provided the report.

The amendments to the Federal Rules of Bankruptcy Procedure to reflect the restyling project are scheduled to become effective on Dec. 1, 2024. Because certain of the Official Forms and Director's Forms and their instructions explicitly quote or refer to Bankruptcy Rules that have been restyled, conforming changes need to be made to those forms and instructions. Mock-ups of the revised forms and instructions are attached. Amendments are proposed to Official Form 410 (Proof of Claim) and to the instructions to Official Forms 309A-I (Notice of Case), 312 (Order and Notice for Hearing on Disclosure Statement), 313 (Order Approving Disclosure Statement and Fixing Time for Filing Acceptances or Rejections of Plan), 314 (Ballot for Accepting or Rejecting Plan), 315 (Order Confirming Plan), 318 (Discharge of Debtor in a Chapter 7 Case), and 420A (Notice of Motion or Objection), and to Director's Forms 1040 (Adversary Proceeding Cover Sheet) and 2630 (Bill of Costs) and to the instructions for Forms 2070 (Certificate of Retention of Debtor in Possession), 2100A/B (Transfer of Claim Other Than For Security and Notice of Transfer of Claim Other Than for Security), 2300A (Order Confirming Chapter 12 Plan) and 2500E (Summons to Debtor in Involuntary Case).

The Advisory Committee gave final approval to those amendments to the forms and instructions.

(D) ***Recommendation Concerning Proposed Amendment to Official Form 410 Regarding Uniform Claim Identifier***

Judge Kahn and Professor Bartell provided the report.

A proposed amendment to Official Form 410 based on a suggestion from Dana C. McWay, Chair of the Administrative Office of the U.S. Courts' Unclaimed Funds Expert Panel, was published in August 2023. The amendment would modify Part 1, Box 3 to eliminate the phrase "for electronic payments in chapter 13" when referring to the uniform claim identifier (UCI) so that it is can be used for paper checks as well as electronic payments without regard to chapter.

There were no comments on the published amendment, other than a general comment from the Minnesota State Bar Association supporting all proposed amendments published in 2023.

The Advisory Committee gave final approval to the amendments to Official Form 410.

7. **Report of the Technology, Privacy and Public Access Subcommittee**

(A) ***Continued Consideration of Suggestions 22-BK-I, 23-BK-D, and 23-BK-J Concerning SSN Redaction in Bankruptcy Filings and the Elimination of Truncated SSNs in Some Form Captions***

Judge Oetken and Professor Bartell provided the report.

Senator Ron Wyden of Oregon sent a letter to the Chief Justice of the United States in August 2022, in which he suggested that federal court filings should be "scrubbed of personal information before they are publicly available." Portions of this letter, suggesting that the Rules Committees reconsider a proposal to redact the entire social security number ("SSN") from court filings, have been filed as a suggestion with each of the Rules Committees. The Bankruptcy Rules suggestion has been given the label of 22-BK-I.

A suggestion was made by the Clerk of Court for the Bankruptcy Court for the District of Minnesota, in which clerks of court for eight other bankruptcy courts in the eighth Circuit joined, suggesting that Rule 2002(n) (restyled Rule 2002(o)) be amended to eliminate the requirement that the caption of every notice given under Rule 2002 comply with Rule 1005. The Bankruptcy Clerks Advisory Group submitted a second suggestion supporting the first one.

As reported at the last Advisory Committee meeting, the Subcommittee wishes to consider whether creditors actually need the last four numbers of the redacted SSN on all court filings where it is not statutorily required. On February 12, 2024, an ad hoc group consisting of Judge Connelly, Judge Oetken, Jenny Doling, Nancy Whaley, Dave Hubbert, Ken Gardner, and Carly Giffin met with the reporters and Scott Myers to discuss how to survey the appropriate groups to address questions bearing on the suggestions.

Subsequently Ken Gardner worked with the ad hoc committee and the reporters to develop a survey to be sent to the Clerks' Advisory Group, and Nancy Whaley and Jenny Doling worked with the ad hoc committee and the reporters to prepare a survey to be sent to a group of debtor attorneys, chapter 12/13 trustees, creditor attorneys, chapter 7 trustees, various tax authorities and representatives of the National Association of Attorneys General.

As of April 10 the clerks' survey had received 23 responses. The clerks overwhelmingly support eliminating the requirement that the caption of all Rule 2002 notices comply with Rule 1005. Their views on the inclusion of truncated SSNs on the various forms were more divided.

As of April 10 there were 75 responses to the general survey. Opinions are divided on removing the truncated SSNs from the forms, with Chapter 7 trustees less inclined to support such a move and Chapter 13 trustees and debtors' attorneys more supportive.

The Subcommittee will consider all the responses at its next meeting and decide on next steps, if any.

(B) ***Consider suggestion 23-BK-C from the National Bankruptcy Conference dealing with remote testimony in contested matters***

Professor Bartell provided the report.

The National Bankruptcy Conference submitted proposals to amend Rules 9014 and 9017 and create a new Rule 7043 to facilitate video conference hearings for contested matters in bankruptcy cases.

The suggestion proposes to eliminate the incorporation by reference in Rule 9017 of Fed. R. Civ. P. 43 (which generally requires witnesses' testimony to be taken in open court unless the court permits remote testimony "for good cause in compelling circumstances"), so it would no longer be applicable "in a bankruptcy case." Instead, new Rule 7043 would make Civil Rule 43 applicable in adversary proceedings. Rule 9014, dealing with contested matters, would be amended in two respects. First, it would make Civil Rule 43(d) (dealing with interpreters) applicable to contested matters and insert language identical to Civil Rule 43(c) (dealing with evidence on a motion). Second, it would delete the language requiring that testimony in a contested matter be taken in the same manner as testimony in an adversary proceeding and instead insert language that mirrors Civil Rule 43(a) with the exception that the standard for allowing remote testimony would be "cause" rather than "good cause in compelling circumstances."

The Advisory Committee supported the proposed amendments at its last meeting but agreed to the request of Judge Bates that formal approval for publication be deferred until the Advisory Committee could coordinate with CACM which is looking at the issue of remote proceedings more broadly.

On January 17, 2024, CACM sent a letter to Judge Connelly stating it and the Bankruptcy Administration Committee have concluded that "the content of the proposed amendments do [sic] not appear to create any conflict with existing Conference policy regarding remote access or remote proceedings." CACM also stated that it "did not identify problems for its continued consideration of possible changes to remote access policy" in that CACM's "focus has been on whether to provide non-case participants, such as the public and the media, with additional remote access to court proceedings." The letter concluded, "given the careful, deliberative nature of the rules development process, the timing of the publication of the proposed amendments in 2024 is unlikely to hinder work on this issue."

The Subcommittee has reaffirmed its approval of the proposed amendments and recommends the proposed amendments to the Advisory Committee for submission to the Standing Committee for publication.

Judge Bates asked whether this change might be a precursor to further changes for adversary proceedings, or whether it is the end of what will be proposed for remote proceedings. Judge Oetken said it is not intended to lead to anything more. Judge Kahn agreed that there is no intent to move beyond this. Judge Harner said that there would be concern about moving beyond this in the bankruptcy community. Professor Bartell said that if the civil rules were modified, bankruptcy would follow suit. Judge Kahn noted that the presumption is still for live testimony. Judge McEwen said that there may be pressure to expand on this proposal, but it will not come from the Committee.

Judge Bates asked whether we will be seeing suggestions to change the rules to expand remote proceedings beyond these rules, and Judge Kahn said that this is likely, but the Committee will deal with that when they are made. Judge Harner reemphasized that we will follow the lead of the civil rules on adversary proceedings. Dave Hubbert said that the new rules will put a lot of emphasis on whether a particular action is an adversary proceeding or a contested matter, and might encourage litigants to propose a large number of witnesses in contested matters to make remote proceedings unlikely. Judge Harner noted that courts are doing remote testimony now under the current rule.

The Advisory Committee approved the amendments and new rule and agreed to send them to the Standing Committee for publication for public comment.

8. **Report of the Business Subcommittee**

(A) ***Recommendation Regarding Suggestion 23-BK-F from the National Bankruptcy Conference regarding the method of voting in Chapter 9 and 11 cases under Rule 3018(c)***

Judge McEwen and Professor Gibson provided the report.

The National Bankruptcy Conference (NBC) proposed an amendment to Rule 3018(c) to authorize courts to treat as an acceptance or rejection of a plan in chapter 9 and chapter 11 cases

a statement of counsel or other representatives that is part of the record in the case, including an oral statement at a confirmation hearing. Conforming amendments were also proposed for Rule 3018(a).

At its fall meeting, the Advisory Committee approved the amendments for publication. At the January meeting of the Standing Committee, it approved the amendments, but some additional changes were subsequently suggested. Because publication would not occur until August, Judge Connelly decided that the Subcommittee and the Advisory Committee should have an opportunity to consider the additional changes before publication.

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

The proposed conforming amendment to subdivision (a) says that the court may also "do so" as provided in (c)(1)(B). The language that "do so" currently refers to includes changing or withdrawing both acceptances and rejections, whereas (c)(1)(B) just allows changing or withdrawing rejections. Therefore, it was suggested that the first sentence in (a)(3) should delete the words "or rejection" and the last sentence should be modified to read, "The court may permit the change or withdrawal of a rejection as provided in (c)(1)(B)."

The Subcommittee recommended the modified amendments to Rules 3018(c) and 3018(a) to the Advisory Committee for publication. The Advisory Committee approved the modified amendments for publication.

(B) ***Consideration of Suggestion 24-BK-A to Allow Masters in Bankruptcy Cases and Proceedings***

Judge McEwen and Professor Gibson provided the report.

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

The Subcommittee discussed the suggestions at its meeting, and now asks the Advisory Committee for its input. She reviewed the history of the similar suggestions, the arguments against permitting use of masters in bankruptcy cases and proceedings, and the competing arguments made by Judge Kaplan and the ABA in response.

The first issue the Advisory Committee might consider is whether it wishes to revisit the issue of allowing the use of masters in bankruptcy cases. Although the Advisory Committee has declined to amend Rule 9031 on at least 4 occasions, the last time such a suggestion was considered was in 2009, almost 15 years ago. Much has changed during that time, including a greater use of bankruptcy to resolve mass tort litigation and the filing of some especially complex reorganization cases. Moreover, the original reason for the rule—concerns about cronyism in bankruptcy judge appointments—have largely dissipated. A decision to revisit the issue and consider the merits of Chief Judge Kaplan's and the ABA's suggestions, of course, does not necessarily mean that the Advisory Committee will end up agreeing with the suggestions, but the Subcommittee would like the views of the Advisory Committee on whether to proceed in considering the suggestions. But if the Advisory Committee sees no reason to consider the issue again, there is nothing further to discuss.

If the Advisory Committee wishes the Subcommittee to consider the suggestions, the Subcommittee seeks input on whether it should gather empirical evidence to help inform its deliberations. With the FJC's assistance, bankruptcy judges could be surveyed about whether they have desired to use a master in any of their cases and, if so, what role the master might have played and how the court proceeded without a master. The Subcommittee may also want to seek information from district judges and attorneys.

There are legal issues to consider as well, such as whether the Code authorizes the payment of masters from a bankruptcy estate and the potential inefficiencies of adding another layer of judicial review. The Subcommittee solicits the Advisory Committee's views on what other issues that should be explored.

There was a general consensus that consideration of the suggestions should continue. Judge Kahn read the ABA suggestion as suggesting not only use of masters in bankruptcy, but an expanded role for what masters do. He wants to know what the civil committee is going to do with this suggestion.

Judge Hopkins noted that the committee was split in 2009, and Eugene Wedoff opposed allowing appointment of masters because he did not want lawyers lobbying him to be appointed as a master. There is likely to be a split among the judges on the suggestions.

Judge Harner thinks that the Bankruptcy Rules Committee may have different views than the Civil Rules committee, and may want to limit use of masters to business cases, or cases of a particular size or type.

The Committee members were invited to discuss their own experience with masters. Judge Lefkow said that she has used masters for discovery, but they are rarely appointed in her district. She thinks this is probably an issue limited to districts with large cases. Professor Gibson pointed out that bankruptcy judges do not have the help of magistrate judges as do district court judges. Judge Oetken said that he had used masters only a few times, and only in connection with tricky discovery issues. He agreed that we should look at the suggestions.

Judge Wu has had complicated patent cases where it might be appropriate to appoint a master. The question is how broad the authority would be.

Judge McEwen said that the consensus seems to be to gather more information and proceed to consider the suggestions. Tom Byron will coordinate with the FJC on a potential survey of judges. Ramona Elliott thinks the survey should include district court judges too. It might include questions about the expense of such appointments. Carly Giffin says the FJC is happy to help on this issue but might want to start with interviews before drafting a survey to figure out what questions to ask.

9. **Appellate Rules Subcommittee**

(A) ***Recommendation for Final Approval Concerning Proposed Amendment to Rule 8006(g)***

Judge Bress and Professor Bartell provided the report.

On August 15, 2023, the Standing Committee published an amendment to Fed. R. Bankr. P. 8006(g) suggested by Judge A. Benjamin Goldgar to make explicit what the Advisory Committee believed was the existing meaning of the Rule--that any party to an appeal may submit a request to the court of appeals to accept a direct appeal under 28 U.S.C. § 158(d)(2). The form of the amendment was developed in consultation with the Advisory Committee on Appellate Rules which was concurrently preparing an amendment to Appellate Rule 6(c) (Appeal in a Bankruptcy Case – Direct Review by Permission Under 28 U.S.C. § 158(d)(2)) to make sure the rules worked well together. Both amended rules were published at the same time. The amended Rule 8006(g) is attached.

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

The Subcommittee recommended the amended rule to the Advisory Committee for final approval. The Advisory Committee gave final approval to the amended rule.

10. **New Business**

Judge McEwen asks whether we should consider an amendment to Rule 7012(a) to reflect the new amendments to Civil Rule 12(a). Scott Myers said that if it is a simple conforming change, we can decide that this is a public suggestion today and assign it to a Subcommittee for the summer meetings. After the meeting it was decided that Judge McEwen should file a suggestion because the change is not a conforming change.

11. Future Meetings

The fall 2024 meeting has been scheduled for Sept. 12, 2024, in Washington, D.C.

12. Adjournment

The meeting was adjourned at 1:40 p.m.