BANKRUPTCY RULES AND OFFICIAL BANKRUPTCY FORMS

Effective October 1, 1973

The Bankruptcy Rules and Official Bankruptcy Forms were prescribed by the Supreme Court of the United States on April 24, 1973, pursuant to 28 U. S. C. § 2075, and were reported to the Congress by THE CHIEF JUSTICE on the same date. For letter of transmittal, see *post,* p. 990. The Judicial Conference report referred to in that letter is not reproduced herein. These rules and forms became effective on October 1, 1973, as provided in paragraph 2 of the Court's order, *post,* p. 991.

For earlier publication of Bankruptcy Rules and Forms, see, *e. g.,* 368 U. S. 1043.

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LETTER OF TRANSMITTAL

SUPREME COURT OF THE UNITED STATES
WASHINGTON, D. C.

APRIL 24, 1973

To the Senate and House of Representatives of the United States of America in Congress Assembled:

By direction of the Supreme Court, I have the honor to submit to the Congress the Bankruptcy Rules and Official Forms covering General Bankruptcy cases (Chapters I–VII of the Bankruptcy Act) and the Chapter XIII Rules and Official Forms prescribed pursuant to Section 2075, Title 28, United States Code. MR. JUSTICE DOUGLAS dissents from the adoption of these rules and forms.

Accompanying these rules and forms is an excerpt from the Report of the Judicial Conference of the United States containing the Advisory Committee Notes which were submitted to the Court for its consideration pursuant to Title 28, United States Code, Section 331.

Respectfully,

(Signed) WARREN E. BURGER,
Chief Justice of the United States

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SUPREME COURT OF THE UNITED STATES

TUESDAY, APRIL 24, 1973

ORDERED:

1. That the rules and forms as approved by the Judicial Conference of the United States, to be known as the Bankruptcy Rules and Official Bankruptcy Forms, be, and they hereby are, prescribed pursuant to Section 2075, Title 28, United States Code, to govern the forms of process, writs, pleadings, and motions, and the practice and procedure under the Bankruptcy Act, in the proceedings and to the extent set forth therein, in the United States district courts, the District Court for the District of the Canal Zone, and the District Courts of Guam and the Virgin Islands.

[See *infra*, pp. 995–1141.]

2. That the aforementioned Bankruptcy Rules and Official Bankruptcy Forms shall take effect on October 1, 1973, and shall be applicable to proceedings then pending, except to the extent that in the opinion of the court their application in a particular proceeding then pending would not be feasible or would work injustice, in which event the former procedure applies.

3. That General Orders in Bankruptcy 1 to 7 inclusive, 9 to 12 inclusive, 14 to 26 inclusive, 28 to 40 inclusive, 42 to 45 inclusive, 47, 50, 51, 53, and 56 and Official Forms in Bankruptcy 1 to 13 inclusive, 15 to 20 inclusive, 22 to 47 inclusive, and 70 to 72 inclusive, heretofore prescribed by this Court, be, and they hereby are, abrogated, effective October 1, 1973.

4. That THE CHIEF JUSTICE be, and he hereby is, authorized to transmit the said new Bankruptcy Rules and Official Bankruptcy Forms to the Congress at its present session on or before the first day of May, 1973.

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ORDERED:

1. That the rules and forms as approved by the Judicial Conference of the United States, to be known as the Chapter XIII Rules and Official Chapter XIII Forms, be, and they hereby are, prescribed pursuant to Section 2075, Title 28, United States Code, to govern the forms of process, writs, pleadings, and motions and the practice and procedure under Chapter XIII of the Bankruptcy Act, in the proceedings and to the extent set forth therein, in the United States district courts, the District Court for the District of the Canal Zone, and the District Courts of Guam and the Virgin Islands.

[See *infra,* pp. 1143–1215.]

2. That the aforementioned Chapter XIII Rules and Official Chapter XIII Forms shall take effect on October 1, 1973, and shall be applicable to proceedings then pending, except to the extent that in the opinion of the court their application in a particular proceeding then pending would not be feasible or would work injustice, in which event the former procedure applies.

3. That General Order in Bankruptcy 55 and Official Forms in Bankruptcy 58 to 62 inclusive, heretofore prescribed by this Court, be, and they hereby are, abrogated, effective October 1, 1973.

4. That THE CHIEF JUSTICE be, and he hereby is, authorized to transmit the said new Chapter XIII Rules and Official Chapter XIII Forms to the Congress at its present session on or before the first day of May, 1973.

MR. JUSTICE DOUGLAS, dissenting.

I cannot agree to the Court's submission of the proposed Bankruptcy Rules to the Congress.

Once I was knowledgeable in the bankruptcy field, having taught the course for some years, made my own field studies of it, and written extensively about various bankruptcy problems. I worked closely with Cong. Walter Chandler to produce the Bankruptcy Act of 1938,

52 Stat. 840. In that Act the advisory committee of which I was a member kept all power to punish for contempt in the hands of the district court and out of the hands of the referees. Section 41 of the 1938 Act was derived from § 41 of the 1898 Act, 30 Stat. 556.

The proposed new Rule 920 makes a change, giving referees power to cite and punish for contempt in both the civil and criminal sense. Misbehavior during a hearing or so near the place thereof as to obstruct the same under the proposed Rule may be punished summarily, if the referee saw or heard the conduct and it was committed in his actual presence. All other contempts imposed by a referee must be only after notice and hearing.

The Advisory Notes call this grant of power to the referees "minor," since referees will not be allowed to imprison an offender or fine him more than $250. But the proposed Rule does change § 41 of the present Act which has been with us at least since 1898.

I once knew most of the referees in the Nation and worked with them on various projects. But they, too, flourish under Parkinson's Law; and their power grows like that of a prince in a medieval kingdom. That may not be ominous when it relates only to administrative detail. But it is for me alarming to vest appointees of bankruptcy courts with the power to punish for contempt. Chief Justice Taft in *Cooke* v. *United States,* 267 U. S. 517, 539, noted that the exercise of contempt power is "a delicate one and care is needed to avoid arbitrary or oppressive conclusions." Great differences of view have been expressed in this Court over the scope of the "contempt" power of judges. Mr. Justice Black, with whom I concurred, said in dissent in *Frank* v. *United States,* 395 U. S. 147, 160: "Those who commit offenses against courts should be no less entitled to the Bill of Rights than those who commit offenses against the public in general."

Walter Nelles long ago reminded us that summary procedure of contempt is a "legal thumb-screw," the "most autocratic of judicial powers," and "in practice the most indefinite." Summary Power to Punish for Contempt, 31 Col. L. Rev. 956, 957 (1931). *In re Oliver,* 333 U. S. 257, 274, marked the scope of the contempt power as being " 'the least possible power adequate to the end proposed.' " Extension of the contempt power to administrative arms of the bankruptcy court is not consistent with close confinement of the contempt power. The cases indicate how great emotional outbursts are wrapped up in the exercise of the contempt power. *Sacher* v. *United States,* 343 U. S. 1. I would not extend the contempt power to bankruptcy referees. Perhaps I am wrong. But that issue has never been considered, debated, or voted upon by this Court. The Court is merely the conduit for the Rules. It does not purport to approve or disapprove. As I have said on other like occasions, it has merely placed its imprimatur on the Rules without reading, let alone discussing, these Rules.

Forty years ago I had perhaps some expertise in the field; and I know enough about history, our Constitution, and our decisions to oppose the adoption of Rule 920. But for most of these Rules I do not have sufficient insight and experience to know whether they are desirable or undesirable. I must, therefore, disassociate myself from them.

If these Rules go to the Congress they should be sent by the Judicial Conference, not by this Court.

RULES OF BANKRUPTCY PROCEDURE

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TITLE I

BANKRUPTCY RULES

Rule 1. Scope of bankruptcy rules and forms; short title.

The rules and forms in this Title I govern the procedure in courts of bankruptcy in bankruptcy cases under Chapters I–VII of the Bankruptcy Act. These rules may be known and cited as the Bankruptcy Rules. These forms may be known and cited as the Official Bankruptcy Forms.

PART I. PETITION AND PROCEEDINGS RELATING THERETO AND TO ADJUDICATION

Rule 101. Commencement of bankruptcy case.

A bankruptcy case is commenced by filing a petition with the court by or against a person for the purpose of obtaining his adjudication as a bankrupt.

Rule 102. Reference of cases; withdrawal of reference and assignment.

(*a*) *Reference.*—Upon the filing of a petition the clerk shall refer the case forthwith to a referee or, if a local rule so provides, to more than one referee concurrently. Thereafter all proceedings in the case shall be before the referee except as otherwise provided by subdivision (b) of this rule, by Rules 115 (b), 409 (c), and 920, by § 2a (15) of the Act when a complaint seeks an injunction to restrain a court, by § 43c of the Act when the office of the referee is vacant, and by the provisions in the Act and the rules in Part VIII governing appeals from judgments of the referee.

(*b*) *Withdrawal of reference and assignment.*—The district judge may, at any time, for the convenience of parties or other cause, withdraw a case in whole or in

part from a referee and either act himself or assign the case or part thereof to another referee in the district.

Rule 103. Voluntary petition.

A voluntary petition shall conform substantially to Official Form No. 1. An original and 2 copies of the petition shall be filed, unless a different number of copies is required by local rule.

Rule 104. Involuntary petition.

(*a*) *Form and number.*—An involuntary petition shall conform substantially to Official Form No. 9. An original and 2 copies of the petition shall be filed, unless additional copies are required by local rule.

(*b*) *Participation in act of bankruptcy.*—A creditor may not file or join in a petition alleging the commission of an act of bankruptcy other than the sixth act, if he consented to, participated in, or secured the commission of the act alleged. Notwithstanding the foregoing, if a creditor, without inducing it, participated in any general assignment, receivership, or other mode of adjustment or settlement of the affairs of the debtor and did not consent in writing thereto, or if he did so consent but without knowledge of facts which would constitute commission of the first, second, or third act of bankruptcy or which would be a bar to the discharge of the debtor in bankruptcy, he may nevertheless act as a petitioning creditor and may allege any act of bankruptcy including such assignment or receivership.

(*c*) *Particularity of allegations.*—The facts constituting an act of bankruptcy shall be alleged with sufficient particularity to identify the transaction or occurrence.

(*d*) *Transferor or transferee of claim.*—A person who has transferred or acquired a claim for the purpose of commencing a bankruptcy case shall not be a qualified petitioner. A petitioning creditor who is a transferor or transferee of a claim, whether transferred unconditionally, for security, or otherwise, shall annex to the original and

each of the 2 copies of the petition a copy of all documents evidencing the transfer, and a signed statement setting forth the consideration for and terms of the transfer and that the claim was not transferred for the purpose of commencing a bankruptcy case.

(*e*) *Joinder of petitioners after filing.*—Creditors other than the original petitioners may join in an involuntary petition at any time before its dismissal. If the answer to an involuntary petition filed by one or 2 creditors avers the existence of 12 or more creditors, the alleged bankrupt shall file with the answer a list of all his creditors with their addresses, a brief statement of the nature of their claims, and the amounts thereof. If it appears that there are 12 or more creditors as counted under § 59e of the Act, the court shall thereupon afford a reasonable opportunity for other creditors to join in the petition before a hearing is held thereon.

Rule 105. Partnership bankruptcy.

(*a*) *Voluntary petition.*—A voluntary petition may be filed by all the general partners on behalf of the partnership.

(*b*) *Partner's petition against partnership.*—A petition may be filed by fewer than all the general partners to have a partnership adjudged bankrupt under § 5b of the Act. An original and 2 copies of the petition shall be filed under this subdivision, but if more than one general partner does not join in the petition, an additional copy for each such partner shall be filed. The petition for adjudication of the partnership may be contested by any general partner (or alleged general partner) who is not a petitioner.

(*c*) *Involuntary petition by creditors.*—An involuntary petition may be filed by creditors against a partnership. Within 5 days after the filing, the petitioning creditors shall cause a copy of the petition to be sent by certified mail to the last known address of, or to be delivered to, each general partner who has not been served.

(*d*) *Petition when all general partners are adjudicated.*—If all the general partners of a partnership are adjudged bankrupt, any party in interest may file a petition in any court in which a partner's bankruptcy case is pending to have the partnership adjudged bankrupt.

Rule 106. Caption of petition.

The caption of every petition shall comply with Rule 904 (b). In addition the title of the case as set forth in the caption shall include the name of the bankrupt and all other names used by him within 6 years before the filing of the petition. If the petition is not filed by the bankrupt, the petitioners shall include such other names according to their best information.

Rule 107. Filing fees.

(*a*) *General requirement.*—Except as otherwise provided in subdivision (b), every petition shall be accompanied by the prescribed filing fees.

(*b*) *Payment of filing fees in installments.*

(*1*) *Application for permission to pay filing fees in installments.*—A voluntary petition shall be accepted for filing by the clerk of the district court if accompanied by an application signed by the petitioner for permission to pay the filing fees in installments. The application shall state that the applicant is unable to pay the filing fees except in installments, the proposed terms of such installment payments, and that the applicant has paid no money and transferred no property to his attorney for services in connection with the case. The application shall be filed in duplicate, one copy for the clerk and one for the bankruptcy judge.

(*2*) *Action on application.*—At or prior to the first meeting of creditors, the court after a hearing may make an order permitting the payment of the filing fees in installments to the clerk of the district court, and fixing the number of installments and the amount and date of

payment of each installment. The number of installments permitted shall not exceed 4, and the final installment shall be payable not later than 4 months after the filing of the petition. For cause shown, however, the court may extend the time for payment of any installment to a date not later than 6 months after the date of filing of the petition.

(3) *Postponement of attorney's fees.*—Filing fees must be paid in full before the bankrupt may pay his attorney for services in connection with the case.

Rule 108. Schedules and statement of affairs.

(a) *Schedules and statement required.*—The bankrupt shall file with the court schedules of all his debts and all his property and a statement of his affairs, prepared by him in the manner prescribed by Official Forms No. 6 and either No. 7 or No. 8, whichever is appropriate. The number of copies of the schedules and statement shall correspond to the number of copies of the petition required by these rules.

(b) *Time limits.*—Except as otherwise provided herein, the schedules and statement shall be filed with the petition by a voluntary bankrupt and within 10 days after adjudication by an involuntary bankrupt or by a partnership adjudicated on other than a voluntary petition. A voluntary petition shall nevertheless be accepted by the clerk if accompanied by a list of all the bankrupt's creditors and their addresses, and the schedules and statement may be filed within 10 days thereafter in such case. On application the court may grant up to 10 additional days for the filing of schedules and the statement of affairs; any further extension may be granted only for cause shown and on such notice as the court may direct.

(c) *Partnership and partners.*—If the bankrupt is a partnership, the general partners shall prepare and file the schedules of the debts and property and statement of affairs of the partnership. Every general partner not

adjudicated shall file a statement of his assets and liabilities with the trustee of the partnership within 10 days after qualification by the trustee or within such further time as may be allowed by the court for cause shown.

(*d*) *Preparation of schedules or statement of affairs on default by bankrupt.*—If the schedules or statement of affairs is not prepared and filed as required by this rule, the court may order the receiver, trustee, a petitioning creditor, or other party in interest to prepare and file any of these papers within such time as the court shall fix.

(*e*) *Interests acquired or arising after bankruptcy.*—Within 10 days after the information comes to his knowledge or within such further time as the court may allow, the bankrupt shall file a supplemental schedule showing the facts regarding (1) any property that vests in him by bequests, devise, or inheritance within 6 months after bankruptcy; (2) any property in which the bankrupt had an estate or interest by the entirety on the date of bankruptcy and which became transferable in whole or in part solely by the bankrupt within 6 months after bankruptcy; and (3) any interests in real property that were nonassignable prior to bankruptcy and that, within 6 months thereafter, became assignable interests or estates, or gave rise to powers in the bankrupt to acquire assignable interests or estates. If any of the property or interests required to be reported under this subdivision is claimed by the bankrupt as exempt, he shall claim his exemption in the supplemental schedule. The duty to file a supplemental schedule in accordance with this subdivision continues notwithstanding the closing of the case before the duty is or can be performed.

Rule 109. Verification of petitions and accompanying papers.

All petitions, schedules, statements of affairs, and amendments thereto shall be verified.

Rule 110. Amendments of voluntary petitions, schedules, and statements of affairs.

A voluntary petition, schedule, or statement of affairs may be amended as a matter of course at any time before the case is closed. The court may, on application or motion of any party in interest or on its own initiative, order any voluntary petition, schedule, or statement of affairs to be amended. Every amendment under this rule shall be filed in the same number as required of the original paper, and the court shall give notice of the amendment to such persons as it may designate.

Rule 111. Service of petition and process.

Upon the filing of an involuntary petition, the clerk of the district court shall forthwith issue a summons for service on the bankrupt. Upon the filing of a partner's petition against a partnership under Rule 105 (b), the clerk shall forthwith issue a summons for service upon all general partners who are not petitioners. The summons shall conform substantially to Official Form No. 10 and a copy shall be served with a copy of the petition in the manner provided for service of a summons, complaint, and notice of trial by Rule 704 (b), (c), or (i). If service cannot be made as provided in the preceding sentence, the court may order the summons and petition to be served by mailing copies thereof to the last known address, if any, and by at least one publication in such manner and form as the court may direct. The summons and petition may be served anywhere. The provisions of Rule 704 (e), (g), and (h) apply when service is made or attempted under this rule.

Rule 112. Responsive pleading or motion.

The alleged bankrupt in an involuntary petition, or, in the case of a petition against a partnership under subdivision (b) or (c) of Rule 105, any general partner (or alleged general partner) who is not a petitioner, may

contest the petition. Rule 12 of the Federal Rules of Civil Procedure applies to the making of a defense or objection to the petition, except that an answer or a motion permitted under Rule 12 (b), (e), or (f) of the Federal Rules of Civil Procedure shall be served and filed within 15 days after the issuance of the summons, but if service is made by publication upon an alleged bankrupt or partner not an inhabitant of nor found within the state in which the district court is held, the court shall prescribe the time for such service and filing of the response. The service of a motion permitted under Rule 12 of the Federal Rules of Civil Procedure shall have the effect prescribed by Rule 712 (a) on the time allowed for serving an answer to the petition, but any motion or answer served on the petitioner must be filed with the court no later than the last day allowed for service of the motion or the answer, as the case may be. The answer to a petition may include the statement of a claim against a petitioning creditor only for the purpose of defeating the petition. No other responsive pleadings shall be allowed, except that the court may order a reply to an answer and prescribe the time for it to be served and filed.

Rule 113. Affirmative defense of solvency.

If a petition alleges the commission of the first act of bankruptcy, the alleged bankrupt shall plead and have the burden of proving the defense of solvency at the date of bankruptcy.

Rule 114. Examination of bankrupt on issue of insolvency or inability to pay debts as they mature.

Whenever a petition filed under Rule 104 alleges the commission of the second, third, or fifth act of bankruptcy or a petition is filed under Rule 105 (b), and the alleged bankrupt denies the allegation of insolvency or inability to pay debts as they mature, the alleged bankrupt shall appear in court at the hearing, and prior thereto if ordered by the court, with books, papers, and accounts,

and submit to an examination as to all matters bearing on the issue of insolvency or inability to pay debts as they mature. If the alleged bankrupt fails so to appear or submit to an examination, the court on motion may make such orders in regard to the failure as are just, including those specified in paragraphs (A), (B), and (C), of Rule 37 (b)(2) of the Federal Rules of Civil Procedure. The examination provided by this rule is not exclusive of the procedures available under Rules 121 and 205.

Rule 115. Hearing and disposition of petition.

(*a*) *Contested petition.*—The court shall determine the issues of a contested petition at the earliest practicable time and adjudicate the debtor a bankrupt, dismiss the case, or enter such other order as may be appropriate.

(*b*) *Jury trial.*

(1) An alleged bankrupt may, at or before the time within which an answer may be filed, demand a trial by jury of any issue triable of right by a jury under § 19a of the Act, by serving upon the petitioners a demand therefor in writing and filing it. Such demand may be indorsed upon the answer. If the demand specifies that a district judge conduct the trial or if a local rule of court so provides, the trial shall be placed on the calender of the district court as a jury action; otherwise the referee shall conduct the jury trial. The failure of a party to serve and file a demand in accordance with this rule constitutes a waiver by him of trial by jury or of a jury trial before a district judge, as the case may be.

(2) When trial by jury has been demanded in accordance with this rule, the trial of all issues so demanded shall be by jury unless the alleged bankrupt, by a writing filed with the court or by an oral statement made in open court and entered in the record, consents to trial by the court sitting without a jury. A trial with an advisory jury or a jury trial conducted as of right on consent of the parties may be ordered in accordance with Rule 39 (c) of the Federal Rules of Civil Procedure.

(3) When issues triable of right by jury have been placed on the district court calendar as provided in paragraph (1) of this subdivision, the district judge may order the trial before him of any other issues presented by the pleadings in the interest of expediting the court's business or for other good cause.

(4) Except as provided in subdivision (d) of this rule, Rules 47–51 of the Federal Rules of Civil Procedure apply to a jury trial conducted under this subdivision.

(*c*) *Default.*—If no pleading or other defense to a petition is filed within the time provided by these rules, the court shall on the next day, or as soon thereafter as practicable, make the adjudication or make such other order as may be appropriate.

(*d*) *Adjudication.*—An adjudication shall conform substantially to Official Form No. 11 and shall be entered in the referee's docket or the civil docket of the district court, as the case may be.

(*e*) *Award of costs.*—When a case commenced by the filing of a petition against any person pursuant to Rule 104 (a) or Rule 105 (b) or (c) is dismissed or withdrawn, the court on reasonable notice to the petitioner or petitioners may award to the prevailing party the same costs that are allowed to a prevailing party in a civil action and reasonable counsel fees, and shall award any other sums required by the Act.

Rule 116. Venue and transfer.

(*a*) *Proper venue.*

(*1*) *Natural person.*—A petition by or against a natural person may be filed in the district where the bankrupt has had his principal place of business, residence, or domicile for the preceding 6 months or for a longer portion thereof than in any other district. A petition by or against a natural person who has had no principal place of business, residence, or domicile within the United States during the preceding 6 months may be filed in a district wherein he has property.

(2) *Corporation or partnership.*—A petition by or against a corporation or partnership may be filed in the district (A) where the bankrupt has had its principal place of business or its principal assets for the preceding 6 months or for a longer portion thereof than in any other district; or (B) if there is no such district, in any district where the bankrupt has property.

(3) *Partner with partnership or copartner.*—Notwithstanding the foregoing: (A) a petition commencing a bankruptcy case may be filed by or against any general partner in a district where a petition under the Act by or against a partnership is pending; (B) a petition commencing a bankruptcy case may be filed by or against a partnership or by or against any other general partner or by or against any combination of the partnership and the general partners in a district where a petition under the Act by or against a general partner is pending.

(4) *Affiliate.*—Notwithstanding the foregoing, a petition commencing a bankruptcy case may be filed by or against an affiliate of the bankrupt in a district where a petition under the Act by or against the bankrupt is pending.

(b) *Transfer of cases; dismissal or retention when venue improper.*

(1) *When venue proper.*—Although a petition is filed in accordance with subdivision (a) of this rule, the court may, after hearing on notice to the petitioner or petitioners and such other persons as it may direct in the interest of justice and for the convenience of the parties, transfer the case to any other district. The transfer may be ordered at or before the first meeting of creditors either on the court's own initiative or on motion of a party in interest but thereafter only on a timely motion.

(2) *When venue improper.*—If a petition is filed in a wrong district, the court may, after hearing on notice to the petitioner or petitioners and such other persons as it may direct, dismiss the case or, in the interest of

justice and for the convenience of the parties, retain the case or transfer it to any other district. Such an order may be made at or before the first meeting of creditors either on the court's own initiative or on motion of a party in interest but thereafter only on a timely motion. Notwithstanding the foregoing, the court may without a hearing retain a case filed in a wrong district if no objection is raised.

(*c*) *Procedure when petitions involving the same bankrupt or related bankrupts are filed in different courts.*—If petitions commencing bankruptcy cases or a bankruptcy case and any other case under the Act are filed in different districts by or against (1) the same bankrupt, or (2) a partnership and one or more of its general partners, or (3) 2 or more general partners, or (4) a bankrupt and an affiliate, the court in which the first petition is filed shall, after hearing on motion and notice to the petitioners and such other persons as the court may designate, determine the court or courts in which the case or cases should proceed in the interest of justice and for the convenience of the parties. The proceedings on the other petitions shall be stayed by the courts in which such petitions have been filed until such determination is made. Thereafter all the courts in which petitions have been filed shall proceed in accordance with the determination.

(*d*) *Reference of transferred cases.*—A case transferred under this rule shall, in accordance with Rule 102 (a), be referred by the clerk of the district court to which it has been transferred.

Rule 117. Consolidation or joint administration of cases pending in same court.

(*a*) *Cases involving same bankrupt.*—If 2 or more petitions are pending in the same court by or against the same bankrupt, the court may order consolidation of the cases.

(*b*) *Cases involving 2 or more related bankrupts.*—If 2 or more petitions are pending in the same court by or against (1) a husband and wife, or (2) a partnership and one or more of its general partners, or (3) 2 or more general members of a partnership, or (4) a bankrupt and an affiliate, the court may order a joint administration of the estates. Before making such an order the court shall give due consideration to the protection of creditors of the different estates against potential conflicts of interest.

(*c*) *Expediting and protective orders.*—When an order for consolidation or joint administration of 2 or more cases is entered pursuant to this rule, the court, while protecting the rights of the parties under the Act, may make such orders as may tend to avoid unnecessary costs and delay.

Rule 118. Death or insanity of bankrupt.

The death or insanity of the bankrupt shall not abate a bankruptcy case. In such event the estate of the bankrupt shall be administered and the case concluded in the same manner, so far as possible, as though the death or insanity had not occurred.

Rule 119. Bankrupt involved in foreign proceeding.

When a proceeding for the purpose of the liquidation or rehabilitation of his estate has been commenced by or against a bankrupt in a court of competent jurisdiction without the United States, the court of bankruptcy may, after hearing on notice to the petitioner or petitioners and such other persons as it may direct, having regard to the rights and convenience of local creditors and other relevant circumstances, dismiss a case or suspend the proceedings therein under such terms as may be appropriate.

Rule 120. Dismissal of case without determination of merits.

(*a*) *Voluntary dismissal; dismissal for want of prosecution.*—A case shall not be dismissed on application or

motion of the petitioner or petitioners or for want of prosecution or by consent of the parties until after hearing on notice to the creditors as provided in Rule 203 (a). To enable the court to give such notice, the bankrupt, if he has not already done so, shall file a list of all his creditors with their addresses within the time fixed by the court. If the bankrupt fails to file such list, the court may by order provide for the preparation and filing of the list in such manner as may be appropriate.

(*b*) *Dismissal for failure to pay filing fees.*

(1) On nonpayment of any installment of the filing fees as ordered pursuant to Rule 107 (b) and after hearing on notice to the bankrupt, the court may dimiss the case.

(2) If a case is dismissed or closed without the payment in full of the filing fees, the installments collected shall be distributed in the same manner and proportions as if the filing fees had been paid in full.

(3) Notice of dismissal for failure to pay the filing fees shall be given within 30 days after the dismissal to creditors appearing on the list of creditors and to those who have filed claims, in the manner provided in Rule 203.

(*c*) *Effect of dismissal.*—Unless the order specifies to the contrary, dismissal of a case otherwise than on the merits is without prejudice.

Rule 121. Applicability of rules in Part VII.

Except as otherwise provided in Part I of these rules and unless the court otherwise directs, the following rules in Part VII apply in all proceedings relating to a contested petition and in all proceedings to vacate an adjudication: Rules 705, 708–710, 715, 716, 724–726, 728–737, 744.1, 752, 756, and 762. The court may direct that one or more of the other rules in Part VII shall also apply in such a proceeding. For the purposes of this rule a reference in the rules in Part VII to adversary proceedings shall be read as a reference to proceedings

relating to a contested petition or proceedings to vacate an adjudication, and a reference in the Federal Rules of Civil Procedure to the complaint shall be read as a reference to the petition.

Rule 122. Conversion of a chapter case to bankruptcy.

When an order is entered in a Chapter X, XI, XII, or XIII case directing that the case continue as a bankruptcy case, the procedure shall be as follows:

(1) In all respects other than as provided in the following paragraphs, the case shall be deemed to have been commenced as of the date of the filing of the first petition initiating a case under the Act and shall be conducted as far as possible as if no petition commencing a chapter case had been filed.

(2) Unless otherwise directed by the court, lists, inventories, schedules, and statements filed in the superseded case shall be deemed to be the schedules and statement of affairs filed in the bankruptcy case pursuant to Rule 108 and in full compliance therewith; but if no such documents have been previously filed, the bankrupt shall comply with Rule 108 as if he had been adjudicated an involuntary bankrupt on the date of the entry of the order directing that the case continue as a bankruptcy case.

(3) Notice of the order directing that the case continue as a bankruptcy case shall be given to all creditors in the manner provided by Rule 203 within 20 days after entry of the order and shall accompany the notice of the first meeting of creditors if one is held. If no first meeting of creditors is held, the date of the mailing of the notice of the order as provided in this paragraph shall be deemed the first date set for the first meeting of creditors for the purposes of any rule referring to that date to prescribe the time when or within which an act is required or allowed to be done; but if the time for filing claims, a complaint objecting to discharge, or a complaint to obtain a determination of the discharge-

ability of any debt had expired in a pending bankruptcy case prior to the filing therein of a chapter petition, the preceding clause of this paragraph shall not be deemed to revive or extend such time.

(4) A trustee shall be appointed by the court and notified pursuant to Rule 209 (c), and shall qualify pursuant to Rule 212, unless

(A) a trustee has been previously selected pursuant to Rule 209 and has qualified, in which event he shall be immediately notified of the order directing that the case continue as a bankruptcy case and shall enter upon the performance of his duties without further qualification; or

(B) a standby trustee has been nominated in the superseded case, in which event he shall be immediately notified pursuant to Rule 209 (c) and, within 5 days after receipt of notice, shall qualify in the manner provided by Rule 212; or

(C) the court pursuant to Rule 211 orders that no trustee be appointed.

If a trustee notified under this paragraph fails to qualify or to enter upon the performance of his duties, the court shall appoint a trustee pursuant to Rule 209.

(5) All claims filed in the superseded case shall be deemed filed in the bankruptcy case.

(6) Forthwith after qualification of the trustee or entry by him on the performance of his duties as provided in paragraph (4) of this rule, any trustee, receiver, or debtor in possession previously acting in the chapter case shall, unless otherwise ordered, turn over to the trustee in bankruptcy all the records and property of the estate in his possession or subject to his control.

(7) Each trustee, receiver, and debtor in possession acting in the superseded chapter case shall, unless the court otherwise directs, file with the court a final report and account within 30 days after the entry of the order directing that the case continue as a bankruptcy case,

including, in a superseded Chapter X, XI, or XII case, a separate schedule listing unpaid debts incurred by him after the commencement of the chapter case. If the order is entered after confirmation of a plan, the debtor shall file with the court schedules of (A) property not listed in the final report filed pursuant to the preceding sentence of this paragraph and acquired by him after the filing of the original petition under the Act and before the entry of the order directing that the case continue as a bankruptcy case and (B) debts not listed in the final report filed pursuant to the preceding sentence of this paragraph and incurred by him after confirmation and before the entry of such order.

(8) On the filing of a schedule required by the preceding paragraph, the court shall enter an order directing the claims so scheduled, including claims of the United States, any state, and any subdivision thereof, to be filed and shall give notice by mail to the holders thereof to file their claims pursuant to Rule 302 (a)–(d) within 60 days from the entry of the order directing them to be filed, except that claims not scheduled as provided in the preceding paragraph and claims arising from rejection of executory contracts under pragraph (10) of this rule may be filed within such further time as the court may direct.

(9) If the court grants an extension of time for the filing of claims pursuant to Rule 302 (e)(5), the extension shall apply to holders of claims who failed to file within the time prescribed by, or fixed by the court pursuant to, paragraph (8) of this rule, and notice shall be given them in the manner provided in Rule 203 (a).

(10) Rule 607 shall govern the assumption, rejection, and assignment of contracts entered into or assumed by a trustee, receiver, or debtor in possession acting in the superseded chapter case which are executory in whole or in part at the time of the entry of the order directing the case to continue as a bankruptcy case, except that

with respect to a trustee selected as provided in paragraph (4)(A) of this rule the time periods prescribed by Rule 607 shall begin to run from the entry of such order.

PART II. OFFICERS FOR ADMINISTERING THE ESTATE; NOTICES TO CREDITORS; CREDITORS' MEETINGS; EXAMINATIONS; ELECTIONS; ATTORNEYS AND ACCOUNTANTS

Rule 201. Appointment and duties of receivers.

(*a*) *Purposes and term of receivership.*—Subject to the provisions of this rule, the court may appoint a receiver when necessary in the best interest of the estate (1) to take charge of the property of a bankrupt; (2) to conduct the business of the bankrupt; or (3) to afford representation to the estate in an action, adversary proceeding, or contested matter when no trustee has qualified or the interest of the trustee may be adverse to that of the estate. Such appointment shall be terminated when the trustee qualifies or there is no further need for a receiver, and the authorization to conduct the business of the bankrupt after adjudication shall continue only for such time as may be in the best interest of the estate and consistent with orderly liquidation.

(*b*) *Application for appointment.*—An application for appointment of a receiver shall state the specific facts showing the necessity for the appointment.

(*c*) *Appointment before adjudication.*—Before adjudication, appointment of a receiver may be made only on application. The application may be granted only after hearing on notice to the alleged bankrupt and such other parties in interest as the court may designate, except that a receiver may be appointed without notice if irreparable loss to the estate may otherwise result. An application for appointment of a receiver without notice and any order of appointment made without notice

shall state what loss may result and why it would be irreparable.

(*d*) *Bond of applicant.*—Before adjudication, no receiver may be appointed unless the applicant furnishes a bond in such amount and with such surety as the court shall approve, conditioned to indemnify the bankrupt for the costs, counsel fees, expenses, and damages occasioned by the appointment and action of the receiver in the event the petition is dismissed or withdrawn. The property of the bankrupt shall be released, however, if he files a counter-bond in such amount and with such surety as the court shall approve, conditioned that the bankrupt account for and turn over such property or pay to the trustee the value thereof in money at the time of release, in the event the adjudication is made.

(*e*) *Appointment after adjudication.*—After adjudication the court may appoint a receiver on application or on its own initiative. Such appointment shall be made only after notice to such persons as the court may designate, unless it clearly appears that notice is impracticable or unnecessary.

(*f*) *Eligibility.*—Only a person who is eligible to be a trustee under Rule 209 (d) may be appointed a receiver.

(*g*) *Order of appointment.*—An order appointing a receiver shall state why the appointment is necessary. A receiver is a mere custodian unless, upon proper cause shown, his duties are enlarged or otherwise specified by order of court. A copy of every order appointing a receiver shall forthwith be delivered to the bankrupt, or mailed to him at his last known address, and to such other persons as the court may designate.

(*h*) *Notice of appointment; qualification.*—The court shall immediately notify the receiver of his appointment, inform him as to how he may qualify, and require him forthwith to notify the court of his acceptance or rejection of the office. A receiver shall qualify as provided in Rule 212.

(*i*) *Duties.*—A receiver shall perform the duties prescribed in Rule 218 to the extent it is appropriate, except as the court may otherwise direct. Forthwith after qualification of the trustee, the receiver shall, unless otherwise ordered, turn over to the trustee all the records and property of the estate in his possession or subject to his control as receiver. The receiver shall file his final report and account within 30 days after qualification of the trustee unless the court otherwise directs.

Rule 202. Appointment of marshal in lieu of receiver; his duties.

The court may appoint a marshal in lieu of a receiver and, in such event, the provisions of Rule 201 except subdivisions (f) and (h) shall apply.

Rule 203. Notices to creditors and the United States.

(*a*) *Ten-day notices to all creditors.*—Except as provided hereinafter, the court shall give all creditors at least 10 days' notice by mail of (1) a meeting of creditors; (2) any proposed sale of property, including the time and place of any public sale, unless the court for cause shown shortens the time or orders a sale without notice; (3) the hearing on the approval of a compromise or settlement of a controversy, unless the court for cause shown directs that notice not be sent; (4) the date fixed for the filing of claims against a surplus in an estate as provided in Rule 302 (e)(5); (5) the hearing on the dismissal of a case when notice is required by Rule 120 (a); and (6) the hearing on approval of a trustee's or a receiver's account and on an application for compensation or reimbursement of expenses filed by a receiver, marshal, trustee, attorney, or accountant, except when no final meeting of creditors is required to be ordered pursuant to Rule 204 (c). The notice of a proposed sale of property, including real estate, is sufficient if it generally describes the property to be sold. The notice of a hearing on an application for compensation or reimbursement of ex-

penses shall specify the applicant and the amount requested.

(*b*) *Notice of no dividend.*—If it appears from the schedules that there are no assets from which a dividend can be paid, the court may include in the notice of the first meeting a statement to that effect, that it is unnecessary to file claims, and that if sufficient assets become available for the payment of a dividend, the court will give further notice of the opportunity to file claims and the time allowed therefor.

(*c*) *Other notices to all creditors.*—The court shall give notice by mail to all creditors of (1) the dismissal of the case for failure to pay filing fees pursuant to Rule 120 (b); (2) the entry of an order directing that a chapter case continue as a bankruptcy case as provided in Rule 122 (c); (3) the time allowed for filing claims pursuant to Rule 302 (e)(4) after issuance of a notice of no dividend; (4) the time fixed for filing a complaint objecting to the bankrupt's discharge pursuant to Rule 404 (b); (5) the order of discharge as provided in Rule 404 (h); (6) the waiver, denial, or revocation of a discharge as provided in Rule 408; and (7) the time allowed for filing a complaint to determine the dischargeability of a debt pursuant to § 17c (2) of the Act as provided in Rule 409 (a)(2).

(*d*) *Notices to creditors whose claims are filed.*—After 6 months following the first date set for the first meeting of creditors, the court may direct that all notices required by subdivision (a) of this rule, except clause (4) thereof, be mailed only to creditors whose claims have been filed and creditors, if any, who are still permitted to file claims by reason of an extension granted under Rule 302 (e).

(*e*) *Addresses of notices.*—All notices to which a creditor is entitled under these rules shall be addressed to the creditor as he or his duly authorized agent may direct in a request filed with the court; otherwise, to the creditor at the address shown in the schedules or, if a different

address is stated in a proof of claim duly filed, then at the address so stated.

(*f*) *Notices to creditors' committee.*—Notwithstanding the foregoing subdivisions, if a creditors' committee has been elected, the court may order that notices required by clauses (2), (3), and (6) of subdivision (a) be mailed only to the committee or to its authorized agent and to creditors who file with the court a request that all notices under these clauses be mailed to them.

(*g*) *Notices to the United States.*—Copies of notices required to be mailed to all creditors under these rules shall be mailed (1) to the district director of internal revenue for the district in which the case is pending and (2) whenever the schedules, the list of creditors, or any other paper filed in the case discloses a debt to the United States other than one for taxes, to the United States attorney for the district in which the case is pending and, if disclosed by the filed papers, to the department, agency, or instrumentality of the United States through which the bankrupt became so indebted.

(*h*) *Notice by publication.*—If the court finds that it is impracticable to give notice to creditors by mail as provided in this rule or that it is desirable to supplement such notice, the court may order publication thereof.

(*i*) *Caption.*—The caption of every notice given under this rule shall comply with Rule 106 and shall also include all names used by the bankrupt within 6 years before the filing of the petition, as disclosed on the statement of affairs filed pursuant to Rule 108.

Rule 204. Meetings of creditors.

(*a*) *First meeting.*

(*1*) *Date and place.*—The first meeting of creditors shall be held not less than 10 nor more than 30 days after the adjudication, but if there is an appeal from or a motion to vacate the adjudication, or if there is a motion to dismiss the case, the court may delay fixing a date for such meeting. The meeting may be held at a regular

place for holding court or at any other place within the district more convenient for the parties in interest.

(*2*) *Agenda.*—The bankruptcy judge shall preside over the transaction of all business at the first meeting of creditors, including the examination of the bankrupt. He shall, when necessary, determine which claims are entitled to vote at the meeting and shall conduct the election of a trustee and, if one is held, the election of a creditors' committee.

(*b*) *Special meetings.*—The court may call a special meeting of creditors on application or on its own initiative.

(*c*) *Final meeting.*—The court shall order a final meeting of creditors in every case in which the net proceeds realized exceed $250 and shall mail a summary of the trustee's final account to the creditors with the notice of the meeting, together with a statement of the amount of the claims allowed. The trustee shall attend the final meeting and shall, if requested, report on the administration of the estate.

Rule 205. Examination.

(*a*) *Examination on application.*—Upon application of any party in interest, the court may order the examination of any person. The application shall be in writing unless made during a hearing or examination or unless a local rule otherwise provides.

(*b*) *Examination of bankrupt at first meeting.*—At the first meeting of creditors, the court shall publicly examine the bankrupt or cause him to be examined and may permit any party in interest to examine the bankrupt.

(*c*) *Bankruptcy judge to preside.*—The bankruptcy judge shall preside at any examination under subdivision (b) of this rule.

(*d*) *Scope of examination.*—The examination under subdivisions (a) and (b) of this rule may relate only to the acts, conduct, or property of the bankrupt, or to

any matter which may affect the administration of the bankrupt's estate, or to his right to discharge.

(*e*) *Compelling attendance for examination and production of documentary evidence.*—The attendance of any person for examination and the production of documentary evidence may be compelled in accordance with the provisions of Rule 916 by the use of a subpoena for a hearing or trial.

(*f*) *Place of examination of bankrupt.*—Without issuing a subpoena, the court may for cause shown and on such terms as it may impose order the bankrupt to be examined under subdivision (a) of this rule at any place it designates, whether within or without the district wherein the case is pending.

(*g*) *Mileage.*—A person other than a bankrupt shall not be required to attend as a witness before a bankruptcy judge unless his lawful mileage and fee for one day's attendance shall be first tendered to him. If the bankrupt resides over 100 miles from the place of examination when he is required to appear for an examination under subdivision (a) of this rule, he shall be tendered mileage allowed by law to a witness for any distance over 100 miles from his residence at the date of bankruptcy or his residence at the time he is required to appear for such examination, whichever is the lesser.

Rule 206. Apprehension and removal of bankrupt to compel attendance for examination.

(*a*) *Order to compel attendance for examination.*—Upon a verified application of any party in interest alleging (1) that the examination of the bankrupt is necessary for the proper administration of the estate and that there is reasonable cause to believe that the bankrupt is about to leave his residence or his principal place of business to avoid examination, or (2) that he has evaded service of a subpoena or of an order to attend for examination, or (3) that he has willfully

disobeyed a subpoena or order to attend for examination, duly served upon him, the court may issue to the marshal, or some other officer authorized by law, an order directing him to bring the bankrupt forthwith before the court. If after hearing the court finds the allegations to be true, the court shall thereupon examine the bankrupt or cause him to be examined as soon as possible, but, in any event, the examination shall be commenced within 10 days after he was taken into custody. If it is necessary, the court shall fix conditions for further examination and for the bankrupt's obedience to all orders made in reference thereto.

(*b*) *Removal.*—Whenever any order to bring the bankrupt before the court is issued under this rule and he is found in a district other than that of the court issuing the order, he may be taken into custody under such order and removed in accordance with the following rules:

(1) If taken at a place less than 100 miles from the place of issue of the order, the bankrupt shall be brought forthwith before the court that issued the order.

(2) If taken at a place 100 miles or more from the place of issue of the order, the bankrupt shall be brought without unnecessary delay before the nearest magistrate, referee in bankruptcy, or district judge. If, after hearing, the magistrate, referee, or district judge finds that an order has issued under this rule and that the person in custody is the bankrupt, or if the person in custody waives a hearing, the magistrate, referee, or district judge shall issue an order of removal and the person in custody shall be released on conditions assuring his prompt appearance before the court which issued the order to compel his attendance.

(*c*) *Conditions of release.*—In determining what conditions will reasonably assure attendance or obedience under subdivision (a) of this rule or appearance under subdivision (b) of this rule, the court shall be governed

by the provisions and policies of Title 18, U. S. C., § 3146 (a) and (b).

Rule 207. Voting at creditors' meetings.

(*a*) *Right to vote; temporary allowance for voting purposes.*—Except as hereinafter provided, a creditor is entitled to vote at a meeting if he has filed a proof of claim at or before the meeting, unless objection is made or unless the proof of claim is insufficient on its face. Notwithstanding objection to the amount or allowability of a claim for the purpose of voting, the court may temporarily allow it for that purpose in such amount as to the court seems proper.

(*b*) *Majority vote; creditors with claims of $100 or less.*—The trustee and the creditors' committee, if any, shall be elected by a majority vote in number and amount of claims of all creditors who are present and voting in person or by proxy. A claim of $100 or less shall be included in computing the amount, but the holder of such a claim shall not be counted in computing the number of creditors voting.

(*c*) *Creditors with secured or priority claims.*—A creditor holding a claim which is secured or has priority shall be entitled to vote such claim only to the extent the claim exceeds the value of his security or the amount of his priority.

(*d*) *Creditors excluded from voting.*—The following creditors shall not be entitled to vote: a relative or affiliate of the bankrupt; a director or trustee or a stockholder, member, or officer of the bankrupt corporation; a general partner, limited partner, or person in control of the bankrupt partnership; or a person having an interest materially adverse to the estate.

Rule 208. Solicitation and voting of proxies.

(*a*) *Definitions.*

(*1*) *Proxy.*—A proxy includes a power of attorney, proof of claim, or other writing authorizing any person

who does not then own a claim to vote the claim or otherwise act as the owner's attorney in fact in connection with the administration of an estate in bankruptcy.

(*2*) *Solicitation of proxy.*—The solicitation of a proxy is any communication, other than one from an attorney to a regular client who owns a claim or from an attorney to the owner of a claim who has requested the attorney to represent him, by which a creditor is asked, directly or indirectly, to give a proxy after or in contemplation of the filing of a petition by or against the bankrupt.

(*b*) *Authorized solicitation.*

(1) A proxy may be solicited only by (A) a creditor owning a provable claim against the estate on the date of the filing of the petition; (B) a committee elected under Rule 214; (C) a committee of creditors selected by a majority in number and amount of claims of creditors whose claims are not contingent or unliquidated, who are not disqualified from voting under Rule 207 (c) or (d), and 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 5 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 provable claims on the date of the filing of the petition.

(2) A proxy may be solicited only in writing.

(*c*) *Solicitation not authorized.*—This rule shall not be construed to permit solicitation (1) in any interest other than that of general creditors; (2) by or on behalf of any person who has taken charge of property of the bankrupt as a receiver or trustee or an assignee for the benefit of creditors; (3) by or on behalf of any person disqualified from voting under Rule 207 (c) or (d);

(4) by or on behalf of an attorney at law; or (5) by or on behalf of a transferee of a claim for collection only.

(*d*) *Data required from holders of multiple proxies.*— At any time before the voting commences at any meeting of creditors held under Rule 204, or at such other time as the court may direct, a holder of 2 or more proxies must file with the court a verified list of the proxies to be voted and a verified statement of the pertinent facts and circumstances in connection with the execution and delivery of the proxies, including with respect to each of the proxies that was solicited, whether by the proxyholder or by any other person, the following:

(1) a copy of the solicitation;

(2) identification of the solicitor, the forwarder, if he is neither the solicitor nor the owner of the claim, and the proxyholder, including their connections with the bankrupt and with each other, and if the solicitor, forwarder, or proxyholder is an association, a statement that the creditors whose claims have been solicited and the creditors whose claims are to be voted were members or subscribers in good standing and had provable claims on the date of the filing of the petition, or if the solicitor, forwarder, or proxyholder is a committee of creditors, the date and place the committee was organized, a statement that the committee was organized in accordance with clause (B) or (C) of paragraph (b)(1) of this rule, the members of the committee, the amounts of their claims, when the claims were acquired, the amounts paid therefor, and the extent to which the claims of the committee members are secured or entitled to priority;

(3) a statement that no consideration has been paid or promised by the proxyholder for the proxy;

(4) a statement as to whether there is any agreement, and, if so, the particulars thereof, between the proxyholder and any other person for the payment of any consideration in connection with voting the proxy, or for the sharing of compensation with any person, other than

a member or regular associate of his law firm, which may be allowed the trustee or any person for services rendered in the case, or for the employment of any person as attorney, accountant, appraiser, auctioneer, or other employee for the estate;

(5) if the proxy was solicited by a person other than the proxyholder, a statement signed and verified by the solicitor that no consideration has been paid or promised by him for the proxy, and a statement signed and verified by him as to whether there is any agreement, and, if so, the particulars thereof, between the solicitor and any other person for the payment of any consideration in connection with voting the proxy, or for the sharing of compensation with any person, other than a member or regular associate of his law firm which may be allowed the trustee or any person for services rendered in the case, or for the employment of any person as attorney, accountant, appraiser, auctioneer, or other employee for the estate;

(6) if the proxy was forwarded to the holder by a person who is neither a solicitor of the proxy nor the owner of the claim, a statement signed and verified by the forwarder that no consideration has been paid or promised by him for the proxy, and a statement signed and verified by him as to whether there is any agreement between the forwarder and any other person for the payment of any consideration in connection with the voting of the proxy, or for the sharing of compensation with any person, other than a member or regular associate of his law firm, which may be allowed the trustee or any person for services rendered in the case, or for the employment of any person as attorney, accountant, appraiser, auctioneer, or other employee for the estate; and

(7) if the solicitor, forwarder, or proxyholder is a committee, a statement signed and verified by each member as to the amount and source of any consideration paid or to be paid to such member in connection with the case other than by way of dividend on his claim.

(*e*) *Enforcement of restrictions on solicitation.*—The court on its own initiative or on application or motion of any party in interest may determine whether there has been a failure to comply with the provisions of this rule or any other impropriety in connection with the solicitation or voting of a proxy. After such hearing as may be appropriate, the court may reject any proxy for cause, vacate any order entered in consequence of the voting of any proxy which should have been rejected, or take any other or further appropriate action.

Rule 209. Selection of trustee.

(*a*) *Election at first meeting.*—The creditors of a bankrupt entitled to vote under Rules 207 and 208 shall elect a trustee at the first meeting, subject to approval by the court and to the provisions of this rule.

(*b*) *Appointment by the court.*—Except as provided in Rule 211, the court shall appoint a trustee if (1) the creditors do not elect a trustee; (2) the trustee elected fails to qualify; (3) a vacancy occurs in the office of trustee; or (4) a trustee is needed in a reopened case. If an elected trustee is disapproved by the court for ineligibility or other good cause, the court may appoint a trustee.

(*c*) *Notice to trustee of his election or appointment; qualification.*—The court shall immediately notify the trustee of his election or appointment. The court shall also inform him as to how he may qualify, including the penal sum of his bond if required, and of the time fixed for the filing of a complaint objecting to the bankrupt's discharge, and shall require him forthwith to notify the court of his acceptance or rejection of the office. A trustee shall qualify as provided in Rule 212.

(*d*) *Eligibility.*—A trustee shall have no interest adverse to the estate and shall be competent to perform the duties of his office. If an individual, he shall have a residence or office in the state in which the case is

pending or in any adjacent state, and, if a corporation, it shall be authorized by its charter or by law to act as trustee and have an office in the state in which the case is pending.

Rule 210. Trustees for estates when joint administration ordered.

(*a*) *Election of single trustee for estates being jointly administered.*—If the court orders a joint administration of 2 or more estates pursuant to Rule 117 (b), it may approve election of a single trustee by the creditors of one or more of the bankrupts for the estates being jointly administered.

(*b*) *Right of creditors to elect separate trustee.*—Notwithstanding entry of an order for joint administration pursuant to Rule 117 (b) the creditors of any bankrupt may elect a separate trustee for his estate as provided in Rule 209 (a).

(*c*) *Appointment of trustees for estates being jointly administered.*—If the creditors do not elect a trustee under subdivision (a) or (b) of this rule, the court may appoint one or more trustees for the estates being jointly administered.

(*d*) *Potential conflicts of interest.*—Before approving the election or appointment of one trustee for estates being jointly administered as provided in subdivision (a) or (c) of this rule, the court must be satisfied that the creditors of the different estates will not be prejudiced by conflicts of interest of the trustee.

(*e*) *Trustee for partnership and partners' individual estates.*—Notwithstanding the foregoing provisions of this rule, the trustee of a bankrupt partnership shall also be the trustee of the individual estate of any general partner ordered pursuant to Rule 117 (b) to be administered jointly, unless the court, for cause shown, either (1) permits the creditors of a general partner to elect a sep-

arate trustee or (2) appoints a separate trustee for the individual estate.

(*f*) *Separate accounts.*—The trustee or trustees of estates being jointly administered shall nevertheless keep separate accounts of the property and distribution of each estate.

Rule 211. Trustee not appointed in certain cases.

If, after examination of the bankrupt, the court determines that there is no property in the estate other than that which can be claimed as exempt and that no other circumstances indicate the need for a trustee, and if the creditors do not elect a trustee, the court may order that no trustee be appointed. At any time thereafter, for cause shown, a trustee may be appointed by the court.

Rule 212. Qualification by trustee and receiver.

(*a*) *Qualifying bond or security.*—Except as provided hereinafter, every trustee and every receiver shall, before entering upon the performance of his official duties and within 5 days after his election or appointment, qualify by filing a bond in favor of the United States conditioned on the faithful performance of his official duties or by giving such other security as may be approved by the court.

(*b*) *Blanket bond.*—The court may authorize a blanket bond in favor of the United States conditioned on the faithful performance of official duties by a trustee or receiver in more than one case or by more than one trustee or receiver.

(*c*) *Bond excused in certain cases.*—The court may excuse the filing of a bond or the giving of other security (1) by a trustee or receiver when there appears to be an insufficient amount of property in the estate to justify the requirement of a bond or security, or (2) by a receiver when he will not be a custodian of any property.

(*d*) *Qualification by filing acceptance.*—A trustee or

receiver for whom a blanket bond has been filed pursuant to subdivision (b) of this rule or who is excused from filing a bond or giving security pursuant to subdivision (c) hereof shall qualify by filing his acceptance of his election or appointment in lieu of the bond.

(*e*) *Amount of bond and sufficiency of surety.*—The court shall determine the amount of the bond and the sufficiency of the surety for each bond filed under this rule.

(*f*) *Filing of bond; proceeding on bond.*—Unless otherwise provided by local rule, a bond given under this rule shall be filed with the referee. A proceeding on the bond of a trustee or receiver may be brought by any party in interest in the name of the United States for the use of the person injured by the breach of the condition. No proceeding shall be brought on a trustee's or receiver's bond more than 2 years after his discharge.

(*g*) *Evidence of qualification.*—A certified copy of the order approving the bond or other security given by a trustee or receiver under subdivision (a) or of his acceptance filed under subdivision (d) of this rule shall constitute conclusive evidence of his qualification.

Rule 213. Limitation on appointment of receivers and trustees.

No standing receiver or trustee may be appointed. Appointments of receivers and trustees by the court shall be apportioned so that the aggregate compensation of any one appointee shall not be excessive.

Rule 214. Creditors' committee.

The creditors entitled to vote for a trustee may, at the first meeting of creditors or at any special meeting called for that purpose, elect a committee of 3 or more creditors. The committee may consult with the trustee in connection with the administration of the estate, make recommendations to the trustee respecting the per-

formance of his duties, and submit to the court any question affecting the administration of the estate.

Rule 215. Employment of attorneys and accountants.

(*a*) *Conditions of employment of attorneys and accountants.*—No attorney or accountant for the trustee or receiver shall be employed except upon order of the court. The order shall be made only upon application of the trustee or receiver, stating the specific facts showing the necessity for such employment, the name of the attorney or accountant, the reasons for his selection, the professional services he is to render, and to the best of the applicant's knowledge all of the attorney's or accountant's connections with the bankrupt, the creditors, or any other party in interest, and their respective attorneys and accountants. If the attorney or accountant represents or holds no interest adverse to the estate in the matters upon which he is to be engaged, and his employment is in the best interest of the estate, the court may authorize his employment. Notwithstanding the foregoing sentence, the court may authorize the employment of an attorney or accountant who has been employed by the bankrupt when such employment is in the best interest of the estate. The employment of any attorney or accountant shall be only for the purposes specified in the order, but the court may authorize a general retainer of an attorney when necessity therefor is shown.

(*b*) *Employment of attorney or accountant with adverse interest.*—If without disclosure any attorney or accountant employed by the trustee or receiver shall represent or hold, or shall have represented or held, any interest adverse to the estate in any matter upon which he is so employed, the court may deny the allowance of any compensation to such attorney or accountant, or the reimbursement of his expenses, or both, and may also deny any allowance to the trustee or receiver if it shall

appear that he failed to make diligent inquiry into the connections of such attorney or accountant.

(*c*) *Employment by a general creditor.*—An attorney or accountant shall not be disqualified to act as attorney or accountant for the trustee or the receiver merely because of his employment by a general creditor in the case.

(*d*) *Employment of attorney or accountant on salary.*—A trustee or receiver authorized to operate the business and manage the property of the bankrupt may, without specific authorization under subdivision (a) of this rule, continue or engage any attorney or accountant as a salaried employee if such employment is necessary in the operation of the business and management of the property of the bankrupt.

(*e*) *Employment of trustee or receiver as attorney or accountant.*—The court may authorize the trustee or receiver to act as an attorney or accountant for the estate if such authorization is in the best interest of the estate.

(*f*) *Services rendered by member or associate of firm of attorneys or accountants.*—If, under this rule, a law partnership or corporation is employed as an attorney, or an accounting partnership or corporation is employed as an accountant, or if a named attorney or accountant is employed on behalf of a professional partnership or corporation, any member or regular associate of the firm may act for the attorney or accountant so employed, without further order of the court, and his services may be compensated as services of the attorney or accountant in accordance with Rule 219.

Rule 216. Authorization of trustee to conduct business of bankrupt.

The court may authorize the trustee to conduct the business and manage the property of the bankrupt for such time and on such conditions as may be in the best interest of the estate and consistent with orderly liquidation thereof.

Rule 217. Ancillary proceedings.

(*a*) *Ancillary receivership abolished.*—No ancillary receiver may be appointed in a bankruptcy case. Unless it is inconsistent with the order appointing him, a receiver appointed in a bankruptcy case has capacity to represent the bankrupt estate in any court.

(*b*) *Reference of ancillary proceeding.*—Any complaint, motion, or application for ancillary relief in a court of bankruptcy shall be referred by the clerk of the court in which it is filed to a referee of that court.

Rule 218. Duty of trustee to keep records, make reports, and furnish information.

A trustee shall: (1) within a reasonable time after entering upon his duties file a complete inventory of the property of the bankrupt unless such an inventory has already been filed or unless the court otherwise directs; (2) keep a record of receipts and the disposition of money and property received; (3) furnish information concerning the estate and its administration when reasonably requested by a party in interest, except as otherwise directed by the court; (4) make a written report to the court of the financial condition of the estate and the progress of its administration within a month after his qualification and every 3 months thereafter, unless the court by local rule or order otherwise directs; and (5) file a final report and account containing a detailed statement of receipts and disbursements. If a final meeting of creditors is ordered, the final report and account of the trustee shall be filed at least 15 days before the meeting.

Rule 219. Compensation for services rendered and reimbursement of expenses incurred in a bankruptcy case.

(*a*) *Application for compensation or reimbursement.*—A person seeking compensation for services, or reimbursement of necessary expenses, from the estate shall file with

the court an application setting forth a detailed statement of (1) the services rendered and expenses incurred, and (2) the amounts requested. An application for compensation shall include a statement by the applicant as to what payments have theretofore been made or promised to him for services rendered or to be rendered in any capacity whatsover in connection with the case, the source of the compensation so paid or promised, whether any compensation he has previously received has been shared and whether an agreement or understanding exists between the applicant and any other person for the sharing of compensation received or to be received for services rendered in or in connection with the case, and the particulars of any such sharing of compensation or agreement or understanding therefor, except that the details of any agreement by the applicant for the sharing of his compensation as a member or regular associate of a firm of lawyers or accountants shall not be required. The requirements of this subdivision shall apply to an application for compensation for services rendered by an attorney or accountant even though the application is filed by a creditor or other person on his behalf.

(*b*) *Disclosure of compensation paid or promised to attorney for bankrupt.*—Every attorney for a bankrupt, whether or not he applies for compensation, shall file with the court on or before the first date set for the first meeting of creditors, or at such other time as the court may direct, a statement setting forth the compensation paid or promised him for the services rendered or to be rendered in connection with the case, the source of the compensation so paid or promised, and whether the attorney has shared or agreed to share such compensation with any other person. 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 his compensation with a member or regular associate of his law firm shall not be required.

(*c*) *Factors in allowing compensation.*

(*1*) *General.*—The compensation allowable by the court to a trustee, receiver, marshal, attorney, accountant, or other person entitled to compensation for services rendered in the administration of a bankrupt estate shall be reasonable, and in making allowances the court shall give due consideration to the nature, extent, and value of the services rendered as well as to the conservation of the estate and the interests of creditors.

(*2*) *Trustee, receiver, or marshal.*—The compensation allowed by the Act to a trustee, receiver, or marshal shall be in full compensation for the services performed by him as required by the Act and by these rules, but shall not be deemed to cover expenses necessarily incurred in the performance of his duties and allowed upon the settlement of his accounts. Additional compensation may be allowed for legal or other services not required of him by the Act or by these rules, but only if such services were authorized by order of the court before they were rendered.

(*3*) *Attorney or accountant.*—Compensation may be allowed an attorney or an accountant only for professional services.

(*d*) *Restriction on sharing of compensation.*—Except as herein provided, a person rendering services in a bankruptcy case or in connection with such a case shall not in any form or guise share or agree to share the compensation paid or allowed him from the estate for such services with any other person, nor shall he share or agree to share in the compensation of any other person rendering services in a case under the Act or in connection with such a case. This rule does not prohibit an attorney or accountant from sharing his compensation as trustee, receiver, attorney, or accountant with a member or regular associate of his firm, or from sharing in the compensation received by his firm or by any other

member or regular associate thereof, and does not prohibit an attorney for a bankrupt or for a petitioning creditor from sharing his compensation for services rendered with any other attorney contributing thereto. If a person violates this subdivision, the court may deny him compensation, may hold invalid any transaction subject to examination under Rule 220 to which he is a party, or may enter such other order as may be appropriate.

Rule 220. Examination of bankrupt's transactions with his attorney.

(*a*) *Payment or transfer to attorney in contemplation of bankruptcy.*—On motion by any party in interest or on the court's own initiative, the court may examine any payment of money or any transfer of property by the bankrupt, made directly or indirectly and in contemplation of the filing of a petition by or against him, to an attorney for services rendered or to be rendered.

(*b*) *Payment or transfer to attorney, or agreement therefor, after bankruptcy.*—On motion by the bankrupt or on the court's own initiative, the court may examine any payment of money or any transfer of property, or any agreement therefor, by the bankrupt to an attorney after bankruptcy, whether the payment or transfer is made or is to be made directly or indirectly, if the payment, transfer, or agreement therefor is for services in any way related to the bankruptcy.

(*c*) *Invalidation of unreasonable payment, transfer, or obligation.*—Any payment, transfer, or obligation examined under subdivision (a) or (b) of this rule shall be held valid only to the extent of a reasonable amount as determined by the court. The amount of any excess found to have been paid or transferred under subdivision (a) or (b) may be recovered for the benefit of the estate or the bankrupt, as their interests may appear, and any obligation found to be excessive may be cancelled to the extent of the excess.

Rule 221. Removal of trustee or receiver; substitution of successor.

(*a*) *Removal for cause.*—On application of any party in interest or on the court's own initiative and after hearing on notice, the court may remove a trustee or receiver for cause and appoint a successor.

(*b*) *Substitution of successor.*—When a trustee or receiver dies, resigns, is removed, or otherwise ceases to hold office during the pendency of a bankruptcy case, his successor is automatically substituted as a party in any pending action, proceeding, or matter without abatement.

Part III. Claims and Distribution to Creditors

Rule 301. Proof of claim.

(*a*) *Form and content; who may execute.*—A proof of claim shall consist of a statement in writing setting forth a creditor's claim and, except as provided in Rules 303 and 304, shall be executed by the creditor or by his authorized agent. A proof of claim for wages, salary, or commissions shall conform substantially to Official Form No. 16 or No. 16A; any other proof of claim shall conform substantially to Official Form No. 15.

(*b*) *Evidentiary effect.*—A proof of claim executed and filed in accordance with these rules shall constitute prima facie evidence of the validity and amount of the claim.

Rule 302. Filing proof of claim.

(*a*) *Manner of filing.*—In order for his claim to be allowed, every creditor, including the United States, any state, or any subdivision thereof, must file a proof of claim in accordance with this rule, except as provided in Rules 303 and 304.

(*b*) *Place of filing.*—A proof of claim shall be filed in the place prescribed by Rule 509.

(*c*) *Claim founded on a writing.*—When a claim, or an interest in property of the bankrupt securing the claim,

is founded on a writing, the original or a duplicate shall be filed with the proof of claim unless the writing has been lost or destroyed. If lost or destroyed, a statement of the circumstances of the loss or destruction shall be filed with the claim. If a security interest in property of the bankrupt is claimed, the proof of claim shall be accompanied by satisfactory evidence that the security interest has been perfected.

(*d*) *Transferred claim.*

(*1*) *Unconditional transfer before proof filed.*—If a claim has been unconditionally transferred before proof of the claim has been filed, the proof of such claim may be filed only by the transferee. If such claim has been transferred after the filing of the petition, it shall be supported by (A) a statement of the transferor acknowledging the transfer and stating the consideration therefor or (B) a statement of the transferee why it is impossible to obtain such a statement from the transferor.

(*2*) *Unconditional transfer after proof filed.*—If a claim has been unconditionally transferred after proof thereof has been filed, proof of the terms of the transfer shall be filed, and the court shall immediately notify the original claimant by mail of the filing of such proof of transfer and that objection thereto, if any, must be made within 10 days of the mailing of the notice or within such further time as the court may allow. If the court finds, after hearing if necessary, that the claim has been unconditionally transferred, it shall make an order substituting the transferee for the original claimant. If it does not so find, the court shall make such order as may be appropriate.

(*3*) *Transfer of claim for security before proof filed.*—If a claim has been transferred for security before proof of the claim has been filed, the transferor or transferee or both may file a proof of claim for the full amount. The proof shall be supported by a statement setting forth the terms of the transfer and, if the claim was so transferred after the filing of the petition, by (A) a statement

of the transferor acknowledging the transfer and stating the consideration therefor, or (B) a statement of the transferee why it is impossible to obtain such a statement from the transferor. If either the transferor or the transferee files a proof of claim, the court shall immediately notify the other by mail that he may join in the claim so filed. If both transferor and transferee file proofs of the same claim, the proofs shall be consolidated. After hearing if necessary, the court shall make such orders respecting allowance and voting of the claim, payment of dividends thereon, and participation in the administration of the estate as may be appropriate.

(4) *Transfer of claim for security after proof filed.*—If a claim has been transferred for security after proof thereof has been filed, proof of the terms of the transfer shall be filed, and the court shall immediately notify the original claimant by mail of the filing of such proof of transfer and that objection thereto, if any, must be made within 10 days of the mailing of the notice or within such further time as the court may allow. After hearing if necessary, the court shall make such orders respecting allowance and voting of the claim, payment of dividends thereon, and participation in the administration of the estate as may be appropriate.

(e) *Time for filing.*—A claim must be filed within 6 months after the first date set for the first meeting of creditors, except as follows:

(1) On application before the expiration of such period and for cause shown, the court may grant a reasonable, fixed extension of time for the filing of a claim by the United States, a state, or a subdivision thereof.

(2) In the interest of justice the court may grant an infant or incompetent person without a guardian up to an additional 6 months for filing a claim.

(3) A claim which arises in favor of a person or becomes allowable because of a judgment for the recovery of money or property from such person or because of a

judgment denying or avoiding a person's interest in property may be filed within 30 days after such judgment becomes final, but if the judgment imposes a liability which is not satisfied, or a duty which is not performed, within such period or such further time as the court may permit, the claim shall not be allowed.

(4) If notice of no dividend was given to creditors pursuant to Rule 203 (b), and subsequently the payment of a dividend appears possible, the court shall notify the creditors of that fact and shall grant them a reasonable, fixed time for filing their claims of not less than 60 days after the mailing of the notice or 6 months after the first date set for the first meeting of creditors, whichever is the later.

(5) If all claims allowed have been paid in full, the court may grant a reasonable, fixed extension of time for the filing of claims not filed within the time hereinabove prescribed against any remaining surplus.

Rule 303. Filing of tax and wage claims by bankrupt.

If a creditor having a provable claim for taxes or wages fails to file his claim on or before the first date set for the first meeting of creditors, the bankrupt may execute and file a proof of such claim in the name of the creditor. Such claim shall be treated as a filed claim only for purposes of allowance and distribution. The court shall forthwith mail notice of such filing to the creditor and to the trustee. The creditor may nonetheless file a proof of claim pursuant to Rule 302 which proof when filed shall supersede the proof filed by the bankrupt.

Rule 304. Claim by codebtor.

A person who is or may be liable with the bankrupt, or who has secured a creditor of the bankrupt, may, if the creditor fails to file his claim on or before the first date set for the first meeting of creditors, file a proof of claim pursuant to Rule 302 in the name of the creditor,

if known, or, if unknown, in his own name. No distribution shall be made on the claim except on satisfactory proof that the original debt will be diminished by the amount of the distribution. The creditor may nonetheless file a proof of claim pursuant to Rule 302, and such proof of claim shall supersede the proof of claim filed pursuant to the first sentence of this rule.

Rule 305. Withdrawal of claim.

A creditor may withdraw a claim as of right by filing a notice of withdrawal, except as provided in this rule. If, after a creditor has filed a claim, an objection is filed thereto or a complaint is filed against him in an adversary proceeding or the creditor participates significantly in the case or receives a dividend, he may not withdraw the claim save on application or motion, with notice to the trustee or receiver, and on order of the court containing such terms and conditions as the court deems proper.

Rule 306. Objections to and allowance of claims for purpose of distribution; valuation of security.

(*a*) *Trustee's duty to examine and object to claims.*—The trustee shall examine proofs of claim and object to the allowance of improper claims, unless no purpose would be served thereby.

(*b*) *Allowance when no objection made.*—Subject to the provisions of subdivision (d) of this rule, a claim filed in accordance with Rule 302, 303, or 304 shall be deemed allowed for the purpose of distribution unless objection is made by a party in interest.

(*c*) *Objection to allowance.*—An objection to the allowance of a claim for the purpose of distribution shall be in writing. A copy of the objection and notice of a hearing thereon shall be mailed or delivered to the claimant. If an objection to a claim is joined with a demand for relief of the kind specified in Rule 701, the proceeding thereby becomes an adversary proceeding.

(*d*) *Secured claims.*—If a secured creditor files a proof of claim, the value of the security interest held by him as collateral for his claim shall be determined by the court, and the claim shall be allowed only to the extent it is enforceable for any excess of the claim over such value.

Rule 307. Reconsideration of claims.

A party in interest may move for reconsideration of an order allowing or disallowing a claim against the estate. If the motion is granted, the court may after hearing on notice make such further order as may be appropriate.

Rule 308. Declaration and payment of dividends.

Dividends to creditors shall be paid as promptly as practicable in such amounts and at such times as the court may order. Dividend checks shall be made payable and mailed to each creditor whose claim has been allowed, unless a power of attorney authorizing another person to receive dividends has been executed and filed in accordance with Rule 910. In that event, unless a local rule or court order provides otherwise, dividend checks shall be made payable to the creditor and to such other person and shall be mailed to such other person.

Rule 309. Small dividends.

The court may by local rule or order direct that no dividend for less than $1 shall be distributed by the trustee to any creditor. Any such dividend shall be treated in the same manner as unclaimed funds as provided in Rule 310.

Rule 310. Unclaimed funds.

Sixty days after the distribution of the final dividend, the trustee shall stop payment of all checks then unpaid and file with the clerk of the district court a list of the names and addresses, so far as known, of the persons entitled to such payments and the amounts thereof. The unclaimed funds shall thereupon be deposited in the

registry of the United States district court and shall be withdrawn as provided in Title 28, U. S. C., § 2042.

Part. IV. The Bankrupt: Duties and Benefits

Rule 401. Petition as automatic stay of certain actions on unsecured debts.

(*a*) *Stay of actions.*—The filing of a petition shall operate as a stay of the commencement or continuation of any action against the bankrupt, or the enforcement of any judgment against him, if the action or judgment is founded on an unsecured provable debt other than one not dischargeable under clause (1), (5), (6), or (7) of § 17a of the Act.

(*b*) *Duration of stay.*—Except as it may be deemed annulled under subdivision (c) or may be terminated, annulled, or modified by the bankruptcy court under subdivision (d) or (e) of this rule, the stay shall continue until the bankruptcy case is dismissed or the bankrupt is denied a discharge or waives or otherwise loses his right thereto.

(*c*) *Annulment of stay.*—At the expiration of 30 days after the first date set for the first meeting of creditors, the stay provided by this rule shall be deemed annulled as against any creditor whose debt has not been duly scheduled and who has not filed his claim by that time.

(*d*) *Relief from stay.*—On the filing of a complaint by a creditor seeking relief from a stay provided by this rule, the bankruptcy court shall set the trial for the earliest possible date, and it shall take precedence over all matters except older matters of the same character. The court may, for cause shown, terminate, annul, modify, or condition such stay.

(*e*) *Availability of other relief.*—Nothing in this rule precludes the issuance of, or relief from, any stay, restraining order, or injunction when otherwise authorized.

Rule 402. Duties of bankrupt.

In addition to performing other duties prescribed by these rules, the bankrupt shall (1) attend and submit to an examination at the first meeting of creditors and at such other times as ordered by the court; (2) attend at the hearing on a complaint objecting to his discharge and, if called as a witness, testify with respect to the issues raised; (3) if he has not yet filed a schedule of property pursuant to Rule 108, immediately inform the receiver or, if no receiver is appointed, the trustee, in writing, as to the location of real property in which he has an interest and the name and address of every person holding money or property subject to his withdrawal or order; (4) if the court directs, file a statement of the executory contracts, including unexpired leases, to which he is a party; (5) cooperate with the receiver, if any, and the trustee in the preparation of an inventory, the examination of proofs of claim, and the administration of the estate; and (6) comply with all orders of the court.

Rule 403. Exemptions.

(*a*) *Claim of exemptions.*—A bankrupt shall claim his exemptions in the schedule of his property required to be filed by Rule 108.

(*b*) *Trustee's report.*—The trustee shall examine the bankrupt's claim for exemptions, set apart such as are lawfully claimed and allowable, and report to the court the items set apart, the amount or estimated value of each, and the exemptions claimed that are not allowable. The report shall be filed with the court no later than 15 days after the trustee qualifies. If the trustee reports that any exemption claimed is not allowable, he shall forthwith mail or deliver copies of the report to the bankrupt and his attorney.

(*c*) *Objections to report.*—Any creditor or the bankrupt may file objections to the report within 15 days after its filing, unless further time is granted by the

court within such 15-day period. Copies of the objections so filed shall be delivered or mailed to the trustee and, if the objections are by a creditor, to the bankrupt and his attorney. After hearing upon notice the court shall determine the issues presented by the objections. The burden of proof shall be on the objector.

(*d*) *Procedure if no trustee qualified.*—If no trustee has qualified, the bankruptcy judge shall file the report prescribed by subdivision (b) of this rule within 15 days after the first date set for the first meeting of creditors. If the bankrupt files objections to the report, the court shall appoint a trustee or receiver, who shall represent the estate in the hearing on the objections.

(*e*) *Approval of report if no objections.*—If no objections are filed within the time provided by this rule, the report shall be deemed approved by the court. On request, the court may, at any time and without reopening the case, enter an order approving the report.

(*f*) *Claim of exemption by person other than bankrupt.*—If the bankrupt fails to claim the exemptions to which he is entitled, or if he dies before his exemptions have been set apart to him, his spouse, dependent children, or any other persons who are entitled to claim the exemptions allowable to the bankrupt may, within such time as the court may order, file a claim for his exemptions or object to the report.

Rule 404. Grant or denial of discharge.

(*a*) *Time for filing complaint objecting to discharge.*—The court shall make an order fixing a time for the filing of a complaint objecting to the bankrupt's discharge under § 14c of the Act. The time shall be not less than 30 days nor more than 90 days after the first date set for the first meeting of creditors, except that if notice of no dividend is given pursuant to Rule 203 (b), the court may fix such time as early as the first date set for the first meeting of creditors.

(*b*) *Notice.*—The court shall give at least 30 days' notice of the time fixed for filing a complaint objecting to the bankrupt's discharge under § 14c of the Act except that only 10 days' notice is required if notice of no dividend is given under Rule 203 (b). Such notice shall be given to all creditors in the manner provided in Rule 203, and to the trustee and his attorney, if any, to their respective addresses as filed with the court.

(*c*) *Extension of time.*—The court may for cause, on its own initiative or on application of any party in interest, extend the time for filing a complaint objecting to discharge.

(*d*) *Grant of discharge.*—On expiration of the time fixed for filing a complaint objecting to discharge, the court shall forthwith grant the discharge unless (1) a complaint objecting to the discharge has been filed, (2) the bankrupt has filed a waiver under Rule 405, (3) it appears that the bankrupt has failed to attend and submit himself to examination at the first meeting of creditors or at any meeting specially called for his examination, or (4) the prescribed filing fees have not been paid in full.

(*e*) *Applicability of rules in Part VII.*—A proceeding commenced by a complaint objecting to discharge is governed by the rules in Part VII.

(*f*) *Order of discharge.*—An order of discharge shall conform substantially to Official Form No. 24.

(*g*) *Registration in other districts.*—An order of discharge that has become final may be registered in any other district by filing in the office of the clerk of the district court of that district a certified copy of the order and when so registered shall have the same effect as an order of the court of the district where registered and may be enforced in like manner.

(*h*) *Notice of discharge.*—Within 45 days after an order of discharge becomes final, the court shall mail a

copy of such order to the persons specified in subdivision (b) of this rule.

Rule 405. Waiver of discharge.

Any bankrupt may waive his right to discharge by a writing filed with the court.

Rule 406. Implied waiver of discharge.

If the bankrupt fails to attend and submit himself to examination at the first meeting of creditors, at any meeting specially called for his examination, or at the trial on a complaint objecting to his discharge, the court on motion shall, or on its own initiative may, set a time for hearing to determine whether the bankrupt shall be deemed to have waived his right to a discharge. Notice of the hearing shall be given the bankrupt and such other parties in interest as the court may designate.

Rule 407. Burden of proof in objecting to discharge.

At the trial on a complaint objecting to a discharge, the plaintiff has the burden of proving the facts essential to his objection.

Rule 408. Notice of nondischarge.

If a waiver of discharge is filed, or if an order is entered denying or revoking a discharge or deeming the right thereto to have been waived, the court shall, within 30 days after the filing of the waiver or the entry of the order, give notice thereof to all creditors in the manner provided in Rule 203.

Rule 409. Determination of dischargeability of a debt; judgment on nondischargeable debt; jury trial.

(a) Proceeding to determine dischargeability.

(1) Persons entitled to file complaint; time for filing in ordinary case.—A bankrupt or any creditor may file a complaint with the court to obtain a determination of the dischargeability of any debt. Except as provided in paragraph (2) of this subdivision, the complaint may be filed at any time, and a case may be reopened without

the payment of an additional filing fee for the purpose of filing a complaint under this rule.

(*2*) *Time for filing complaint under § 17c (2) of the act; notice of time fixed.*—The court shall make an order fixing a time for the filing of a complaint to determine the dischargeability of any debt pursuant to § 17c (2) of the Act. The time shall be not less than 30 days nor more than 90 days after the first date set for the first meeting of creditors, except that if notice of no dividend is given pursuant to Rule 203 (b), the court may fix such time as early as the first date set for the first meeting of creditors. The court shall give creditors at least 30 days' notice of the time so fixed except that only 10 days' notice is required if notice of no dividend is given under Rule 203 (b). Such notice shall be given to all creditors in the manner provided in Rule 203. The court may for cause, on its own initiative or on application of any party in interest, extend the time fixed under this paragraph.

(*b*) *Claim and demand for judgment on nondischargeable debt.*—If his claim has not yet been reduced to judgment, the creditor shall include in a complaint or answer filed under subdivision (a) of this rule a statement of his claim and demand for judgment on the debt as provided in § 17c (3) of the Act.

(*c*) *Jury trial.*—Either party may demand a trial by jury of any issue triable of right by a jury by serving on the other party and filing a demand therefor in writing at any time after the filing of a complaint under this rule and not later than 10 days after the service of the last pleading directed to such issue. Such demand may be indorsed on a pleading of the party. In his demand the party shall specify the issues which he wishes to be so tried. If he has demanded trial by jury for only some of the issues so triable of right, any other party, within 10 days after service of the demand or such lesser time as the court may order, may serve a demand for trial by jury of any other issues so triable of right in the proceeding.

The trial of an issue for which a jury trial has been demanded shall be placed on the jury calendar of the district court when it is ready for trial unless (1) the bankruptcy judge determines after hearing on notice that the issue is not triable of right by a jury or (2) a local rule of court provides otherwise. Issues not triable of right by a jury may be tried by the bankruptcy judge, and motions and applications in the proceeding other than those necessarily incidental to and made during the course of the jury trial may be determined by the bankruptcy judge. The failure of a party to serve and file a demand in accordance with this rule constitutes a waiver by him of trial by jury. Rules 47–51 of the Federal Rules of Civil Procedure apply to a jury trial under this sudivision.

(*d*) *Applicability of rules in Part VII.*—A proceeding commenced by a complaint filed under this rule is governed by the rules in Part VII.

Part V. Courts of Bankruptcy; Officers and Personnel; Their Duties

Rule 501. Courts of bankruptcy and referees' offices.

(*a*) *Courts of bankruptcy always open.*—The court of bankruptcy shall be deemed always open for the purpose of filing any pleading or other proper paper, of issuing and returning mesne and final process, and of making and directing all interlocutory motions, orders, and rules.

(*b*) *Meetings and hearings; orders in chambers.*—All meetings of creditors and hearings shall be conducted in open court and so far as convenient in a regular court room. All other acts or proceedings may be done or conducted by a bankruptcy judge in chambers and at any place either within or without the district; but no hearing, other than one ex parte, shall be conducted outside the district without the consent of all parties affected thereby.

(c) *Referee's office.*—The referee's principal office with a clerical assistant in attendance shall be open during business hours on all days except Saturdays, Sundays, and the legal holidays as listed in Rule 6 (a) of the Federal Rules of Civil Procedure, but a local rule or order may provide that the referee's office shall be open for specified hours on Saturdays or particular legal holidays other than those listed in Rule 77 (c) of the Federal Rules of Civil Procedure.

Rule 502. Referees' bonds not required.

A referee shall not be required to file a bond in order to qualify.

Rule 503. Restrictions on referees.

A referee shall not engage in any transaction, directly or indirectly, with the estate and shall not act as trustee or receiver in any case under the Act. An active full-time referee shall not engage in the practice of law, and an active part-time referee shall not act as attorney for any party in any case under the Act.

Rule 504. Books, records, and reports of referees.

(a) *Records to be kept; reports to be made.*—The referee shall keep a docket for each case referred to him and shall keep a list of claims filed against the estate in each case in which it appears there will be a distribution to unsecured creditors after payment of the costs and expenses of administration. He shall keep such other books and records and make such reports as may be prescribed by the Director of the Administrative Office of the United States Courts with the approval of the Judicial Conference of the United States. All papers filed with the referee, all process issued and returns made thereon, all appearances, orders, verdicts, and judgments shall be entered chronologically in the referee's docket. These entries shall be brief but shall show the nature

of each paper filed or writ issued and the substance of each order or judgment of the court and of the returns showing execution of process.

(*b*) *Disposition of papers of closed cases.*—When a case is closed, the referee shall transmit all papers pertaining thereto to the clerk of the district court.

Rule 505. Nepotism, influence, and interest.

(*a*) *Appointment or employment of relative of or person connected with judge or referee.*—No person may be appointed as trustee, receiver, marshal, or appraiser or employed as accountant or auctioneer in a bankruptcy case (1) if he is a relative of any judge or referee of the court making the appointment or authorizing the employment, or (2) if he is so connected with any judge or referee of the court making the appointment or authorizing the employment as to render such appointment or employment improper.

(*b*) *Disqualification of judge or referee from acting in case: relationship to party or attorney; interest in case; appearance of influence.*—Any judge or referee shall disqualify himself in any bankruptcy case (1) in which he is a relative of any party or his attorney, has a substantial, direct or indirect interest, has been of counsel, or is or has been a material witness, or (2) if his acting therein would justify the impression that any person can improperly influence him or unduly enjoy his favor, or that he is affected by the kinship, rank, position, or influence of any party or other person.

(*c*) *Disqualification of judge or referee from authorizing employment of attorney.*—Any judge or referee shall disqualify himself from authorizing the employment and from determining the compensation of (1) a relative as an attorney in a bankruptcy case, or (2) an attorney in a bankruptcy case if the judge or referee is so connected with the attorney as to render it improper for him to authorize such employment.

Rule 506. Delegation of ministerial functions.

The referee may delegate any ministerial function to an assistant employed in his office or, with the approval of the chief judge of the district court, to any person employed in the office of the clerk of the district court.

Rule 507. Books and records kept by clerks.

(*a*) *Bankruptcy docket.*—The clerk of the district court shall keep a book known as the "bankruptcy docket" of such form and style as may be prescribed by the Director of the Administrative Office of the United States Courts with the approval of the Judicial Conference of the United States and shall enter therein each bankruptcy case.

(*b*) *Transmission of papers.*—The clerk shall transmit to the referee all papers which pertain to every case referred to him, unless the judge otherwise directs.

(*c*) *Index of cases; certificate of search.*—The clerk shall keep an index of all cases under the Act filed in or transferred to the court and of all discharges granted by the court. On request, the clerk shall make a search of the index and papers in his custody and issue a certificate as to whether a case has been filed in or transferred to the court or a discharge entered in its records.

(*d*) *Public access.*—The docket and index kept by the clerk under this rule shall be open to examination by any person without charge.

(*e*) *Other books and records of the clerk.*—The clerk shall also keep such other books and records as may be required from time to time by the Director of the Administrative Office of the United States Courts with the approval of the Judicial Conference of the United States.

Rule 508. Public access to records and papers in bankruptcy cases.

Subject to the provisions of Rule 918, all papers filed in a bankruptcy case, the referee's docket, and the list

of claims, if any, are public records and shall be open to examination by any person at reasonable times without charge.

Rule 509. Filing of papers.

(*a*) *Place of filing.*—A petition commencing a bankruptcy case shall be filed with the clerk of the district court. After reference, all papers, including a petition filed in a pending case and proofs of claim, shall be filed with the referee unless otherwise directed by local rule or by order of the judge.

(*b*) *Notation of time of filing.*—The clerk of the district court shall note on the petition the date and hour of its filing, and the clerk or the referee shall note the date of its filing on each paper thereafter filed with him.

(*c*) *Error in filing.*—A paper intended to be filed but erroneously delivered to the trustee or receiver, or the attorney for either of them, or to the district judge, referee, or clerk of the district court, shall, after the date of its receipt has been noted thereon, be transmitted forthwith to the proper person. In the interest of justice, the court may order that the paper shall be deemed filed as of the date of its original delivery.

Rule 510. Issuance and certification of copies of papers.

On request, the referee or the clerk of the district court shall issue a certified copy of the record of any proceeding in a bankruptcy case or of any paper filed with the court.

Rule 511. Recording and reporting of proceedings.

(*a*) *Record of proceedings.*—Whenever practicable, the court shall require a record to be made of all proceedings in bankruptcy cases. The record may be taken by sound recording or by a reporter employed on authorization of the court to take a verbatim record by shorthand or other means. The expense of making the record shall be a charge against the estate unless the court assesses the cost or a part thereof against a person who asserts a

vexatious or frivolous claim or defense. The reporter or operator of a recording device shall attach his certificate to the original shorthand notes or other original records taken under this rule and promptly file them with the court for retention for at least 6 months and as long thereafter as the court directs.

(*b*) *Transcripts of proceedings.*—Upon the request of any person, including the United States, who has agreed to pay the fee therefor, or of the bankruptcy judge, the reporter or a typist shall promptly transcribe the original records of the requested parts of a proceeding and deliver the transcript, certified by him, to the person making the request. A certified copy of any transcript so made shall be promptly filed with the court by the person making the transcript. The fees for transcripts shall be charged at rates prescribed by the court but in no event shall a separate fee be charged for the copy filed with the court pursuant to the preceding sentence. The cost of transcription shall be a charge against the estate only when approved by the court.

(*c*) *Admissibility of record in evidence.*—When properly certified, a sound recording or a transcript of a proceeding shall be admissible evidence to establish the record thereof and shall be deemed prima facie a correct statement of the testimony taken and the proceedings had.

Rule 512. Designated depositories.

(*a*) *Designation.*—The referees shall designate by order banking institutions as depositories for the money of estates. Each depository so designated shall give security in accordance with subdivision (b) of this rule for the prompt repayment of deposits made therein. The referees may from time to time change the number of depositories, the designations, or the amount of security required. Except as provided in the last sentence of subdivision (b), the authority of referees under this rule shall be exercised by a majority vote.

(*b*) *Security required.*—Except as provided hereinafter, the referees shall require from each designated depository a bond secured by the undertaking of an authorized corporate surety approved by them, or by the deposit of securities designated in Title 6, U. S. C., § 15. Securities accepted for deposit in lieu of a surety upon a depository bond shall be deposited by the depository bank in the custody of a Federal Reserve bank or branch thereof designated by the referees and shall be subject to the order of the referees. No bond or other security shall be required for any deposits fully insured under Title 12, U. S. C., § 1821, and any referee may designate a banking institution for the purpose of receiving deposits so insured.

(*c*) *Prohibition of deposits when adequacy of security doubtful.*—No trustee or receiver or other person shall deposit in any depository money received or held by him as a fiduciary under the Act if he has reasonable cause to believe that the bond or the security therefor is or may be inadequate in view of existing and expected deposits.

(*d*) *Condition of bond; place of filing; proceeding on bond.*—The condition of a bond given under this rule shall be that the designated banking institution will well and truly account for all money deposited with it as depository and for all interest payable on savings and time deposits when duly authorized, will pay out such money and interest only in accordance with the Act, these rules, and rules and orders of the court, and will otherwise faithfully perform all its duties as depository. A bond given under this rule shall be filed with the court and may be proceeded upon in the name of the United States for the use of any person injured by a breach of the condition.

(*e*) *New bond: When required.*—The referees shall require a depository to give a new bond whenever the prior bond, together with securities deposited pursuant

to subdivision (b), does not appear to constitute adequate security in view of existing and expected deposits.

(*f*) *Revocation of designation.*—If any depository fails, within the time fixed, to give a bond under this rule or to deposit securities adequate for existing and expected deposits, the referees shall order the depository immediately to pay over all money on deposit with it, with all interest payable thereon, and shall revoke its designation.

(*g*) *Relief from liability on bond.*—A surety on the bond of a depository may, by an application setting forth the grounds therefor, request to be relieved from liability with respect to any subsequent default of the depository. If, after hearing upon notice to the depository, other sureties, trustees, and other representatives of estates having money in the depository, the referees determine that the application can be granted without injury to any party in interest, the applicant shall be relieved and a new bond or other appropriate security shall be required.

(*h*) *Reports required of designated depositories.*—The Director of the Administrative Office of the United States Courts with the approval of the Judicial Conference of the United States shall prescribe by regulation the reports to be made by designated depositories.

Rule 513. Special masters.

If a reference is made in a bankruptcy case by a judge to a special master, the Federal Rules of Civil Procedure applicable to masters apply.

Rule 514. Closing cases.

Whenever it appears that an estate has been administered and the court has passed upon the final account and discharged the trustee, the case shall be closed.

Rule 515. Reopening cases.

A case may be reopened on application by the bankrupt or other person to administer assets, to accord relief

to the bankrupt, or for other good cause. The application shall be filed with the clerk of the district court having custody of the papers in the case. The case shall be referred forthwith for action on the application and for further proceedings therein.

Part VI. Collection and Liquidation of the Estate

Rule 601. Petition as automatic stay against lien enforcement.

(*a*) *Stay against lien enforcement.*—The filing of a petition shall operate as a stay of any act or the commencement or continuation of any court proceeding to enforce (1) a lien against property in the custody of the bankruptcy court, or (2) a lien against the property of the bankrupt obtained within 4 months before bankruptcy by attachment, judgment, levy, or other legal or equitable process or proceedings.

(*b*) *Duration of stay.*—Except as it may be terminated, annulled, or modified by the bankruptcy court under subdivision (c), (d), or (e) of this rule, the stay shall continue until the bankruptcy case is dismissed or closed, or until the property subject to the lien is, with the approval of the court, set apart as exempt, abandoned, or transferred.

(*c*) *Relief from stay.*—On the filing of a complaint seeking relief from a stay provided by this rule, the bankruptcy court shall, subject to the provisions of subdivision (d) of this rule, set the trial for the earliest possible date, and it shall take precedence over all matters except older matters of the same character. The court may, for cause shown, terminate, annul, modify, or condition such stay. A party seeking continuation of a stay against lien enforcement shall show that he is entitled thereto.

(*d*) *Ex parte relief from stay.*—On the filing of a complaint seeking relief from a stay provided by this rule, relief may be granted without written or oral notice

to the adverse party if (1) it clearly appears from specific facts shown by affidavit or by a verified complaint that immediate and irreparable injury, loss, or damage will result to the plaintiff before the adverse party or his attorney can be heard in opposition, and (2) the plaintiff's attorney certifies to the court in writing the efforts, if any, which have been made to give the notice and the reasons supporting his claim that notice should not be required. The party obtaining relief under this subdivision shall give written or oral notice thereof as soon as possible to the trustee or receiver or, if none has qualified, to the petitioner or petitioners and, in any event, shall forthwith mail to such person or persons a copy of the order granting relief. On 2 days' notice to the party who obtained relief from a stay provided by this rule without notice or on such shorter notice to that party as the court may prescribe, the adverse party may appear and move its reinstatement, and in that event the court shall proceed to hear and determine such motion as expeditiously as the ends of justice require.

(*e*) *Availability of other relief.*—Nothing in this rule precludes the issuance of, or relief from, any stay, restraining order, or injunction when otherwise authorized.

Rule 602. Duty of trustee or receiver to give notice of bankruptcy.

(*a*) *Real property.*—As soon as possible after his qualification a receiver shall record a certified copy of the petition without schedules or of the order of adjudication, if any, in the office where transfers of real property are recorded in every county where the bankrupt has an interest in real property not exempt from execution. If a certified copy of the petition or order of adjudication has not previously been recorded in an office where recordation is required by the preceding sentence, the trustee shall as soon as possible after his qualification record in every such office a certified copy of the petition without schedules or of the order of adjudication, if any,

or of the order approving his bond. The recording of a copy pursuant to this subdivision is not necessary, however, in the county in which is kept the record of the original proceedings in the case or in any office where such a copy has previously been recorded.

(*b*) *Personal property.*—As soon as possible after his qualification a receiver or, if a receiver has not done so, the trustee shall give notice of the bankruptcy to every person known to be holding money or property subject to withdrawal or order of the bankrupt including every bank, building and loan association, public utility company, and landlord with whom the bankrupt has a deposit, and to every insurance company which has issued a policy having a cash surrender value payable to the bankrupt. No notice need be given, however, to any of the forenamed persons who has knowledge or has previously been notified of the bankruptcy, and no notice need be given with respect to property exempt from execution.

Rule 603. Burden of proof as to validity of post-bankruptcy transfer.

Any person asserting the validity of a transfer under § 70d of the Act shall have the burden of proof.

Rule 604. Accounting by prior custodian of property of the estate.

(*a*) *Accounting required.*—Any receiver or trustee appointed in proceedings not under the Act, assignee for the benefit of creditors, or agent, required by the Act to deliver property in his possession or control to the trustee or receiver in bankruptcy, shall promptly file a written report and account with the bankruptcy court with respect to the property of the estate and his administration thereof.

(*b*) *Examination of administration.*—On the filing of the report and account required by subdivision (a) of this rule and after an examination has been made into the superseded administration, the court shall determine

the propriety of such administration, including the reasonableness of all disbursements.

Rule 605. Money of the estate: Collection, deposit, and disbursement.

(*a*) *Collection of estate; conversion to money.*—A trustee shall collect the property of the estate and, with the approval of the court, convert it to money.

(*b*) *Deposits; interest.*—The trustee shall deposit all money received by him in a designated depository, either in a checking account or, if authorized by the court, in an interest-bearing account or deposit.

(*c*) *Withdrawals and disbursements.*—The trustee shall withdraw and disburse money of the estate only by check or other method approved by the court.

Rule 606. Appraisal and sale of property; compensation and eligibility of appraisers and auctioneers.

(*a*) *Appraiser: Appointment and duties.*—The court shall appoint one or more competent and disinterested appraisers, unless it determines that such appointment is unnecessary. Unless the court directs otherwise, the appraiser or appraisers shall appraise all the property of the estate and shall prepare and file a report of the appraisal with the court.

(*b*) *Conduct of sale.*

(*1*) *Court approval.*—The property of the estate shall be sold subject to the approval of the court unless the court orders otherwise.

(*2*) *Public or private sale.*—All sales shall be by public auction, unless otherwise ordered by the court on application to the court and for good cause shown. Unless it is impracticable, there shall be filed with the court on completion of a sale an itemized statement of the property sold, the name of each purchaser, and the price received for each item or lot or for the property as a whole if sold in bulk. If the property is sold by an auctioneer, he shall file the statement and furnish a copy

to the trustee or receiver; otherwise the trustee or receiver shall file the statement.

(3) *Sale free of lien or other interest.*—A proceeding to sell property free of a lien, or of any other interest for which the holder can be compelled to take a money satisfaction, is governed by the rules in Part VII.

(4) *Execution of instruments.*—After a sale in accordance with this subdivision the trustee or receiver, as the case may be, shall execute such instruments as may be necessary or ordered by the court to effectuate the transfer to the purchaser.

(c) *Compensation and eligibility of auctioneers and appraisers.*—No auctioneer shall be employed or appraiser appointed except upon an order of the court fixing the amount or rate of compensation. No officer or employee of the Judicial Branch of the United States or the United States Department of Justice shall be eligible to act as an auctioneer or appraiser. No residence or licensing requirement shall apply to an auctioneer employed or appraiser appointed under this rule.

Rule 607. Assumption, rejection, and assignment of executory contracts.

Within 30 days after the qualification of the trustee, unless the court for cause shown extends or reduces the time, the trustee shall file a statement showing any executory contracts of the bankrupt, including unexpired leases, which the trustee has assumed. Whenever practicable, the trustee shall obtain approval of the court before he assumes a contract. Any such contract not assumed within 60 days after the qualification of the trustee, or within such further or reduced time as the court may allow within such 60-day period, shall be deemed to be rejected. If a trustee does not qualify, any such contract shall be deemed to be rejected at the expiration of 60 days after the date of an order directing that a trustee be not appointed, or at such earlier or

later time as the court may fix within such 60-day period. On application by the trustee for authority to assign any contract he has assumed pursuant to this rule, the court shall determine the matter after hearing on notice to the other party to the contract.

Rule 608. Abandonment of property.

The court may, on application or on its own initiative and after hearing on such notice as it may direct, approve the abandonment of any property and, without reopening the case, may direct the abandonment of any property of inconsequential value discovered after a case is closed. If a case is closed without administration of property of the estate that has been scheduled, the property shall be deemed to have been abandoned with the approval of the court, and on request the court may, without reopening the case, enter an order approving the abandonment.

Rule 609. Redemption of property from lien or sale.

On application by the trustee and after hearing on such notice as the court may direct, the court may authorize the redemption of property from a lien or from a sale to enforce a lien in accordance with applicable law.

Rule 610. Prosecution and defense of proceedings by trustee or receiver.

The trustee or receiver may, with or without court approval, prosecute or enter his appearance and defend any pending action or proceeding by or against the bankrupt, or commence and prosecute any action or proceeding in behalf of the estate, before any tribunal.

Rule 611. Preservation of voidable transfer.

Whenever any transfer is voidable by the trustee, the court may determine, in an adversary proceeding in which are joined persons claiming interests or rights in the

property subject to the transfer, whether the transfer shall be avoided only or shall be preserved for the benefit of the estate.

Rule 612. Proceeding to avoid indemnifying lien or transfer to surety.

If a lien voidable under § 67a of the Act has been dissolved by the furnishing of a bond or other obligation and the surety thereon has been indemnified by the transfer of, or the creation of a lien upon, nonexempt property of the bankrupt, the surety shall be joined as a defendant in any proceeding to avoid the indemnifying transfer or lien. Such proceeding is governed by the rules in Part VII. If an order is entered for the recovery of indemnifying property in kind or for the avoidance of an indemnifying lien, the court on motion by any party in interest, shall ascertain the value of such property or lien; if such value is less than the amount for which such property or lien is indemnity, the surety may elect to retain the property or lien on payment of the value so ascertained to the trustee or debtor, as the case may be, within such time as the court shall fix.

Part VII. Adversary Proceedings

Rule 701. Scope of rules of Part VII.

The rules of this Part VII govern any proceeding instituted by a party before a bankruptcy judge to (1) recover money or property, other than a proceeding under Rule 220 or Rule 604, (2) determine the validity, priority, or extent of a lien or other interest in property, (3) sell property free of a lien or other interest for which the holder can be compelled to take a money satisfaction, (4) object to or revoke a discharge, (5) obtain an injunction, (6) obtain relief from a stay as provided in Rule 401 or 601, or (7) determine the dischargeability of a debt. Such a proceeding shall be known as an adversary proceeding.

Rule 703. Commencement of adversary proceeding.

An adversary proceeding is commenced by filing a complaint with the court.

Rule 704. Process; service of summons, complaint, and notice of trial.

(*a*) *Summons and notice of trial: Issuance and form; service with complaint.*—Upon the commencement of an adversary proceeding the bankruptcy judge shall set a date for trial and shall forthwith issue a summons and notice of trial. The summons and notice shall conform substantially to Official Form No. 26 and shall be served together with the complaint on the defendant in one of the modes authorized by this rule.

(*b*) *Personal service.*—Service of the summons, complaint, and notice of trial may be made as provided in Rule 4 (d) of the Federal Rules of Civil Procedure for the service of process. Personal service may be made by any person not less than 18 years of age who is not a party.

(*c*) *Service by mail.*—Service of summons, complaint, and notice of trial may also be made by any form of mail requiring a signed receipt as follows:

(1) Upon an individual other than an infant or incompetent, by mailing a copy of the summons, complaint, and notice to his dwelling house or usual place of abode or to the place where he regularly conducts his business or profession.

(2) Upon an infant or an incompetent person, by mailing a copy of the summons, complaint, and notice to the person upon whom process is prescribed to be served by the law of the state in which service is made when an action is brought against such defendant in the courts of general jurisdiction of that state. The summons, complaint, and notice in such case shall be addressed to the person required to be served at his dwelling house or usual place of abode or at the place where he regularly conducts his business or profession.

(3) Upon a domestic or foreign corporation or upon a partnership or other unincorporated association, by mailing a copy of the summons, complaint, and notice directed to the attention of an officer, a managing or general agent, or to any other agent authorized by appointment or by law to receive service of process and, if the agent is one authorized by statute to receive service and the statute so requires, by also mailing a copy to the defendant.

(4) Upon the United States, by mailing a copy of the summons, complaint, and notice to the United States attorney for the district in which the action is brought and also to the Attorney General of the United States at Washington, District of Columbia, and in any action attacking the validity of an order of an officer or an agency of the United States not made a party, by also mailing a copy of the summons, complaint, and notice to such officer or agency.

(5) Upon any officer or agency of the United States, by mailing a copy of the summons, complaint, and notice to the United States as prescribed in paragraph (4) of this subdivision and also to the officer or agency. If the agency is a corporation, the mailing shall be as prescribed in paragraph (3) of this subdivision of this rule.

(6) Upon a state or municipal corporation or other governmental organization thereof subject to suit, by mailing a copy of the summons, complaint, and notice to the person or office upon whom process is prescribed to be served by the law of the state in which service is made when an action is brought against such a defendant in the courts of general jurisdiction of that state, or in the absence of the designation of any such person or office by state law, then to the chief executive officer thereof.

(7) Upon a defendant of any class referred to in paragraph (1) or (3) of this subdivision of this rule, it is also sufficient if a copy of the summons, complaint, and notice is mailed to the person upon whom service is prescribed to be served by any statute of the United States

or by the law of the state in which service is made when an action is brought against such defendant in the courts of general jurisdiction of that state.

(8) Upon any defendant, it is also sufficient if a copy of the summons, complaint, and notice is mailed to an agent of such defendant authorized by appointment or by law to receive service of process, at his dwelling house or usual place of abode or at the place where he regularly carries on his business or profession and, if the authorization so requires, by mailing also a copy of the summons, complaint, and notice to the defendant as provided in this subdivision.

(*d*) *Service pursuant to court order.*

(*1*) *Service in accordance with Federal Rule of Civil Procedure 4 (e).*—If a party cannot be served as provided in subdivision (b), (c), or (i) of this rule, the court may order the summons, complaint, and notice of trial to be served as provided in Rule 4 (e) of the Federal Rules of Civil Procedure for service of summons, notice, or order in lieu of summons.

(*2*) *Service by publication.*—If a party to an adversary proceeding to determine or protect rights in property in the custody of the court cannot be served as provided in subdivision (b), (c), or (i) of this rule, the court may order the summons, complaint, and notice of trial to be served by mailing copies thereof to the party's last known address, if any, and by at least one publication in such manner and form as the court may direct.

(*e*) *Time of service.*—Service under subdivision (b) shall be made within 3 days after the issuance of the summons. If service is made under subdivision (c), the summons, complaint, and notice of trial shall be deposited in the mail within 3 days after the issuance of the summons. Service under subdivision (d) or (i) shall be made within the time fixed by the court. If a summons is not timely served in accordance with the foregoing provisions, another summons shall be issued and served and a new date set for trial.

(*f*) *Territorial limits of effective service.*

(1) The summons, together with the complaint and notice of trial, and all other process except a subpoena may be served anywhere within the United States. "United States," as used in this subdivision, includes the Commonwealth of Puerto Rico and the territories and possessions to which the Act is or may hereafter be applicable.

(2) The summons, together with the complaint and notice of trial, and all other process except a subpoena may be served in a foreign country (A) on the bankrupt, any person required to perform the duties of a bankrupt, any general partner of an adjudicated partnership, or any attorney who is a party to a transaction subject to examination under Rule 220, or (B) on any party to an adversary proceeding to determine or protect rights in property in the custody of the court, or (C) on any person whenever such service is authorized by a federal or state law referred to in Rule 4 (d)(7) or Rule 4 (e) of the Federal Rules of Civil Procedure.

(3) A subpoena may be served within the territorial limits provided in Rule 45 of the Federal Rules of Civil Procedure.

(*g*) *Proof of service.*—Service of process under the foregoing provisions of this rule shall be proved as provided in Rule 4 (g) of the Federal Rules of Civil Procedure. When service is made by mail, the proof shall include the signed receipt or other evidence satisfactory to the court that delivery was made to the addressee or that acceptance was refused by the addressee. Failure to make proof of service does not affect the validity of the service.

(*h*) *Effect of errors; amendment.*—Service of process under this rule shall be effective notwithstanding an error in the papers served or the manner or proof of service if no material prejudice resulted therefrom to the substantial rights of the party against whom the process

issued. Amendment of process or proof of service thereof may be allowed as provided in Rule 4 (h) of the Federal Rules of Civil Procedure.

(*i*) *Alternative provisions for service in a foreign country.*—If service of the summons, complaint, and notice of trial or of any process is authorized to be effected upon a party in a foreign country, it may also be made and proved as provided in subdivision (i) of Rule 4 of the Federal Rules of Civil Procedure.

Rule 705. Service and filing of pleadings and other papers.

(*a*) *Service.*—Subdivisions (a), (b), and (c) of Rule 5 of the Federal Rules of Civil Procedure apply in adversary proceedings, but when service of pleadings on parties in default is required by subdivision (a) of that rule, service shall be made in the manner provided for service of summons in Rule 704.

(*b*) *Filing.*—All papers after the complaint required to be served upon a party shall be filed with the court not later than the second business day following service.

Rule 707. Pleadings allowed.

Rule 7 (a) of the Federal Rules of Civil Procedure applies in adversary proceedings.

Rule 708. General rules of pleading.

Rule 8 of the Federal Rules of Civil Procedure, except clause (1) of subdivision (a) thereof, applies in adversary proceedings. All statements in pleadings shall be made subject to the obligations set forth in Rule 911 (a).

Rule 709. Pleading special matters.

Rule 9 of the Federal Rules of Civil Procedure applies in adversary proceedings.

Rule 710. Form of pleadings.

Rule 10 of the Federal Rules of Civil Procedure applies in adversary proceedings, except that the caption of each

pleading in such a proceeding shall conform substantially to Official Form No. 25.

Rule 712. Defenses and objections.

(*a*) *When presented.*—If a complaint is duly served upon him, a defendant shall serve his answer within 25 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 against him shall serve an answer thereto within 10 days after the service upon him. The plaintiff shall serve his reply to a counterclaim in the answer within 10 days after service of the answer or, if a reply is ordered by the court, within 10 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 30 days after the issuance of the summons, and shall serve an answer to a cross-claim, or a reply to a counterclaim, within 30 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 5 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 5 days after the service of a more definite statement.

(*b*) *Applicability of Federal Rule of Civil Procedure 12* (*b*)–(*h*).—Subdivisions (b)–(h) of Rule 12 of the Federal Rules of Civil Procedure apply in adversary proceedings, except that:

(1) if an order granting a motion for a more

definite statement is not obeyed within 5 days after notice of the order or within such other time as the court may fix, the court may strike the pleading to which the motion was directed or make such order as it deems just;

(2) a motion made by a party under subdivision (f) to strike a pleading to which no responsive pleading is permitted by these rules must be made within 10 days after service of the pleading upon the party;

(3) the references to Rules 15 (a) and 19 in subdivision (h) shall be read as references to Bankruptcy Rules 715 and 719 respectively; and

(4) an objection to the jurisdiction of the court of bankruptcy is governed by Rule 915.

Rule 713. Counterclaim and cross-claim.

Rule 13 of the Federal Rules of Civil Procedure applies in adversary proceedings, except that (1) subdivision (f) does not apply, (2) a party sued by a trustee or receiver need not state as a counterclaim any claim which he has against the bankrupt, his property, or the estate, (3) when a trustee or receiver fails to set up a counterclaim through oversight, inadvertence, or excusable neglect, or when justice so requires, he may by leave of court set up the omitted counterclaim by amendment or by commencing a new adversary proceeding or separate action, and (4) persons other than the original parties to the adversary proceeding may be made parties to a counterclaim or cross-claim in accordance with Rules 719 and 720.

Rule 714. Third-party practice.

Rule 14 of the Federal Rules of Civil Procedure applies in adversary proceedings except as the court otherwise directs. A third-party defendant served under this rule shall make his defenses as provided in Rule 712 and his counterclaims as provided in Rule 713.

Rule 715. Amended and supplemental pleadings.

Rule 15 of the Federal Rules of Civil Procedure applies in adversary proceedings excepts that (1) a pleading to which no responsive pleading is permitted may be amended as a matter of course at any time within 15 days after it is served but before the date set for trial and that (2) a party shall plead in response to an amended pleading within the time remaining for response to the original pleading or within 5 days after service of the amended pleading, whichever period may be longer, unless the court otherwise orders.

Rule 716. Pre-trial procedure; formulating issues.

Rule 16 of the Federal Rules of Civil Procedure applies in adversary proceedings.

Rule 717. Parties plaintiff and defendant; capacity.

Except as provided in Rules 212 (f) and 512 (d), Rule 17 of the Federal Rules of Civil Procedure applies in adversary proceedings.

Rule 718. Joinder of claims and remedies.

Rule 18 of the Federal Rules of Civil Procedure applies in adversary proceedings.

Rule 719. Joinder of persons needed for just determination.

(*a*) *Persons to be joined if feasible.*—A person who is subject to service of process shall be joined as a party in the proceeding if (1) in his absence complete relief cannot be accorded among those already parties, or (2) he claims an interest relating to the subject of the proceeding and is so situated that the disposition of the proceeding in his absence may (i) as a practical matter impair or impede his ability to protect that interest or (ii) leave any of the persons already parties subject to a substantial risk of incurring double, multiple, or otherwise inconsistent obligations by reason of his claimed

interest. If he has not been so joined, the court shall order that he be made a party. If he should join as a plaintiff but refuses to do so, he may be made a defendant, or in a proper case, an involuntary plaintiff.

(*b*) *Objection to jurisdiction by joined person.*—If a person joined under subdivision (a) hereof makes a timely objection as provided in Rule 915 to the jurisdiction of the court to determine issues affecting his interest and the objection is sustained, the court shall dismiss such person from the proceeding or, pursuant to Rule 915 (b), transfer the part of the proceeding involving his interest to the civil docket of the district court.

(*c*) *Determination by court whenever joinder or proceeding with joined person not feasible.*—If a person as described in subdivision (a) hereof cannot be made a party, or if such a person is dismissed or the part of the proceeding involving his interest is transferred pursuant to subdivision (b) hereof, the court shall determine whether in equity and good conscience the proceeding should continue among the parties before it, or should be dismissed, the absent person being thus regarded as indispensable. The factors to be considered by the court include: first, to what extent a judgment rendered in the person's absence might be prejudicial to him or those already parties; second, the extent to which, by protective provisions in the judgment, by the shaping of relief, or other measures, the prejudice can be lessened or avoided; third, whether a judgment rendered in the person's absence will be adequate; fourth, whether the plaintiff will have an adequate remedy if the proceeding is dismissed for nonjoinder.

(*d*) *Pleading reasons for nonjoinder.*—A pleading asserting a claim for relief shall state the names, if known to the pleader, of any persons as described in subdivision (a) who are not joined, and the reasons why they are not joined.

(e) *Exception of class proceedings.*—This rule is subject to the provisions of Rule 723.

Rule 720. Permissive joinder of parties.

Rule 20 of the Federal Rules of Civil Procedure applies in adversary proceedings.

Rule 721. Misjoinder and nonjoinder of parties.

Rule 21 of the Federal Rules of Civil Procedure applies in adversary proceedings.

Rule 722. Interpleader.

Rule 22 (1) of the Federal Rules of Civil Procedure applies in adversary proceedings.

Rule 723. Class proceedings.

Rule 23 of the Federal Rules of Civil Procedure applies in adversary proceedings.

Rule 723.1. Derivative proceedings by shareholders.

Rule 23.1 of the Federal Rules of Civil Procedure applies in adversary proceedings.

Rule 723.2. Adversary proceedings relating to unincorporated associations.

Rule 23.2 of the Federal Rules of Civil Procedure applies in adversary proceedings.

Rule 724. Intervention.

Rule 24 of the Federal Rules of Civil Procedure applies in adversary proceedings except that a person desiring to intervene shall serve a motion to intervene upon the parties as provided in Rule 705.

Rule 725. Substitution of parties.

Subject to the provisions of Rule 221 (b), Rule 25 of the Federal Rules of Civil Procedure applies in adversary procedings, but a motion for substitution under this rule shall be served and filed as provided in Rules 704 and 705.

Rule 726. General provisions governing discovery.

Rule 26 of the Federal Rules of Civil Procedure applies in adversary proceedings.

Rule 727. Depositions before adversary proceedings or pending appeal.

(*a*) *Before adversary proceeding.*

(*1*) *Application.*—A person who desires to perpetuate his own testimony or that of another person regarding any matter that may be cognizable and relevant in an adversary proceeding may file an application with the court in a pending bankruptcy case. The application shall show: (A) that the applicant expects to be a party to an adversary proceeding but is presently unable to bring it or cause it to be brought; (B) the subject matter of the expected proceeding and the applicant's interest therein; (C) the facts which the applicant desires to establish by the proposed testimony and his reasons for desiring to perpetuate it; (D) the names or a description of the persons he expects will be adverse parties and their addresses so far as known; and (E) the names and addresses of the persons to be examined and the substance of the testimony which he expects to elicit from each. The application shall ask for an order authorizing the applicant to take depositions of the persons to be examined named in the application, for the purpose of perpetuating their testimony.

(*2*) *Notice and service.*—The applicant shall thereafter serve a notice upon each person named in the application as an expected adverse party, together with a copy of the application, stating that the applicant will apply to the court, at a time and place named therein, for the order described in the application. At least 20 days before the date of hearing the notice shall be served in the manner provided in Rule 704 (b) or (c) for service of summons; but if such service cannot with due diligence be made upon any expected adverse party named in the application, the court may make such order as is just

for service by publication or otherwise, and shall appoint, for persons not served in the manner provided in Rule 704 (b) or (c), an attorney who shall represent them. If any expected adverse party is a minor or incompetent the provisions of Rule 717 apply.

(*3*) *Order and examination.*—If the court is satisfied that the perpetuation of the testimony may prevent a failure or delay of justice, it shall make an order designating or describing the persons whose depositions may be taken and specifying the subject matter of the examination and whether the depositions shall be taken upon oral examination or written interrogatories. The depositions may then be taken in accordance with these rules; and the court may make orders of the character provided for by Rules 734 and 735.

(*b*) *Pending appeal.*—If an appeal has been taken from a judgment of a referee or before the taking of an appeal if the time therefor has not expired, the referee who rendered the judgment may allow the taking of the depositions of witnesses to perpetuate their testimony for use in the event of further proceedings before the referee. In such case the party who desires to perpetuate the testimony may make a motion before the referee for leave to take the depositions, upon the same notice and service thereof as if the proceeding were pending before the referee. The motion shall show (1) the names and addresses of the persons to be examined and the substance of the testimony which he expects to elicit from each; (2) the reasons for perpetuating their testimony. If the referee finds that the perpetuation of the testimony is proper to avoid a failure or delay of justice, he may make an order allowing the depositions to be taken and may make orders of the character provided for by Rules 734 and 735, and thereupon the depositions may be taken and used in the same manner and under the same conditions as are prescribed in these rules for depositions taken in proceedings pending before the referee.

Rule 728. Persons before whom depositions may be taken.

Rule 28 of the Federal Rules of Civil Procedure applies in adversary proceedings.

Rule 729. Stipulations regarding discovery procedure.

Rule 29 of the Federal Rules of Civil Procedure applies in adversary proceedings.

Rule 730. Depositions upon oral examination.

Rule 30 of the Federal Rules of Civil Procedure applies in adversary proceedings, except that the 30-day period during which leave of court must be obtained under subdivision (a) for the taking of a deposition runs from the issuance of the summons under Rule 704 and that the attendance of witness may be compelled by the use of subpoena as provided in Rule 916.

Rule 731. Deposition upon written questions.

Rule 31 of the Federal Rules of Civil Procedure applies in adversary proceedings, except that the attendance of witnesses may be compelled by the use of subpoena as provided in Rule 916.

Rule 732. Use of depositions in adversary proceedings.

Rule 32 of the Federal Rules of Civil Procedure applies in adversary proceedings.

Rule 733. Interrogatories to parties.

Rule 33 of the Federal Rules of Civil Procedure applies in adversary proceedings.

Rule 734. Production of documents and things and entry upon land for inspection and other purposes.

Rule 34 of the Federal Rules of Civil Procedure applies in adversary proceedings.

Rule 735. Physical and mental examination of persons.

Rule 35 of the Federal Rules of Civil Procedure applies in adversary proceedings.

Rule 736. Requests for admission.

Rule 36 of the Federal Rules of Civil Procedure applies in adversary proceedings.

Rule 737. Failure to make discovery: Sanctions.

Rule 37 of the Federal Rules of Civil Procedure applies in adversary proceedings.

Rule 741. Dismissal of adversary proceedings.

Rule 41 of the Federal Rules of Civil Procedure applies in adversary proceedings, except that a complaint objecting to the bankrupt's discharge shall not be dismissed at the plaintiff's instance save upon notice to the trustee and upon order of the court containing such terms and conditions as the court deems proper, and the reference in subdivision (b) of that rule to Rule 19 shall be read as a reference to Rule 719.

Rule 742. Consolidation of adversary proceedings; separate trials.

Rule 42 of the Federal Rules of Civil Procedure applies in adversary proceedings.

Rule 744.1. Determination of foreign law.

Rule 44.1 of the Federal Rules of Civil Procedure applies in adversary proceedings.

Rule 752. Findings by the court.

(*a*) *Effect.*—In all matters tried upon the facts without a jury or with an advisory jury, the court shall find the facts specially and state separately its conclusions of law thereon, and the judgment shall be entered pursuant to Rule 921 (a). Requests for findings are not necessary for purposes of review. Findings of fact shall not be set aside unless clearly erroneous, and due regard shall be given to the opportunity of the trial court to judge of the credibility of the witnesses. If an opinion or memorandum of decision is filed, it will be sufficient

if the findings of fact and conclusions of law appear therein. Findings of fact and conclusions of law are unnecessary on decisions of motions under these rules except when, on a motion to dismiss under Rule 741, the court renders a judgment on the merits after a trial on the facts.

(*b*) *Amendment.*—Upon motion of a party made not later than 10 days after entry of a judgment the court may amend its findings or make additional findings and may amend the judgment accordingly. The motion may be made with a motion for a new trial or to alter or amend a judgment pursuant to Rule 923. When findings of fact are made in matters tried by the court without a jury, the question of the sufficiency of the evidence to support the findings may thereafter be raised whether or not the party raising the question has made before the court an objection to such findings or has made a motion to amend them or a motion for judgment.

Rule 754. Judgments; costs.

(*a*) *Judgments.*—Subdivisions (a), (b), and (c) of Rule 54 of the Federal Rules of Civil Procedure apply in adversary proceedings.

(*b*) *Costs.*—On one day's notice costs may be taxed and judgment therefor rendered by the court.

Rule 755. Default.

(*a*) *Entry.*—When a judgment is sought against a party in adversary proceedings and such party has, without sufficient excuse, (1) failed to plead or otherwise defend or, (2) having filed a pleading or motion, is not ready to proceed with trial on the day set therefor in accordance with these rules, the court upon request therefor shall enter a judgment by default, except as provided hereinafter. If, in order to enable the court to enter judgment or to carry it into effect, it is necessary to take an account or to determine the amount of damages or

to establish the truth of any averment by evidence or to make an investigation of any other matter, the court may conduct such hearings as it deems necessary and proper. No judgment by default shall be entered against an infant or incompetent person unless represented in the proceeding by a general guardian, committee, conservator, or other such representative who has appeared therein.

(*b*) *Setting aside judgment by default.*—For good cause shown the court may set aside a judgment by default in accordance with Rule 924.

(*c*) *Plaintiffs, counterclaimants, cross-claimants.*—The provisions of this rule apply whether the party entitled to the judgment by default is a plaintiff, a third-party plaintiff, or a party who has pleaded a cross-claim or counterclaim. In all cases a judgment by default is subject to the limitations of Rule 54 (c) of the Federal Rules of Civil Procedure.

(*d*) *Judgment against the United States.*—No judgment by default shall be entered against the United States or an officer or agency thereof unless the claimant establishes his claim or right to relief by evidence satisfactory to the court.

Rule 756. Summary judgment.

Rule 56 of the Federal Rules of Civil Procedure applies in adversary proceedings.

Rule 762. Stay of proceedings to enforce a judgment.

Subject to the provisions of Rule 805, Rule 62 of the Federal Rules of Civil Procedure applies in adversary proceedings.

Rule 764. Seizure of person or property.

Rule 64 of the Federal Rules of Civil Procedure applies in adversary proceedings except that an adversary proceeding in which any of the remedies referred to in that rule is used shall be commenced and prosecuted pursuant to these rules.

Rule 765. Injunctions.

Rule 65 of the Federal Rules of Civil Procedure applies in adversary proceedings except that a temporary restraining order or preliminary injunction may be issued on application of a trustee, receiver, or bankrupt without compliance with subdivision (c) of that rule. When security is required under subdivision (c) of that rule and is given in the form of a bond or other undertaking, Rule 925 governs its enforcement against the surety thereon.

Rule 767. Deposit in court.

Rule 67 of the Federal Rules of Civil Procedure applies in adversary proceedings.

Rule 768. Offer of judgment.

Rule 68 of the Federal Rules of Civil Procedure applies in adversary proceedings.

Rule 769. Execution.

Rule 69 of the Federal Rules of Civil Procedure applies in adversary proceedings.

Rule 770. Judgment for specific acts; vesting title.

If a judgment directs a party to execute a transfer or to deliver a document or to perform any other specific act and the party fails to comply within the time specified, the court may direct the act to be done at the cost of the disobedient party by some other person appointed by the court and the act when so done has like effect as if done by the party. On application of the party entitled to performance, the court shall issue a writ of attachment or sequestration against the property of the disobedient party to compel obedience to the judgment. In proper cases the disobedient party may also be held in contempt in proceedings under Rule 920. The court in lieu of directing a transfer of real or personal property may enter a judgment divesting the title of any party

thereto and vesting it in others and such judgment has the effect of a transfer executed in due form of law. When any judgment is for the delivery of possession, the party in whose favor it is entered is entitled to a writ of execution or assistance upon application to the court.

Rule 771. Process in behalf of and against persons not parties.

Rule 71 of the Federal Rules of Civil Procedure applies in adversary proceedings.

Rule 782. Transfer of adversary proceeding.

Upon notice and hearing afforded the parties, any adversary proceeding may, in the interest of justice and for the convenience of the parties, be transferred by the court to any other district and shall thereafter continue as if originally filed in such district. An adversary proceeding transferred under this rule shall be referred to a referee by the clerk of the court to which it has been transferred.

Part VIII. Appeal to District Court

Rule 801. Manner of taking appeal.

An appeal from a judgment or order of a referee to a district court shall be taken by filing a notice of appeal with the referee within the time allowed by Rule 802. Failure of an appellant to take any step other than that specified in the first sentence does not affect the validity of the appeal, but is ground only for such action as the district court deems appropriate, which may include dismissal of appeal. The notice of appeal shall conform substantially to Official Form No. 28, shall contain the names of all parties to the judgment or order appealed from and the names and addresses of their respective attorneys, and shall be accompanied by the fee fixed by the Judicial Conference of the United States pursuant to § 40c of the Act. Each appellant shall file a sufficient

number of copies of the notice of appeal to enable the referee to comply promptly with Rule 804.

Rule 802. Time for filing notice of appeal.

(*a*) *Ten-day period.*—The notice of appeal shall be filed with the referee within 10 days of the date of the entry of the judgment or order appealed from. If a timely notice of appeal is filed by a party, any other party may file a notice of appeal within 10 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.

(*b*) *Effect of motion on time for appeal.*—The running of the time for filing a notice of appeal is terminated as to all parties by a timely motion filed with the referee by any party pursuant to the rules hereafter enumerated in this subdivision. The full time for appeal fixed by this rule commences to run and is to be computed from the entry of any of the following orders made upon a timely motion under such rules: (1) granting or denying a motion for judgment notwithstanding the verdict under Rule 115 (b)(4); (2) granting or denying a motion under Rule 752 (b) to amend or make additional findings of fact, whether or not an alternation of the judgment would be required if the motion is granted; (3) granting or denying a motion under Rule 923 to alter or amend the judgment; or (4) denying a motion for a new trial under Rule 923.

(*c*) *Extension of time for appeal.*—The referee may extend the time for filing the notice of appeal by any party for a period not to exceed 20 days from the expiration of the time otherwise prescribed by this rule. A request to extend the time for filing a notice of appeal must be made before such time has expired, except that a request made after the expiration of such time may be granted upon a showing of excusable neglect if the judgment or order does not authorize the sale of any property.

Rule 803. Finality of referee's judgment or order.

Unless a notice of appeal is filed as prescribed by Rules 801 and 802, the judgment or order of the referee shall become final.

Rule 804. Service of the notice of appeal.

The referee shall serve notice of the filing of a notice of appeal by mailing a copy thereof to counsel of record of each party other than the appellant or, if a party is not represented by counsel, to the party at his last known address. Failure to serve notice shall not affect the validity of the appeal. The referee shall note on each copy served the date of the filing of the notice of appeal and shall note in the docket the names of the parties to whom he mails copies and the date of the mailing.

Rule 805. Stay pending appeal.

A motion for a stay of the judgment or order of a referee, for approval of a supersedeas bond, or for other relief pending appeal must ordinarily be made in the first instance to the referee. Notwithstanding Rule 762 but subject to the power of the district court reserved hereinafter, the referee may suspend or order the continuation of proceedings or make any other appropriate order during the pendency of an appeal upon such terms as will protect the rights of all parties in interest. A motion for such relief, or for modification or termination of relief granted by the referee, may be made to the district court, but the motion shall show why the relief, modification, or termination was not obtained from the referee. The district court may condition the relief it grants under this rule upon the filing of a bond or other appropriate security with the referee. A trustee or receiver may be required to give a supersedeas bond or other appropriate security in order to obtain a stay when taking an appeal.

Rule 806. Record and issues on appeal.

Within 10 days after filing the notice of appeal the appellant shall file with the referee and serve on the

appellee a designation of the contents for inclusion in the record on appeal and a statement of the issues he intends to present on the appeal. The record shall include the contents so designated and the findings of fact, conclusions of law, and orders entered thereon. If the appellee deems any other papers to be necessary, he shall, within 7 days after the service of the statement of the appellant, file and serve on the appellant a designation of additional papers to be included. If the record designated by any party includes a transcript of any proceeding or a part thereof, he shall immediately after the designation order the transcript and make satisfactory arrangements for payment of its costs. All parties shall take any other action necessary to enable the referee to assemble and transmit the record.

Rule 807. Transmission of the record; docketing of the appeal.

The record on appeal shall be transmitted by the referee to the clerk of the district court within 30 days after the filing of the statement of the issues unless a different time is prescribed by order of the district court, and the clerk shall thereupon enter the appeal on the docket.

Rule 808. Filing and service of briefs.

Unless a local rule or court order excuses the filing of briefs or provides for different time limits:

(1) The appellant shall serve and file his brief within 15 days after entry of the appeal on the docket pursuant to Rule 807.

(2) The appellee shall serve and file his brief within 15 days after service of the brief of the appellant.

(3) The appellant may serve and file a reply brief within 5 days after service of the brief of the appellee.

Rule 809. Oral argument.

Unless otherwise provided by local rule or court order the parties shall be given an opportunity to be heard on oral argument.

Rule 810. Disposition of appeal; weight accorded referee's findings.

Upon an appeal the district court may affirm, modify, or reverse a referee's judgment or order, or remand with instructions for further proceedings. The court shall accept the referee's findings of fact unless they are clearly erroneous, and shall give due regard to the opportunity of the referee to judge of the credibility of the witnesses.

Rule 811. Costs.

Except as otherwise provided by law, agreed to by the parties, or ordered by the court, costs shall be taxed against the losing party on an appeal; if a judgment is affirmed or reversed in part, or is vacated, costs shall be allowed only as ordered by the court. Costs incurred in the preparation and transmission of the record, the cost of the reporter's transcript, if necessary for the determination of the appeal, the premiums paid for cost of supersedeas bonds or other bonds to preserve rights pending appeal, and the fee for filing the notice of appeal shall be taxed by the referee as costs of the appeal in favor of the party entitled to costs under this rule.

Rule 812. Motion for rehearing.

Unless otherwise provided by local rule or court order, a motion for rehearing may be filed within 10 days after entry of the judgment of the district court.

Rule 813. Duties of clerk on disposition of appeal.

Immediately upon the entry of an order or judgment the clerk of the district court shall serve a notice of the entry by mail upon each party to the appeal, together with a copy of any opinion respecting the order or judgment, and shall make a note of the mailing in the docket.

Original papers transmitted as the record on appeal shall be returned to the referee upon disposition of the appeal.

Rule 814. Suspension of rules in Part VIII.

In the interest of expediting decision or for other good cause, the district court may, by local rule or order, suspend the requirements or provisions of the rules in Part VIII, except Rules 801, 802, 803, and 810, and may also order proceedings in accordance with its direction.

Part IX. General Provisions

Rule 901. General definitions.

The definitions of words and phrases in § 1 of the Act govern their use in these rules to the extent they are not inconsistent with the rules. In addition, the following words and phrases used in these rules have the meanings herein indicated unless they are inconsistent with the context:

(1) "Accountant" includes an accounting partnership or corporation.

(2) "Act" means the Bankruptcy Act.

(3) "Affiliate" of a bankrupt means (A) a corporation 25 per cent or more of whose outstanding voting securities are directly or indirectly owned, controlled, or held with power to vote, by the bankrupt, or (B) a person who directly or indirectly owns, controls, or holds with power to vote, 25 per cent or more of the outstanding voting securities of the bankrupt, or (C) a corporation 25 per cent or more of whose outstanding voting securities are directly or indirectly owned, controlled, or held with power to vote, by a person who directly or indirectly owns, controls, or holds with power to vote, 25 per cent or more of the outstanding voting securities of the bankrupt, or (D) a person substantially all of whose property is operated under lease or operating agreement by the bankrupt, or (E) a person who operates under lease or operating agreement substantially all of the property of the bankrupt.

(4) "Application" includes any request to the court for relief that is not a pleading or proof of claim. An application not made in open court shall be in writing unless a writing is excused by the court. An application for an order against another party may be required to be made by motion.

(5) "Attorney" includes a law partnership or corporation.

(6) "Bankrupt." When any act is required by these rules to be performed by a bankrupt or when it is necessary to compel attendance of a bankrupt for examination and the bankrupt is not a natural person: (A) if the bankrupt is a corporation, "bankrupt" includes, if designated by the court, any or all of its officers, members of its board of directors or trustees or of a similar controlling body, a controlling stockholder or member, or any other person in control; (B) if the bankrupt is a partnership, "bankrupt" includes any or all of its general partners or, if designated by the court, any other person in control.

(7) "Bankruptcy judge" means the referee of the court of bankruptcy in which a bankruptcy case is pending, or the district judge of that court when issuing an injunction under § 2a (15) of the Act and when acting in lieu of a referee under § 43c of the Act or under Rule 102.

(8) "Judgment" includes any order appealable to the district court or, if entered by a district judge when acting as a bankruptcy judge, appealable to the court of appeals.

(9) "Motion" means an application to the court for an order in an adversary proceeding or in a proceeding on a contested petition, to vacate an adjudication, or to determine any other contested matter. Unless made during a hearing or trial, a motion shall be made in writing, shall conform substantially to a pleading in form, shall state with particularity the grounds therefor, and shall set forth the relief or order sought.

(10) "Pleadings" include those allowed by Rule 7 (a) of the Federal Rules of Civil Procedure and the petition and the responsive pleadings allowed by Rule 112.

Rule 902. Meanings of words in the Federal Rules of Civil Procedure when applicable in bankruptcy cases.

The following words and phrases used in the Federal Rules of Civil Procedure made applicable in bankruptcy cases by these rules have the meanings herein indicated unless they are inconsistent with the context:

(1) "Action" or "civil action" means an adversary proceeding or, when appropriate, a proceeding on a contested petition, to vacate an adjudication, or to determine any other contested matter.

(2) "Appeal" includes appeal from the referee to the district court, and "appellate court" means the district court.

(3) "Clerk" or "clerk of the district court" means an assistant employed by the referee and designated as his clerk by the referee's order, unless the offices of the clerk of the district court and the referee are consolidated or a proceeding is before the district judge.

(4) "District court," "trial court," "court," or "judge" means bankruptcy judge.

(5) "Judgment" includes any order appealable to the district court or, if entered by a district judge when acting as a bankruptcy judge, appealable to the court of appeals.

Rule 903. Rule of construction.

These rules shall be construed to secure the expeditious and economical administration of every bankrupt estate and the just, speedy, and inexpensive determination of every proceeding in bankruptcy.

Rule 904. General requirements of form.

(*a*) *Legibility; abbreviations.*—All pleadings, schedules, and other papers shall be clearly legible. Abbrevi-

ations in common use in the English language may be used.

(*b*) *Caption.*—Each paper filed shall contain a caption setting forth the name of the court, the title of the case, the bankruptcy docket number, and a brief designation of the character of the paper.

Rule 905. Harmless error.

Rule 61 of the Federal Rules of Civil Procedure applies in bankruptcy cases. When appropriate, the court may order or effect correction of such an error or defect.

Rule 906. Time.

(*a*) *Computation.*—In computing any period of time in a bankruptcy case Rule 6 (a) of the Federal Rules of Civil Procedure applies.

(*b*) *Enlargement.*—When by these rules or by a notice given thereunder or by order of court an act is required or allowed to be done at or within a specified time, the court for cause shown may at any time in its discretion (1) with or without application or notice order the period enlarged if request therefor is made before the expiration of the period originally prescribed or as extended by a previous order or (2) upon application made after the expiration of the specified period permit the act to be done where the failure to act was the result of excusable neglect; but it may not extend the time for taking any action under Rules 107 (b)(2), 115 (b)(4) insofar as it makes Rule 50 (b) of the Federal Rules of Civil Procedure applicable in bankruptcy cases, 302 (e), 403 (c), 607, 752 (b), 802, 923, and 924, except to the extent and under the conditions stated in them.

(*c*) *Reduction.*—When by these rules or by a notice given thereunder or by order of court an act is required or allowed to be done at or within a specified time, the court for cause shown may in its discretion with or without application or notice order the period shortened; but it may not reduce the time for taking any action

under Rules 203 (a), 204 (a)(1), 302 (e), 404 (a) and (b), 409 (a)(2), and 802, except to the extent and under the conditions stated in them.

(*d*) *For motions—Affidavits.*—Rule 6 (d) of the Federal Rules of Civil Procedure applies in bankruptcy cases, except that the reference to Rule 59 (c) shall be read as a reference to Bankruptcy Rule 923.

(*e*) *Time of service or notice by mail.*—Service or notice by mail is complete upon mailing.

Rule 907. General authority to regulate notices.

Whenever notice is to be given under these rules, the court shall designate, if not otherwise specified herein, the time within which, the persons to whom, and the form and manner in which the notice shall be given. Whenever feasible, the court may order any notices under these rules to be combined.

Rule 908. Publication.

Whenever these rules require or authorize service or notice by publication, the court shall, to the extent not otherwise specified in these rules, determine the form and manner thereof, including the newspaper or other medium to be used and the number of publications.

Rule 909. Forms.

The official forms annexed to these rules shall be observed and used, with such alterations as may be appropriate to suit the circumstances. Forms may be combined and their contents rearranged to permit economies in their use. The Director of the Administrative Office of the United States Courts may promulgate illustrative forms for use under the Act.

Rule 910. Representation and appearances; powers of attorney.

(*a*) *Authority to act personally or by attorney.*—A bankrupt, creditor, or other party may appear in a bankruptcy case and act either in his own behalf or by an

attorney authorized to practice in the court. A creditor may also perform any act not constituting the practice of law, by an authorized agent, attorney in fact, or proxy.

(*b*) *Notice of appearance.*—An attorney appearing for a party shall file a notice of appearance with his name and business address unless his appearance is otherwise noted in the record.

(*c*) *Power of attorney.*—The authority of any agent, attorney in fact, or proxy to represent a creditor for any purpose other than the execution and filing of a proof of claim shall be evidenced by a power of attorney conforming substantially to Official Form No. 13 or Official Form No. 14. The execution of any such power of attorney shall be acknowledged before one of the officers enumerated in Rule 912.

Rule 911. Signing and verification of pleadings and other papers.

(*a*) *Signature.*—Every pleading and every written motion of a party represented by an attorney shall be signed by at least one attorney of record in his individual name, whose address shall be stated, and every written application must be so signed by an attorney or by the party making it. A party who is not represented by an attorney shall sign his pleading or written motion or application and state his address. The signature of an attorney on any pleading, motion, or application served or filed in a bankruptcy case constitutes a certificate by him that he has read the paper; that to the best of his knowledge, information, and belief, there is good ground to support it; and that it is not interposed for delay or other improper purpose. If a pleading, or written motion or application, is not signed or is signed with intent to defeat the purpose of this rule, it may be stricken as sham and false, and the case may proceed as though the paper had not been served or filed. For a wilful violation of this rule an attorney may be subjected to appro-

priate disciplinary action. Similar action may be taken if scandalous or indecent matter is inserted.

(*b*) *Verification.*—Except as otherwise specifically provided by these rules, papers filed in a bankruptcy case need not be verified.

(*c*) *Copies of signed or verified papers.*—When these rules require copies of a signed or verified paper, it shall suffice if the original is signed or verified and the copies are conformed to the original.

Rule 912. Oaths and affirmations.

(*a*) *Persons authorized to administer oaths.*—A referee, a person designated by the referee in an order filed in the office of the clerk of the district court, an officer authorized to administer oaths in proceedings before the courts of the United States or under the laws of the state where the oath is to be taken, or a diplomatic or consular officer of the United States in any foreign country, may administer oaths and affirmations and take acknowledgments.

(*b*) *Affirmation in lieu of oath.*—Whenever in a bankruptcy case an oath is required to be taken, a solemn affirmation may be accepted in lieu thereof.

Rule 913. Habeas corpus.

(*a*) *For performance of duties under the Act.*—The bankruptcy judge may issue a writ of habeas corpus when appropriate to bring a person before the court for examination or to testify or to perform a duty imposed upon him under the Act.

(*b*) *For release of bankrupt from imprisonment.*—If the bankrupt is arrested or imprisoned on process in any civil action, the bankruptcy judge may issue a writ of habeas corpus and, after hearing on notice to the adverse party in such action, may order the bankrupt's release if the process is found to have been issued for the collection of a dischargeable debt.

Rule 914. Procedure in contested matters not otherwise provided for.

In a contested matter in a bankruptcy case not otherwise governed by these rules, relief shall be requested by motion, and reasonable notice and opportunity for hearing shall be afforded the party against whom relief is sought. In all such matters, unless the court otherwise directs, the following rules shall apply: 721, 725, 726, 728–737, 741, 742, 744.1, 752, 754–756, 762, 764, 769, and 771. The court may at any stage in a particular matter direct that one or more of the other rules in Part VII shall apply. A person who desires to perpetuate his own testimony or that of another person regarding any matter that may be cognizable and relevant in a contested matter in a pending bankruptcy case may proceed in the same manner as provided in Rule 727 for the taking of a deposition before an adversary proceeding. For the purposes of this rule a reference in the rules in Part VII to adversary proceedings shall be read as a reference to contested matters. Notice of an order or direction under this rule shall be given when necessary or appropriate to assure to the parties affected a reasonable opportunity to comply with the procedures made applicable by the order.

Rule 915. Objection to jurisdiction of court of bankruptcy.

(*a*) *Waiver of objection to jurisdiction.*—Except as provided in Rule 112 and subject to Rule 928, a party waives objection to jurisdiction of an adversary proceeding or a contested matter and thereby consents to such jurisdiction if he does not make objection by a timely motion or answer, whichever is first served.

(*b*) *Dismissal or transfer.*—If an objection to the jurisdicion of an adversary proceeding, a contested matter, or a severable part of either, is sustained, the bankruptcy judge shall dismiss such proceeding, matter, or part thereof, or transfer it to the civil docket of the district court, as may be appropriate. On transfer pursuant

to this rule, the proceeding, matter, or part thereof shall continue as if filed as a civil action in the district court on the date it was filed in the court of bankruptcy.

Rule 916. Subpoena.

Rule 45 of the Federal Rules of Civil Procedure applies in bankruptcy cases, except that subpoenas may be issued in the name and under the authority of the bankruptcy judge and need not be under the seal of the court.

Rule 917. Evidence.

The Federal Rules of Evidence apply in bankruptcy cases, subject to specific provisions in these rules governing matters of evidence.

Rule 918. Secret, confidential, scandalous, or defamatory matter.

On application or on its own initiative the court may make any order which justice requires (1) to protect the estate or any person in respect of a trade secret or other confidential research, development, or commercial information, or (2) to protect any person against scandalous or defamatory matter contained in any paper filed in a bankruptcy case. If an order is entered under this rule without notice, any person affected thereby may move to vacate or modify the order, and on notice the court shall determine such motion.

Rule 919. Compromise and arbitration.

(*a*) *Compromise.*—On application by the trustee or receiver and after hearing on notice to the creditors as provided in Rule 203 (a) and to such other persons as the court may designate, the court may approve a compromise or settlement.

(*b*) *Arbitration.*—On stipulation of the parties to any controversy affecting the estate the court may authorize the matter to be submitted to final and binding arbitration.

Rule 920. Contempt proceedings.

(*a*) *Contempt committed in proceedings before referee.*

(*1*) *Summary disposition by referee.*—Misbehavior prohibited by § 41a (2) of the Act may be punished summarily by the referee as contempt if he saw or heard the conduct constituting the contempt and it was committed in his actual presence. The order of contempt shall recite the facts and shall be signed by the referee and entered of record.

(*2*) *Disposition by referee upon notice and hearing.*—Any other conduct prohibited by § 41a of the Act may be punished by the referee only after hearing on notice. The notice shall be in writing and shall state the time and place of hearing, allowing a reasonable time for the preparation of the defense, and shall state the essential facts constituting the contempt charged and whether the contempt is criminal or civil or both. The notice may be given on the referee's own initiative or on motion by a party, by the United States attorney, or by an attorney appointed by the referee for that purpose. If the contempt charged involves disrespect to or criticism of the referee, he is disqualified from presiding at the hearing except with the consent of the person charged.

(*3*) *Limits on punishment by referee.*—A referee shall not order imprisonment nor impose a fine of more than $250 as punishment for any contempt, civil or criminal.

(*4*) *Certification to district judge.*—If it appears to a referee that conduct prohibited by § 41a of the Act may warrant punishment by imprisonment or by a fine of more than $250, he may certify the facts to the district judge. On such certification the judge shall proceed as for a contempt not committed in his presence.

(*b*) *Contempt committed in proceedings before district judge.*—Any contempt committed in proceedings before a district judge while acting as a bankruptcy judge shall be prosecuted as any other contempt of the district court.

(*c*) *Right to jury trial.*—Nothing in this rule shall be construed to impair the right to jury trial whenever it otherwise exists.

Rule 921. Entry of judgment; district court record of referee's judgment.

(*a*) *Original entry on referee's docket.*—A judgment in an adversary proceeding or contested matter shall be set forth on a separate document. Every judgment shall be entered forthwith in the referee's docket as provided in Rule 504 or, if the judgment is by the district judge, in the civil docket as provided in Rule 79 (a) of the Federal Rules of Civil Procedure. A judgment is effective only when entered as required by this subdivision.

(*b*) *District court record of referee's judgment.*—On certification by the referee to the clerk of the district court of a copy of a judgment of the referee for the recovery of money or property, the clerk shall keep and index the copy in substantially the form and manner prescribed by Rule 79 of the Federal Rules of Civil Procedure for judgments of the district court. Retention and indexing of a judgment by the clerk under this subdivision shall not affect its appealability or proceedings on appeal from the judgment under the rules in Part VIII, the availability of process to enforce the judgment under Rule 769, or the availability of relief under Rule 762 or 770, but after it has been so indexed, the referee's judgment shall have the same effect and may be enforced as a judgment of the district court so indexed.

Rule 922. Notice of judgment or order.

(*a*) *Judgment or order of a referee.*—Immediately upon the entry of a judgment or order made by him, the referee shall serve a notice of the entry by mail in the manner provided by Rule 705 upon any party who opposed the making of the judgment or order and on such

other persons as may be designated by the referee. The service of such notice shall be noted in the referee's docket. Lack of notice of the entry does not affect the time to appeal or relieve or authorize the court to relieve a party for failure to appeal within the time allowed, except as permitted in Rule 802.

(*b*) *Judgment or order of district judge.*—Notice of a judgment or order of a district judge while acting in a bankruptcy case pursuant to Rule 102 is governed by Rule 77 (d) of the Federal Rules of Civil Procedure.

Rule 923. New trials; amendment of judgments.

Except as provided in Rule 307, Rule 59 of the Federal Rules of Civil Procedure applies in bankruptcy cases.

Rule 924. Relief from judgment or order.

Rule 60 of the Federal Rules of Civil Procedure applies in bankruptcy cases, except that a motion to reopen a case or for the reconsideration of an order allowing or disallowing a claim against the estate entered without a contest is not subject to the one-year limitation therein prescribed. This rule does not permit extension of the time allowed by § 15 of the Act for the filing of a complaint to revoke a discharge.

Rule 925. Security: Proceedings against sureties.

Whenever these rules require or permit the giving of security by a party, and security is given in the form of a bond or stipulation or other undertaking with one or more sureties, each surety submits himself to the jurisdiction of the court, and his liability may be enforced in an adversary proceeding governed by the rules in Part VII.

Rule 926. Exceptions unnecessary.

Rule 46 of the Federal Rules of Civil Procedure applies in bankruptcy cases.

Rule 927. Local bankruptcy rules.

Each district court by action of a majority of the judges thereof may from time to time make and amend rules governing practice and procedure under the Act not inconsistent with these rules. Copies of rules and amendments so made shall upon their promulgation be furnished to the Administrative Office of the United States Courts. The clerk of each court shall make appropriate arrangements, subject to the approval of the Director of the Administrative Office of the United States Courts, for making copies of such rules available to members of the public who may request them. In all cases not provided for by rule, the district court may regulate its practice in any manner not inconsistent with these rules.

Rule 928. Jurisdiction unaffected.

These rules shall not be construed to extend or limit the jurisdiction of courts of bankruptcy over subject matter.

OFFICIAL BANKRUPTCY FORMS

[NOTE. These official forms should be observed and used with such alterations as may be appropriate to suit the circumstances. See Rule 909.]

FORM No. 1

PETITION FOR VOLUNTARY BANKRUPTCY

United States District Court
for the..... District of.....

In re
.....,
Bankrupt [include here all names used by bankrupt within last 6 years]
} Bankruptcy No.....

VOLUNTARY PETITION

1. Petitioner's post-office address is.....
.....

2. Petitioner has resided [*or* has had his domicile *or* has had his principal place of business] within this district for the preceding 6 months [*or* for a longer portion of the preceding 6 months than in any other district].

3. Petitioner is qualified to file this petition and is entitled to the benefits of the Bankruptcy Act as a voluntary bankrupt.

Wherefore petitioner prays for relief as a voluntary bankrupt under the Act.

Signed: .....,
Attorney for Petitioner.

Address: .....,
.....

[*Petitioner signs if not represented by attorney.*]

.....,
Petitioner.

State of.....
County of.....
} *ss.*

I, ..., the petitioner named in the foregoing petition, do hereby swear that the statements contained

therein are true according to the best of my knowledge, information, and belief.

....., *Petitioner.*

Subscribed and sworn to before me on .....

....., ...

[*Official character*]

[*Unless further time is granted by the court pursuant to Rule 108, this petition must be accompanied by a schedule of the petitioner's debts and property, his claim for such exemptions as he may be entitled to, and a statement of his affairs. These additional statements shall be submitted on official forms, shall include the information about the petitioner's property and debts required by the Bankruptcy Rules and by the forms, and shall be verified under oath.*]

FORM NO. 2

APPLICATION TO PAY FILING FEES IN INSTALLMENTS

[*Caption, other than designation, as in Form No. 1*]

APPLICATION TO PAY FILING FEES IN INSTALLMENTS

1. Applicant is filing herewith a voluntary petition in bankruptcy.
2. He is unable to pay the filing fees except in installments.
3. He proposes to pay such fees to the clerk of the district court upon the following terms:

.....

.....

4. He has paid no money and transferred no property to his attorney for services in connection with this case or any pending case under the Act, and he will make no payment or transfer to his attorney for such services until the filing fees are paid in full.

Wherefore applicant prays that he be permitted to pay the filing fees in installments.

Dated: .....

Signed: ....., *Applicant.*

Address: .....,

.....

FORM NO. 3

ORDER FOR PAYMENT OF FILING FEES IN INSTALLMENTS

[*Caption, other than designation, as in Form No. 1*]

ORDER FOR PAYMENT OF FILING FEES IN INSTALLMENTS

The application of the bankrupt for permission to pay the filing fees in this case in installments having been heard;

It is ordered that the bankrupt pay the filing fees still owing, namely, $....., as follows: .....

.....

.....

It is further ordered that all payments be made at the office of the clerk of the United States District Court located at ...., and that until the filing fees are paid in full, the bankrupt shall pay no money and shall transfer no property to his attorney, and his attorney shall accept no money or property from the bankrupt for services in connection with this case.

Dated: .....

....., *Bankruptcy Judge.*

FORM NO. 4

VERIFICATION ON BEHALF OF A CORPORATION

State of.....
County of..... } *ss.*

I, ..., the president [*or other officer or* an authorized agent] of the corporation named as petitioner in the foregoing petition, do hereby swear that the statements contained therein are true according to the best of my knowledge, information, and belief, and that the filing of this petition on behalf of the corporation has been authorized.

.....

Subscribed and sworn to before me on.....

....., ...

[*Official character*]

FORM No. 5

VERIFICATION ON BEHALF OF A PARTNERSHIP

State of.....}
County of.....} *ss.*

I, ..., a member [*or* an authorized agent] of the partnership named as petitioner in the foregoing petition, do hereby swear that the statements contained therein are true according to the best of my knowledge, information, and belief, and that the filing of this petition on behalf of the partnership has been authorized.

.....

Subscribed and sworn to before me on.....

.....,

.....

[*Official character*]

FORM No. 6

SCHEDULES

[*Caption, other than designation, as in Form No. 1*]

SCHEDULE A.—STATEMENT OF ALL DEBTS OF BANKRUPT

Schedules A–1, A–2, and A–3 must include all the claims against the bankrupt or his property as of the date of the filing of the petition by or against him.

Schedule A–1.—Creditors having priority.

Nature of claim.	Name of creditor and residence of place of business [if unknown, so state].	Specify when claim was incurred and the consideration therefor; when claim is contingent, unliquidated, disputed, or subject to setoff, evidenced by a judgment, negotiable instrument, or other writing, or incurred as partner or joint contractor, so indicate; specify name of any partner or joint contractor on any debt.	Amount of claim.

a. Wages and commissions owing to workmen, servants, clerks, or traveling or city salesmen on salary or commission basis, whole or part time, whether or not selling exclusively for the bankrupt, not exceeding $600 to each, earned within 3 months before filing of petition ..... $ .....

b. Taxes owing [itemize by type of tax and taxing authority]

(1) To the United States..... .....

(2) To any state..... .....

(3) To any other taxing authority..... .....

c. (1) Debts owing to any person, including United States, entitled to priority by laws of United States [itemize by type]..... .....

(2) Rent owing to a landlord entitled to priority by laws of any state accrued within 3 months before filing of petition, for actual use and occupancy..... .....

Total.....

Schedule A–2.—Creditors holding security.

Name of creditor and residence or place of business [if unknown, so state].	Description of security and date when obtained by creditor.	Specify when claim was incurred and the consideration therefor; when claim is contingent, unliquidated, disputed, subject to setoff, evidenced by a judgment, negotiable instrument, or other writing, or incurred as partner or joint contractor, so indicate; specify name of any partner or joint contractor on any debt.	Market value.	Amount of claim without deduction of value of security.
			.....	.....

Total.....

Schedule A–3.—Creditors having unsecured claims without priority.

Name of creditor [including last known holder of any negotiable instrument] and residence or place of business [if unknown, so state].	Specify when claim was incurred and the consideration therefor; when claim is contingent, unliquidated, disputed, subject to setoff, evidenced by a judgment, negotiable instrument, or other writing, or incurred as partner or joint contractor, so indicate; specify name of any partner or joint contractor on any debt.	Amount of claim.
		$.....
	Total.....	

SCHEDULE B.—STATEMENT OF ALL PROPERTY OF BANKRUPT

Schedules B–1, B–2, B–3, and B–4 must include all property of the bankrupt as of the date of the filing of the petition by or against him.

Schedule B–1.—Real property.

Description and location of all real property in which bankrupt has an interest [including equitable and future interests, interests in estates by the entirety, community property, life estates, leaseholds, and rights and powers exercisable for his own benefit].	Nature of interest [specify all deeds and written instruments relating thereto].	Market value of bankrupt's interest without deduction for secured claims listed in Schedule A–2 or exemptions claimed in Schedule B–4.
		$.....
		Total.....

Schedule B–2.—Personal Property.

Type of property	Description and location	Market value of bankrupt's interest without deduction for secured claims listed on Schedule A–2 or exemptions claimed in Schedule B–4.

a. Cash on hand	$.....
b. Deposits of money with banking institutions, savings and loan associations, credit unions, public utility companies, landlords, and others	.....
c. Household goods, supplies, and furnishings	.....
d. Books, pictures, and other art objects; stamp, coin, and other collections	.....
e. Wearing apparel, jewelry, firearms, sports equipment, and other personal possessions	.....
f. Automobiles, trucks, trailers, and other vehicles	.....
g. Boats, motors, and their accessories	.....
h. Livestock, poultry, and other animals	.....
i. Farming supplies and implements	.....
j. Office equipment, furnishings, and supplies	.....
k. Machinery, fixtures, equipment, and supplies [other than those listed in Items j and l] used in business	.....
l. Inventory	.....
m. Tangible personal property of any other description	.....
n. Patents, copyrights, franchises, and other general intangibles [specify all documents and writings relating thereto]	.....
o. Government and corporate bonds and other negotiable and nonnegotiable instruments	.....
p. Other liquidated debts owing bankrupt or debtor	.....
q. Contingent and unliquidated claims of every nature, including counterclaims of the bankrupt or debtor [give estimated value of each]	.....
r. Interest in insurance policies [itemize surrender or refund values of each]	.....
s. Annuities	.....
t. Stocks and interests in incorporated and unincorporated companies [itemize separately]	.....
u. Interests in partnerships	.....
v. Equitable and future interests, life estates, and rights or powers exercisable for the benefit of the bankrupt or debtor [specify all written instruments relating thereto]	.....
Total	.....

Schedule B–3.—Property not otherwise scheduled.

Type of property	Description and location	Market value of bankrupt's interest without deduction for secured claims listed in Schedule A–2 or exemptions claimed in Schedule B–4.
a. Property transferred under assignment for benefit of creditors, within 4 months prior to filing of petition [specify date of assignment, name and address of assignee, amount realized therefrom by the assignee, and disposition of proceeds so far as known to bankrupt]		$ .....
b. Property of any kind not otherwise scheduled.....		.....
	Total.....	

Schedule B–4.—Property claimed as exempt.

Type of property	Location, description, and, so far as relevant to the claim of exemption, present use of property.	Reference to statute creating the exemption.	Value claimed exempt
			$.....
		Total.....	

Summary of debts and property

[From the statements of the bankrupt in Schedules A and B]

Schedule		Total
	DEBTS	
A–1/a	Wages having priority.....	$.....
A–1/b (1)	Taxes owing United States.....	.....
A–1/b (2)	Taxes owing states.....	.....
A–1/b (3)	Taxes owing other taxing authorities.....	.....
A–1/c (1)	Debts having priority by laws of United States	.....
A–1/c (2)	Rent having priority under state law.....	.....
A–2	Secured claims.....	.....
A–3	Unsecured claims without priority.....	.....
	Schedule A total.....	

Schedule		Total
	PROPERTY	
B–1	Real property [total value]	$.....
B–2/a	Cash on hand	.....
B–2/b	Deposits	.....
B–2/c	Household goods	.....
B–2/d	Books, pictures, and collections	.....
B–2/e	Wearing apparel and personal possessions	.....
B–2/f	Automobiles and other vehicles	.....
B–2/g	Boats, motors, and accessories	.....
B–2/h	Livestock and other animals	.....
B–2/i	Farming supplies and implements	.....
B–2/j	Office equipment and supplies	.....
B–2/k	Machinery, equipment, and supplies used in business	.....
B–2/l	Inventory	.....
B–2/m	Other tangible personal property	.....
B–2/n	Patents and other general intangibles	.....
B–2/o	Bonds and other instruments	.....
B–2/p	Other liquidated debts	.....
B–2/q	Contingent and unliquidated claims	.....
B–2/r	Interests in insurance policies	.....
B–2/s	Annuities	.....
B–2/t	Interests in corporations and unincorporated companies	.....
B–2/u	Interests in partnerships	.....
B–2/v	Equitable and future interests, rights, and powers in personalty	.....
B–3/a	Property assigned for benefit of creditors	.....
B–3/b	Property not otherwise scheduled	.....
B–4	Property claimed as exempt	.....
	Schedule B total	.....

OATH OF INDIVIDUAL TO SCHEDULES A AND B

State of.....
County of..... } *ss.*

I, ..., do hereby swear that I have read the foregoing schedules, consisting of ..... sheets, and that they are a statement of all my debts and all my property

in accordance with the Bankruptcy Act, to the best of my knowledge, information, and belief.

Signed: .....

Subscribed and sworn to before me on.....

.....,

.....

[*Official character*]

OATH ON BEHALF OF CORPORATION TO SCHEDULES A AND B

State of.....
County of..... } *ss.*

I, ..., the president [*or other officer or* an authorized agent] of the corporation named as bankrupt in this proceeding, do hereby swear that I have read the foregoing schedules, consisting of ..... sheets, and that they are a statement of all the debts and all the property of the corporation in accordance with the Bankruptcy Act, to the best of my knowledge, information, and belief.

Signed: .....

Subscribed and sworn to before me on.....

.....,

.....

[*Official character*]

OATH ON BEHALF OF PARTNERSHIP TO SCHEDULES A AND B

State of.....
County of..... } *ss.*

I, ..., a member [*or* an authorized agent] of the partnership named as bankrupt in this proceeding, do hereby swear that I have read the foregoing schedules, consisting of ..... sheets, and that they are a statement of all the debts and all the property of the partnership in accordance with the Bankruptcy Act, to the best of my knowledge, information, and belief.

Signed: .....

Subscribed and sworn to before me on.....

.....,

.....

[*Official character*]

FORM No. 7

STATEMENT OF AFFAIRS FOR BANKRUPT NOT ENGAGED IN BUSINESS

[*Caption, other than designation, as in Form No. 1*]

STATEMENT OF AFFAIRS FOR BANKRUPT NOT ENGAGED IN BUSINESS

[Each question should be answered or the failure to answer explained. If the answer is "none," this should be stated. If additional space is needed for the answer to any question, a separate sheet, properly identified and made a part hereof, should be used and attached.

The term, "original petition," as used in the following questions, shall mean the petition filed under Bankruptcy Rule 103, 104, or 105.]

1. Name and residence.

a. What is your full name and social security number?

b. Have you used, or been known by, any other names within the 6 years immediately preceding the filing of the original petition herein? (If so, give particulars.)

c. Where do you now reside?

d. Where else have you resided during the 6 years immediately preceding the filing of the original petition herein?

2. Occupation and income.

a. What is your occupation?

b. Where are you now employed? (Give the name and address of your employer, or the address at which you carry on your trade or profession, and the length of time you have been so employed.)

c. Have you been in a partnership with anyone, or engaged in any business during the 6 years immediately preceding the filing of the original petition herein? (If so, give particulars, including names, dates, and places.)

d. What amount of income have you received from your trade or profession during each of the 2 calendar years immediately preceding the filing of the original petition herein?

e. What amount of income have you received from other sources during each of these 2 years? (Give particulars, including each source, and the amount received therefrom.)

3. Tax returns and refunds.

a. Where did you file your last federal and state income tax returns for the 2 years immediately preceding the filing of the original petition herein?

b. What tax refunds (income and other) have you received during

the year immediately preceding the filing of the original petition herein?

c. To what tax refunds (income or other, if any, are you, or may you be, entitled? (Give particulars, including information as to any refund payable jointly to you and your spouse or any other person.)

4. Bank accounts and safe deposit boxes.

a. What bank accounts have you maintained, alone or together with any other person, and in your own or any other name within the 2 years immediately preceding the filing of the original petition herein? (Give the name and address of each bank, the name in which the deposit maintained, and the name and address of every other person authorized to make withdrawals from such account.)

b. What safe deposit box or boxes or other depository or depositories have you kept or used for your securities, cash, or other valuables within the 2 years immediately preceding the filing of the original petition herein? (Give the name and address of the bank or other depository, the name in which each box or other depository was kept, the name and address of every other person who had the right of access thereto, a brief description of the contents thereof, and, if the box has been surrendered, state when surrendered, or, if transferred, when transferred, and the name and address of the transferee.)

5. Books and records.

a. Have you kept books of account or records relating to your affairs within the 2 years immediately preceding the filing of the original petition herein?

b. In whose possession are these books or records? (Give names and addresses.)

c. If any of these books or records are not available, explain.

d. Have any books of account or records relating to your affairs been destroyed, lost, or otherwise disposed of within the 2 years immediately preceding the filing of the original petition herein? (If so, give particulars, including date of destruction, loss, or disposition, and reason therefor.)

6. Property held for another person.

What property do you hold for any other person? (Give name and address of each person, and describe the property, or value thereof, and all writings relating thereto.)

7. Prior bankruptcy.

What proceedings under the Bankruptcy Act have previously been brought by or against you? (State the location of the bankruptcy court, the nature and number of each proceeding, the date when it was filed, and whether a discharge was granted or refused,

the proceeding was dismissed, or a composition, arrangement, or plan was confirmed.)

8. Receiverships, general assignments, and other modes of liquidation.

a. Was any of your property, at the time of the filing of the original petition herein, in the hands of a receiver, trustee, or other liquidating agent? (If so, give a brief description of the property, the name and address of the receiver, trustee, or other agent, and, if the agent was appointed in a court proceeding, the name and location of the court and the nature of the proceeding.)

b. Have you made any assignment of your property for the benefit of your creditors, or any general settlement with your creditors, within one year immediately preceding the filing of the original petition herein? (If so, give dates, the name and address of the assignee, and a brief statement of the terms of assignment or settlement.)

9. Property in hands of third person.

Is any other person holding anything of value in which you have an interest? (Give name and address, location and description of the property, and circumstances of the holding.)

10. Suits, executions, and attachments.

a. Were you a party to any suit pending at the time of the filing of the original petition herein? (If so, give the name and location of the court and the title and nature of the proceeding.)

b. Were you a party to any suit terminated within the year immediately preceding the filing of the original petition herein? (If so, give the name and location of the court, the title and nature of the proceeding, and the result.)

c. Has any of your property been attached, garnished, or seized under any legal or equitable process within the 4 months immediately preceding the filing of the original petition herein? (If so, describe the property seized or person garnished, and at whose suit.)

11. Loans repaid.

What repayments on loans in whole or in part have you made during the year immediately preceding the filing of the original petition herein? (Give the name and address of the lender, the amount of the loan and when received, the amounts and dates of payments and, if the lender is a relative, the relationship.)

12. Transfers of property.

a. Have you made any gifts, other than ordinary and usual presents to family members and charitable donations, during the year immediately preceding the filing of the original petition herein?

(If so, give names and addresses of donees and dates, description, and value of gifts.)

b. Have you made any other transfer, absolute or for the purpose of security, or any other disposition, of real or tangible personal property during the year immediately and preceding the filing of the original petition herein? (Give a description of the property, the date of the transfer or disposition, to whom transferred or how disposed of, and, if the transferee is a relative, the relationship, the consideration, if any, received therefor, and the disposition of such consideration.)

13. Repossessions and returns.

Has any property been returned to, or repossessed by, the seller or by a secured party during the year immediately preceding the filing of the original petition herein? (If so, give particulars including the name and address of the party getting the property and its description and value.)

14. Losses.

a. Have you suffered any losses from fire, theft, or gambling during the year immediately preceding or since the filing of the original petition herein? (Give date, name, and address.)

b. Have you during the year immediately preceding or since the filing of the original petition herein paid any money or transferred any property to the attorney or to any other person on his behalf? (If so, give particulars, including amount paid or value of property transferred and date of payment or transfer.)

c. Have you, either during the year immediately preceding or since the filing of the original petition herein, agreed to pay any money or transfer any property to an attorney at law, or to any other person on his behalf? (If so, give particulars, including amount and terms of obligation.)

State of.....}
County of.....} *ss.*

I, ..., do hereby swear that I have read the answers contained in the foregoing statement of affairs and that they are true and complete to the best of my knowledge, information, and belief.

....., *Bankrupt.*

Subscribed and sworn to before me on.....

.....,

.....

[*Official character*]

FORM No. 8

STATEMENT OF AFFAIRS FOR BANKRUPT ENGAGED IN BUSINESS

[*Caption, other than designation, as in Form No. 1*]

STATEMENT OF AFFAIRS FOR BANKRUPT ENGAGED IN BUSINESS

[Each question should be answered or the failure to answer explained. If the answer is "none," this should be stated. If additional space is needed for the answer to any question, a separate sheet properly identified and made a part hereof, should be used and attached.

If the bankrupt is a partnership or a corporation, the questions shall be deemed to be addressed to, and shall be answered on behalf of, the partnership or corporation; and the statement shall be verified by a member of the partnership or by a duly authorized officer of the corporation.

The term, "original petition," as used in the following questions, shall mean the petition filed under Bankruptcy Rule 103, 104, or 105.]

1. Nature, location, and name of business.

a. Under what name and where do you carry on your business?

b. In what business are you engaged? (If business operations have been terminated, give the date of such termination.)

c. When did you commence such business?

d. Where else, and under what other names, have you carried on business within the 6 years immediately preceding the filing of the original petition herein? (Give street addresses, the names of any partners, joint adventurers, or other associates, the nature of the business, and the periods for which it was carried on.)

e. What is your employer identification number? Your social security number?

2. Books and records.

a. By whom, or under whose supervision, have your books of account and records been kept during the 2 years immediately preceding the filing of the original petition herein? (Give names, addresses, and periods of time.)

b. By whom have your books of account and records been audited during the 2 years immediately preceding the filing of the original petition herein? (Give names, addresses, and dates of audits.)

c. In whose possession are your books of account and records? (Give names and addresses.)

d. If any of these books or records are not available, explain.

e. Have any books of account or records relating to your affairs

been destroyed, lost, or otherwise disposed of within the 2 years immediately preceding the filing of the original petition herein? (If so, give particulars, including date of destruction, loss, or disposition, and reason therefor.)

3. Financial statements.

Have you issued any written financial statements within the 2 years immediately preceding the filing of the original petition herein? (Give dates, and the names and addresses of the persons to whom issued, including mercantile and trade agencies.)

4. Inventories.

a. When was the last inventory of your property taken?

b. By whom, or under whose supervision, was this inventory taken?

c. What was the amount, in dollars, of the inventory? (State whether the inventory was taken at cost, market, or otherwise.)

d. When was the next prior inventory of your property taken?

e. By whom, or under whose supervision, was this inventory taken?

f. What was the amount, in dollars, of the inventory? (State whether the inventory was taken at cost, market, or otherwise.)

g. In whose possession are the records of the 2 inventories above referred to? (Give names and addresses.)

5. Income other than from operation of business.

What amount of income, other than from operation of your business, have you received during each of the 2 years immediately preceding the filing of the original petition herein? (Give particulars, including each source, and the amount received therefrom.)

6. Tax returns and refunds.

a. In whose possession are copies of your federal and state income tax returns for the 3 years immediately preceding the filing of the original petition herein?

b. What tax refunds (income or other) have you received during the 2 years immediately preceding the filing of the original petition herein?

c. To what tax refunds (income or other), if any, are you, or may you be, entitled? (Give particulars, including information as to any refund payable jointly to you and your spouse or any other person.)

7. Bank accounts and safe deposit boxes.

a. What bank accounts have you maintained, alone or together with any other person, and in your own or any other name, within the 2 years immediately preceding the filing of the original petition herein? (Give the name and address of each bank, the name in

which the deposit was maintained, and the name and address of every person authorized to make withdrawals from such account.)

b. What safe deposit box or boxes or other depository or depositories have you kept or used for your securities, cash, or other valuables within the 2 years immediately preceding the filing of the original petition herein? (Give the name and address of the bank or other depository, the name in which each box or other depository was kept, the name and address of every person who had the right of access thereto, a description of the contents thereof, and, if the box has been surrendered, state when surrendered or, if transferred, when transferred and the name and address of the transferee.)

8. Property held for another person.

What property do you hold for any other person? (Give name and address of each person, and describe the property, the amount or value thereof and all writings relating thereto.)

9. Prior bankruptcy proceedings.

What proceedings under the Bankruptcy Act have previously been brought by or against you? (State the location of the bankruptcy court, the nature and number of proceeding, and whether a discharge was granted or refused, the proceeding was dismissed, or a composition, arrangement, or plan was confirmed.

10. Receiverships, general assignments, and other modes of liquidation.

a. Was any of your property, at the time of the filing of the original petition herein, in the hands of a receiver, trustee, or other liquidating agent? (If so, give a brief description of the property and the name and address of the receiver, trustee, or other agent, and, if the agent was appointed in a court proceeding, the name and location of the court and the nature of the proceeding.)

b. Have you made any assignment of your property for the benefit of your creditors, or any general settlement with your creditors, within the 2 years immediately preceding the filing of the original petition herein? (If so, give dates, the name and address of the assignee, and a brief statement of the terms of assignment or settlement.)

11. Property in hands of third person.

Is any other person holding anything of value in which you have an interest? (Give name and address, location and description of the property, and circumstances of the holding.)

12. Suits, executions, and attachments.

a. Were you a party to any suit pending at the time of the filing of the original petition herein? (If so, give the name and location of the court and the title and nature of the proceeding.)

b. Were you a party to any suit terminated within the year

immediately preceding the filing of the original petition herein? (If so, give the name and location of the court, the title and nature of the proceeding, and the result.)

c. Has any of your property been attached, garnished, or seized under any legal or equitable process within the 4 months immediately preceding the filing of the original petition herein? (If so, describe the property seized or person garnished, and at whose suit.)

13. Payments on loans and installment purchases.

What repayments on loans in whole or in part, and what payments on installment purchases of goods and services, have you made during the year immediately preceding the filing of the original petition herein? (Give the names and addresses of the persons receiving payment, the amounts of the loans and of the purchase price of the goods and services, the dates of the original transactions, the amounts and dates of payments, and, if any of the payees are your relatives, the relationship; if the bankrupt is a partnership and any of the payees is or was a partner or a relative of a partner, state the relationship; if the bankrupt is a corporation and any of the payees is or was an officer, director, or stockholder, or a relative of an officer, director, or stockholder, state the relationship.)

14. Transfers of property.

a. Have you made any gifts, other than ordinary and usual presents to family members and charitable donations, during the year immediately preceding the filing of the original petition herein? (If so, give names and addresses of donees and dates, description, and value of gifts.)

b. Have you made any other transfer, absolute or for the purpose of security, or any other disposition which was not in the ordinary course of business during the year immediately preceding the filing of the original petition herein? (Give a description of the property, the date of the transfer or disposition, to whom transferred or how disposed of, and state whether the transferee is a relative, partner, shareholder, officer, or director, the consideration, if any, received for the property, and the disposition of such consideration.)

15. Accounts and other receivables.

Have you assigned, either absolutely or as security, any of your accounts or other receivables during the year immediately preceding the filing of the original petition herein? (If so, give names and addresses of assignees.)

16. Repossessions and returns.

Has any property been returned to, or repossessed by, the seller or by a secured party during the year immediately preceding the

filing of the original petition herein? (If so, give particulars, including the name and address of the party getting the property and its description and value.)

17. Business leases.

If you are a tenant of business property, what are the name and address of your landlord, the amount of your rental, the date to which rent had been paid at the time of the filing of the original petition herein, and the amount of security held by the landlord?

18. Losses.

a. Have you suffered any losses from fire, theft, or gambling during the year immediately preceding the filing of the original petition herein? (If so, give particulars, including dates, names, and places, and the amounts of money or value and general description of property lost.)

b. Was the loss covered in whole or part by insurance? (If so, give particulars.)

19. Withdrawals.

a. If you are an individual proprietor of your business, what personal withdrawals of any kind have you made from the business during the year immediately preceding the filing of the original petition herein?

b. If the bankrupt is a partnership or corporation, what withdrawals, in any form (including compensation or loans), have been made by any member of the partnership, or by any officer, director, managing executive, or shareholder of the corporation, during the year immediately preceding the filing of the original petition herein? (Give the name and designation or relationship to the bankrupt of each person, the dates and amounts of withdrawals, and the nature or purpose thereof.)

20. Payments or transfers to attorneys.

a. Have you consulted an attorney during the year immediately preceding or since the filing of the original petition herein? (Give date, name, and address.)

b. Have you during the year immediately preceding or since the filing of the original petition herein paid any money or transferred any property to the attorney, or to any other person on his behalf? (If so, give particulars, including amount paid or value of property transferred and date of payment or transfer.)

c. Have you, either during the year immediately preceding or

since the filing of the original petition herein, agreed to pay any money or transfer any property to an attorney at law, or to any other person on his behalf? (If so, give particulars, including amount and terms of obligation.)

(*If the bankrupt is a partnership or corporation, the following additional questions should be answered.*)

21. Members of partnership; officers, directors, managers, and principal stockholders of corporation.

a. What is the name and address of each member of the partnership, or the name, title, and address of each officer, director, and managing executive, and of each stockholder holding 25 per cent or more of the issued and outstanding stock, of the corporation?

b. During the year immediately preceding the filing of the original petition herein, has any member withdrawn from the partnership, or any officer, director, or managing executive of the corporation terminated his relationship, or any stockholder holding 25 per cent or more of the issued stock disposed of more than 50 per cent of his holdings? (If so, give name and address and reason for withdrawal, termination, or disposition, if known.)

c. Has any person acquired or disposed of 25 per cent or more of the stock of the corporation during the year immediately preceding the filing of the petition? (If so, give name and address and particulars.)

State of.....
County of..... } *ss.*

I, ..., do hereby swear that I have read the answers contained in the foregoing statement of affairs and that they are true and complete to the best of my knowledge, information, and belief.

.....,
Bankrupt.

Subscribed and sworn to before me on .....

.....,

.....
[*Official character*]

[*Person verifying for partnership or corporation should indicate position or relationship to bankrupt.*]

FORM NO. 9

CREDITORS' PETITION FOR BANKRUPTCY

[*Caption, other than designation, as in Form No. 1*]

CREDITORS' PETITION

1. Petitioners, ..., of *....., and ....., of *....., and ....., of *....., are creditors of ...., of *....., having provable claims against him, not contingent as to liability, amounting in the aggregate, in excess of the value of securities held by them, to $500 or over. The nature and amount of petitioners' claims are as follows: .....

2. The alleged bankrupt has had his principal place of business [*or* has resided] within this district for the 6 months preceding the filing of this petition [*or* for a longer portion of the 6 months preceding the filing of this petition than in any other district].

3. The alleged bankrupt owes debts to the amount of $1,000 or over and is a person who may be adjudged an involuntary bankrupt under the Bankruptcy Act.

4. Within the 4 months preceding the filing of this petition, the alleged bankrupt committed an act of bankruptcy in that he did on .....

Wherefore petitioners pray that ..... be adjudged a bankrupt under the Act.

Signed: .....,
Attorney for Petitioners.

Address: .....,
.....

[*Petitioners sign if not represented by attorney.*]

.....,
.....,
.....,
Petitioners.

State of.....
County of..... } *ss.*

I, ..., one of the petitioners named in the foregoing petition, do hereby swear that the statements con-

*State post-office address.

tained therein are true according to the best of my knowledge, information, and belief.

....., *Petitioner.*

Subscribed and sworn to before me on .....

.....,

.....

[*Official character*]

FORM NO. 10

SUMMONS TO BANKRUPT

[*Caption, other than designation, as in Form No. 1*]

SUMMONS

To the above-named bankrupt:

A petition in bankruptcy having been filed on ....., in this court of bankruptcy, praying that you be adjudged a bankrupt under the Bankruptcy Act,

You are hereby summoned and required to file with this court and to serve upon the petitioners' attorney, whose address is ...., a motion or an answer* to the petition which is herewith served upon you, on or before ..... If you fail to do so, you will be adjudged a bankrupt by default.

....., *Clerk of District Court.*

[Seal of the United States District Court]

Date of issuance: .....

FORM NO. 11

ADJUDICATION OF BANKRUPTCY

[*Caption, other than designation, as in Form No. 1*]

ADJUDICATION

On consideration of the petition filed on ....., it is adjudged that .... is a bankrupt.

Dated: .....

....., *Bankruptcy Judge.*

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*If you make a motion, as you may in accordance with Bankruptcy Rule 112, that rule governs the time within which your answer must be served.

FORM NO. 12

ORDER FOR FIRST MEETING OF CREDITORS AND RELATED ORDERS, COMBINED WITH NOTICE THEREOF AND OF AUTOMATIC STAY

[*Caption, other than designation, as in Form No. 1*]

ORDER FOR FIRST MEETING OF CREDITORS AND FIXING TIMES FOR FILING OBJECTIONS TO DISCHARGE AND FOR FILING COMPLAINT TO DETERMINE DISCHARGEABILITY OF CERTAIN DEBTS, COMBINED WITH NOTICE THEREOF AND OF AUTOMATIC STAY

To the bankrupt, his creditors, and other parties in interest:

..... of *....., having been adjudged a bankrupt on a petition filed by [*or* against] him on ....., it is ordered, and notice is hereby given, that:

1. The first meeting of creditors shall be held at ...., on ....., at ..... o'clock ... m.

2. The bankrupt shall appear in person [*or, if the bankrupt is a partnership,* by a general partner, *or, if the bankrupt is a corporation,* by its president *or other executive officer*] before the court at that time and place for the purpose of being examined.

3. ..... is fixed as the last day for the filing of objections to the discharge of the bankrupt.

4. ..... is fixed as the last day for the filing of a complaint to determine the dischargeability of any debt pursuant to § 17c (2) of the Bankruptcy Act.

You are further notified that:

The meeting may be continued or adjourned from time to time by order made in open court, without further written notice to creditors.

At the meeting the creditors may file their claims, elect a trustee, elect a committee of creditors, examine the bankrupt as permitted by the court, and transact such other business as may properly come before the meeting.

As a result of this bankruptcy, certain acts and proceedings against the bankrupt and his property are stayed as provided in Bankruptcy Rules 401 and 601.

If no objection to the discharge of the bankrupt is filed on or before the last day fixed therefor as stated in subparagraph 3 above, the bankrupt will be granted his discharge. If no complaint to determine the dischargeability of a debt under clause (2), (4), or

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**State post-office address.*

(8) of § 17a of the Bankruptcy Act is filed within the time fixed therefor as stated in subparagraph 4 above, the debt may be discharged.

In order to have his claim allowed so that he may share in any distribution from the estate, a creditor must file a claim, whether or not he is included in the list of creditors filed by the bankrupt. Claims which are not filed within 6 months after the above date set for the first meeting of creditors will not be allowed, except as otherwise provided by law. A claim may be filed in the office of the undersigned bankruptcy judge on an official form prescribed for a proof of claim.

[*If a no-asset or nominal asset case, the following paragraph may be used in lieu of the preceding paragraph.*] It appears from the schedules of the bankrupt that there are no assets from which any dividend can be paid to creditors. It is unnecessary for any creditor to file his claim at this time in order to share in any distribution from the estate. If it subsequently appears that there are assets from which a dividend may be paid, creditors will be so notified and given an opportunity to file their claims.

Unless the court extends the time, any objection to the report of exempt property must be filed within 15 days after the report has been filed.

Dated: .....

....., *Bankruptcy Judge.*

FORM NO. 13

GENERAL POWER OF ATTORNEY

[*Caption, other than designation, as in Form No. 1*]

GENERAL POWER OF ATTORNEY

To ..... of *....., and ..... of *.....:

The undersigned claimant hereby authorizes you, or any one of you, as attorney in fact for the undersigned and with full power of substitution, to vote on any question that may be lawfully submitted to creditors of the bankrupt in the above-entitled case; [*if appropriate*] to vote for a trustee of the estate of the bankrupt and for a committee of creditors; to receive dividends; and in general

**State post-office address.*

to perform any act not constituting the practice of law for the undersigned in all matters arising in this case.

Dated: .....

Signed: .....

[*If appropriate*] By .....

as .....

Address: .....,

.....

[*If executed by an individual*] Acknowledged before me on .....

[*If executed on behalf of a partnership*] Acknowledged before me on ....., by ...., who says that he is a member of the partnership named above and is authorized to execute this power of attorney in its behalf.

[*If executed on behalf of a corporation*] Acknowledged before me on ....., by ...., who says that he is ..... of the corporation named above and is authorized to execute this power of attorney in its behalf.

.....,

.....

[*Official character*]

FORM NO. 14

SPECIAL POWER OF ATTORNEY

[*Caption, other than designation, as in Form No. 1*]

SPECIAL POWER OF ATTORNEY

To .... of *....., and ..... of *.....:

The undersigned claimant hereby authorizes you, or any one of you, as attorney in fact for the undersigned [*if desired:* and with full power of substitution,] to attend the first meeting of creditors of the bankrupt or any adjournment thereof, and to vote in my behalf on any question that may be lawfully submitted to creditors

*State post-office address.

at such meeting or adjourned meeting, and for a trustee or trustees of the estate of the bankrupt.

Dated: .....

Signed: .....

[*If appropriate*] By .....

as .....

Address: .....,

.....

[*If executed by an individual*] Acknowledged before me on .....

[*If executed on behalf of a partnership*] Acknowledged before me on ....., by ...., who says that he is a member of the partnership named above and is authorized to execute this power of attorney in its behalf.

[*If executed on behalf of a corporation*] Acknowledged before me on ....., by ...., who says that he is ..... of the corporation named above and is authorized to execute this power of attorney in its behalf.

.....,

.....

[*Official character*]

FORM No. 15

PROOF OF CLAIM

[*Caption, other than designation, as in Form No. 1*]

PROOF OF CLAIM

1. [*If claimant is an individual claiming for himself*] The undersigned, who is the claimant herein, resides at *.....

[*If claimant is a partnership claiming through a member*] The undersigned, who resides at *....., is a member of ....., a partnership, composed of the undersigned and ....., of *....., and doing business at *....., and is authorized to make this proof of claim on behalf of the partnership.

[*If claimant is a corporation claiming through an authorized officer*] The undersigned, who resides at *.....,

*State post-office address.

is the ..... of ....., a corporation organized under the laws of ..... and doing business at *....., and is authorized to make this proof of claim on behalf of the corporation.

[*If claim is made by agent*] The undersigned, who resides at *....., is the agent of ....., of *....., and is authorized to make this proof of claim on behalf of the claimant.

2. The bankrupt was, at the time of the filing of the petition initiating this case, and still is indebted [*or* liable] to this claimant, in the sum of $.....

3. The consideration for this debt [*or* ground of liability] is as follows: .....

.....

4. [*If the claim is founded* on writing] The writing on which this claim is founded (or a duplicate thereof) is attached hereto [*or* cannot be attached for the reason set forth in the statement attached hereto].

5. [*If appropriate*] This claim is founded on an open account, which became [*or* will become] due on ....., as shown by the itemized statement attached hereto. Unless it is attached hereto or its absence is explained in an attached statement, no note or other negotiable instrument has been received for the account or any part of it.

6. No judgment has been rendered on the claim except .....

.....

7. The amount of all payments on this claim has been credited and deducted for the purpose of making this proof of claim.

8. This claim is not subject to any setoff or counterclaim except

.....

.....

9. No security interest is held for this claim except .....

.....

[*If security interest in property of the debtor is claimed*] The undersigned claims the security interest under the writing referred to in paragraph 4 hereof [*or* under a separate writing which (or a duplicate of which) is attached hereto, *or* under a separate writing which cannot be attached hereto for the reason set forth in the statement attached hereto]. Evidence of perfection of such security interest is also attached hereto.

10. This claim is a general unsecured claim, except to the extent that the security interest, if any, described in paragraph 9 is suf-

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**State post-office address.*

ficient to satisfy the claim. [*If priority is claimed, state the amount and basis thereof.*] .....

.....

.....

Dated: .....

Signed: .....

Penalty for Presenting Fraudulent Claim.—Fine of not more than $5,000 or imprisonment for not more than 5 years or both—Title 18, U. S. C., § 152.

FORM No. 16

PROOF OF CLAIM FOR WAGES, SALARY, OR COMMISSIONS

[*Caption, other than designation, as in Form No. 1*]

PROOF OF CLAIM FOR WAGES, SALARY, OR COMMISSIONS

1. The bankrupt owes the claimant..... $..... computed as follows:

(a) wages, salary, or commissions for services performed from ..... to ....., at the following rate or rates of compensation..... $.....

[*if appropriate*] (b) allowances and benefits, such as vacation and severance pay [*specify*].....

.....

..... $.....

Total amount claimed $.....

2. The claimant demands priority to the extent permitted by § 64a (2) of the Bankruptcy Act.

3. The claimant has received no payment, no security, and no check or other evidence of this debt except as follows: .....

.....

Dated: .....

Signed: .....,
Claimant.

Social Security Number: .....

Address: .....,

.....

Penalty for Presenting Fraudulent Claim.—Fine of not more than $5,000 or imprisonment for not more than 5 years or both—Title 18, U. S. C., § 152.

FORM NO. 16A

PROOF OF MULTIPLE CLAIMS FOR WAGES, SALARY, OR COMMISSIONS

[*Caption, other than designation, as in Form No. 1*]

PROOF OF MULTIPLE CLAIMS FOR WAGES, SALARY, OR COMMISSIONS

1. The undersigned, whose address is *..... ....., is the agent of the claimants listed in the statement appended to this proof of claim and is authorized to make this proof of claims on their behalf.

2. The bankrupt owes the claimants $....., computed as indicated in the appended statement.

3. The claimants demand priority to the extent permitted by § 64a (2) of the Bankruptcy Act.

4. The claimants have received no payment, no security, and no check or other evidence of this debt except as follows: .....
.....
.....

Dated: .....

Signed: .....

Penalty for Presenting Fraudulent Claim.—Fine of not more than $5,000 or imprisonment for not more than 5 years or both—Title 18, U. S. C., § 152.

STATEMENT OF WAGE CLAIMS

Names, Addresses, & Social Security Numbers.	Dates services rendered, rates of pay, & fringe benefits.	Amounts Claimed
.....	.....	.....
.....	.....	.....
.....	.....	.....

FORM NO. 17

ORDER APPROVING ELECTION OF TRUSTEE OR APPOINTING TRUSTEE AND FIXING THE AMOUNT OF HIS BOND

[*Caption, other than designation, as in Form No. 1*]

ORDER APPROVING ELECTION OF TRUSTEE OR APPOINTING TRUSTEE AND FIXING THE AMOUNT OF HIS BOND

(1) .....,
of *....., is

*State post-office address.

hereby approved as the elected [*or* is hereby appointed] trustee of the estate of the above-named bankrupt.

(2) The amount of the bond of the trustee is fixed at $.....

Dated: .....

....., *Bankruptcy Judge.*

FORM No. 18

NOTICE TO TRUSTEE OF HIS ELECTION OR APPOINTMENT AND OF TIME FIXED FOR FILING A COMPLAINT OBJECTING TO DISCHARGE OF BANKRUPT

[*Caption, other than designation, as in Form No. 1*]

NOTICE TO TRUSTEE OF ELECTION OR APPOINTMENT AND OF TIME FIXED FOR FILING A COMPLAINT OBJECTING TO DISCHARGE OF BANKRUPT

To .....,
of *.....:

You are hereby notified of your election [*or* appointment] as trustee of the estate of the above-named bankrupt. The amount of your bond has been fixed at $..... You are required to notify the undersigned forthwith of your acceptance or rejection of the office.

You are further notified that ..... has been fixed as the last day for the filing by you or any other party in interest of a complaint objecting to the discharge of the bankrupt.

Dated: .....

....., *Bankruptcy Judge.*

FORM No. 19

BOND OF TRUSTEE OR RECEIVER

[*Caption, other than designation, as in Form No. 1*]

BOND OF TRUSTEE [OR RECEIVER]

We, ...,
of *....., as
principal, and .....

*State post-office address.

of *....., as surety, bind ourselves to the United States in the sum of $..... for the faithful performance by the undersigned principal of his official duties as trustee [*or* receiver] of the estate of the above-named bankrupt.

Dated: .....

.....,

.....

FORM No. 20

ORDER APPROVING TRUSTEE'S BOND

[*Caption, other than designation, as in Form No. 1*]

ORDER APPROVING TRUSTEE'S BOND

The bond filed by .... of *..... as trustee of the estate of the above-named bankrupt is hereby approved.

Dated: .....

.....,
Bankruptcy Judge.

FORM No. 21

ORDER THAT NO TRUSTEE BE APPOINTED

[*Caption, other than designation, as in Form No. 1*]

ORDER THAT NO TRUSTEE BE APPOINTED

1. The bankrupt having been examined and the creditors not having elected a trustee; and

2. The court having determined that there is no property in the estate other than that which can be claimed as exempt, and that no other circumstances indicate the need for a trustee;

It is ordered that, until further order of the court, no trustee shall be appointed.

Dated: .....

.....,
Bankruptcy Judge.

**State post-office address.*

FORM NO. 22

REPORT OF EXEMPT PROPERTY

[*Caption, other than designation, as in Form No. 1*]

REPORT OF EXEMPT PROPERTY

The following property is set apart as provided under the Bankruptcy Act as exemptions allowed by law:

The following property claimed as exempt is not set apart for the reasons indicated:

Dated: .....

.....,
Trustee.

[*The report should describe the items of property set apart as exempt, should state the estimated value of each, the amount of money, if any, claimed and allowed, and should contain references to the statutes creating the exemptions.*]

FORM NO. 23

ORDER APPROVING REPORT OF EXEMPTIONS

[*Caption, other than designation, as in Form No. 1*]

ORDER APPROVING REPORT OF EXEMPTIONS

It is ordered that the report of property, set apart as exempt to the bankrupt, a copy of which is attached hereto [*or* which was filed on .....], is approved and the claim of the bankrupt to his exemptions is allowed, except as follows:

Dated: .....

.....,
Bankruptcy Judge.

FORM NO. 24

DISCHARGE OF BANKRUPT

[*Caption, other than designation, as in Form No. 1*]

DISCHARGE OF BANKRUPT

It appearing that the person named above has filed a petition commencing a case under the Act on ....., was duly adjudged a bankrupt and that no complaint objecting to the discharge of the bankrupt was filed within the time fixed by the court [*or* that a complaint objecting to discharge of the bankrupt was filed and, after due notice and hearing, was not sustained]; it is ordered that

1. The above-named bankrupt is released from all dischargeable debts.

2. Any judgment heretofore or hereafter obtained in any court other than this court is null and void as a determination of the personal liability of the bankrupt with respect to any of the following:

(a) debts dischargeable under § 17a and b of the Bankruptcy Act;

(b) unless heretofore or hereafter determined by order of this court to be nondischargeable, debts alleged to be excepted from discharge under clauses (2) and (4) of § 17a of the Act;

(c) unless heretofore or hereafter determined by order of this court to be nondischargeable, debts alleged to be excepted from discharge under clause (8) of § 17a of the Act, except those debts on which there was an action pending on the date when the petition was filed as specified above in which a right to jury trial existed and a party has either made a timely demand therefor or has submitted to this court a signed statement of intention to make such a demand;

(d) debts determined by this court to be discharged under § 17c (3) of the Act.

3. All creditors whose debts are discharged by this order and all creditors whose judgments are declared null and void by paragraph 2 above are enjoined from instituting or continuing any action or employing any process to collect such debts as personal liabilities of the above-named bankrupt.

Dated: .....

.....,
Bankruptcy Judge.

FORM No. 25

CAPTION FOR ADVERSARY PROCEEDING

United States District Court
for the ..... District of .....

In re

....., Bankruptcy No. .....
Bankrupt

.....,
Plaintiff

v.

.....,
Defendant

COMPLAINT [OR OTHER DESIGNATION]

FORM No. 26

SUMMONS AND NOTICE OF TRIAL OF ADVERSARY PROCEEDING

[*Caption, other than designation, as in Form No. 25*]

SUMMONS AND NOTICE OF TRIAL

To the above-named defendant:

You are hereby summoned and required to serve upon ...., plaintiff's attorney, whose address is ....., a motion or an answer* to the complaint which is herewith served upon you, on or before ....., and to file the motion or answer with this court not later than the second business day thereafter. If you fail to do so, judgment by default will be taken against you for the relief demanded in the complaint.

You are hereby notified that trial of the proceeding commenced by this complaint has been set for ....., at ..... o'clock ... m., in ....,

Bankruptcy Judge.

By: .....

Address: ....., ...

Date of issuance: .....

OFFICIAL FORM No. 27

SUBPOENA TO WITNESS

[*Caption, other than designation, as in Form No. 1 or No. 25*]

SUBPOENA TO WITNESS

To .....:

You are hereby commanded to appear at ....., on ....., at ..... o'clock ... m., to testify in the above-entitled case [*or* adversary proceeding *or* contested matter] [*add if appropriate*] and to bring with you ....

Dated: .....

....., *Bankruptcy Judge.*

---

*If you make a motion, as you may in accordance with Bankruptcy Rule 712, that rule governs the time within which your answer must be served.

FORM NO. 28

NOTICE OF APPEAL TO A DISTRICT COURT FROM A JUDGMENT OR ORDER OF A REFEREE ENTERED IN ADVERSARY PROCEEDING

United States District Court
for the ..... District of .....

In re

....., Bankruptcy No. .....
Bankrupt

.....,
Plaintiff

v.

.....,
Defendant

NOTICE OF APPEAL TO DISTRICT COURT

....., the plaintiff [*or* defendant *or other party*] appeals to the district court from the judgment [*or* order] of the referee entered in this case on ...., [*here describe the judgment or order appealed from*] .....
.....
The parties to the judgment [*or* order] appealed from and the names and addresses of their respective attorneys are as follows: .....
.....
.....

Dated: .....

Signed: .....,
Attorney for Appellant.

Address: .....,
.....

FORM NO. 29

ORDER AND NOTICE FOR FINAL MEETING OF CREDITORS

[*Caption, other than designation, as in Form No. 1*]

ORDER FOR FINAL MEETING OF CREDITORS AND NOTICE OF FILING OF FINAL ACCOUNT[S] OF TRUSTEE [AND RECEIVER] AND OF FINAL MEETING OF CREDITORS [AND OF HEARING ON ABANDONMENT OF PROPERTY BY THE TRUSTEE]

To the creditors:

The final report[s] and account[s] of the trustee [*if appropriate:* and of the receiver] in this case having been filed,

It is ordered, and notice is hereby given, that the final meeting of creditors will be held at ....., ..., on ....., at ..... o'clock ... m., for the purpose [*as appropriate*] of examining and passing on the report[s] and account[s], acting on applications for allowances, and transacting such other business as may properly come before the meeting. Attendance by creditors is welcomed but not required.

The following applications for allowances have been filed:

Applicants	*Commissions or fees*	*Expenses*
.....	$.....	$.....
Receiver		
.....	$.....	$.....
Trustee		
.....	$.....	$.....
Attorney for bankrupt		
.....	$.....	$.....
Attorney for receiver		
.....	$.....	$.....
Attorney for trustee		
.....	$.....	$.....
Attorney for petitioning creditors		
.....	$.....	$.....

Creditors may be heard before the allowances are determined.

The account of the trustee shows total receipts of $..... ....., and total disbursements of $..... The balance on hand is $.....

In addition to expenses of administration as may be allowed by the court, liens and priority claims totaling $....., must be paid in advance of any dividend to general creditors.

Claims of general creditors totaling $..... have been allowed.

[*If appropriate*] The trustee's application to abandon the following property will be heard and acted upon at the meeting:

.....

.....

The bankrupt has [not] been discharged.

Dated: .....

....., *Bankruptcy Judge.*

FORM No. 30

REPORT OF TRUSTEE IN NO-ASSET CASE

[*Caption, other than designation, as in Form No. 1*]

REPORT OF TRUSTEE IN NO-ASSET CASE

To ....., Bankruptcy Judge:

....., of *....., trustee of the estate of the above-named bankrupt, reports that he has neither received any property nor paid any money on account of this estate; that he has made diligent inquiry into the whereabouts of property belonging to the estate; and that there are no assets in the estate over and above the exemptions claimed by, and by him set aside to, the bankrupt.

Wherefore he prays that this report be approved, and that he be discharged from office.

Dated: .....

Signed: .....,
Trustee.

GENERAL ORDERS AND FORMS IN BANKRUPTCY TO BE ABROGATED

The following General Orders and Official Forms in Bankruptcy heretofore adopted by the Supreme Court are to be abrogated:

General Orders 1 to 7 inclusive, 9 to 12 inclusive, 14 to 26 inclusive, 28 to 40 inclusive, 42 to 45 inclusive, 47, 50, 51, 53, and 56.

Official Forms 1 to 47 inclusive, and 70 to 72 inclusive.

**State post-office address.*

RULES OF BANKRUPTCY PROCEDURE

TITLE VII

CHAPTER XIII RULES

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TITLE VII

CHAPTER XIII RULES

Rule 13–1. Scope of Chapter XIII Rules and forms; short title.

The rules and forms in this Title VII govern the procedure in courts of bankruptcy in cases under Chapter XIII of the Bankruptcy Act. These rules may be known and cited as the Chapter XIII Rules. These forms may be known and cited as the Official Chapter XIII Forms.

Rule 13–2. Meanings of words in bankruptcy rules when applicable in Chapter XIII case.

The following words and phrases used in the Bankruptcy Rules made applicable in Chapter XIII cases by these rules have the meanings herein indicated, unless they are inconsistent with the context:

(1) "Bankrupt" means "debtor."

(2) "Bankruptcy" or "bankruptcy case" means "Chapter XIII case."

(3) "Receiver," "trustee," "receiver in bankruptcy," or "trustee in bankruptcy" means the "trustee" in the Chapter XIII case.

Part I. Petition and Proceedings Relating Thereto

Rule 13–101. Commencement of Chapter XIII case.

A Chapter XIII case is commenced by filing a petition with the court seeking relief under Chapter XIII of the Act.

Rule 13–102. Reference of cases; withdrawal of reference and assignment.

(*a*) *Reference.*—Upon the filing of a petition the clerk shall refer the case forthwith to a referee or, if a local rule so provides, to more than one referee concurrently. Thereafter all proceedings in the case shall be before the

referee except as otherwise provided by subdivision (b) of this rule, by Rule 13–407 (c), by Bankruptcy Rule 920, by § 2a (15) of the Act when a complaint seeks an injunction to restrain a court, by § 43c of the Act when the office of the referee is vacant, and by the provisions in the Act and Part VIII of the Bankruptcy Rules governing appeals from judgments of the referee.

(*b*) *Withdrawal of reference and assignment.*—The district judge may, at any time, for the convenience of parties or other cause, withdraw a case in whole or in part from a referee and either act himself or assign the case or part thereof to another referee in the district.

Rule 13–103. Original petition.

An original petition under Chapter XIII of the Act shall conform substantially to Official Form No. 13–1. An original and 2 copies of the petition shall be filed, unless a different number of copies is required by local rule.

Rule 13–104. Petition in pending bankruptcy case.

If a bankruptcy case is pending by or against the debtor, any petition under Chapter XIII shall be filed therein and may be filed before or after adjudication. Such petition shall conform substantially to Official Form No. 13–4. An original and 2 copies of the petition shall be filed, unless a different number of copies is required by local rule. The filing of the petition shall act as a stay of adjudication or of administration of the estate in bankruptcy. The Chapter XIII case shall be deemed originally commenced as of the date of the filing of the petition in the pending bankruptcy case.

Rule 13–105. Caption of petition.

The caption of every petition shall comply with Bankruptcy Rule 904 (b). In addition the caption shall include the name and social security number of the debtor and all other names used by him within 6 years before the filing of the petition.

Rule 13–106. Filing fees.

(*a*) *General requirement.*—Unless the petition is filed under Rule 13–104 and the filing fees have been paid or their payment in installments has been ordered pursuant to Bankruptcy Rule 107, and except as otherwise provided in subdivision (b), every petition shall be accompanied by the prescribed filing fees.

(*b*) *Payment of filing fees in installments.*

(*1*) *Application for permission to pay filing fees in installments.*—A petition shall be accepted for filing by the clerk of the district court if accompanied by an application signed by the petitioner for permission to pay all or a part of the filing fees in installments. The application shall state that the applicant is unable to pay the filing fees except in installments, the proposed terms of such installment payments, and that the applicant has paid no money and transferred no property to his attorney for services in connection with the Chapter XIII case or any pending bankruptcy case. The application shall be filed in duplicate, one copy for the clerk and one for the bankruptcy judge.

(*2*) *Action on application.*—At or prior to the first meeting of creditors, if any part of the filing fees remains unpaid, the court after a hearing may make an order permitting payment of the filing fees in installments under the plan or otherwise to the clerk of the district court, and fixing the number of installments and the amount and date of payment of each installment. The number of installments permitted shall not exceed 4, and the final installment shall be payable not later than 4 months after the filing of a petition under Rule 13–103 or Rule 13–104. For cause shown, however, the court may extend the time for payment of any installment to a date not later than 6 months after the date of filing of such petition.

(*3*) *Postponement of attorney's fees.*—Where payment of filing fees in installments is authorized the debtor shall

make no payment and transfer no property to his attorney. Any award of compensation to the attorney for services in connection with the Chapter XIII case or any pending bankruptcy case shall be governed by Bankruptcy Rule 219 and shall be paid pursuant to Rule 13–309.

Rule 13–107. Chapter XIII statement.

(*a*) *Chapter XIII statement required.*—The debtor shall file with the court a Chapter XIII Statement prepared in the manner prescribed by Official Form No. 13–5. The number of copies of the statement shall correspond to the number of copies of the petition required by these rules.

(*b*) *Time limits.*—The Chapter XIII Statement shall be filed with the petition or within 10 days thereafter. On application, the court may grant up to 10 additional days for filing the statement; any further extension may be granted only for cause shown and on such notice as the court may direct.

Rule 13–108. Verification of petitions and Chapter XIII statements.

All petitions, Chapter XIII Statements, and amendments thereto shall be verified.

Rule 13–109. Amendments of petitions and Chapter XIII statements.

A petition or a Chapter XIII Statement may be amended as a matter of course at any time before the case is closed. The court may, on application or motion of any party in interest or on its own initiative, order any petition or statement to be amended. Every amendment under this rule shall be filed in the same number as required of the original paper, and the court shall give notice of the amendment to such persons as it may designate.

Rule 13–110. Venue and transfer.

(*a*) *Proper venue.*

(*1*) *Single petitions.*—A single petition may be filed pursuant to Rule 13–103 in the district where the petitioner has his principal place of employment, residence, or domicile. A single petition filed pursuant to Rule 13–104 shall be filed with the court in which the bankruptcy case is pending.

(*2*) *Joint petitions.*—A joint petition authorized by Rule 13–111 (a) and filed pursuant to Rule 13–103 may be filed in a district of proper venue for either petitioner under paragraph (1) of this subdivision. A joint petition authorized by Rule 13–111 (a) and filed pursuant to Rule 13–104 may be filed in a court in which either petitioner is a bankrupt in a pending bankruptcy case.

(*b*) *Transfer of cases; dismissal or retention when venue improper.*

(*1*) *When venue proper.*—Although a petition is filed in accordance with subdivision (a) of this rule, the court may, after hearing on notice to the petitioner or petitioners and such other persons as it may direct, in the interest of justice and for the convenience of the parties, transfer the case to any other district. The transfer may be ordered at or before the first meeting of creditors either on the court's own initiative or on motion of a party in interest but thereafter only on a timely motion.

(*2*) *When venue improper.*—If a petition is filed in a wrong district, the court may, after hearing on notice to the petitioner or petitioners and such other persons as it may direct, dismiss the case or, in the interest of justice and for the convenience of the parties, retain the case or transfer it to any other district. Such an order may be made at or before the first meeting of creditors either on the court's own initiative or on motion of a party in interest but thereafter only on a timely motion. Notwithstanding the foregoing, the court may without a hearing retain a case filed in a wrong district if no objection is raised.

(*c*) *Procedure when petitions involving the same debtor are filed in different courts.*—If petitions commencing Chapter XIII cases or a Chapter XIII case and any other case under the Act are filed in different districts, by or against the same debtor, the court in which the first petition is filed shall, after hearing on motion and notice to the petitioners and such other persons as the court may designate, determine the court in which the case should proceed as a Chapter XIII case in the interest of justice and for the convenience of the parties. The proceedings on the other petitions shall be stayed by the courts in which such petitions have been filed until such determination is made. Thereafter all the courts in which petitions have been filed shall proceed in accordance with the determination.

(*d*) *Reference of transferred cases.*—A case transferred under this rule shall, in accordance with Rule 13–102 (a), be referred by the clerk of the district court to which it has been transferred.

Rule 13–111. Joint proceedings of husband and wife.

(*a*) *Joint petitions.*—A husband and wife eligible to file single petitions may file a joint petition pursuant to Rule 13–103 or, if a petition in bankruptcy has been filed by or against either or both of them, in a pending bankruptcy case pursuant to Rule 13–104.

(*b*) *Joint administration.*—If a joint petition is filed pursuant to subdivision (a) of this rule the court shall, or if single petitions by a husband and wife are pending in the same court, the court may order a joint administration of the estates and, while protecting the rights of the parties under the Act, may make such other orders, including the appointment of a single trustee, as may tend to avoid unnecessary costs and delay.

Rule 13–112. Dismissal or conversion to bankruptcy without confirmation of plan; evidence of title.

(*a*) *Voluntary dismissal or conversion to bankruptcy;*

dismissal or conversion for want of prosecution, nonpayment of filing fees, or denial of confirmation.—On application of the debtor to dismiss the case or to convert it to bankruptcy at any time prior to confirmation, or for want of prosecution or nonpayment of any installment of the filing fees as ordered pursuant to Rule 106 and after hearing on notice to the debtor, or if no plan is confirmed, the court shall—

(1) if the petition was filed pursuant to Rule 13–104, enter an order directing that the bankruptcy case proceed; or

(2) if the petition was filed pursuant to Rule 13–103, enter an order dismissing the case or, with the written consent of the debtor, enter an order adjudicating him a bankrupt.

(*b*) *Distribution of payments.*—If a case is dismissed under this rule without payment in full of the filing fees, any payments made shall be distributed in the same manner and proportions as if the filing fees had been paid in full.

(*c*) *Notice of dismissal to creditors.*—Promptly after entry of an order of dismissal under this rule, notice thereof shall be given to creditors in the manner provided in Rule 13–203. To enable the court to give such notice, the debtor, if he has not already filed a Chapter XIII Statement, shall file a list of all his creditors with their addresses within the time fixed by the court. If the debtor fails to file such list the court may by order provide for the preparation of the list in such manner as may be appropriate.

(*d*) *Effect of dismissal.*—Unless the order specifies to the contrary, dismissal of a case under this rule is without prejudice. A certified copy of the order of dismissal under this rule shall constitute conclusive evidence of the revesting of the debtor's title to his property.

Part II. Plan and Proceedings Related Thereto; Notices to Creditors; Creditors' Meetings; Trustees; Examinations; Attorneys and Accountants

Rule 13–201. Filing of plan.

(*a*) *Time for filing plan; identification of plans.*—The debtor may file a plan with his petition. If a plan is not filed with the petition it shall be filed within 10 days thereafter and such time shall not be further extended except for cause shown and on such notice to such persons as the court may direct. Each plan filed and any other plans for which acceptances of creditors are solicited must be appropriately identified.

(*b*) *Provision of copies.*—The debtor, if required by the court, shall promptly furnish a sufficient number of copies to enable the court to include a copy of the plan with each notice of the first meeting of creditors pursuant to Rule 13–204 (a)(1).

Rule 13–202. Acceptance or rejection of plan.

(*a*) *Time for acceptance or rejection; effect of failure to accept or reject.*—At any time prior to the conclusion of the first meeting of creditors each creditor filing a claim may file with the court his acceptance or rejection of the plan or summary thereof which accompanies the notice of first creditors' meeting and, upon failure to do so, any creditor filing a claim shall be deemed to have accepted such plan. For cause shown at any time before the court determines that the plan or any modification thereof has been accepted by the number and amount of creditors required for confirmation, the court may allow any creditor who has filed an acceptance or a rejection to change or withdraw it. An acceptance or rejection may be included in a creditor's proof of claim. Acceptances may be obtained by the debtor before or after the filing of the petition and may be filed by him with the court on behalf of the accepting creditors.

(*b*) *Form of acceptance or rejection.*—An acceptance or rejection of a plan shall be in writing, shall identify the plan accepted or rejected, and shall be signed by the creditor.

(*c*) *Acceptance or rejection by partially secured creditor.*—A creditor whose claim has been allowed in part as a secured claim and in part as an unsecured claim shall be entitled to accept or reject a plan in both capacities unless his secured claim is not dealt with by the plan, in which event he shall be entitled to accept or reject only as an unsecured creditor.

Rule 13–203. Notices to creditors and the United States.

(*a*) *Ten-day notices to all creditors.*—Except as provided in subdivision (e) of this rule, the court shall give all creditors, including creditors secured by estates in real property or chattels real, at least 10 days' notice by mail of (1) a meeting of creditors and (2) the hearing on confirmation of a plan.

(*b*) *Other notices to all creditors.*—The court shall give notice by mail to all creditors, including creditors secured by estates in real property or chattels real, of (1) the dismissal of the case pursuant to Rule 13–112 or 13–215; (2) the time fixed, if any, for filing rejections of a modification of a plan pursuant to Rule 13–212; (3) the time fixed, if any, for filing a complaint objecting to the debtor's discharge pursuant to Rule 13–404 (b)(1); (4) the order of discharge as provided in Rule 13–404 (e); (5) the waiver, denial, or revocation of a discharge as provided in Rule 13–406; and (6) the time allowed for filing a complaint to determine the dischargeability of a debt pursuant to § 17c (2) of the Act as provided in Rule 13–407 (a)(2).

(*c*) *Addresses of notices.*—All notices to which a creditor is entitled under these rules shall be addressed to the creditor as he or his duly authorized agent may direct in a request filed with the court or delivered to the trustee; otherwise, to the creditor at the address shown

in the Chapter XIII Statement or, if a different address is stated in a proof of claim duly filed, then at the address so stated.

(*d*) *Notices to the United States.*—Copies of notices required to be mailed to all creditors under these rules shall be mailed (1) to the district director of internal revenue for the district in which the case is pending and (2) whenever the Chapter XIII Statement or any other paper filed in the case discloses a debt to the United States other than one for taxes, to the United States attorney for the district in which the case is pending and, if disclosed by the filed papers, to the department, agency or instrumentality of the United States through which the debtor became so indebted.

(*e*) *Notice by publication.*—If the court finds that it is impracticable to give notice to creditors by mail as provided in this rule or that it is desirable to supplement such notice, the court may order publication thereof.

(*f*) *Caption.*—The caption of every notice given under this rule shall comply with Rule 13–105.

Rule 13–204. Meetings of creditors.

(*a*) *First meeting.*

(*1*) *Date and place.*—Promptly after the filing of a plan the court shall call a first meeting of creditors, but if there is an application or motion to dismiss or to convert to bankruptcy under Rule 13–112, or an appeal from or a motion to vacate an order entered under that rule, the court may delay fixing a date for such meeting. A copy or a summary of the last filed plan and a form of proof of claim containing provision for acceptance or rejection of the plan shall accompany the notice of the meeting. The notice shall state that any secured claim not filed on or before the first date set for the first meeting of creditors or within such extended time as the court may fix will not be treated as a secured claim for purposes of voting and distribution and that any creditor filing a claim who has not filed a written acceptance or

rejection of the plan pursuant to Rule 13–202 prior to the conclusion of the first meeting of creditors shall be deemed to have accepted the plan. The meeting may be held at a regular place for holding court or at any other place within the district more convenient for the parties in interest.

(*2*) *Agenda.*—The bankruptcy judge shall preside over the transaction of all business at the first meeting of creditors, including the examination of the debtor. He shall, when necessary, allow and disallow claims, determine which claims are unsecured and which are secured and to what extent, which claims have voted for and against acceptance of the plan, and may rule on confirmation of the plan pursuant to Rule 13–213 if notice of the hearing on confirmation was included in the notice of the meeting.

(*b*) *Special meetings.*—The court may call a special meeting of creditors on application or on its own initiative.

Rule 13–205. Appointment and qualification of trustees.

(*a*) *Standing trustees.*

(*1*) *Appointment.*—Whenever in their judgment the number of Chapter XIII cases is sufficient to make such appointment feasible, the referees shall appoint one or more standing trustees to whom all Chapter XIII cases shall be assigned without further order. The referees may terminate the appointment of a standing trustee at any time.

(*2*) *Qualification.*—Every standing trustee shall, before entering upon the performance of his official duties and within 5 days after his appointment or within such further time as the referees may permit, qualify by filing a blanket bond in favor of the United States, conditioned on the faithful performance of his official duties in all cases. Unless otherwise provided by local rule, the order appointing the standing trustee, the bond, and the order approving the bond, shall be filed with the clerk of the court.

(*b*) *Appointment of trustee where no standing trustee.*

(*1*) *Appointment.*—Where no standing trustee has been appointed, or in any case for cause shown, the court shall appoint a trustee at the time of, or prior to, confirmation of a plan, and shall immediately notify the trustee of his appointment. The court shall also inform him as to how he may qualify, including the penal sum of his bond, if required, and shall require him forthwith to notify the court of his acceptance or rejection of the office.

(*2*) *Qualification.*—Every trustee appointed under this subdivision (b) shall, before entering upon the performance of his official duties and within 5 days after his appointment, qualify by filing a bond in favor of the United States, conditioned on the faithful performance of his official duties, or by giving such other security as may be approved by the court. The court may authorize a blanket bond in favor of the United States conditioned on the faithful performance of official duties by a trustee in more than one case or by more than one trustee. A trustee for whom a blanket bond has been filed shall qualify by filing his acceptance of his appointment in lieu of the bond. Unless otherwise provided by local rule, a bond given under this subdivision (b) shall be filed with the referee.

(*c*) *Amount of bond and sufficiency of surety.*—The referees appointing a standing trustee under subdivision (a) of this rule shall determine the amount of his bond and the sufficiency of his sureties or may authorize the bond to be secured by securities designated in Title 6, U. S. C., § 15, which securities shall be deposited in the custody of a Federal Reserve Bank or branch thereof designated by the referees and shall be subject to the order of the referees. The court shall determine the amount of the bond and the sufficiency of the surety for each bond filed under subdivision (b) of this rule.

(*d*) *Eligibility.*—A trustee shall have no interest adverse to the estate and shall be competent to perform

the duties of his office. If an individual, he shall have a residence or office in the state in which the court appointing him sits or in any adjacent state, and, if a corporation, it shall be authorized by its charter or by law to act as trustee and have an office in the state in which the court appointing it sits.

(*e*) *Proceeding on bond.*—A proceeding on the bond of a trustee may be brought by any party in interest in the name of the United States for the use of the person injured by the breach of the condition. No proceeding shall be brought on a trustee's bond more than 2 years after his discharge in a particular case.

(*f*) *Evidence of qualification.*—Whenever evidence of the qualification of a standing trustee or any other trustee who has filed a blanket bond is required, the court may certify that he has been designated as a trustee in a particular case. Such a certificate, or a certified copy of the order approving the bond or other security given by any other trustee under this rule, shall constitute conclusive evidence of his appointment and qualification.

Rule 13–206. Examination.

(*a*) *Examination on Application.*—Upon application of any party in interest, the court may order the examination of any person. The application shall be in writing unless made during a hearing or examination or unless a local rule otherwise provides.

(*b*) *Examination of debtor at first meeting.*—At the first meeting of creditors, the court shall publicly examine the debtor or cause him to be examined and may permit any party in interest to examine the debtor.

(*c*) *Bankruptcy judge to preside.*—The bankruptcy judge shall preside at any examination under subdivision (b) of this rule.

(*d*) *Scope of examination.*—The examination under subdivisions (a) and (b) of this rule may relate only to the acts, conduct, or property of the debtor, or to any

matter which may affect the administration of the debtor's estate, or to his right to discharge.

(*e*) *Compelling attendance for examination and production of documentary evidence.*—The attendance of any person for examination and the production of documentary evidence may be compelled in accordance with the provisions of Bankruptcy Rule 916 by the use of a subpoena for a hearing or trial.

(*f*) *Place of examination of debtor.*—Without issuing a subpoena, the court may for cause shown and on such terms as it may impose order the debtor to be examined under subdivision (a) of this rule at any place it designates, whether within or without the district wherein the case is pending.

(*g*) *Mileage.*—A person other than a debtor shall not be required to attend as a witness under this rule unless his lawful mileage and fee for one day's attendance shall be first tendered to him. If the debtor resides over 100 miles from the place of examination when he is required to appear for an examination under subdivision (a) of this rule, he shall be tendered mileage allowed by law to a witness for any distance over 100 miles from his residence at the date of the filing of the first petition commencing a case under the Act, or his residence at the time he is required to appear for examination, whichever is the lesser.

Rule 13–207. Employment and compensation and reimbursement of attorneys and accountants governed by bankruptcy rules.

The employment of attorneys and accountants for the trustee and the authorization of the trustee to act as an attorney or accountant for the estate shall be governed by Bankruptcy Rule 215. The compensation and reimbursement of expenses of such an attorney or accountant for an estate and the compensation and reimbursement of the debtor's attorney shall be governed by Bankruptcy Rule 219.

Rule 13–208. Duty of trustee to keep records, make reports, and furnish information.

A trustee shall: (1) file a complete inventory of the property of the debtor if and as the court directs; (2) keep a detailed record of all receipts, including the source or other identification of each receipt, and of all disbursements; (3) forthwith file with the court notices of creditors' addresses delivered to the trustee pursuant to Rule 13–203 (c); (4) furnish information concerning the estate and its administration when reasonably requested by a party in interest, except as otherwise directed by the court; and (5) file a final report and account containing or incorporating by reference a detailed statement of receipts and disbursements.

Rule 13–209. Compensation or reimbursement of trustees.

(*a*) *Application for compensation or reimbursement.*— A trustee, other than a standing trustee, seeking compensation for services and any trustee seeking reimbursement of necessary expenses from the estate shall file with the court an application setting forth a detailed statement of (1) the services rendered and expenses incurred and (2) the amounts requested. An application for compensation shall include a statement by the applicant as to what payments have theretofore been made or promised to him for services rendered or to be rendered in any capacity whatsoever in connection with the case, the source of the compensation so paid or promised, whether any compensation he has previously received has been shared and whether an agreement or understanding exists between the applicant and any other person for the sharing of compensation received or to be received for services rendered in or in connection with the case, and the particulars of any such sharing of compensation or agreement or understanding therefor, except that the details of any agreement by the applicant for the sharing of his compensation as a member or

regular associate of a firm of lawyers or accountants shall not be required.

(*b*) *Factors in allowing compensation.*—The compensation allowable by the court to a standing or other trustee for services rendered in the administration of the debtor's estate shall be reasonable, and in making allowances the court shall give due consideration to the nature, extent, and value of the services rendered as well as to the conservation of the estate and the interests of the creditors. The compensation allowed by the Act to a standing or other trustee shall be in full compensation for the services performed by him as required by the Act and by these rules, but shall not be deemed to cover expenses necessarily incurred in the performance of his duties and allowed upon the settlement of his accounts. Additional compensation may be allowed for legal or other services not required of him by the Act or by these rules, but only if such services were authorized by order of the court before they were rendered.

(*c*) *Restriction on sharing of compensation.*—Except as herein provided, a standing or other trustee rendering services in a Chapter XIII case or in connection with such a case shall not in any form or guise share or agree to share the compensation paid or allowed him from the estate for such services with any other person, nor shall he share or agree to share in the compensation of any other person rendering services in a case under the Act or in connection with such a case. This rule does not prohibit an attorney or accountant from sharing his compensation as trustee with a member or regular associate of his firm, or from sharing in the compensation received by his firm or by any other member or regular associate thereof. If a person violates this subdivision, the court may deny him compensation, may hold invalid any transaction subject to examination under Rule 13–210 to which he is a party, or may enter such other order as may be appropriate.

Rule 13–210. Examination of debtor's transactions with his attorney.

(*a*) *Disclosure of compensation paid or promised to attorney for debtor.*—Every attorney for a debtor, whether or not he applies for compensation, shall file with the court on or before the first date set for the first meeting of creditors, or at such other time as the court may direct, a statement setting forth the compensation paid or promised him for the services rendered or to be rendered in connection with the case, the source of the compensation so paid or promised, and whether the attorney has shared or agreed to share such compensation with any other person. The statement shall include the particulars of any such sharing or agreement to share by the attorney, but the details of any agreement for sharing of his compensation with a member or regular associate of his law firm shall not be required.

(*b*) *Payment or transfer to attorney in contemplation of bankruptcy or Chapter XIII case.*—On motion by any party in interest, or on the court's own initiative, the court may examine any payment of money or any transfer of property by the debtor, made directly or indirectly and in contemplation of the filing of a petition under the Act by or against him, to an attorney for services rendered or to be rendered.

(*c*) *Payment or transfer to attorney, or agreement therefor, after case commenced.*—On motion by any party in interest, or on the court's own initiative, the court may examine any payment of money or any transfer of property, or any agreement therefor, by the debtor to an attorney after the filing of the first petition commencing a case under the Act, whether the payment or transfer is made or is to be made directly or indirectly, if the payment, transfer, or agreement therefor is for services in any way related to such case.

(*d*) *Invalidation of unreasonable payment, transfer, or obligation.*—Any payment, transfer, or obligation exam-

ined under subdivision (b) or (c) of this rule shall be held valid only to the extent of a reasonable amount as determined by the court. The amount of any excess found to have been paid or transferred under subdivision (b) or (c) may be recovered and returned to the debtor and any obligation found to be excessive under subdivision (c) may be cancelled to the extent of the excess.

Rule 13–211. Removal of trustee; substitution of successor.

(*a*) *Removal for cause.*—On application of any party in interest or on the court's own initiative and after hearing on notice, the court may remove a trustee from a case for cause and appoint a successor.

(*b*) *Substitution of successor.*—When a trustee dies, resigns, is removed, or otherwise ceases to hold office during the pendency of a Chapter XIII case, his successor is automatically substituted as a party in any pending action, proceeding, or matter without abatement.

Rule 13–212. Modification of plan before confirmation.

The debtor may file a modification of the plan which accompanies, or a summary of which accompanies, the notice of the first meeting of creditors at any time before the plan is confirmed. The debtor may also submit with the modification written acceptances thereof by creditors. If the court finds that the modification does not materially and adversely affect the interest of any creditor who has not in writing accepted it, the modification shall be deemed accepted by all creditors who have accepted or are deemed to have accepted the plan. Otherwise, the court shall enter an order that the plan as modified shall be deemed to have been accepted by any creditor who accepted or is deemed to have accepted the plan and who fails to file with the court within such reasonable time as shall be fixed in the order a written rejection of the modification. Notice of such order, accompanied by a copy or a summary of the proposed modification,

shall be given to creditors in the manner specified in Rule 13–203 and to other parties in interest at least 10 days before the time fixed in such order for filing rejections of the modification. The debtor shall, if required by the court, furnish a sufficient number of copies of the modification to enable the court to transmit a copy with each such notice.

Rule 13–213. Confirmation of plan; payment order; evidence of title.

(*a*) *Confirmation of plan.*—After hearing on notice to the debtor and to all creditors in the manner specified in Rule 13–203, which hearing may occur at the first meeting of creditors, the court shall rule on confirmation of the plan unless, for cause shown, the court grants a reasonable extension of time for filing written objections to confirmation and sets a later date for hearing on confirmation. Objections to confirmation of the plan may be filed in writing at any time prior to confirmation. An objection to confirmation on the ground that the debtor has committed any act or failed to perform any duty which would be a bar to the discharge of a bankrupt is governed by Part VII of the Bankruptcy Rules. Any other objection is governed by Bankruptcy Rule 914. If no objection is timely filed the court may find, without taking proof, that the debtor has not committed any act or failed to perform any duty which would be a bar to the discharge of a bankrupt and that the plan has been proposed and its acceptance procured in good faith and not by any means, promises, or acts forbidden by law. An order of confirmation shall substantially comply with Official Form No. 13–15.

(*b*) *Payment order.*—An order of confirmation or a separate payment order shall specify, if not specified in the confirmed plan, the amount of payments to be made under the plan and shall specify either the manner in which such payments are to be made by the debtor or the manner in which such payments are to be obtained

from the employer of the debtor. Such order directed to an employer may be enforced or implemented in the manner provided for the enforcement of judgments or, in an appropriate case, by injunction or contempt proceedings.

(*c*) *Evidence of title.*—A certified copy of the plan, and of the order confirming the plan, shall constitute conclusive evidence of the revesting of the debtor's title to his property.

Rule 13–214. Modification of plan after confirmation; revocation of confirmation.

(*a*) *Modification of plan after confirmation.*—At any time during the period of a confirmed plan providing for extension, on application of any party in interest and after hearing on notice to such parties as the court may designate, the court may increase or reduce the amount of any of the installment payments provided for by the plan or extend or shorten the time for such payments, or otherwise modify the confirmation or payment order, where it finds that the circumstances of the debtor so warrant or require, or may alter the amount of the distribution to any creditor provided for by the plan to the extent necessary to take account of any payment to or satisfaction of such creditor outside the plan.

(*b*) *Revocation of confirmation.*—Any party in interest may, at any time within 6 months after a plan has been confirmed, file a complaint pursuant to the Act to revoke the confirmation as procured by fraud. When such a complaint is filed the court shall reopen the case if necessary and conduct a hearing on notice to all parties in interest. The procedure shall be governed by Part VII of the Bankruptcy Rules. If the confirmation is revoked—

(1) The court may dispose of the case pursuant to subdivision (a) of Rule 13–215; or

(2) The court may receive proposals of the debtor to modify the plan. Thereafter, the procedure for modifica-

tion and for confirmation of a plan as modified shall follow Rules 13–212 and 13–213, except that acceptance of the plan shall not be required by any creditor who has participated in the fraud and such creditor shall not be counted in determining the number and amount of the claims of creditors whose acceptance is required. If a modified plan is not confirmed, the court shall dispose of the case pursuant to subdivision (a) of Rule 13–215.

Rule 13–215. Dismissal or conversion to bankruptcy after confirmation of plan.

(*a*) *Voluntary dismissal or conversion to bankruptcy after confirmation; dismissal or conversion for default or upon revocation of confirmation or termination of plan.*—After confirmation, (A) on application of the debtor to dismiss the case or to convert it to bankruptcy, or (B) on application of any party in interest if a debtor defaults in any of the terms of the plan or in the payment of any installment of the filing fees due after confirmation, or if confirmation is revoked for fraud and a modified plan is not confirmed pursuant to Rule 13–214 (b)(2), or if the plan terminates by reason of the happening of a condition specified therein, the court shall reopen the case if necessary and—

(1) if the petition was filed pursuant to Rule 13–103 and if confirmation has been revoked for fraud chargeable to the debtor, the court shall enter an order dismissing the case or adjudicating the debtor a bankrupt; or

(2) in any other case in which the petition was filed pursuant to Rule 13–103, the court shall enter an order dismissing the case or, with the written consent of the debtor, shall enter an order adjudicating him a bankrupt; or

(3) in any case in which the petition was filed pursuant to Rule 13–104, the court shall enter an order directing that the bankruptcy case proceed.

(b) If a case is dismissed under this rule without payment in full of the filing fees, any payments made shall

be distributed in the same manner and proportions as if the filing fees had been paid in full.

(*c*) *Notice of dismissal to creditors.*—Promptly after entry of an order of dismissal under this rule, notice thereof shall be given to creditors in the manner provided in Rule 13–203.

(*d*) *Effect of dismissal.*—Unless the order specifies to the contrary, dismissal of a case under this rule on the ground of fraud is with prejudice and dismissal on any other ground is without prejudice. A certified copy of the order of dismissal under this rule shall constitute conclusive evidence of the revesting of the debtor's title to his property.

Part III. Claims and Distribution to Creditors

Rule 13–301. Proof of claim.

(*a*) *Form and content; who may execute.*—A proof of claim shall consist of a statement in writing setting forth a creditor's claim and setting forth facts showing that such claim is free from any charge forbidden by applicable law. Except as provided in Rules 13–303 and 13–304, a proof of claim shall be executed by the creditor or by his authorized agent. Except as provided in Rule 13–303, a proof of claim shall conform substantially to Official Form No. 13–9.

(*b*) *Evidentiary effect.*—A proof of claim executed and filed in accordance with these rules shall constitute prima facie evidence of the validity and amount of the claim, but any creditor may be required by the court to establish, by affidavit or in such other manner as the court may require before allowance of the claim, that it is free from any charge forbidden by applicable law.

Rule 13–302. Filing proof of claim.

(*a*) *Manner of filing.*—In order for his claim to be allowed, every creditor, including the United States, any

state, or any subdivision thereof, must file a proof of claim in accordance with this rule, except as provided in Rules 13–303, 13–304, and 13–305.

(b) *Place of filing.*—A proof of claim shall be filed in the place prescribed by Bankruptcy Rule 509.

(*c*) *Claim founded on a writing; perfection of security interests.*—When a claim, or an interest in property of the debtor securing the claim, is founded on a writing, the original or a duplicate shall be filed with the proof of claim unless the writing has been lost or destroyed. If lost or destroyed, a statement of the circumstances of the loss or destruction shall be filed with the claim. If a security interest is claimed, the proof of claim shall be accompanied by satisfactory evidence that the security interest has been perfected.

(*d*) *Transferred claim.*

(*1*) *Unconditional transfer before proof filed.*—If a claim has been unconditionally transferred before proof of the claim has been filed, the proof of such claim may be filed only by the transferee. If such claim has been transferred after the filing of the first petition commencing a case under the Act, it shall be supported by (A) a statement of the transferor acknowledging the transfer and stating the consideration therefor or (B) a statement of the transferee why it is impossible to obtain such a statement from the transferor.

(*2*) *Unconditional transfer after proof filed.*—If a claim has been unconditionally transferred after proof thereof has been filed, proof of the terms of the transfer shall be filed, and the court shall immediately notify the original claimant by mail of the filing of such proof of transfer and that objection thereto, if any, must be made within 10 days of the mailing of the notice or within such further time as the court may allow. If the court finds, after hearing if necessary, that the claim has been unconditionally transferred, it shall make an order substituting the transferee for the original claimant.

If it does not so find, the court shall make such order as may be appropriate.

(3) *Transfer of claim for security before proof filed.*—If a claim has been transferred for security before proof of the claim has been filed, the transferor or transferee or both may file a proof of claim for the full amount. The proof shall be supported by a statement setting forth the terms of the transfer and, if the claim was so transferred after the filing of the first petition commencing a case under the Act, by (A) a statement of the transferor acknowledging the transfer and stating the consideration therefor, or (B) a statement of the transferee why it is impossible to obtain such a statement from the transferor. If either the transferor or the transferee files a proof of claim, the court shall immediately notify the other by mail that he may join in the claim so filed. If both transferor and transferee file proofs of the same claim, the proofs shall be consolidated. After hearing if necessary, the court shall make such orders respecting allowance and voting of the claim, payment of dividends thereon, and participation in the plan and in the administration of the estate as may be appropriate.

(4) *Transfer of claim for security after proof filed.*—If a claim has been transferred for security after proof thereof has been filed, proof of the terms of the transfer shall be filed, and the court shall immediately notify the original claimant by mail of the filing of such proof of transfer and that objection thereto, if any, must be made within 10 days of the mailing of the notice or within such further time as the court may allow. After hearing if necessary, the court shall make such orders respecting allowance and voting of the claim, payment of dividends thereon, and participation in the plan and in the administration of the estate as may be appropriate.

(*e*) *Time for filing.*

(1) *Secured claims.*—A secured claim, whether or not listed in the Chapter XIII Statement, must be filed on

or before the first date set for the first meeting of creditors in the Chapter XIII case unless the court, on application before the expiration of that time and for cause shown, shall grant a reasonable, fixed extension of time. Any claim not properly filed by the creditor within such time shall not be treated as a secured claim for purposes of voting and distribution in the Chapter XIII case.

(*2*) *Unsecured claims.*—Unsecured claims, whether or not listed in the Chapter XIII Statement, must be filed within 6 months after the first date set for the first meeting of creditors in the Chapter XIII case, except as follows:

(A) On application before the expiration of such period and for cause shown, the court may grant a reasonable, fixed extension of time for the filing of a claim by the United States, a state, or a subdivision thereof.

(B) In the interest of justice the court may grant an infant or incompetent person without a guardian up to an additional 6 months for filing a claim.

(C) A claim which arises in favor of a person or becomes allowable because of a judgment for the recovery of money or property from such person or because of a judgment denying or avoiding a person's interest in property may be filed within 30 days after such judgment becomes final, but if the judgment imposes a liability which is not satisfied, or a duty which is not performed, within such period or such further time as the court may permit, the claim shall not be allowed.

(*f*) *Claims filed in superseded bankruptcy case.*—Where the petition is filed pursuant to Rule 13–104, all claims filed in the superseded bankruptcy case shall be deemed filed in the Chapter XIII case if amended, within the time specified in subdivision (e)(1) of this rule for secured claims, or within the time specified in subdivision (e)(2) of this rule for other claims, as appropriate, to conform to paragraph 4 of Official Form No. 13–9 or No. 13–10, as appropriate.

Rule 13–303. Filing of claims by debtor or trustee.

If a creditor fails to file his claim on or before the first date set for the first meeting of creditors in the Chapter XIII case, the debtor or the trustee may execute and file a proof of such claim on Official Form No. 13–10 in the name of the creditor. Such claim shall be treated as a filed claim only for purposes of allowance and distribution. The court shall forthwith mail notice of such filing to the creditor and to the debtor if the claim is filed by the trustee, or to the trustee if the claim is filed by the debtor. The creditor may nonetheless file a proof of claim pursuant to Rule 13–302, which proof when filed shall supersede the proof filed by the debtor or trustee.

Rule 13–304. Claim by codebtor.

A person who is or may be liable with the debtor, or who has secured a creditor of the debtor, may, if the creditor fails to file his claim on or before the first date set for the first meeting of creditors, file a proof of claim pursuant to Rule 13–302, including an acceptance or rejection of the plan or any modification thereof, in the name of the creditor, if known, or if unknown, in his own name. No distribution shall be made on the claim except on satisfactory proof that the original debt will be diminished by the amount of the distribution. The creditor may nonetheless file a proof of claim pursuant to Rule 13–302 and, at any time before the court determines that the plan or any modification thereof has been accepted by the number and amount of creditors required for confirmation, an acceptance or rejection of the plan or any modification thereof. Such proof of claim and such acceptance or rejection shall supersede the proof of claim and the acceptance or rejection filed pursuant to the first sentence of this rule. In the event the creditor files a claim and does not file a timely acceptance or rejection of the plan, any acceptance or rejection filed by the codebtor shall be deemed made on the creditor's behalf.

Rule 13–305. Post-petition claims.

Notwithstanding Rule 13–302 (e), the court may at any time while a case is pending permit the filing of a proof of claim for the following:

(1) Claims for taxes owing to the United States, or to any state, or any subdivision thereof, at the time of the filing of the petition under Rule 13–103 or 13–104 which had not been assessed prior to the date of confirmation of the plan, but which are assessed within one year after the date of the filing of such petition.

(2) Claims for taxes owing to the United States, or to any state, or any subdivision thereof, after the filing of the petition under Rule 13–103 or 13–104 and which are assessed while the case is pending; and

(3) On such terms as the court may prescribe, claims incurred by the debtor after the filing of a petition under Rule 13–103 or 13–104 for property or services needed to assure proper performance under the plan by the debtor, provided that, when feasible, prior court approval of the incurring of the claim has been obtained.

Rule 13–306. Withdrawal of claim.

A creditor may withdraw a claim as of right by filing a notice of withdrawal, except as provided in this rule. If, after a creditor has filed a claim, an objection is filed thereto or a complaint is filed against him in an adversary proceeding, or the court has directed him to establish that the claim is free from any charge forbidden by law, or the creditor has accepted the plan or otherwise has participated significantly in the case or has received a dividend, he may not withdraw the claim save on application or motion with notice to the debtor and trustee, and on order of the court containing such terms and conditions as the court deems proper.

Rule 13–307. Objections to and allowance of claims; valuation of security.

(*a*) *Trustee's and debtor's duty to examine and object to claims.*—The trustee and the debtor shall examine

proofs of claim and the trustee shall object to the allowance of improper claims, unless no purpose would be served thereby.

(*b*) *Allowance when no objection made.*—Subject to the provisions of subdivision (d) of this rule, a claim filed in accordnace with Rule 13–302, 13–303, or 13–304 shall be deemed allowed unless objection is made by a party in interest or unless the court directs the creditor to establish that the claim is free from any forbidden charge pursuant to Rule 13–301 (b).

(*c*) *Objection to allowance.*—An objection to the allowance of a claim shall be in writing. A copy of the objection and notice of a hearing thereon shall be mailed or delivered to the claimant, the trustee, and the debtor. If an objection to a claim is joined with a demand for relief of the kind specified in Rule 13–701, the proceeding thereby becomes an adversary proceeding.

(*d*) *Secured claims.*—If a secured creditor files a claim, the value of the security interest held by him as collateral for his claim shall be determined by the court. The claim shall be allowed as a secured claim to the extent of the value so determined and as an unsecured claim to the extent it is enforceable for any excess of the claim over such value. For the purposes of this subdivision the court may appoint an appraiser in the manner specified by and subject to the limitations of Bankruptcy Rule 606.

Rule 13–308. Reconsideration of claims.

Within 10 days of the entry of an order allowing or disallowing a claim against the estate, a party in interest may move for reconsideration. If the motion is granted, the court may after hearing on notice make such further order as may be appropriate.

Rule 13–309. Priority payments; dividends; surplus funds.

(*a*) *Priorities.*

(*1*) *First payment.*—In advance of or at the time of payment of the first dividend to creditors under the plan there shall be paid, out of money paid in by or for the debtor, in the following order:

(A) any installment of filing fees ordered to be paid pursuant to Rule 13–106 (b)(2) and then due under such order;

(B) the actual and necessary costs and expenses incurred by the trustee;

(C) the additional fee prescribed for the referees' salary and expense fund and the trustee's commission;

(D) a reasonable fee to the attorney for the debtor for professional services actually theretofore rendered by such attorney in connection with the Chapter XIII case;

(E) where the petition is filed pursuant to Rule 13–104, the costs and expenses of administration and the fees of the superseded bankruptcy case;

(F) other debts entitled to priority under, and in the order prescribed by, § 64a of the Act.

(*2*) *Subsequent payments.*—In advance of or at the time of payment of any subsequent dividend to creditors there shall be paid, out of money paid in by or for the debtor, in the following order:

(A) any installment of filing fees ordered to be paid pursuant to Rule 13–106 (b)(2) and then due under such order;

(B) any actual and necessary costs and expenses incurred by the trustee and not previously paid;

(C) the additional fee prescribed for the referees' salary and expense fund and the trustee's commission, to the extent that either has not been previously paid;

(D) a reasonable fee to the attorney for the debtor for professional services actually theretofore rendered by such attorney in connection with the Chapter XIII case and not previously paid.

(*3*) *Waiver.*—A person entitled to priority of payment under paragraph (1) or (2) of this subdivision (a) may

waive such priority by failing to reject a plan providing for such waiver within the time specified in Rule 13–202 (a) or by other waiver, but any other payment which such person receives in lieu thereof must be provided for in the plan or otherwise approved by the court.

(*b*) *Dividends.*

(*1*) *Payment.*—Except as otherwise provided in the plan, dividends to creditors shall be paid as promptly as practicable in such amounts and at such times as the court may order. Dividend checks shall be made payable and mailed to each creditor whose claim has been allowed, unless a power of attorney authorizing another person to receive dividends has been executed and filed in accordance with Bankruptcy Rule 910. In that event, unless a local rule or court order provides otherwise, dividend checks shall be made payable to the creditor and to such other person and shall be mailed to such other person.

(*2*) *Small dividends.*—The court may by local rule or order direct that no dividend for less than $15 shall be distributed by the trustee to any creditor, but dividends not distributed because of such rule or order shall accumulate and shall be paid whenever such accumulation aggregates $15. Any accumulated balance shall be paid with the final dividend.

(*c*) *Surplus funds.*—Except as provided in Rule 13–310, any funds remaining in the estate on consummation of the plan shall be returned to the debtor.

Rule 13–310. Unclaimed funds.

Sixty days after the distribution of the final dividend, the trustee shall stop payment of all checks then unpaid and file with the clerk of the district court a list of the names and addresses, so far as known, of the persons entitled to such payments and the amounts thereof. The unclaimed funds shall thereupon be deposited in the registry of the United States district court and shall be withdrawn as provided in Title 28, U. S. C., § 2042.

Part IV. The Debtor: Duties and Benefits

Rule 13–401. Petition as automatic stay of actions against debtor and of lien enforcement.

(*a*) *Stay of actions and lien enforcement.*—A petition filed under Rule 13–103 or Rule 13–104 shall operate as a stay of the commencement or continuation of any action against the debtor, or the enforcement of any judgment against him, or of any act or the commencement or continuation of any court proceeding to enforce any lien against his property, or of any court proceeding for the purpose of rehabilitation of the debtor or the liquidation of his estate.

(*b*) *Duration of stay.*—Except as it may be deemed annulled under subdivision (c) or may be terminated, annulled, modified, or conditioned by the bankruptcy court under subdivision (d), (e) or (f) of this rule, the stay shall continue until the case is closed, dismissed, or converted to bankruptcy or the property subject to the lien is, with the approval of the court, abandoned or transferred.

(*c*) *Annulment of stay.*—At the expiration of 30 days after the first date set for the first meeting of creditors, the stay provided by this rule other than a stay against lien enforcement shall be deemed annulled as against any creditor whose claim has not been listed in the Chapter XIII Statement and who has not filed his claim by that time.

(*d*) *Relief from stay.*—On the filing of a complaint by a creditor who has timely filed his claim or who is secured by an estate in real property or chattels real seeking relief from a stay provided by this rule, the bankruptcy court shall, subject to the provisions of subdivision (e) of this rule, set the trial for the earliest possible date, and it shall take precedence over all matters except older matters of the same character. The court may, for cause shown, terminate, annul, modify, or condition such stay.

A party seeking continuation of a stay against lien enforcement shall show that he is entitled thereto.

(*e*) *Ex parte relief from stay.*—Upon the filing of a complaint by a creditor who has timely filed his claim or who is secured by an estate in real property or chattels real seeking relief from a stay provided by this rule against any act or the commencement or continuation of any court proceeding to enforce any lien, or any proceeding for the purpose of rehabilitation of the debtor or liquidation of his estate, relief may be granted without written or oral notice to the trustee or the debtor if (1) it clearly appears from specific facts shown by affidavit or by a verified complaint that immediate and irreparable injury, loss, or damage will result to the plaintiff before the trustee or the debtor can be heard in opposition, and (2) the plaintiff's attorney certifies to the court in writing the efforts, if any, which have been made to give the notice and the reasons supporting his claim that notice should not be required. The party obtaining relief under this subdivision shall give written or oral notice thereof as soon as possible to the trustee and to the debtor and, in any event, shall forthwith mail to such persons a copy of the order granting relief. On 2 days' notice to the party who obtained relief from a stay provided by this rule without notice, or on such shorter notice to that party as the court may prescribe, the trustee or the debtor may appear and move its reinstatement, and in that event the court shall proceed to hear and determine such motion as expeditiously as the ends of justice require.

(*f*) *Availability of other relief.*—Nothing in this rule precludes the issuance of, or relief from, any stay, restraining order, or injunction when otherwise authorized.

Rule 13–402. Duties of debtor.

In addition to performing other duties prescribed by these rules, the debtor shall (1) attend and submit to an examination at the first meeting of creditors and at

such other times as ordered by the court; (2) attend at the hearing on confirmation of a plan and the hearing on a complaint objecting to his discharge, if any, and, if called as a witness, testify with respect to the issues raised; (3) if the court directs, file a statement of the executory contracts, including unexpired leases, to which he is a party; (4) cooperate with the trustee in the preparation of an inventory, the examination of proofs of claim, and the administration of the estate; and (5) comply with all orders of the court.

Rule 13–403. Exemptions.

A debtor shall claim his exemptions in the Chapter XIII Statement required to be filed by Rule 13–107.

Rule 13–404. Grant or denial of discharge.

(*a*) *Where debtor has completed performance.*—On completion by the debtor of all payments under the plan, the court shall forthwith grant the debtor his discharge unless he has filed a waiver under Rule 13–405.

(*b*) *Where debtor has not completed performance.*

(*1*) *Application and notice.*—A debtor who has not completed his payments under the plan may by application request a discharge under § 661 of the Act. On the filing of such application the court shall fix a time for the filing of a complaint objecting to the debtor's discharge and shall give at least 30 days' notice of the time so fixed to all creditors in the manner provided in Rule 13–203 and to the trustee. The court may for cause, on its own initiative or on application by any party in interest, extend the time for filing a complaint objecting to discharge.

(*2*) *Grant of discharge.*—On expiration of the time fixed for filing a complaint objecting to discharge, the court shall forthwith grant the discharge if no complaint objecting to discharge has been filed and if satisfied, after hearing on notice to the debtor, that the debtor's failure to complete payments was due to circumstances for which

he could not justly be held accountable, unless the debtor has filed a waiver under Rule 13–405.

(3) *Applicability of Part VII of bankruptcy rules.*—A proceeding commenced by a complaint objecting to discharge is governed by Part VII of the Bankruptcy Rules.

(c) *Order of discharge.*—An order of discharge shall conform substantially to Official Form No. 13–16.

(d) *Registration in other districts.*—An order of discharge that has become final may be registered in any other district by filing in the office of the clerk of the district court of that district a certified copy of the order and when so registered shall have the same effect as an order of the court of the district where registered and may be enforced in like manner.

(e) *Notice of discharge.*—Within 45 days after an order of discharge becomes final, the court shall mail a copy of such order to the persons specified in subdivision (b)(1) of this rule.

Rule 13–405. Waiver of discharge.

Any debtor may waive his right to discharge by a writing filed with the court.

Rule 13–406. Notice of nondischarge.

If a waiver of discharge is filed, or if an order is entered denying or revoking a discharge, the court shall, within 30 days after the filing of the waiver or the entry of the order, give notice thereof by mail to all creditors in the manner provided in Rule 13–203.

Rule 13–407. Determination of dischargeability of a debt; judgment on nondischargeable debt; jury trial.

(a) *Proceeding to determine dischargeability.*

(1) *Persons entitled to file complaint; time for filing in ordinary case.*—A debtor or any creditor may file a complaint with the court to obtain a determination of the dischargeability of any debt. Except as provided in

paragraph (2) of this subdivision, the complaint may be filed at any time, and a case may be reopened without the payment of an additional filing fee for the purpose of filing a complaint under this rule.

(*2*) *Time for filing complaint under § 17c (2) of the Act; notice of time fixed.*—On or before the completion by a debtor of payments under a plan, or on application by a debtor for a discharge under § 661 of the Act, the court shall make an order fixing a time for the filing of a complaint to determine the dischargeability of any debt pursuant to § 17c (2) of the Act and shall give at least 30 days' notice of the time so fixed to all creditors in the manner provided in Rule 13–203 and to the trustee. The court may for cause, on its own initiative or on application of any party in interest, extend the time fixed under this paragraph.

(*b*) *Claim and demand for judgment on nondischargeable debt.*—If his claim has not yet been reduced to judgment, the creditor shall include in a complaint or answer filed under subdivision (a) of this rule a statement of his claim and a demand for judgment on the debt as provided in § 17c (3) of the Act.

(*c*) *Jury trial.*—Either party may demand a trial by jury of any issue triable of right by a jury by serving on the other party and filing a demand therefor in writing at any time after the filing of a complaint under this rule and not later than 10 days after the service of the last pleading directed to such issue. Such demand may be indorsed on a pleading of the party. In his demand the party shall specify the issues which he wishes to be so tried. If he has demanded trial by jury for only some of the issues so triable of right, any other party, within 10 days after service of the demand or such lesser time as the court may order, may serve a demand for trial by jury of any other issues so triable of right in the proceeding. The trial of an issue for which a jury trial has

been demanded shall be placed on the jury calendar of the district court when it is ready for trial unless (1) the bankruptcy judge determines after hearing on notice that the issue is not triable of right by a jury or (2) a local rule of court provides otherwise. Issues not triable of right by a jury may be tried by the bankruptcy judge, and motions and applications in the proceeding other than those necessarily incidental to and made during the course of the jury trial may be determined by the bankruptcy judge. The failure of a party to serve and file a demand in accordance with this rule constitutes a waiver by him of trial by jury. Rules 47–51 of the Federal Rules of Civil Procedure apply to a jury trial under this subdivision.

(*d*) *Applicability of Part VII of Bankruptcy Rules.*—A proceeding commenced by a complaint filed under this rule is governed by Part VII of the Bankruptcy Rules.

Part V. Courts of Bankruptcy; Officers and Personnel; Their Duties

Rule 13–501. Administrative matters.

Part V of the Bankruptcy Rules applies in Chapter XIII cases.

Part VI. Property of the Estate

Rule 13–601. Burden of proof as to validity of post-petition transfer.

Any person asserting the validity of a transfer under § 70d of the Act shall have the burden of proof.

Rule 13–602. Accounting by prior custodian of property of the estate.

(*a*) *Accounting required.*—Any receiver or trustee appointed in proceedings not under the Act, assignee for the benefit of creditors, or agent, required by the Act to deliver property in his possession or control to the trustee,

shall promptly file a written report and account with the bankruptcy court with respect to the property of the estate and his administration thereof.

(*b*) *Examination of administration.*—On the filing of the report and account required by subdivision (a) of this rule and after an examination has been made into the superseded administration, the court shall determine the propriety of such administration, including the reasonableness of all disbursements.

Rule 13–603. Money of the estate: Deposit and disbursement.

(*a*) *Deposits; interest.*—The trustee shall deposit all money received by him in a designated depository, either in a checking account or, if authorized by the court, in an interest-bearing account or deposit, and, if authorized by the court, may deposit the funds of more than one estate in the same account or deposit.

(*b*) *Withdrawals and disbursements.*—The trustee shall withdraw and disburse money of the estate only by check or other method approved by the court.

Rule 13–604. Rejection of executory contracts.

When a motion is made for the rejection of an executory contract, including an unexpired lease, other than as part of the plan, the court shall set a hearing on notice to the parties to the contract and to such other persons as the court may designate.

Rule 13–605. Abandonment of property.

After hearing on such notice as the court may direct and on approval by the court the trustee may abandon any property.

Rule 13–606. Redemption of property from lien or sale.

On application by the trustee or debtor and after hearing on such notice as the court may direct, the court may authorize the redemption of property from a lien or

from a sale to enforce a lien in accordance with applicable law.

Rule 13–607. Prosecution and defense of proceedings by trustee.

The trustee may, with or without court approval, prosecute or enter his appearance and defend any pending action or proceeding by or against the debtor, or commence and prosecute any action or proceeding in behalf of the estate, before any tribunal.

Rule 13–608. Preservation of voidable transfer.

Whenever any transfer is voidable by the trustee, the court may determine, in an adversary proceeding in which are joined persons claiming interests or rights in the property subject to the transfer, whether the transfer shall be avoided only or shall be preserved for the benefit of the estate.

Rule 13–609. Proceeding to avoid indemnifying lien or transfer to surety.

If a lien voidable under § 67a of the Act has been dissolved by the furnishing of a bond or other obligation and the surety thereon has been indemnified by the transfer of, or the creation of a lien upon, nonexempt property of the debtor, the surety shall be joined as a defendant in any proceeding to avoid the indemnifying transfer or lien. Such proceeding is governed by Part VII of the Bankruptcy Rules. If an order is entered for the recovery of indemnifying property in kind or for the avoidance of an indemnifying lien, the court, on motion by any party in interest, shall ascertain the value of such property or lien; if such value is less than the amount for which such property or lien is indemnity, the surety may elect to retain the property or lien on payment of the value so ascertained to the trustee or debtor, as the case may be, within such time as the court shall fix.

PART VII. ADVERSARY PROCEEDINGS

Rule 13–701. Adversary proceedings.

(*a*) *Adversary proceedings.*—Part VII of the Bankruptcy Rules governs any proceeding instituted by a party before a bankruptcy judge in a Chapter XIII case to (1) recover money or property other than a proceeding under Rule 13–210 or Rule 13–602, (2) determine the validity, priority, or extent of a lien or other interest in property, (3) sell property free of a lien or other interest for which the holder can be compelled to take a money satisfaction, (4) object to or revoke a discharge, (5) obtain an injunction, (6) obtain relief from a stay as provided in Rule 13–401, (7) object to confirmation of a plan on the ground that the debtor has committed any act or failed to perform any duty which would be a bar to the discharge of the bankrupt, (8) revoke the confirmation of a plan, or (9) determine the dischargeability of a debt. Such a proceeding shall be known as an adversary proceeding.

(*b*) *Reference in Bankruptcy Rules.*—As applied in Chapter XIII cases, the reference in Bankruptcy Rule 741 to "a complaint objecting to the bankrupt's discharge" shall be read to include also a reference to "a complaint objecting to the confirmation of a plan on the ground that the debtor has committed any act or failed to perform any duty which would be a bar to the discharge of a bankrupt."

PART VIII. APPEAL TO DISTRICT COURT

Rule 13–801. Appeal to district court.

Part VIII of the Bankruptcy Rules applies in Chapter XIII cases except that Rule 802 (c) thereof shall read as follows:

> "(*c*). *Extension of time for appeal.*—The referee may extend the time for filing the notice of appeal

by any party for a period not to exceed 20 days from the expiration of the time otherwise prescribed by this rule. A request to extend the time for filing a notice of appeal must be made before such time has expired, except that a request made after the expiration of such time may be granted on a showing of excusable neglect if the judgment or order is not a judgment or order under Rule 13–213 confirming a plan or is not a judgment or order under Rule 13–112 or Rule 13–215 dismissing a Chapter XIII case or converting a Chapter XIII case to bankruptcy."

Part IX. General Provisions

Rule 13–901. General provisions.

Part IX of the Bankruptcy Rules applies in Chapter XIII cases except that:

(1) The references to various rules in Rule 906 (b) shall also include references to Rules 13–106 (b)(2) and 13–302 (e).

(2) The references to various rules in Rule 906 (c) shall also include references to Rules 13–203 (a), 13–302 (e), 13–404 (b)(1), and 13–407 (a)(2).

(3) The exception in Rule 910 (c) for "the execution and filing of a proof of claim" shall be read to include also "the execution and filing of an acceptance or a rejection of a plan" and the reference to Official Forms in that rule shall include also a reference to Official Form 13–8.

(4) The reference in Rule 913 (b) to "a dischargeable debt" shall be read as "a debt which is or will be provided for by the plan."

(5) The reference in Rule 919 (a) to "notice to the creditors as provided in Rule 203 (a) and to such other persons as the court may designate" shall be read as "such notice to such persons as the court may designate."

(6) The reference in Rule 922 (b) to Rule 102 shall be read as a reference to Rule 13–102.

(7) The reference in Rule 924 to the time allowed by § 15 of the Act for the filing of a complaint to revoke a discharge shall be read to include also a reference to the time allowed by § 671 of the Act for the filing of a complaint to revoke the confirmation of a plan.

OFFICIAL CHAPTER XIII FORMS

[NOTE. These official forms should be observed and used, with such alterations as may be appropriate to suit the circumstances. See Bankruptcy Rule 909, made applicable by Rule 13-901.]

FORM No. 13-1

ORIGINAL PETITION UNDER CHAPTER XIII

United States District Court
for the ..... District of .....

In re

.... Bankruptcy No. .....

Debtor, Soc. Sec. No. .....
[*include here all names used by debtor within last 6 years*]

ORIGINAL PETITION UNDER CHAPTER XIII

1. Petitioner's post-office address is .....
.....

2. Petitioner has his principal place of employment [*or* his residence *or* his domicile] within this district.

3. No bankruptcy case initiated on a petition by or against petitioner is now pending.

4. Petitioner is qualified to file this petition and is entitled to the benefits of Chapter XIII of the Bankruptcy Act.

5. Petitioner is insolvent [*or* unable to pay his debts as they mature].

6. A copy of petitioner's proposed plan is attached [*or* Petitioner intends to file a plan pursuant to Chapter XIII of the Act].

Wherefore petitioner prays for relief under Chapter XIII of the Act.

Signed: .....,
Attorney for Petitioner.

Address: .....,
.....

[*Petitioner signs if not represented by attorney.*]

.....,
Petitioner.

State of .....
County of ..... } *ss.*

I, ..., the petitioner named in the foregoing petition, do hereby swear that the statements contained therein are true according to the best of my knowledge, information, and belief.

.....,
Petitioner.

Subscribed and sworn to before me on .....

.....,

.....
[*Official character*]

[*Unless further time is granted by the court there must be filed with this petition or within 10 days thereafter both a Chapter XIII Statement (Official Form No. 13–5) pursuant to Rule 13–107 and a Chapter XIII Plan (Official Form No. 13–6) pursuant to Rule 13–201.*]

FORM NO. 13–2

APPLICATION TO PAY FILING FEES IN INSTALLMENTS

[*Caption, other than designation, as in Form No. 13–1*]

APPLICATION TO PAY FILING FEES IN INSTALLMENTS

1. Applicant is filing herewith a petition under Chapter XIII of the Act.

2. He is unable to pay $..... [*or* all] of the filing fees except in installments.

3. He proposes that such fees be paid to the clerk of the district court upon the following terms:

.....

.....

4. He has paid no money and transferred no property to his attorney for services in connection with this case or with any pending bankruptcy case, and he will make no payment or transfer to his attorney for such services.

Wherefore applicant prays that he be permitted to pay $..... [*or* all] of the filing fees in installments.

Dated: .....

Signed: .....,
Applicant.

Address: .....,
.....

FORM NO. 13–3

ORDER FOR PAYMENT OF FILING FEES IN INSTALLMENTS

[*Caption, other than designation, as in Form No. 13–1*]

ORDER FOR PAYMENT OF FILING FEES IN INSTALLMENTS

The application of the debtor for permission to pay the filing fees in this case in installments having been heard:

It is ordered that the debtor pay the filing fees still owing, namely, $....., as follows:

.....
.....

It is further ordered that all payments be made at the office of the clerk of the United States District Court located at .....
....., that the debtor shall pay no money and shall transfer no property to his attorney, that his attorney shall accept no money or property from the debtor for services in connection with this case or any pending bankruptcy case, and that any award of compensation to the attorney for services in connection with this case and any pending bankruptcy case shall be governed by Rule 13–309 and Bankruptcy Rule 219.

Dated: .....

.....,
Bankruptcy Judge.

FORM No. 13–4

CHAPTER XIII PETITION IN PENDING BANKRUPTCY CASE

[*Caption, other than designation, as in Form No. 13–1*]

CHAPTER XIII PETITION IN PENDING BANKRUPTCY CASE

1. Petitioner's post-office address is .....
.....

2. Petitioner is the bankrupt in Bankruptcy No. ....., pending in this court.

3. Petitioner is qualified to file this petition and is entitled to the benefits of Chapter XIII of the Bankruptcy Act.

4. Petitioner is insolvent [*or* unable to pay his debts as they mature].

5. A copy of petitioner's proposed plan is attached [*or* Petitioner intends to file a plan pursuant to Chapter XIII of the Act].

Wherefore petitioner prays for relief under Chapter XIII of the Act.

Dated: .....

Signed: .....,
Attorney for Petitioner.

Address: .....,
.....

[*Petitioner signs if not represented by attorney.*]

....,
Petitioner.

State of.....
County of..... } *ss.*

I, ..., the petitioner named in the foregoing petition, do hereby swear that the statements contained therein are true according to the best of my knowledge, information, and belief.

....,
Petitioner.

Subscribed and sworn to before me on .....
.....,
.....
[*Official character*]

[*Unless further time is granted by the court there must be filed with this petition or within 10 days thereafter both a Chapter XIII Statement (Official Form No. 13–5) pursuant to Rule 13–107 and a Chapter XIII Plan (Official Form No. 13–6) pursuant to Rule 13–201.*]

FORM No. 13–5

CHAPTER XIII STATEMENT

[*Caption, other than designation, as in Form No. 13–1*]

CHAPTER XIII STATEMENT

[Each question should be answered or the failure to answer explained. If the answer is "none," this should be stated. If additional space is needed for the answer to any question, a separate sheet, properly identified and made a part hereof, should be used and attached.

The term, "original petition," as used in the following questions, shall mean the original petition filed under Rule 13–103 or, if the petition is filed under Rule 13–104 in a pending bankruptcy case, shall mean the bankruptcy petition by or against you which originated the pending bankruptcy case.

This form must be completed in full whether a single or a joint petition is filed. When information is requested for "each" or "either spouse filing a petition" it should be supplied for both when a joint petition is filed.]

1. *Name and residence.*

a. Give full name.

Husband .....

Wife .....

b. Where does each spouse filing a petition now reside?

(1) Mailing address

Husband .....

Wife .....

(2) City or town

Husband .....

Wife .....

(3) Telephone number

Husband .....

Wife .....

c. What does each spouse filing a petition consider his or her residence, if different from that listed in b, above?

Husband .....

Wife .....

2. *Occupation and income.*

a. Give present occupation of each spouse filing a petition. (If more than one, list all for each spouse filing a petition.)

Husband .....

.....

Wife .....

.....

b. What is the name, address, and telephone number of present employer (or employers) of each spouse filing a petition? (Include also any identifying badge or card number with employer.)

Husband .....

.....

Wife .....

.....

c. How long has each spouse filing a petition been employed by present employer?

Husband .....

.....

Wife .....

.....

d. If either spouse filing a petition has not been employed by present employer for a period of 1 year, state the name of prior employer(s) and nature of employment during that period.

Husband .....

.....

.....

Wife .....

.....

.....

e. Has either spouse filing a petition operated a business, in partnership or otherwise, during the past 3 years? (If so, give the particulars, including names, dates, and places.)

Husband .....

.....

Wife .....

.....

f. Answer the following questions for each spouse whether single or joint petition is filed unless spouses are separated and a single petition is filed:

(1) Is your current pay period:

	Husband	*Wife*
(a) Weekly	.....	.....
(b) Semi-monthly	.....	.....
(c) Monthly	.....	.....
(d) Other (specify).....	.....	.....

(2) What are your gross wages, salary or commissions per pay period?

	Husband	*Wife*
	.....	.....

(3) What are your payroll deductions per pay period for:

	Husband	*Wife*
(a) Payroll taxes (including social security)	.....	.....
(b) Insurance	.....	.....
(c) Credit union	.....	.....
(d) Union dues	.....	.....
(e) Other (specify)	.....	.....

(4) What is your take-home pay per pay period?

Husband	*Wife*
.....	.....

(5) Is your employment subject to seasonal or other change?

Husband	*Wife*
.....	.....

(6) What was the amount of your gross income for the last calendar year?

Husband	*Wife*
.....	.....

(7) Has either of you made any wage assignments or allotments? (If so, indicate which spouse's wages assigned or allotted, the name and address of the person to whom assigned or allotted, and the amount owing, if any, to such person. If allotment or assignment is to a creditor, his claim should also be listed in Item 11a.)

.....

.....

.....

3. *Dependents.* (To be answered for each spouse whether single or joint petition is filed unless spouses are separated and a single petition is filed.)

a. Does either of you pay [*or* receive] alimony, maintenance, or support? ..... If so, how much per month? ..... For whose support? (Give name, age, and relationship to you.)

Husband .....

.....

.....

Wife .....

.....

.....

b. List all other dependents, other than present spouse, not listed in a, above. (Give name, age, and relationship to you.)

Husband .....

.....

.....

Wife .....

.....

.....

4. *Budget.*

a. Give estimated average future monthly income for each spouse whether single or joint petition is filed unless spouses are separated and a single petition is filed.

(1) Husband's monthly take-home pay..... .....

(2) Wife's monthly take-home pay..... .....

(3) Other monthly income (specify)..... .....

Total .....

b. Give estimated average future monthly expenses of family (not including debts to be paid under plan), consisting of:

(1) Rent or home mortgage payment (include lot rental for trailer)..... .....

(2) Utilities (Electricity ....., Heat ....., Water ....., Telephone .....)..... .....

(3) Food ....

(4) Clothing ....

(5) Laundry and cleaning..... .....

(6) Newspaper, periodicals, and books (including school books)..... .....

(7) Medical and drug expenses..... .....

(8) Insurance (not deducted from wages)

(a) Auto ....

(b) Other ....

(9) Transportation (not including auto payments to be paid under plan)..... .....

(10) Recreation ....

(11) Club and union dues (not deducted from wages) ....

(12) Taxes (not deducted from wages)..... .....

(13) Alimony, maintenance, or support payments.. .....

(14) Other payments for support of dependents not living at home..... .....

(15) Other (specify)

....

....

....

Total .....

c. Excess of estimated future monthly income (last line of Item 4a, above) over estimated future expenses (last line of Item 4b, above)..... .....

d. Total amount to be paid each month under plan.. .....

5. *Payment of attorney.*

a. How much have you agreed to pay or what property have you agreed to transfer to your attorney in connection with this case?..... .....

b. How much have you paid or what have you transferred to him?..... .....

6. *Tax refunds.* (To be answered for each spouse whether single or joint petition is filed unless spouses are separated and a single petition is filed.)

To what tax refunds (income or other), if any, is either of you, or may either of you be, entitled? (Give particulars, including information as to any refunds payable jointly to you or any other person. All such refunds should also be listed in Item 13b.)

.....

.....

7. *Bank accounts and safe deposit boxes.* (To be answered for each spouse whether single or joint petition is filed unless spouses are separated and a single petition is filed.)

a. Does either of you currently have any bank or savings and loan accounts, checking or savings? (If so, give name and address of bank, nature of account, current balance, and name and address of every other person authorized to make withdrawals from the account. Such accounts should also be listed in Item 13b.)

.....

.....

b. Does either of you currently keep any safe deposit boxes or other depositories? (If so, give name and address of bank or other depository, name and address of every other person who has a right

of access thereto, and a brief description of the contents thereof, which should also be listed in Item 13b.)

.....

.....

8. *Prior bankruptcy.*

What proceedings under the Bankruptcy Act have previously been brought by or against either spouse filing a petition? (State the location of the bankruptcy court, the nature and number of each proceeding, the date when it was filed, and whether a discharge was granted or refused, the proceeding was dismissed, or a composition, arrangement, or plan was confirmed.)

.....

.....

9. *Foreclosures, executions, and attachments.* (To be answered for each spouse whether single or joint petition is filed unless spouses are separated and a single petition is filed.)

a. Is any of the property of either of you, including real estate, involved in a foreclosure proceeding, in or out of court? (If so, identify the property and the person foreclosing.)

.....

.....

b. Has any property or income of either of you been attached, garnished, or seized under any legal or equitable process within the 4 months immediately preceding the filing of the original petition herein? (If so, describe the property seized, or person garnished, and at whose suit.)

.....

.....

10. *Repossessions and returns.* (To be answered for each spouse whether single or joint petition is filed unless spouses are separated and a single petition is filed.)

Has any property of either of you been returned to, repossessed, or seized by the seller or by any other party, including a landlord, during the 4 months immediately preceding the filing of the original petition herein? (If so, give particulars, including the name and address of the party getting the property and its description and value.)

.....

.....

.....

.....

11. *Debts.* (To be answered for each spouse whether single or joint petition is filed.)

a. *Secured debts.* List all debts which are or may be secured by real or personal property. Indicate in sixth column, if debt payable in installments, the amount of each installment, the installment period (monthly, weekly, or other) and number of installments in arrears, if any. Indicate in last column whether husband or wife solely liable, or whether you are jointly liable.)

Creditor's name and address [if unknown, so state.]	Consideration or basis for debt	Amount claimed by creditor	If disputed, amount admitted by debtor	Description of collateral [include year and make of auto.]	Installment amount, period, and number of installments in arrears	Husband or wife solely liable, or jointly liable
.....	.....	.....	.....	.....	.....	.....
.....	.....	.....	.....	.....	.....	.....
.....	.....	.....	.....	.....	.....	.....
.....	.....	.....	.....	.....	.....	.....
.....	.....	.....	.....	.....	.....	.....
.....	.....	.....	.....	.....	.....	.....
.....	.....	.....	.....	.....	.....	.....

b. *Unsecured debts.* List all other debts, liquidated and unliquidated, including taxes, attorneys' fees and tort claims.

Creditor's name and address [if unknown, so state.]	Consideration or basis for debt	Amount claimed by creditor	If disputed, amount admitted by debtor	Husband or wife solely liable, or jointly liable
.....	.....	.....	.....	.....
.....	.....	.....	.....	.....
.....	.....	.....	.....	.....
.....	.....	.....	.....	.....
.....	.....	.....	.....	.....
.....	.....	.....	.....	.....
.....	.....	.....	.....	.....

12. *Codebtors.* (To be answered for each spouse whether single or joint petition is filed.)

a. Are any other persons liable, as cosigners or in any other manner, on any of the debts of either of you or are either of you so liable on the debts of others? (If so, give particulars, indicating which spouse liable and including names of creditors, nature of debt, names and addresses of codebtors, and their relationship, if any to you.)

.....

.....

.....

b. If so, have such codebtors made any payments on such debts? (Give name of each codebtor and amount paid by him.)

.....

.....

.....

c. Have either of you made any payments on such debts? (If so, specify total amount paid to each creditor, whether paid by husband or wife, and name of codebtor.)

.....

.....

.....

13. *Property.* (To be answered for each spouse whether single or joint petition is filed.)

a. *Real property.* List all real property owned by either of you at date of filing of original petition herein. (Indicate in last column whether owned solely by husband or wife, or jointly.)

Description and location of property	Name of any co-owner other than spouse	Present market value (without deduction for mortgage or other security interest)	Amount of mortgage or other security interest on this property	Name of mortgagee or other secured creditor	Value claimed exempt, if any	Owned solely by husband or wife, or jointly
.....	.....	.....	.....	.....	.....	.....
.....	.....	.....	.....	.....	.....	.....
.....	.....	.....	.....	.....	.....	.....
.....	.....	.....	.....	.....	.....	.....
.....	.....	.....	.....	.....	.....	.....
.....	.....	.....	.....	.....	.....	.....
.....	.....	.....	.....	.....	.....	.....

b. *Personal property.* List all other property owned by either of you at date of filing of original petition herein.

Description	Location of property if not at debtor's residence	Name of any co-owner other than spouse	Present market value (without deduction for mortgage or other security interest)	Amount of mortgage or other security interest on this property	Name of mortgagee or other secured creditor	Value claimed exempt, if any	Owned solely by husband or wife, or jointly
Autos [give year and make]							
.....	.....	.....	.....	.....	.....	.....	.....
.....	.....	.....	.....	.....	.....	.....	.....
Household goods							
.....	.....	.....	.....	.....	.....	.....	.....
.....	.....	.....	.....	.....	.....	.....	.....
Personal effects							
.....	.....	.....	.....	.....	.....	.....	.....
.....	.....	.....	.....	.....	.....	.....	.....
Other (specify)							
.....	.....	.....	.....	.....	.....	.....	.....
.....	.....	.....	.....	.....	.....	.....	.....

[To be signed and verified by both spouses when joint petition is filed.]

State of .....
County of ..... } *ss.*

I, ..., do hereby swear that I have read the answers contained in the foregoing statement, consisting of ..... sheets, and that they are true and complete to the best of my knowledge, information, and belief.

....,
Husband.

Subscribed and sworn to before me on .....
....,
.....
[*Official character*]

I, ..., do hereby swear that I have read the answers contained in the foregoing statement, consisting of ..... sheets, and that they are true and complete to the best of my knowledge, information, and belief.

....,
Wife.

Subscribed and sworn to before me on .....
....,
.....
[*Official character*]

Attorney for Debtor(s):

....,
Name

.....
Address

FORM NO. 13–6

CHAPTER XIII PLAN

[*Caption, other than designation, as in Form No. 13–1*]

CHAPTER XIII PLAN

1. The future earnings of the debtor are submitted to the supervision and control of the court and the debtor [*or* the debtor's

employer] shall pay to the trustee the sum of $..... weekly [*or* semi-monthly *or* monthly].

2. From the payments so received, the trustee shall make disbursement as follows:

a. The priority payments required by Rule 13–309 (a).

b. After the above payments, dividends to secured creditors whose claims are duly proved and allowed as follows:

.....

.....

.....

.....

.....

.....

c. Subsequent to [*or* pro rata with] dividends to secured creditors, dividends to unsecured creditors whose claims are duly proved and allowed as follows:

.....

.....

.....

.....

3. [*If applicable*] The following executory contracts of the debtor are rejected:

.....

.....

.....

4. Title to the debtor's property shall revest in the debtor on confirmation of a plan [*or* upon dismissal of the case after confirmation pursuant to Rule 13–215 or upon closing of the case pursuant to Bankruptcy Rule 514].

Dated: .....

....,

Debtor.

Acceptances may be mailed to

.....,

.....

[*Post-office address*]

FORM No. 13–7

ORDER FOR FIRST MEETING OF CREDITORS AND RELATED ORDERS, COMBINED WITH NOTICE THEREOF AND OF AUTOMATIC STAY

[*Caption, other than designation, as in Form No. 13–1*]

ORDER FOR FIRST MEETING OF CREDITORS AND RELATED ORDERS, COMBINED WITH NOTICE THEREOF AND OF AUTOMATIC STAY

To the debtor, his creditors, and other parties in interest:

.... of *.....,

having filed a petition on ..... stating that he desires to effect a plan under Chapter XIII of the Bankruptcy Act, it is ordered, and notice is hereby given, that:

1. The first meeting of creditors shall be held at ....., on ....., at ..... o'clock ... m.

2. The debtor shall appear in person before the court at that time and place for the purpose of being examined.

3. The hearing on confirmation of the plan shall be held at the first meeting [*or* at ....., on..... at ..... o'clock ... m. *or* at a date to be later fixed at the first meeting].

You are further notified that:

The meeting may be continued or adjourned from time to time by order made in open court, without further written notice to creditors.

Creditors may file written objections to confirmation at any time prior to confirmation.

Creditors holding secured claims must, unless an extension of time is granted, file their claims on or before the date above set for the first meeting of creditors and all such creditors who fail to do so will not be treated as secured creditors for purposes of voting and distribution in the Chapter XIII case. At the meeting unsecured creditors may also file their claims, and all creditors may examine the debtor as permitted by the court, and transact such other business as may properly come before the meeting. In order to have his claim allowed for the purpose of voting and distribution, a creditor must file a claim, whether or not he is included in the list of creditors filed by the debtor. Where the Chapter XIII petition is filed in a pending bankruptcy case, claims filed in the bankruptcy case must be timely amended pursuant to Rule 13–302 (f). Claims which are not filed within 6 months after the date above set for the first meet-

---

**State post-office address.*

ing of creditors will not be allowed except as otherwise provided by law.

Any creditor filing a claim who has not filed a written acceptance or rejection of the plan pursuant to Rule 13–202 prior to the conclusion of the first meeting of creditors, in his proof of claim or otherwise, will be deemed to have accepted the plan.

The filing of the petition by the debtor above named operates as a stay of the commencement or continuation of any action against the debtor, of the enforcement of any judgment against him, of any act or the commencement or continuation of any court proceeding to enforce any lien on the property of the debtor, and of any court proceeding for the purpose of rehabilitation of the debtor or the liquidation of his estate, as provided by Rule 13–401.

A claim and an acceptance or rejection of the plan may be filed in the office of the undersigned bankruptcy judge on an official form prescribed in a proof of claim.

Dated: .....

.....,
Bankruptcy Judge.

FORM No. 13–8

POWER OF ATTORNEY

[*Caption, other than designation, as in Form No. 13–1*]

POWER OF ATTORNEY

To ....., of *.....,
and ....., of *.....:

The undersigned claimant hereby authorizes you, or any one of you, as attorney in fact for the undersigned and with full power of substitution, to receive dividends and in general to perform any act not constituting the practice of law for the undersigned in all matters arising in this case.

Dated: .....

Signed: .....
[*If appropriate*] By .....
as .....
Address: .....,
.....

[*If executed by an individual*] Acknowledged before me on .....

State post-office address.

[*If executed on behalf of a partnership*] Acknowledged before me on ....., by ...., who says that he is a member of the partnership named above and is authorized to execute this power of attorney in its behalf.

[*If executed on behalf of a corporation*] Acknowledged before me on ....., by ...., who says that he is ..... of the corporation named above and is authorized to execute this power of attorney on its behalf.

.....,

.....

[*Official character*]

FORM NO. 13–9

PROOF OF CLAIM; ACCEPTANCE OR REJECTION OF PLAN

[*Caption, other than designation, as in Form No. 13–1*]

PROOF OF CLAIM; ACCEPTANCE OR REJECTION OF PLAN

1. [*If claimant is an individual claiming for himself*] The undersigned, who is the claimant herein, resides at *.....

[*If claimant is a partnersip claiming through a member*] The undersigned, who resides at *....., is a member of ....., a partnership composed of the undersigned and ...., of *....., and doing business at *....., and is authorized to make this proof of claim [*if appropriate,* and to accept or reject the plan] on behalf of the partnership.

[*If claimant is a corporation claiming through an authorized officer*] The undersigned, who resides at *....., is the ..... of ....., a corporation organized under the laws of ..... and doing business at *....., and is authorized to make this proof of claim [*if appropriate,* and to accept or reject the plan] on behalf of the corporation.

[*If claim is made by agent*] The undersigned, who resides at *....., is the agent of ...., of *..... ....., and is authorized to make this proof of claim [*if appropriate,* and to accept or reject the plan] on behalf of the claimant.

**State post-office address.*

2. The debtor was, at the time of the filing of the petition initiating this case, and still is indebted [*or* liable] to this claimant in the sum of $.....

3. The consideration for this debt [*or* ground of this liability] is as follows: .....
.....
.....

4. This claim consists of $..... in principal amount and $..... in additional charges [*or* no additional charges]. [*Itemize all charges in addition to principal amount of debt, state basis for inclusion and computation, and set forth any other consideration relevant to the legality of any charge.*] .....
.....
.....
.....
.....

5. [*If the claim is founded on a writing*] The writing on which this claim is founded (or a duplicate thereof) is attached hereto [*or* cannot be attached for the reason set forth in the statement attached hereto].

6. [*If appropriate*] This claim is founded on an open account, which became [*or* will become] due on ....., as shown by the itemized statement attached hereto. Unless it is attached hereto or its absence is explained in an attached statement, no note or other negotiable instrument has been received for the account or any part of it.

7. No judgment has been rendered on the claim except .....
.....
.....

8. The amount of all payments on this claim has been credited and deducted for the purpose of making this proof of claim.

9. This claim is not subject to any setoff or counterclaim except
.....
.....

10. No security interest is held for this claim except .....
..... [*If security interest in property of the debtor is claimed*] The undersigned claims the security interest under the writing referred to in paragraph 5 hereof [*or* under a separate writing which (or a duplicate of which) is attached hereto, *or* under a separate writing which cannot be attached hereto for the reason set forth in the statement attached hereto]. Evidence of perfection of such security interest is also attached hereto.

[*Unless a security interest is properly claimed in this paragraph and proof of claim filed on or before the first date set for the first meeting of creditors or within such extended time as the court may allow, claimant will not be treated as a secured creditor for purposes of voting and distribution in the Chapter XIII case.*]

11. This claim is a general unsecured claim, except to the extent that the security interest, if any, described in paragraph 10 hereof is sufficient to satisfy the claim. [*If priority is claimed, state the amount and the basis thereof.*]

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

12. Claimant accepts [*or* rejects] the debtor's plan, dated .....
..... [*Any creditor filing a claim who has not filed a written acceptance or rejection of the plan, in his proof of claim or otherwise, before the conclusion of the first meeting of creditors, will be deemed to have accepted the plan.*]

Dated: .....

Signed: ....

Penalty for Presenting Fraudulent Claim. Fine of not more than $5,000 or imprisonment for not more than 5 years or both—Title 18, U. S. C., § 152.

FORM No. 13–10

PROOF OF CLAIM BY DEBTOR OR TRUSTEE

[*Caption, other than designation, as in Form No. 13–1*]

PROOF OF CLAIM BY DEBTOR OR TRUSTEE

1. [*If person making claim is an individual*] The undersigned, who is filing this proof of claim, is the debtor [*or* the trustee] in this case and resides at *.....

[*If person making claim is a corporation acting through an authorized officer*] The undersigned, who resides at *.....
..... is the ..... of ....., a corporation organized under the laws of ..... and doing business at *....., which corporation is the trustee in this case, and is authorized to make this proof of claim on behalf of the corporation.

[*If claim is made by agent*] The undersigned, who resides at *....., is the agent of ....., of *.....

State post-office address.

the debtor [*or* the trustee] in this case, and is authorized to make this proof of claim.

2. This claim is filed in the name of ....., of *....., who asserts a claim against the debtor in the sum of $.....

3. The consideration for this debt [*or* ground for this liability] is as follows: .....

.....

.....

4. This claim consists of $..... in principal amount and $..... in additional charges [*or* no additional charges]. [*If appropriate*] The undersigned believes that $..... of the additional charges are illegal for the following reasons: .....

.....

.....

.....

.....

.....

5. [*If the claim is founded on a writing*] The writing on which this claim is founded (or a duplicate thereof) is attached hereto [*or* cannot be attached for the reason set forth in the statement attached hereto].

6. [*If appropriate*] This claim is founded on an open account, which became [*or* will become] due on ..... A note or other negotiable instrument was given for $..... of the account on ..... [*or* no note or other negotiable instrument was given for the account or any part of it].

7. No judgment has been rendered on the claim except .....

.....

8. The amount of all payments on this claim has been credited and deducted for the purpose of making this proof of claim.

9. This claim is not subject to any setoff or counterclaim except

.....

.....

10. No security interest is held for this claim except .....

.....

[*If security interest in property of the debtor is held*] Claimant asserts the security interest under the writing referred to in paragraph 5 hereof [*or* under a separate writing which (or a duplicate of which) is attached hereto, *or* under a separate writing which cannot be attached hereto for the reason set forth in the statement attached hereto].

**State post-office address.*

11. This claim is a general unsecured claim, except to the extent that the security interest, if any, described in paragraph 10 hereof is sufficient to satisfy the claim. [*If claim is or may be entitled to priority, state the amount and the basis thereof.*]

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

Dated: .....

Signed: ....

Penalty for Presenting Fraudulent Claim. Fine of not more than $5,000 or imprisonment for not more than 5 years or both—Title 18, U. S. C., § 152.

FORM NO. 13–11

BOND OF TRUSTEE

[*Caption, other than designation, as in Form No. 13–1*]

BOND OF TRUSTEE

We, ... of *.....
....., as principal, and .....
..... of *.....
....., as surety, bind ourselves to the United States in the sum of $..... for the faithful performance by the undersigned principal of his official duties as trustee of the estate of the above-named debtor.

Dated: .....

....,
....

FORM NO. 13–12

ORDER APPROVING TRUSTEE'S BOND

[*Caption, other than designation, as in Form No. 13–1*]

ORDER APPROVING TRUSTEE'S BOND

The bond filed by .... of *....., as trustee of the estate of the above-named debtor is hereby approved.

Dated: .....

....,
Bankruptcy Judge.

**State post-office address.*

FORM No. 13–13

CERTIFICATE OF DESIGNATION AS TRUSTEE

[*Caption, other than designation, as in Form No. 13–1*]

CERTIFICATE OF DESIGNATION AS TRUSTEE

.... of *.....
....., standing trustee [*or* having previously filed a blanket bond approved by the court] has been designated as trustee of the estate of the above-named debtor.

Dated: .....

....,
Bankruptcy Judge.

FORM No. 13–14

ORDER FIXING TIME TO REJECT MODIFICATION OF PLAN PRIOR TO CONFIRMATION, COMBINED WITH NOTICE THEREOF

[*Caption, other than designation, as in Form No. 13–1*]

ORDER FIXING TIME TO REJECT MODIFICATION OF PLAN PRIOR TO CONFIRMATION, COMBINED WITH NOTICE THEREOF

To the debtor, his creditors, and other parties in interest:

The debtor having filed a modification of his plan on .....
....., it is ordered, and notice is hereby given, that:

1. ..... is fixed as the last day for filing a written rejection of the modification.

2. A copy [*or* A summary] of the modification is attached hereto. Any creditor who has accepted, or who is deemed to have accepted, the plan and who fails to file a written rejection of the modification within the time above specified shall be deemed to have accepted the plan as modified.

Dated: .....

....,
Bankruptcy Judge.

**State post-office address.*

FORM No. 13–15

ORDER CONFIRMING PLAN

[*Caption, other than designation, as in Form No. 13–1*]

ORDER CONFIRMING PLAN

The debtor's plan filed on ....., [*if appropriate,* as modified by a modification filed on .....,] having been transmitted to his creditors; and

[*If appropriate*] The deposit required by the plan in the sum of $..... having been made; and

It having been determined after hearing on notice:

(1) That the plan has been accepted in writing, or is deemed to have been accepted, by the creditors whose acceptance is required by law [*or* by all creditors affected thereby]; and

(2) That the plan has been proposed and its acceptance procured in good faith and not by any means, promises, or acts forbidden by law [*and, if the plan is accepted by less than all affected creditors,* the provisions of Chapter XIII of the Act have been complied with, the plan is for the best interests of the creditors and is feasible, and the debtor has not been guilty of any of the acts or failed to perform any of the duties which would be a bar to the discharge of a bankrupt];

It is ordered that:

1. The debtor's plan [*if appropriate,* as modified] is confirmed.

2. On ....., and each ..... thereafter until further order, the debtor shall pay [*or* ...., the employer of the debtor, shall deduct from the wages, salary, or commissions of the debtor and pay] to the trustee, ..., of *....., the sum of $.....

Dated: .....

....., *Bankruptcy Judge.*

**State post-office address.*

FORM No. 13–16

DISCHARGE OF DEBTOR

[*Caption, other than designation, as in Form No. 13–1*]

DISCHARGE OF DEBTOR

It appearing that the above-named debtor has filed a petition commencing a case under Chapter XIII of the Bankruptcy Act on ....., has had a plan confirmed, and has completed all payments under said plan [*or* has failed to complete payments under the plan due to circumstances for which he cannot justly be held accountable], it is ordered that:

1. The above-named debtor is released from all dischargeable debts.

2. Any judgment heretofore or hereafter obtained in any court other than this court is null and void as a determination of the personal liability of the debtor with respect to any of the following:

(a) debts dischargeable under § 17a and b and § 660 [*or* § 661] of the Act;

(b) unless heretofore or hereafter determined by order of this court to be nondischargeable, debts alleged to be excepted from discharge under clauses (2) and (4) of § 17a of the Act;

(c) unless heretofore or hereafter determined by order of this court to be nondischargeable, debts alleged to be excepted from discharge under clause (8) of § 17a of the Act, except those debts on which an action was pending on the date when the petition was filed as specified above in which a right to jury trial existed and a party has either made a timely demand therefor or has submitted to this court a signed statement of intention to make such a demand;

(d) debts determined by this court to be discharged under § 17c (3) of the Act.

3. All creditors whose debts are discharged by this order and all creditors whose judgments are declared null and void by paragraph 2 above are enjoined from instituting or continuing any action or employing any process to collect such debts as personal liabilities of the above-named debtor.

Dated: .....

....., *Bankruptcy Judge.*