BANKRUPTCY RULES

The Bankruptcy Rules were prescribed by the Supreme Court of the United States on April 25, 1983, pursuant to 28 U. S. C. § 2075, and were reported to the Congress by THE CHIEF JUSTICE on the same date. For the letter of transmittal, see *post*, p. 974. The Judicial Conference Report referred to in that letter is not reproduced herein.

Note that under 28 U. S. C. § 2075, these Rules do not take effect until so reported to Congress and until the expiration of 90 days thereafter. Moreover, Congress may defer the effective date to a later date or until approved by Act of Congress, or may modify such Rules.

For earlier publication of Bankruptcy Rules, see, *e. g.*, 425 U. S. 1003.

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LETTER OF TRANSMITTAL

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

APRIL 25, 1983

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

By direction of the Supreme Court of the United States, I have the honor to submit to the Congress rules to govern the practice and procedure in bankruptcy cases under Title 11, United States Code, which have been adopted by the Supreme Court pursuant to Title 28, United States Code, Section 2075.

These rules were previously submitted to the Court for its consideration by the Judicial Conference of the United States under the authority granted by Section 331 of Title 28, United States Code. Accompanying these new rules is an excerpt from the Report of the Judicial Conference of the United States, which contains Advisory Committee Notes and official forms approved by the Conference.

Respectfully,

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

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SUPREME COURT OF THE UNITED STATES

MONDAY, APRIL 25, 1983

ORDERED:

1. That the rules of procedure in bankruptcy cases, recommended by the Judicial Conference of the United States, and to be known as the Bankruptcy Rules, be, and they hereby are, prescribed pursuant to Section 2075, Title 28, United States Code, to govern the practice and procedure in cases under Title 11, United States Code, as hereinafter set forth:

[See *infra*, pp. 977–1093.]

2. That the aforementioned Bankruptcy Rules shall take effect on August 1, 1983, and shall be applicable to proceedings then pending, except to the extent that in the opinion of the court their application in a pending proceeding would not be feasible or would work injustice, in which event the former procedure applies.

3. That the Bankruptcy Rules, heretofore prescribed by this Court, be, and they hereby are, superseded by the new rules, effective August 1, 1983.

4. That THE CHIEF JUSTICE be, and he hereby is, authorized to transmit these new Bankruptcy Rules to the Congress in accordance with the provisions of Section 2075 of Title 28, United States Code.

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BANKRUPTCY RULES

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RULES OF PRACTICE AND PROCEDURE IN BANKRUPTCY

Rule 1001. Scope of rules and forms; short title.

The Bankruptcy Rules and Forms govern procedure in United States Bankruptcy Courts in cases under chapters 7, 9, 11 and 13 of title 11 of the United States Code. The rules shall be cited as the Bankruptcy Rules and the forms as the Official Bankruptcy Forms. These rules shall be construed to secure the expeditious and economical administration of every case under the Code and the just, speedy, and inexpensive determination of every proceeding therein.

PART I. COMMENCEMENT OF CASE; PROCEEDINGS RELATING TO PETITION AND ORDER FOR RELIEF

Rule 1002. Voluntary petition.

(a) Commencement.—A debtor's petition commencing a voluntary case shall be filed with the bankruptcy court and shall conform substantially to Official Form No. 1.

(b) Number of copies.

(1) Chapter 7 liquidation and Chapter 13 adjustment of debts of an individual with regular income.—An original and one copy of a petition requesting relief under chapter 7 or chapter 13 of the Code shall be filed, but additional copies may be required by local rule. If a stockbroker's petition for relief under subchapter III of chapter 7 is filed, an additional copy shall be filed and transmitted by the clerk to the Securities Investor Protection Corporation. If a commodity broker's petition for relief under subchapter IV of chapter 7 is filed, an additional copy shall be filed and transmitted by the clerk to the Commodity Futures Trading Commission.

(2) Chapter 9 adjustment of debts of a municipality and Chapter 11 reorganization.—An original and five copies of a petition requesting relief under chapter 9 or chapter 11 of

the Code shall be filed, but additional copies may be required by local rule. The clerk shall transmit one copy to the District Director of Internal Revenue for the district in which the case is filed, one copy of a chapter 9 petition to the Secretary of State of the state in which the debtor is located, two copies of a chapter 9 petition to the Securities and Exchange Commission and, if the debtor is a corporation, two copies of a chapter 11 petition to the Securities and Exchange Commission. If the petition requests relief for the reorganization of a railroad under subchapter IV of chapter 11 of the Code, two additional copies of the petition shall be filed, and the clerk shall transmit one copy to the Interstate Commerce Commission and one copy to the Secretary of Transportation.

Rule 1003. Involuntary petition; case ancillary to foreign proceeding.

(a) Commencement.—A petition commencing an involuntary case shall be filed with the bankruptcy court and shall conform substantially to Official Form No. 11.

(b) Number of copies.—The number and distribution of copies shall be as specified in Rule 1002.

(c) Transferor or transferee of claim.—A transferor or transferee of a claim shall annex to the original and each copy of the petition a copy of all documents evidencing the transfer, whether transferred unconditionally, for security, or otherwise, and a signed statement that the claim was not transferred for the purpose of commencing the case and setting forth the consideration for and terms of the transfer. A person who has transferred or acquired a claim for the purpose of commencing a case for liquidation under chapter 7 or for reorganization under chapter 11 shall not be a qualified petitioner.

(d) Joinder of petitioners after filing.—If the answer to an involuntary petition filed by fewer than three creditors avers the existence of 12 or more creditors, the debtor shall file with the answer a list of all 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

provided in § 303(b) of the Code, the court shall afford a reasonable opportunity for other creditors to join in the petition before a hearing is held thereon.

(e) Case ancillary to foreign proceeding.

(1) Petition; number of copies.—An original and one copy of a petition commencing a case ancillary to a foreign proceeding shall be filed with the bankruptcy court.

(2) Service of petition and summons.—On the filing of a petition pursuant to the preceding paragraph, the clerk shall forthwith issue a summons for service on all parties against whom relief is sought pursuant to § 304(b) of the Code and on such other parties as the court may direct. Rule 1010 applies to the manner of service of the summons and petition.

(3) Responsive pleadings and motions.—Rule 1011(a), (b), (c) and (e) applies to responsive pleadings and motions.

(4) Contested petition.—Rule 1018 applies when a petition filed under this rule is contested.

Rule 1004. Partnership petition.

(a) Voluntary petition.—A voluntary petition may be filed on behalf of the partnership by one or more general partners if all general partners consent to the petition.

(b) Involuntary petition; notice and summons.—After filing of an involuntary petition under § 303(b)(3) of the Code, (1) the petitioning partners or other petitioners shall cause forthwith a copy of the petition to be sent to or served on each general partner who is not a petitioner; and (2) the clerk shall issue forthwith a summons for service on each general partner who is not a petitioner. Rule 1010 applies to the form and service of the summons.

Rule 1005. Caption of petition.

The caption of a petition commencing a case under the Code shall contain the name of the court, the title of the case, and the docket number. The title of the case shall include the name, social security number and employer's tax identification number of the debtor and all other names used by the debtor within six years before filing the petition. If the

petition is not filed by the debtor, it shall include all names known to petitioners used by the debtor.

Rule 1006. Filing fee.

(a) General requirement.—Every petition shall be accompanied by the prescribed filing fee except as provided in subdivision (b) of this rule.

(b) Payment of filing fee in installments.

(1) Application for permission to pay filing fee in installments.—A voluntary petition by an individual shall be accepted for filing if accompanied by the debtor's signed application stating that he is unable to pay the filing fee except in installments. The application shall state the proposed terms of the installment payments and that the applicant has neither paid any money nor transferred any property to an attorney for services in connection with the case.

(2) Action on application.—Prior to the meeting of creditors, the court may order the filing fee paid to the clerk or grant leave to pay in installments and fix the number, amount and dates thereof. The number of installments shall not exceed four, and the final installment shall be payable not later than 120 days after filing the petition. For cause shown, the court may extend the time of any installment, provided the last installment is paid not later than 180 days after filing the petition.

(3) Postponement of attorney's fees.—The filing fee must be paid in full before the debtor may pay an attorney for services in connection with the case.

Rule 1007. Lists, schedules and statements; time limits.

(a) List of creditors and equity security holders.

(1) Voluntary case.—In a voluntary case, the debtor shall file with the petition a list containing the name and address of each creditor unless the petition is accompanied by a schedule of liabilities or a Chapter 13 Statement.

(2) Involuntary case.—In an involuntary case, the debtor shall file within 15 days after entry of the order for relief, a

list containing the name and address of each creditor unless a schedule of liabilities has been filed.

(3) Equity security holders.—In a chapter 11 reorganization case, a list of the debtor's equity security holders of each class showing the number and kind of interests registered in the name of each holder, and the last known address or place of business of each holder, shall be filed by the debtor within 15 days after entry of the order for relief unless the court orders otherwise.

(4) Extension of time.—Any extension of time for the filing of the lists required by this subdivision may be granted only on motion for cause shown and on notice to any trustee, committee appointed under the Code, or other party as the court may direct.

(b) Schedules and statements required.—The debtor in a chapter 7 liquidation case or chapter 11 reorganization case shall file with the court schedules of assets and liabilities, a statement of financial affairs, and a statement of executory contracts, prepared as prescribed by Official Forms No. 6 and either No. 7 or No. 8, whichever is appropriate, unless the court orders otherwise. The debtor in a chapter 13 individual's debt adjustment case shall file with the court a Chapter 13 Statement conforming to Official Form No. 10 and, if the debtor is engaged in business, a statement of financial affairs prepared as prescribed by Official Form No. 8.

(c) Time limits.—The schedule and statements, if not previously filed in a pending case, shall be filed with the petition in a voluntary case, or if the petition is accompanied by a list of all the debtor's creditors and their addresses, within 15 days thereafter, except as otherwise provided in subdivisions (d), (e) and (h) of this rule. In an involuntary case the schedules and statements shall be filed by the debtor within 15 days after entry of the order for relief. In a case converted from chapter 11 or chapter 13 to a chapter 7 case, the list of all the debtor's creditors, a schedule of assets and liabilities, a statement of financial affairs and a statement of executory contracts shall be filed by the debtor or other person directed by the court, within 15 days after the entry of the order of

conversion. Any extension of time for the filing of the schedules and statements may be granted only on motion for cause shown and on notice to any committee, trustee, examiner or other party as the court may direct.

(d) List of 20 largest creditors in Chapter 9 municipality case or Chapter 11 reorganization case.—In addition the list required by subdivision (a) of this rule, a debtor in a chapter 9 municipality case or a debtor in a voluntary chapter 11 reorganization case shall file with the petition a list containing the name, address and claim of the creditors that hold the 20 largest unsecured claims, excluding insiders, as prescribed by Official Form No. 9. In an involuntary chapter 11 reorganization case, such list shall be filed by the debtor within 2 days after entry of the order for relief under § 303(h) of the Code.

(e) List in Chapter 9 municipality cases.—The list required by subdivision (a) of this rule shall be filed by the debtor in a chapter 9 municipality case within such time as the court shall fix. If a proposed plan requires a revision of assessments so that the proportion of special assessments or special taxes to be assessed against some real property will be different from the proportion in effect at the date the petition is filed, the debtor shall also file with the court a list showing the name and address of each known holder of title, legal or equitable, to real property adversely affected. On motion for cause shown, the court may modify the requirements of this subdivision and subdivision (a) of this rule.

(f) Number of copies.—The number of copies of the schedules, statements and lists shall correspond to the number of copies of the petition required by Rules 1002 and 1003.

(g) Partnership and partners.—The general partners of a debtor partnership shall prepare and file the schedules of the assets and liabilities, statement of financial affairs, and statement of executory contracts of the partnership. The court may order any general partner to file a statement of personal assets and liabilities with the court within such time as the court may fix.

(h) Interests acquired or arising after petition.—Within ten days after the information comes to the debtor's knowledge or within such further time as the court may allow, the debtor in a chapter 7 liquidation case, chapter 11 reorganization case, or chapter 13 individual debt adjustment case shall file a supplemental schedule with respect to any property that the debtor acquires or becomes entitled to acquire within 180 days after the date of the filing of the petition (1) by bequest, devise or inheritance; (2) as a result of a property settlement agreement with the debtor's spouse, or of an interlocutory or final divorce decree; or (3) as a beneficiary of a life insurance policy or of a death benefit plan. If any of the property required to be reported under this subdivision is claimed by the debtor as exempt, the debtor shall claim the exemptions in the supplemental schedule. The duty to file a supplemental schedule in accordance with this subdivision continues notwithstanding the closing of the case before the duty is or can be performed, except that the schedule need not be filed in a chapter 11 or chapter 13 case with respect to property acquired after entry of the order confirming the plan.

(i) Disclosure of list of security holders.—After notice and hearing and for cause shown, the court may direct an entity other than the debtor or trustee to disclose any list of security holders of the debtor in its possession or under its control, indicating the name, address and security held by any of them. The entity possessing this list may be required either to produce the list or a true copy thereof, or permit inspection or copying, or otherwise disclose the information contained on the list.

(j) Impounding of lists.—On motion of a party in interest and for cause shown the court may direct the impounding of the lists filed under this rule, and may refuse to permit inspection by any entity. The court may permit inspection or use of the lists, however, by any party in interest on terms prescribed by the court.

(k) Preparation of list, schedules, or statements on default of debtor.—If a list, schedule, or statement is not pre-

pared and filed as required by this rule, the court may order the trustee, a petitioning creditor, committee, or other party to prepare and file any of these papers within a time fixed by the court. The court may approve reimbursement of the cost incurred in complying with such an order as an administrative expense.

Rule 1008. Verification of petitions and accompanying papers.

All petitions, lists, schedules, statements of financial affairs, statements of executory contracts, Chapter 13 Statements and amendments thereto shall be verified or contain an unsworn declaration as provided in 28 U. S. C. § 1746.

Rule 1009. Amendments of voluntary petitions, lists, schedules and statements of financial affairs.

A voluntary petition, list, schedule, statement of financial affairs, statement of executory contracts, or Chapter 13 Statement may be amended by the debtor as a matter of course at any time before the case is closed. The debtor shall give notice of the amendment to the trustee and to any entity affected thereby. On motion of a party in interest, the court may order any voluntary petition, list, schedule, statement of financial affairs, statement of executory contracts, or Chapter 13 Statement to be amended and the clerk shall give notice of the amendment to entities designated by the court. The amendment shall be filed in the same number as required of the original.

Rule 1010. Service of involuntary petition and summons.

On the filing of an involuntary petition, the clerk shall issue forthwith a summons for service on the debtor. The summons shall conform to Official Form No. 13 and a copy shall be served with a copy of the petition in the manner provided for service of a summons and complaint by Rule 7004(a) or (b). If service cannot be so made, the court may order the summons and petition to be served by mailing copies to the debtor's last known address, and by at least one publication

in the manner and form directed by the court. The summons and petition may be served on the debtor anywhere. Rule 7004(f) and Rule 4(g) and (h) F. R. Civ. P. apply when service is made or attempted under this rule.

Rule 1011. Responsive pleading or motion in involuntary cases.

(a) Who may contest petition.—The debtor named in an involuntary petition may contest the petition. In the case of a petition against a partnership under Rule 1004(b), a nonpetitioning general partner, or alleged general partner, may contest the petition.

(b) Defenses and objections; when presented.—Defenses and objections to the petition shall be presented in the manner prescribed by Rule 12 F. R. Civ. P. and shall be filed and served within 20 days after service of summons, except that if service is made by publication on a debtor or partner not residing or found within the state in which the bankruptcy court sits, the court shall prescribe the time for filing and serving the response.

(c) Effect of motion.—Service of a motion under Rule 12(b) F. R. Civ. P. shall extend the time for filing and serving a responsive pleading as permitted by Rule 12(a) F. R. Civ. P.

(d) Claims against petitioners.—A claim against a petitioning creditor may not be asserted in the answer except for the purpose of defeating the petition.

(e) Other pleadings.—No other pleadings shall be permitted, except that the court may order a reply to an answer and prescribe the time for filing and service.

Rule 1012. Examination of debtor, including discovery, on issue of nonpayment of debts in involuntary cases.

(a) Discovery.—When a petition commencing an involuntary case under § 303 of the Code alleges that the debtor is generally not paying its debts as they become due, and the debtor denies the allegation, discovery may be in accordance with Rules 26–37, F. R. Civ. P.

(b) Sanctions.—If the debtor fails to appear, produce records, or submit to examination or deposition, the court may enter an order for relief or other appropriate order, in addition to the sanctions available under Rule 37 F. R. Civ. P.

(c) Other procedures.—The examination or discovery provided in this rule does not preclude the procedures available under Rule 2004.

Rule 1013. Hearing and disposition of petition in involuntary cases.

(a) Contested petition.—The court shall determine the issues of a contested petition at the earliest practicable time and forthwith enter an order for relief, dismiss the petition, or enter other appropriate orders.

(b) Default.—If no pleading or other defense to a petition is filed within the time provided by Rule 1011, the court, on the next day, or as soon thereafter as practicable, shall enter an order for the relief prayed for in the petition.

(c) Order for relief.—An order for relief shall conform substantially to Official Form No. 14.

Rule 1014. Change of venue.

(a) Transfer of cases.

(1) Cases filed in proper district.—If a petition is filed in a proper district, on timely motion of a party in interest, and after hearing on notice to the petitioners and to other persons as directed by the court, the case may be transferred to any other district if the court determines that the transfer is for the convenience of the parties and witnesses in the interest of justice.

(2) Cases filed in improper district.—If a petition is filed in an improper district, on timely motion of a party in interest and after hearing on notice to the petitioners and to other persons as directed by the court, the case may be retained or transferred to any other district if the court determines that the retention or transfer is for the convenience of the parties and witnesses in the interest of justice. Notwithstanding

the foregoing, if no objection is raised, the court may, without a hearing, retain a case filed in an improper district.

(b) Procedure when petitions involving the same debtor or related debtors are filed in different courts.—If petitions commencing cases under the Code are filed in different districts by or against (1) the same debtor, or (2) a partnership and one or more of its general partners, or (3) two or more general partners, or (4) a debtor and an affiliate, on motion filed in the court in which the first petition is filed and after hearing on notice to the petitioners and other persons as directed by the court, the court may determine, for the convenience of the parties and witnesses, in the interest of justice the court or courts in which the case or cases should proceed. Except as otherwise ordered by the court in which the first petition is filed, the proceedings on the other petitions shall be stayed by the courts in which the petitions have been filed until the determination is made. The courts in which petitions have been filed shall act in accordance with the determination.

Rule 1015. Consolidation or joint administration of cases pending in same court.

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

(b) Cases involving two or more related debtors.—If a joint petition or two 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) two or more general partners, or (4) a debtor and an affiliate, the court may order a joint administration of the estates. Prior to entering an order the court shall give consideration to protecting creditors of different estates against potential conflicts of interest.

(c) Expediting and protective orders.—When an order for consolidation or joint administration of a joint case or two or more cases is entered pursuant to this rule, while protecting

the rights of the parties under the Code, the court may enter orders as may tend to avoid unnecessary costs and delay.

Rule 1016. Death or insanity of debtor.

Death or insanity of the debtor shall not abate a liquidation case under chapter 7 of the Code. In such event the estate shall be administered and the case concluded in the same manner, so far as possible, as though the death or insanity had not occurred. If a reorganization or individual's debt adjustment case is pending under chapter 11 or chapter 13, the case may be dismissed; or if further administration is possible and in the best interest of the parties, the case may proceed and be concluded in the same manner, so far as possible, as though the death or insanity had not occurred.

Rule 1017. Dismissal of case; suspension.

(a) Voluntary dismissal; dismissal for want of prosecution.—Except as provided in § 1307(b) of the Code, a petition shall not be dismissed on motion of the petitioner or for want of prosecution or other cause or by consent of the parties prior to a hearing on notice to all creditors as provided in Rule 2002(a). For such notice, the debtor shall file a list of all creditors with their addresses within the time fixed by the court unless the list was previously filed. If the debtor fails to file the list, the court may order the preparing and filing by the debtor or other person.

(b) Dismissal for failure to pay filing fee.

(1) For failure to pay any installment of the filing fee the court may dismiss the petition after hearing on notice to the debtor and the trustee.

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

(3) Notice of dismissal for failure to pay the filing fee shall be given within 30 days after the dismissal to creditors ap-

pearing on the list of creditors and to those who have filed claims, in the manner provided in Rule 2002.

(c) Suspension.—A petition shall not be dismissed or proceedings suspended pursuant to § 305 of the Code prior to a hearing on notice as provided in Rule 2002(a).

(d) Procedure for dismissal or conversion.—A proceeding to dismiss a case or convert a case to another chapter is governed by Rule 9014.

Rule 1018. Contested involuntary petitions; proceedings to vacate order for relief; applicability of rules in Part VII governing adversary proceedings.

The following rules in Part VII apply in all proceedings relating to a contested involuntary petition and in all proceedings to vacate an order for relief: Rules 7005, 7008–7010, 7015, 7016, 7024–7026, 7028–7037, 7052, 7054, 7056, and 7062, except as otherwise provided in Part I of these rules and unless the court otherwise directs. The court may direct that other rules in Part VII shall also apply. For the purposes of this rule a reference in the Part VII rules to adversary proceedings shall be read as a reference to proceedings relating to a contested involuntary petition, or contested ancillary petition, or proceedings to vacate an order for relief. Reference in the Federal Rules of Civil Procedure to the complaint shall be read as a reference to the petition.

Rule 1019. Conversion of Chapter 11 reorganization case or Chapter 13 individual's debt adjustment case to Chapter 7 liquidation case.

When a chapter 11 or chapter 13 case has been converted or reconverted to a chapter 7 case:

(1) Filing of lists, inventories, schedules, statements.—Lists, inventories, schedules, statements of financial affairs, and statements of executory contracts theretofore filed shall be deemed to be filed in the chapter 7 case, unless the court directs otherwise. If they have not been previously filed, the debtor shall comply with Rule 1007 as if an order for relief had been entered on an involuntary petition on the date of

the entry of the order directing that the case continue under chapter 7.

(2) Notice of order of conversion.—Within 20 days after entry of the order converting the case to a chapter 7 case, notice of the order shall be given to all creditors in the manner provided by Rule 2002 and shall be included in the notice of the meeting of creditors.

(3) Reconversion to Chapter 7.—When a chapter 7 case had been converted to a chapter 11 or chapter 13 case and thereafter reconverted to a chapter 7 case, if the time for filing claims, a complaint objecting to discharge, or a complaint to obtain a determination of the dischargeability of any debt expired in the original chapter 7 case, the time shall not be revived or extended except as provided in Rule 4004 or 4007.

(4) Claims filed in superseded case.—All claims filed in the superseded case shall be deemed filed in the chapter 7 case.

(5) Turnover of records and property.—After qualification of, or assumption of duties by the chapter 7 trustee, any debtor in possession or trustee previously acting in the chapter 11 or chapter 13 case shall, forthwith, unless otherwise ordered, turn over to the chapter 7 trustee all records and property of the estate in his possession or control.

(6) Filing final report and schedule of postpetition debts.—Each debtor in possession or trustee in the superseded case shall file with the court a final report and account within 30 days following the entry of the order of conversion, unless the court directs otherwise. The report shall include a schedule of unpaid debts incurred after commencement of the chapter 11 or chapter 13 case. If the conversion order is entered after confirmation of a plan, the debtor shall file with the court (A) a schedule of property not listed in the final report and account acquired after the filing of the original petition but before entry of the conversion order; (B) a schedule of unpaid debts not listed in the final report and account incurred after confirmation but before entry of the conversion order; and (C) a schedule of executory contracts entered

into or assumed after the filing of the original petition but before entry of the conversion order.

(7) Filing of postpetition claims; notice.—On the filing of the schedule of unpaid debts, the court shall order that written notice be given to those entities, including the United States, any state, or any subdivision thereof, that their claims may be filed within 60 days from the entry of the order, pursuant to Rule 3001(a)–(d). The court shall fix the time for filing claims arising from debts not so scheduled or arising from rejection of executory contracts under §§ 348(c) and 365(d) of the Code.

(8) Extension of time to file claims against surplus.—Any extension of time for the filing of claims against a surplus granted pursuant to Rule 3002(c)(6), shall apply to holders of claims who failed to file their claims within the time prescribed, or fixed by the court pursuant to paragraph (7) of this rule, and notice shall be given as provided in Rule 2002.

PART II. OFFICERS AND ADMINISTRATION; NOTICES; MEETINGS; EXAMINATIONS; ELECTIONS; ATTORNEYS AND ACCOUNTANTS

Rule 2001. Appointment of interim trustee before order for relief in a Chapter 7 liquidation case.

(a) Appointment.—At any time following the commencement of an involuntary liquidation case and before an order for relief, the court on written motion of a party in interest may appoint an interim trustee under § 303(g) of the Code. The motion shall set forth the necessity for the appointment and may be granted only after hearing on notice to the debtor, the petitioning creditors and other parties in interest as the court may designate.

(b) Bond of movant.—An interim trustee may not be appointed under this rule unless the movant furnishes a bond in an amount approved by the court, conditioned to indemnify the debtor for costs, attorney's fee, expenses, and damages allowable under § 303(i) of the Code.

(c) Order of appointment.—The order appointing the interim trustee shall state why the appointment is necessary and shall specify the trustee's duties.

(d) Turnover and report.—Following qualification of the trustee selected under § 702 of the Code, the interim trustee, unless otherwise ordered, shall (1) forthwith turn over to the trustee all the records and property of the estate in possession or subject to control of the interim trustee and, (2) within 30 days thereafter file a final report and account.

Rule 2002. Notices to creditors, equity security holders, and United States.

(a) Twenty-day notices to parties in interest.—Except as provided in subdivisions (h), (i) and (k) of this rule, the clerk, or some other person as the court may direct, shall give the debtor, the trustee, all creditors and indenture trustees not less than 20 days notice by mail of (1) the meeting of creditors pursuant to § 341 of the Code; (2) a proposed use, sale, or lease of property other than in the ordinary course of business unless the court for cause shown shortens the time or directs another method of giving notice; (3) the hearing on 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 3002(c)(6); (5) in a chapter 7 liquidation and a chapter 11 reorganization case, the hearing on the dismissal or conversion of a case to another chapter; (6) the time fixed to accept or reject a proposed modification of a plan; (7) hearings on all applications for compensation or reimbursement of expenses totalling in excess of $100; and (8) the time fixed for filing proofs of claims pursuant to Rule 3003(c).

(b) Twenty-five-day notices to parties in interest.—Except as provided in subdivisions (h), (i) and (k) of this rule, the clerk, or some other person as the court may direct, shall give the debtor, the trustee, all creditors and indenture trustees not less than 25 days notice by mail of (1) the time fixed for filing objections to and the hearing to consider ap-

proval of a disclosure statement; and (2) the time fixed for filing objections to and the hearing to consider confirmation of a plan.

(c) Content of notice.

(1) Proposed use, sale, or lease of property.—Subject to Rule 6004 the notice of a proposed use, sale, or lease of property required by subdivision (a)(2) of this rule shall include the time and place of any public sale, the terms and conditions of any private sale and the time fixed for filing objections. The notice of a proposed use, sale, or lease of property, including real estate, is sufficient if it generally describes the property.

(2) Notice of hearing on compensation.—The notice of a hearing on an application for compensation or reimbursement of expenses required by subdivision (a)(7) of this rule shall identify the applicant and the amounts requested.

(d) Notice to equity security holders.—In a chapter 11 reorganization case, unless otherwise ordered by the court, the clerk, or some other person as the court may direct, shall in the manner and form directed by the court give notice to all equity security holders of (1) the order for relief; (2) any meeting of equity security holders ordered by the court pursuant to § 341 of the Code; (3) the hearing on the dismissal or conversion of a case to another chapter; (4) the time fixed for filing objections to and the hearing to consider approval of a disclosure statement; (5) the time fixed for filing objections to and the hearing to consider confirmation of a plan; and (6) the time fixed to accept or reject a proposed modification of a plan.

(e) Notice of no dividend.—In a chapter 7 liquidation case, if it appears from the schedules that there are no assets from which a dividend can be paid, the notice of the meeting of creditors may include 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, further notice will be given for the filing of claims.

(f) Other notices.—Except as provided in subdivision (k) of this rule, the clerk shall give the debtor, all creditors and in-

denture trustees notice by mail of (1) the order for relief; (2) dismissal of the case; (3) the time allowed for filing claims pursuant to Rule 3002; (4) the entry of an order directing that the case be converted to a case under a different chapter; (5) the time fixed for filing a complaint objecting to the debtor's discharge pursuant to § 727 of the Code as provided in Rule 4004; (6) the time fixed for filing a complaint to determine the dischargeability of a debt pursuant to § 523 of the Code as provided in Rule 4007; (7) the order of discharge as provided in Rule 4004(g); (8) the waiver denial, or revocation of a discharge as provided in Rule 4006; (9) entry of an order confirming a chapter 9 or 11 plan; and (10) a summary of the trustee's final report and account in a chapter 7 case if the net proceeds realized exceed $250. Notice of the time fixed for accepting or rejecting a plan pursuant to Rule 3017(c) shall be given in accordance with Rule 3017(d).

(g) Addresses of notices.—All notices required to be mailed under this rule to a creditor, equity security holder, or indenture trustee shall be addressed as he or his authorized agent may direct in a request filed with the court; otherwise, to the address shown in the list of creditors or the schedule whichever is filed later, but if a different address is stated in a proof of claim duly filed, that address shall be used.

(h) Notices to creditors whose claims are filed.—In a chapter 7 case, the court may, after 90 days following the first date set for the meeting of creditors pursuant to § 341 of the Code, 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 3002(c)(6).

(i) Notices to committees.—Copies of all notices required to be mailed under this rule shall be mailed to the committees appointed pursuant to the Code or to their authorized agents. Notwithstanding the foregoing subdivisions, the court may order that notices required by subdivision (a)(2), (3) and (7) of this rule be mailed only to the committees or to their authorized agents and to the creditors and equity security hold-

ers who file with the court a request that all notices be mailed to them.

(j) Notices to the United States.—Copies of notices required to be mailed to all creditors under this rule shall be mailed (1) in a chapter 11 reorganization case to the Securities and Exchange Commission at Washington, D. C., and at any other place the Commission designates in writing filed with the court if the Commission has filed a notice of appearance in the case or has made a request in writing filed with the court; (2) in a commodity broker case, to the Commodity Futures Trading Commission at Washington, D. C.; (3) in a chapter 11 case to the District Director of Internal Revenue for the district in which the case is pending; (4) if the papers in the case disclose a debt to the United States other than for taxes, to the United States attorney for the district in which the case is pending and to the department, agency, or instrumentality of the United States through which the debtor became indebted; or if the filed papers disclose a stock interest of the United States, to the Secretary of the Treasury at Washington, D. C.

(k) Notice by publication.—The court may order notice by publication if it finds that notice by mail as provided in this rule is impracticable or that it is desirable to supplement the notice.

(l) Orders designating matter of notices.—The court may from time to time enter orders designating the matters in respect to which, the person to whom, and the form and manner in which notices shall be sent except as otherwise provided by these rules.

(m) Caption.—The caption of every notice given under this rule shall comply with Rule 1005.

Rule 2003. Meeting of creditors or equity security holders.

(a) Date and place.—The court shall call a meeting of creditors to be held not less than 20 nor more than 40 days after the order for relief. If there is an appeal from or a motion to vacate the order for relief, or if there is a motion to dismiss the case, the court may set a later time for the meet-

ing. The meeting may be held at a regular place for holding court or at any other place designated by the court within the district convenient for the parties in interest.

(b) Order of meeting.

(1) Meeting of creditors.—The clerk shall preside at the meeting of creditors unless (1) the court designates a different person, or (2) the creditors who may vote for a trustee under § 702(a) of the Code and who hold a majority in amount of claims that vote designate a presiding officer. In a chapter 11 reorganization case, if a chairman has been selected by a creditors' committee appointed pursuant to § 1102(a)(1), the chairman or his designee shall preside. The business of the meeting shall include the examination of the debtor under oath and, in a chapter 7 liquidation case, may include the election of a trustee or of a creditors' committee. The presiding officer shall have the authority to administer oaths. When a trustee is elected, the creditors may recommend the amount of the trustee's bond to be fixed by the court.

(2) Meeting of equity security holders.—If the court orders a meeting of equity security holders pursuant to § 341(b) of the Code, the clerk shall preside unless the holders of equity security interests present at the meeting who hold a majority in amount of the interests at the meeting designate a presiding officer.

(3) Right to vote.—In a chapter 7 liquidation case, a creditor is entitled to vote at a meeting if, at or before the meeting, he has filed a proof of claim or a writing setting forth facts evidencing a right to vote pursuant to § 702(a) of the Code unless objection is made to the claim or the proof of claim is insufficient on its face. If the court orders an election of a separate trustee for a general partner's estate under Rule 2009(e)(1), a creditor of the partnership may file a proof of claim or writing evidencing a right to vote for that trustee notwithstanding that a trustee for the partnership has previously qualified. Notwithstanding objection to the amount or allowability of a claim for the purpose of voting, the court may, after such notice and hearing as it may direct, tempo-

rarily allow it for that purpose in an amount that seems proper to the court.

(c) Minutes and record of meeting.—Minutes of the meeting of creditors or equity security holders shall be prepared by the presiding officer. Any examination under oath shall be recorded verbatim by electronic sound recording equipment or other means of recording.

(d) Report to the court.—The presiding officer shall transmit to the court the name and address of any person elected trustee or a member of a creditors' committee. If an election is disputed, the presiding officer shall promptly inform the court in writing that a dispute exists. Pending disposition by the court of a disputed election for trustee, the interim trustee shall continue in office. If no motion for the resolution of such election dispute is made to the court within 10 days after the date of the creditors' meeting, the interim trustee shall serve as trustee in the case.

(e) Adjournment.—The meeting may be adjourned from time to time by announcement at the meeting of the adjourned date and time without further written notice.

Rule 2004. Examination.

(a) Examination on motion.—On motion of any party in interest, the court may order the examination of any person.

(b) Scope of examination.—The examination of any person under this rule or of the debtor under § 343 of the Code may relate only to the acts, conduct, or property or to the liabilities and financial condition of the debtor, or to any matter which may affect the administration of the debtor's estate, or to the debtor's right to a discharge. In an individual's debt adjustment case under chapter 13 or a reorganization case under chapter 11 of the Code, other than for the reorganization of a railroad, the examination may also relate to the operation of any business and the desirability of its continuance, the source of any money or property acquired or to be acquired by the debtor for purposes of consummating a plan and the consideration given or offered therefor, and any

other matter relevant to the case or to the formulation of a plan.

(c) Compelling attendance and production of documentary evidence.—The attendance of any person for examination and the production of documentary evidence may be compelled in the manner provided in Rule 9016 for the attendance of witnesses at a hearing or trial.

(d) Time and place of examination of debtor.—The court may for cause shown and on terms as it may impose order the debtor to be examined under this rule at any time or place it designates, whether within or without the district wherein the case is pending.

(e) Mileage.—A person other than a debtor shall not be required to attend as a witness unless lawful mileage and witness fee for one day's attendance shall be first tendered. If the debtor resides more than 100 miles from the place of examination when required to appear for an examination under this rule, the mileage allowed by law to a witness shall be tendered for any distance more than 100 miles from the debtor's residence at the date of the filing of the first petition commencing a case under the Code or the residence at the time the debtor is required to appear for the examination, whichever is the lesser.

Rule 2005. Apprehension and removal of debtor to compel attendance for examination.

(a) Order to compel attendance for examination.—On motion of any party in interest supported by an affidavit alleging (1) that the examination of the debtor is necessary for the proper administration of the estate and that there is reasonable cause to believe that the debtor is about to leave or has left his residence or principal place of business to avoid examination, or (2) that the debtor has evaded service of a subpoena or of an order to attend for examination, or (3) that the debtor has willfully disobeyed a subpoena or order to attend for examination, duly served, the court may issue to the marshal, or some other officer authorized by law, an order directing the officer to bring the debtor before the court with-

out unnecessary delay. If, after hearing, the court finds the allegations to be true, the court shall thereupon cause the debtor to be examined forthwith. If necessary, the court shall fix conditions for further examination and for the debtor's obedience to all orders made in reference thereto.

(b) Removal.—Whenever any order to bring the debtor before the court is issued under this rule and the debtor is found in a district other than that of the court issuing the order, the debtor may be taken into custody under the 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 debtor 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 debtor shall be brought without unnecessary delay before the nearest federal magistrate, bankruptcy judge, or district judge. If, after hearing, the magistrate, bankruptcy judge, or district judge finds that an order has issued under this rule and that the person in custody is the debtor, or if the person in custody waives a hearing, the magistrate, bankruptcy judge, or district judge shall issue an order of removal and the person in custody shall be released on conditions assuring prompt appearance before the court which issued the order to compel the 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 2006. Solicitation and voting of proxies in Chapter 7 liquidation cases.

(a) Applicability.—This rule applies only in a liquidation case pending under chapter 7 of the Code.

(b) Definitions.

(1) Proxy.—A proxy is a written power of attorney authorizing any person to vote the claim or otherwise act as the

owner's attorney in fact in connection with the administration of the estate.

(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 the owner, 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 debtor.

(c) Authorized solicitation.

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

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

(d) Solicitation not authorized.—This rule does not permit solicitation (1) in any interest other than that of general creditors; (2) by or on behalf of any custodian; (3) by the interim trustee or by or on behalf of any person not qualified to vote under § 702(a) of the Code; (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.

(e) Data required from holders of multiple proxies.—At any time before the voting commences at any meeting of creditors pursuant to Rule 2003, or at any other time as the

court may direct, a holder of two or more proxies shall file with the clerk 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 each proxy, including:

(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 debtor and with each other. If the solicitor, forwarder, or proxyholder is an association, there shall also be included 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 allowable unsecured claims on the date of the filing of the petition. If the solicitor, forwarder, or proxyholder is a committee of creditors, the statement shall also set forth the date and place the committee was organized, that the committee was organized in accordance with clause (B) or (C) of paragraph (c)(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, or 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 solicitor or forwarder

that no consideration has been paid or promised by him for the proxy, and whether there is any agreement, and, if so, the particulars thereof, between the solicitor or forwarder and any other person for the payment of any consideration in connection with voting the proxy, or for sharing 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 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.

(f) Enforcement of restrictions on solicitation.—On motion of any party in interest or on its own initiative, the court 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 notice and a hearing 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 appropriate action.

Rule 2007. Appointment of creditors' committee organized before order for relief.

(a) Appointment.—In a chapter 9 municipality or chapter 11 reorganization case, on application of a party in interest and after notice as the court may direct, the court may appoint as the committee of unsecured creditors required by § 1102(a) of the Code, members of a committee selected before the order for relief in accordance with subdivision (b) of this rule.

(b) Selection of members of committee.—The court may find that a committee selected by unsecured creditors before the order for relief in a chapter 9 or chapter 11 case of the Code satisfies the requirements of § 1102(b)(1) of the Code if:

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

(2) all proxies voted at the meeting for the elected committee were solicited pursuant to Rule 2006 and the lists and statements required by subdivision (e) thereof have been filed with the court; and

(3) the organization of the committee was in all other respects fair and proper.

Rule 2008. Notice to trustee of selection.

The clerk shall immediately notify the trustee of his selection, how he may qualify and, if applicable, the amount of the bond. The trustee shall notify the court in writing of the acceptance or rejection of the office within five days after receipt of notice of selection.

Rule 2009. 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 two or more estates pursuant to Rule 1015(b), creditors may elect a single trustee 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 1015(b) the creditors of any debtor may elect a separate trustee for the estate of the debtor as provided in § 702 of the Code.

(c) Appointment of trustees for estates being jointly administered.

(1) Chapter 7 liquidation cases.—The court may appoint one or more interim trustees for estates being jointly administered in chapter 7 cases.

(2) Chapter 11 reorganization cases.—If a trustee is ordered, the court may appoint one or more trustees for estates being jointly administered in chapter 11 cases.

(3) Chapter 13 individual's debt adjustment cases.—The court may appoint one or more trustees for estates being jointly administered in chapter 13 cases.

(d) Potential conflicts of interest.—On a showing that creditors or equity security holders of the different estates will be prejudiced by conflicts of interest of a common trustee, the court shall order separate trustees for estates being jointly administered.

(e) Trustees for partnership and partners' individual estates.—Notwithstanding the foregoing provisions of this rule, the trustee of a partnership estate shall also be the trustee of the individual estate of any general partner if the estates are being jointly administered unless the court, for cause shown, either (1) permits the creditors of a general partner to elect a separate trustee or (2) appoints a separate trustee for the individual estate.

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

Rule 2010. Qualification by trustee; proceeding on bond.

(a) Blanket bond.—The court may authorize a blanket bond in favor of the United States conditioned on the faithful performance of official duties by the trustee or trustees to cover (1) a person who qualifies as trustee in a number of cases, and (2) a number of trustees each of whom qualifies in a different case.

(b) Qualification by filing acceptance.—A trustee for whom a blanket bond has been filed shall qualify by filing an acceptance of the election or appointment.

(c) Evidence of qualification.—A certified copy of the order approving the trustee's bond or of the acceptance filed under subdivision (b) of this rule shall constitute conclusive evidence of qualification.

(d) Proceeding on bond.—A proceeding on the trustee's bond 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.

Rule 2011. Evidence of debtor in possession.

Whenever evidence is required that a debtor is a debtor in possession, the clerk may so certify and the certificate shall constitute conclusive evidence of that fact.

Rule 2012. Substitution of successor trustee; accounting.

When a trustee dies, resigns, is removed, or otherwise ceases to hold office during the pendency of a case under the Code:

(1) the successor is automatically substituted as a party in any pending action, proceeding, or matter; and

(2) within the time fixed by the court, the successor trustee shall prepare and file with the court an accounting of the prior administration of the estate.

Rule 2013. Limitation on appointment or employment of trustees, examiners, appraisers and auctioneers.

(a) Limitation on appointments.—Appointments of trustees and examiners and employment of appraisers and auctioneers shall be made so that the annual aggregate compensation of any person shall not be disproportionate or excessive, giving proper regard to geographic constraints.

(b) Record to be kept.—The clerk shall maintain a public record listing fees paid from estates (1) to trustees and attorneys, accountants, appraisers, auctioneers and other professional persons employed by trustees, and (2) to examiners appointed by the court. The record shall include the name and docket number of the case, the name of the individual or firm receiving the fee and the amount of the fee paid. The record shall be maintained chronologically and shall be kept current and open to examination by the public without charge.

(c) Summary of record.—At the close of each annual period, the clerk shall prepare a summary of the public record

by individual or firm name, to reflect total fees paid during the preceding year. The summary shall be open to examination by the public without charge.

Rule 2014. Employment of professional persons.

(a) Application for and order of employment.—An order approving the employment of attorneys, accountants, appraisers, auctioneers, agents, or other professional persons pursuant to § 327 or § 1103 of the Code shall be made only on application of the trustee or committee, stating the specific facts showing the necessity for the employment, the name of the person to be employed, the reasons for his selection, the professional services to be rendered, any proposed arrangement for compensation, and, to the best of the applicant's knowledge, all of the person's connections with the debtor, creditors, or any other party in interest, their respective attorneys and accountants.

(b) Services rendered by member or associate or firm of attorneys or accountants.—If, under the Code and 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, any partner, member, or regular associate of the partnership, corporation or individual may act as attorney or accountant so employed, without further order of the court.

Rule 2015. Duty of trustee or debtor in possession to keep records, make reports, and give notice of case.

(a) Trustee or debtor in possession.—A trustee or debtor in possession shall (1) in a chapter 7 liquidation and a chapter 11 reorganization case and if the court so directs within 30 days after entering on his duties file a complete inventory of the property of the debtor unless such an inventory has already been filed; (2) keep a record of receipts and the disposition of money and property received; (3) file the reports and summaries required by § 704(7) of the Code within the times fixed by the court and which shall include a statement, if payments are made to employees, of the amounts of deductions

for all taxes required to be withheld or paid for and in behalf of employees and the place where these amounts are deposited; (4) as soon as possible after the commencement of the case, give notice of the case to every person known to be holding money or property subject to withdrawal or order of the debtor, including every bank, savings or building and loan association, public utility company, and landlord with whom the debtor has a deposit, and to every insurance company which has issued a policy having a cash surrender value payable to the debtor, except that notice need not be given to any entity who has knowledge or has previously been notified of the case; (5) within 30 days after the date of the order confirming a plan or within such other time as the court may fix, file a report with the court concerning the action taken by the trustee or debtor in possession and the progress made in the consummation of the plan and file further reports as the court may direct until the plan has been consummated; (6) after consummation of a plan, file an application for a final decree showing that the plan has been consummated, and the names and addresses, if known, of the holders of claims or interests which have not been surrendered or released in accordance with the provisions of the plan and the nature and amounts of claims or interests, and other facts as may be necessary to enable the court to pass on the provisions to be included in the final decree.

(b) Chapter 13 trustee and debtor.

(1) Business cases.—In a chapter 13 individual's debt adjustment case, when the debtor is engaged in business, the debtor shall perform the duties prescribed by clauses (1)–(4) of subdivision (a) of this rule.

(2) Nonbusiness cases.—In a chapter 13 individual's debt adjustment case, when the debtor is not engaged in business, the trustee shall perform the duties prescribed by clause (2) of subdivision (a) of this rule.

(c) Transmission of reports.—In a chapter 11 case the court may direct that copies or summaries of annual reports and copies or summaries of other reports shall be mailed to the creditors, equity security holders, and indenture trust-

ees. The court may also direct the publication of summaries of any such reports.

Rule 2016. Compensation for services rendered and reimbursement of expenses.

(a) Application for compensation or reimbursement.—A person seeking interim or final 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, time expended and expenses incurred, and (2) the amounts requested. An application for compensation shall include a statement as to what payments have theretofore been made or promised to the applicant 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 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 sharing of compensation or agreement or understanding therefor, except that details of any agreement by the applicant for the sharing of 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.

(b) Disclosure of compensation paid or promised to attorney for debtor.—Every attorney for a debtor, whether or not the attorney applies for compensation, shall file with the court on or before the first date set for the meeting of creditors, or at another time as the court may direct, the statement required by § 329 of the Code which shall also set forth whether the attorney has shared or agreed to share the 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 the compensation with a member or regular associate of the attorney's law firm shall not be required.

Rule 2017. Examination of debtor's transactions with his attorney.

(a) Payment or transfer to attorney before commencement of case.—On motion by any party in interest or on the court's own initiative, the court after notice and a hearing may determine whether 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 Code by or against the debtor, to an attorney for services rendered or to be rendered is excessive.

(b) Payment or transfer to attorney after commencement of case.—On motion by the debtor or on the court's own initiative, the court after notice and a hearing may determine whether any payment of money or any transfer of property, or any agreement therefor, by the debtor to an attorney after the commencement of a case under the Code is excessive, 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 case.

Rule 2018. Intervention; right to be heard.

(a) Permissive intervention.—In a case under the Code, after hearing on such notice as the court directs and for cause shown, the court may permit any interested entity to intervene generally or with respect to any specified matter.

(b) Intervention by attorney general of a state.—In a chapter 7, 11, or 13 case, the Attorney General of a State may appear and be heard on behalf of consumer creditors if the court determines the appearance is in the public interest, but the Attorney General may not appeal from any judgment, order, or decree in the case.

(c) Chapter 9 municipality case.—The Secretary of the Treasury may, or if requested by the court shall, intervene in a chapter 9 case. Representatives of the state in which the debtor is located may intervene in a chapter 9 case with respect to matters specified by the court.

(d) Labor unions.—In a chapter 9 or 11 case, a labor union or employees' association, representative of employees of the debtor, shall have the right to be heard on the economic soundness of a plan affecting the interests of the employees but it may not appeal from any judgment, order, or decree in the case unless otherwise permitted by law.

(e) Service on entities covered by this rule.—The court may enter orders governing the service of notice and papers on entities permitted to intervene or be heard pursuant to this rule.

Rule 2019. Representation of creditors and equity security holders in Chapter 9 municipality and Chapter 11 reorganization cases.

(a) Data required.—In a chapter 9 municipality or chapter 11 reorganization case, except with respect to a committee appointed pursuant to § 1102 of the Code, every person or committee representing more than one creditor or equity security holder and, unless otherwise directed by the court, every indenture trustee, shall file a verified statement with the clerk setting forth (1) the name and address of the creditor or equity security holder; (2) the nature and amount of the claim or interest and the time of acquisition thereof unless it is alleged to have been acquired more than one year prior to the filing of the petition; (3) a recital of the pertinent facts and circumstances in connection with the employment of the person or indenture trustee, and, in the case of a committee, the name or names of the person or persons at whose instance, directly or indirectly, the employment was arranged or the committee was organized or agreed to act; and (4) with reference to the time of the employment of the person, the organization or formation of the committee, or the appearance in the case of any indenture trustee, the amounts of claims or interests owned by the person, the members of the committee or the indenture trustee, the times when acquired, the amounts paid therefor, and any sales or other disposition thereof. The statement shall include a copy of the instrument, if any, whereby the person, committee, or indenture trustee is empowered to act on behalf of creditors or

equity security holders. A supplemental statement shall be filed promptly, setting forth any material changes in the facts contained in the statement filed pursuant to this subdivision.

(b) Failure to comply; effect.—On motion of any party in interest or on its own initiative, the court may (1) determine whether there has been a failure to comply with the provisions of subdivision (a) of this rule or with any other applicable law regulating the activities and personnel of any person, committee, or indenture trustee or any other impropriety in connection with any solicitation and, if it so determines, the court may refuse to permit that person, committee, or indenture trustee to be heard further or to intervene in the case; (2) examine any representation provision of a deposit agreement, proxy, trust mortgage, trust indenture, or deed of trust, or committee or other authorization, and any claim or interest acquired by any person or committee in contemplation or in the course of a case under the Code and grant appropriate relief; and (3) hold invalid any authority, acceptance, rejection, or objection given, procured, or received by a person or committee who has not complied with this rule or with § 1125(b) of the Code.

PART III. CLAIMS AND DISTRIBUTION TO CREDITORS AND EQUITY INTEREST HOLDERS; PLANS

Rule 3001. Proof of claim.

(a) Form and content.—A proof of claim is a written statement setting forth a creditor's claim. A proof of claim for wages, salary, or commissions shall conform substantially to Official Form No. 20 or No. 21; any other proof of claim shall conform substantially to Official Form No. 19.

(b) Who may execute.—A proof of claim shall be executed by the creditor or the creditor's authorized agent except as provided in Rules 3004 and 3005.

(c) Claim based on a writing.—When a claim, or an interest in property of the debtor securing the claim, is based on a writing, the original or a duplicate shall be filed with the proof of claim. If the writing has been lost or destroyed, a statement of the circumstances of the loss or destruction shall be filed with the claim.

(d) Evidence of perfection of security interest.—If a security interest in property of the debtor is claimed, the proof of claim shall be accompanied by evidence that the security interest has been perfected.

(e) Transferred claim.

(1) Unconditional transfer before proof filed.—If a claim other than one based on a bond or debenture has been unconditionally transferred before proof of the claim has been filed, the proof of claim may be filed only by the transferee. If the claim has been transferred after the filing of the petition, the proof of claim 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 setting forth the consideration for the transfer and why the transferee is unable to obtain the statement from the transferor.

(2) Unconditional transfer after proof filed.—If a claim other than one based on a bond or debenture has been unconditionally transferred after the proof of claim has been filed, evidence of the terms of the transfer shall be filed by the transferee. The clerk shall immediately notify the original claimant by mail of the filing of the evidence of transfer and that objection thereto, if any, must be filed with the clerk within 20 days of the mailing of the notice or within any additional time allowed by the court. If the court finds, after a hearing on notice, that the claim has been unconditionally transferred, it shall enter an order substituting the transferee for the original claimant, otherwise the court shall enter such order as may be appropriate.

(3) Transfer of claim for security before proof filed.—If a claim other than one based on a bond or debenture 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. If the claim was transferred after the filing of the petition, the proof shall also be supported by (A) a statement of the transferor acknowledging the transfer and stating the consider-

ation therefor, or (B) a statement of the transferee setting forth the consideration for the transfer and why the transferee is unable to obtain the statement from the transferor. If either the transferor or the transferee files a proof of claim, the clerk shall immediately notify the other by mail of the right to join in the filed claim. If both transferor and transferee file proofs of the same claim, the proofs shall be consolidated. After a hearing on notice, the court shall enter 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 other than one based on a bond or debenture has been transferred for security after the proof of claim has been filed, evidence of the terms of the transfer shall be filed by the transferee. The clerk shall immediately notify the original claimant by mail of the filing of the evidence of transfer and that objection thereto, if any, must be filed with the clerk within 20 days of the mailing of the notice or within any additional time allowed by the court. After a hearing on notice, the court shall enter 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.

(5) Service of objection; notice of hearing.—A copy of an objection to the evidence of transfer filed pursuant to paragraph (2) or (4) of this subdivision together with a notice of a hearing shall be mailed or otherwise delivered to the transferee at least 30 days prior to the hearing.

(f) 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 3002. Filing proof of claim or interest.

(a) Necessity for filing.—An unsecured creditor or an equity security holder must file a proof of claim or interest in

accordance with this rule for the claim or interest to be allowed, except as provided in Rules 3003, 3004 and 3005.

(b) Place of filing.—A proof of claim or interest shall be filed in accordance with Rule 5005.

(c) Time for filing.—In a chapter 7 liquidation or chapter 13 individual's debt adjustment case, a proof of claim shall be filed within 90 days after the first date set for the meeting of creditors called pursuant to § 341(a) of the Code, except as follows:

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

(2) In the interest of justice and if it will not unduly delay the administration of the case, the court may extend the time for filing a proof of claim by an infant or incompetent person or the representative of either.

(3) An unsecured claim which arises in favor of a person or becomes allowable as a result of a judgment may be filed within 30 days after the judgment becomes final if the judgment is for the recovery of money or property from that person or denies or avoids the person's interest in property. 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) A claim arising from the rejection of an executory contract of the debtor may be filed within the time as the court may direct.

(5) If notice of insufficient assets to pay a dividend was given to creditors pursuant to Rule 2002(e), and subsequently the trustee notifies the court that payment of a dividend appears possible, the clerk shall notify the creditors of that fact and that they may file proofs of claim within 90 days after the mailing of the notice.

(6) In a chapter 7 liquidation case, if a surplus remains after all claims allowed have been paid in full, the court may

grant an extension of time for the filing of claims against the surplus not filed within the time hereinabove prescribed.

Rule 3003. Filing proof of claim or equity security interest in Chapter 9 municipality or Chapter 11 reorganization cases.

(a) Applicability of rule.—This rule applies in chapter 9 and 11 cases.

(b) Schedule of liabilities and list of equity security holders.

(1) Schedule of liabilities.—The schedule of liabilities filed pursuant to § 521(1) of the Code shall constitute prima facie evidence of the validity and amount of the claims of creditors, unless they are scheduled as disputed, contingent, or unliquidated. It shall not be necessary for a creditor or equity security holder to file a proof of claim or interest except as provided in subdivision (c)(2) of this rule.

(2) List of equity security holders.—The list of equity security holders filed pursuant to Rule 1007(a)(3) shall constitute prima facie evidence of the validity and amount of the equity security interests and it shall not be necessary for the holders of such interests to file a proof of interest.

(c) Filing proof of claim.

(1) Who may file.—Any creditor or indenture trustee may file a proof of claim within the time prescribed by subdivision (c)(3) of this rule.

(2) Who must file.—Any creditor or equity security holder whose claim or interest is not scheduled or scheduled as disputed, contingent, or unliquidated shall file a proof of claim or interest within the time prescribed by subdivision (c)(3) of this rule; any creditor who fails to do so shall not be treated as a creditor with respect to such claim for the purposes of voting and distribution.

(3) Time for filing.—The court shall fix and for cause shown may extend the time within which proofs of claim or interest may be filed.

(4) Effect of filing claim.—A proof of claim or interest executed and filed in accordance with this subdivision shall

supersede any scheduling of that claim or interest pursuant to § 521(1) of the Code.

(5) Filing by indenture trustee.—An indenture trustee may file a claim on behalf of all known or unknown holders of securities issued pursuant to the trust instrument under which it is trustee.

(d) Proof of right to record status.—For the purposes of Rules 3017, 3018 and 3021 and for receiving notices, a person who is not the record holder of a security may file a statement setting forth facts which entitle that person to be treated as the record holder. An objection to the statement may be filed by any party in interest.

Rule 3004. Filing of claims by debtor or trustee.

If a creditor fails to file a proof of claim on or before the first date set for the meeting of creditors called pursuant to § 341(a) of the Code, the debtor or trustee may do so in the name of the creditor. The clerk shall forthwith mail notice of the filing to the creditor, the debtor and the trustee. The creditor may thereafter file a proof of claim pursuant to Rule 3002 or Rule 3003, which proof when filed shall supersede the proof filed by the debtor or trustee.

Rule 3005. Filing of claim, acceptance, or rejection by guarantor, surety, indorser, or other codebtor.

(a) Filing of claim.—If a creditor has not filed a proof of claim pursuant to Rule 3002(c) or 3003(c), one who is or may be liable with the debtor to that creditor, or who has secured that creditor, may, within 30 days after the expiration of the time for filing claims prescribed by Rule 3002(c) or 3003(c) whichever is applicable, execute and file a proof of claim 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 distribution. The creditor may thereafter file a proof of claim pursuant to Rule 3002(c) or 3003(c) and it shall supersede the proof of claim filed pursuant to the first sentence of this subdivision.

(b) Filing of acceptance or rejection; substitution of creditor.—One who has filed a claim pursuant to the first sentence of subdivision (a) of this rule may file an acceptance or rejection of a plan in the name of the creditor, if known, or if unknown, in his own name but if the creditor files a proof of claim within the time permitted by Rule 3003(c) or files a notice with the court prior to confirmation of a plan of his intention to act in his own behalf, the creditor shall be substituted for the obligor with respect to that claim.

Rule 3006. Withdrawal of claim or acceptance or rejection of plan.

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 proof of claim an objection is filed thereto or a complaint is filed against that creditor in an adversary proceeding, or the creditor has accepted or rejected the plan or otherwise has participated significantly in the case, the creditor may not withdraw the claim except on order of the court after a hearing on notice to the trustee or debtor in possession, and any creditors' committee selected pursuant to §§ 705(a) or 1102 of the Code. The order of the court shall contain such terms and conditions as the court deems proper. Unless the court orders otherwise, an authorized withdrawal of a claim shall constitute withdrawal of any related acceptance or rejection of a plan.

Rule 3007. Objections to claims.

An objection to the allowance of a claim shall be in writing and filed with the court. A copy of the objection with notice of the hearing thereon shall be mailed or otherwise delivered to the claimant, the debtor or debtor in possession and the trustee at least 30 days prior to the hearing. If an objection to a claim is joined with a demand for relief of the kind specified in Rule 7001, it becomes an adversary proceeding.

Rule 3008. Reconsideration of claims.

A party in interest may move for reconsideration of an order allowing or disallowing a claim against the estate. The

court after a hearing on notice shall enter an appropriate order.

Rule 3009. Declaration and payment of dividends in Chapter 7 liquidation cases.

In chapter 7 cases, dividends to creditors shall be paid as promptly as practicable in the amounts and at the times as ordered by the court. 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 9010. In that event, dividend checks shall be made payable to the creditor and to the other person and shall be mailed to the other person.

Rule 3010. Small dividends and payments in Chapter 7 liquidation and Chapter 13 individual's debt adjustment cases.

(a) Chapter 7 cases.—In a chapter 7 case no dividend in an amount less than $5 shall be distributed by the trustee to any creditor unless authorized by local rule or order of the court. Any such dividend not distributed to a creditor shall be treated in the same manner as unclaimed funds as provided in § 347 of the Code.

(b) Chapter 13 cases.—In a chapter 13 case no payment in an amount less than $15 shall be distributed by the trustee to any creditor unless authorized by local rule or order of the court. Funds not distributed because of this subdivision shall accumulate and shall be paid whenever the accumulation aggregates $15. Any funds remaining shall be distributed with the final payment.

Rule 3011. Unclaimed funds in Chapter 7 liquidation and Chapter 13 individual's debt adjustment cases.

The trustee shall file with the clerk a list of all known names and addresses of the persons and the amounts which they are entitled to be paid from remaining property of the estate that is paid into court pursuant to § 347(a) of the Code.

Rule 3012. Valuation of security.

The court may determine the value of a claim secured by a lien on property in which the estate has an interest on motion of any party in interest and after a hearing on notice to the holder of the secured claim and any other person as the court may direct.

Rule 3013. Classification of claims and interests.

For the purposes of the plan and its acceptance, the court may, on motion after hearing on notice as the court may direct, determine classes of creditors and equity security holders pursuant to §§ 1122 and 1322(b)(1) of the Code.

Rule 3014. Election pursuant to § 1111(b) by secured creditor in Chapter 9 municipality and Chapter 11 reorganization cases.

An election of application of § 1111(b)(2) of the Code by a class of secured creditors in a chapter 9 or 11 case may be made at any time prior to the conclusion of the hearing on the disclosure statement or within such later time as the court may fix. The election shall be in writing and signed unless made at the hearing on the disclosure statement. The election, if made by the majorities required by § 1111(b)(1)(A)(i), shall be binding on all members of the class with respect to the plan.

Rule 3015. Filing of plan in Chapter 13 individual's debt adjustment cases.

The debtor may file a chapter 13 plan with the petition. If a plan is not filed with the petition, it shall be filed within 15 days thereafter and such time shall not be further extended except for cause shown and on notice as the court may direct. Every proposed plan and any modification thereof shall be dated. The clerk shall include the plan or a summary of the plan with each notice of the hearing on confirmation pursuant to Rule 2002(b). If required by the court, the debtor shall furnish a sufficient number of copies to enable

the clerk to include a copy of the plan with the notice of the hearing.

Rule 3016. Filing of plan and disclosure statement in Chapter 9 municipality and Chapter 11 reorganization cases.

(a) Time for filing plan.—A party in interest, other than the debtor, who is authorized to file a plan under § 1121(c) of the Code, may file a plan at any time before the conclusion of the hearing on the disclosure statement or thereafter with leave of court.

(b) Identification of plan.—Every proposed plan and any modification thereof shall be dated and, in a chapter 11 case, identified with the name of the person or persons submitting or filing it.

(c) Disclosure statement.—In a chapter 9 or 11 case, a disclosure statement pursuant to § 1125 or evidence showing compliance with § 1126(b) of the Code shall be filed with the plan or within a time fixed by the court.

Rule 3017. Court consideration of disclosure statement in Chapter 9 municipality and Chapter 11 reorganization cases.

(a) Hearing on disclosure statement and objections thereto.—Following the filing of a disclosure statement as provided in Rule 3016(c), the court shall hold a hearing on not less than 25 days notice to the debtor, creditors, equity security holders and other parties in interest as provided in Rule 2002 to consider such statement and any objections or modifications thereto. The plan and the disclosure statement shall be mailed with the notice of the hearing only to the debtor, trustee, any committee appointed under the Code, the Securities and Exchange Commission and any party in interest who requests in writing a copy of the statement or plan. Objections to the disclosure statement shall be filed with the court and served on the debtor, the trustee, any committee appointed under the Code and such other entity as may be

designated by the court, at any time prior to approval of the disclosure statement or by such earlier date as the court may fix.

(b) Determination on disclosure statement.—Following the hearing the court shall determine whether the disclosure statement should be approved.

(c) Dates fixed for voting on plan and confirmation.—On or before approval of the disclosure statement, the court shall fix a time within which the holders of claims and interests may accept or reject the plan and may fix a date for the hearing on confirmation.

(d) Transmission and notice to creditors and equity security holders.—On approval of a disclosure statement, the debtor in possession, trustee, proponent of the plan, or clerk as ordered by the court shall mail to all creditors and equity security holders (1) the plan, or a court approved summary of the plan; (2) the disclosure statement approved by the court; (3) notice of the time within which acceptances and rejections of such plan may be filed; (4) notice of any date fixed for the hearing on confirmation; and (5) such other information as the court may direct including any opinion of the court approving the disclosure statement or a court approved summary of the opinion. In addition, a form of ballot conforming to Official Form No. 30 shall be mailed to creditors and equity security holders entitled to vote on the plan. In the event the opinion of the court is not transmitted or only a summary of the plan is transmitted, the opinion of the court or the plan shall be provided on request of a party in interest at the expense of the proponent of the plan. For the purposes of this subdivision, creditors and equity security holders shall include holders of stock, bonds, debentures, notes, and other securities of record at the date the order approving the disclosure statement was entered.

Rule 3018. Acceptance or rejection of plans.

(a) Persons entitled to accept or reject plan; time for acceptance or rejection.—A plan may be accepted or rejected

by the following entities within the time fixed by the court pursuant to Rule 3017: (1) any creditor whose claim is deemed allowed pursuant to § 502 of the Code or has been allowed by the court; (2) subject to subdivision (b) of this rule, any creditor who is a security holder of record at the date the order approving the disclosure statement is entered whose claim has not been disallowed; and, (3) an equity security holder of record at the date the order approving the disclosure statement is entered whose interest has not been disallowed. For cause shown and within the time fixed for acceptance or rejection of a plan, the court after notice and hearing may permit a creditor or equity security holder to change or withdraw an acceptance or rejection. Notwithstanding objection to a claim or interest, the court after notice and hearing may temporarily allow the claim or interest in an amount which the court deems proper for the purpose of accepting or rejecting a plan.

(b) Acceptances or rejections obtained before petition.— Acceptances or rejections of a plan may be obtained before the commencement of a case under the Code and may be filed with the court on behalf of (1) the holder of a claim or interest which is deemed allowed pursuant to § 502 of the Code or allowed by the court; (2) a creditor who is a security holder of record at the date specified in the solicitation for the purposes of such solicitation and whose claim has not been disallowed; and (3) an equity security holder of record at the date specified in the solicitation for the purposes of such solicitation and whose interest has not been disallowed. A holder of a claim or interest who has accepted or rejected a plan before the commencement of the case under the Code shall not be deemed to have accepted or rejected the plan if the court finds after notice and hearing that the plan was not transmitted to substantially all impaired creditors and impaired equity security holders, that an unreasonably short time was prescribed for such creditors and equity security holders to accept or reject the plan, or that the solicitation was not in compliance with § 1126(b) of the Code.

(c) Form of acceptance or rejection.—An acceptance or rejection shall be in writing, identify the plan or plans accepted or rejected, be signed by the creditor or equity security holder or his authorized agent, and conform to Official Form No. 30. If more than one plan is transmitted pursuant to Rule 3017, an acceptance or rejection may be filed by each creditor or equity security holder for any number of plans transmitted and if acceptances are filed for more than one plan, the creditor or equity security holder may indicate his preferences among the plans so accepted.

(d) 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.

Rule 3019. Modification of accepted plan before confirmation.

After a plan has been accepted and before its confirmation, the proponent may file a modification of the plan. If the court finds after hearing on notice to the trustee, any committee appointed under the Code and any other person designated by the court that the proposed modification does not adversely change the treatment of the claim of any creditor or the interest of any equity security holder who has not accepted in writing the modification, it shall be deemed accepted by all creditors and equity security holders who have previously accepted the plan.

Rule 3020. Deposit; confirmation of plan.

(a) Deposit.—In a chapter 11 case, prior to entry of the order confirming the plan, the court may order the deposit with the trustee or debtor in possession of the consideration required by the plan to be distributed on confirmation. Any money deposited shall be kept in a special account established for the exclusive purpose of making the distribution.

(b) Objections to and hearing on confirmation.

(1) Objections.—Objections to confirmation of the plan shall be filed with the court and served on the debtor, the

trustee, any committee appointed under the Code and on any other entity designated by the court, within a time fixed by the court. An objection to confirmation is governed by Rule 9014.

(2) Hearing.—The court shall rule on confirmation of the plan after notice and hearing as provided in Rule 2002. If no objection is timely filed, the court may find, without receiving evidence, that the plan has been proposed in good faith and not by any means forbidden by law.

(c) Order of confirmation.—The order of confirmation shall conform to Official Form No. 31 and notice of entry thereof shall be mailed promptly by the clerk to the debtor, creditors, equity security holders and other parties in interest.

(d) Retained power.—Notwithstanding the entry of the order of confirmation, the court may enter all orders necessary to administer the estate.

Rule 3021. Distribution under plan.

After confirmation of a plan, distribution shall be made to creditors whose claims have been allowed, to holders of stock, bonds, debentures, notes, and other securities of record at the time of commencement of distribution whose claims or equity security interests have not been disallowed and to indenture trustees who have filed claims pursuant to Rule 3003(c)(5) and which have been allowed.

Rule 3022. Final decree.

After an estate is fully administered, including distribution of any deposit required by the plan, the court shall enter a final decree (1) discharging any trustee if not previously discharged and cancelling his bond; (2) making provision by way of injunction or otherwise as may be equitable; and (3) closing the case.

PART IV. THE DEBTOR: DUTIES AND BENEFITS

Rule 4001. Relief from automatic stay; use of cash collateral.

(a) Request for relief from stay or to use cash collateral.—A request for relief from an automatic stay provided by the

Code or for the use of cash collateral pursuant to § 363(c)(2) shall be made in accordance with Rule 9014.

(b) Final hearing on stay.—The stay of any act against property of the estate under § 362(a) of the Code expires 30 days after a final hearing is commenced pursuant to § 362(e)(2) unless within that time the court denies the motion for relief from the stay.

(c) Ex parte relief from stay.—Relief from a stay under § 362(a) may be granted without prior notice to the adverse party only if (1) it clearly appears from specific facts shown by affidavit or by a verified motion that immediate and irreparable injury, loss, or damage will result to the movant before the adverse party or his attorney can be heard in opposition, and (2) the movant's attorney certifies to the court in writing the efforts, if any, which have been made to give notice and the reasons why notice should not be required. The party obtaining relief under this subdivision and § 362(f) shall immediately give oral notice thereof to the trustee or debtor in possession and to the debtor and forthwith mail or otherwise transmit to such person or persons a copy of the order granting relief. On two days notice to the party who obtained relief from the stay without notice or on shorter notice to that party as the court may prescribe, the adverse party may appear and move reinstatement of the stay. In that event, the court shall proceed expeditiously to hear and determine the motion.

Rule 4002. Duties of debtor.

In addition to performing other duties prescribed by the Code and rules, the debtor shall (1) attend and submit to an examination at the times ordered by the court; (2) attend the hearing on a complaint objecting to discharge and testify, if called as a witness; (3) inform the trustee immediately in writing as to the location of real property in which the debtor has an interest and the name and address of every person holding money or property subject to the debtor's withdrawal or order if a schedule of property has not yet been filed pursuant to Rule 1007; and (4) cooperate with the trustee in the

preparation of an inventory, the examination of proofs of claim, and the administration of the estate.

Rule 4003. Exemptions.

(a) Claim of exemptions.—A debtor shall list the property claimed as exempt under § 522 of the Code on the schedule of assets required to be filed by Rule 1007. If the debtor fails to claim exemptions or file the schedule within the time specified in Rule 1007, a dependent of the debtor may file the list within 30 days thereafter.

(b) Objections to claim of exemptions.—The trustee or any creditor may file objections to the list of property claimed as exempt within 30 days after the conclusion of the meeting of creditors held pursuant to Rule 2003(a) or the filing of any amendment to the list unless, within such period, further time is granted by the court. Copies of the objections shall be delivered or mailed to the trustee and to the person filing the list and his attorney.

(c) Burden of proof.—In any hearing under this rule, the objecting party has the burden of proving that the exemptions are not properly claimed. After hearing on notice, the court shall determine the issues presented by the objections.

(d) Avoidance by debtor of transfer of exempt property.—A proceeding by the debtor to avoid a lien or other transfer of property exempt under § 522(f) of the Code shall be by motion in accordance with Rule 9014.

Rule 4004. Grant or denial of discharge.

(a) Time for filing complaint objecting to discharge; notice of time fixed.—In a chapter 7 liquidation case a complaint objecting to the debtor's discharge under § 727(a) of the Code shall be filed not later than 60 days following the first date set for the meeting of creditors held pursuant to § 341(a). In a chapter 11 reorganization case, such complaint shall be filed not later than the first date set for the hearing on confirmation. The court shall give not less than 25 days notice of the time so fixed to all creditors in the manner provided in Rule 2002, and to the trustee and his attorney.

(b) Extension of time.—On motion of any party in interest, after hearing on notice, the court may for cause extend the time for filing a complaint objecting to discharge. The motion shall be made before such time has expired.

(c) Grant of discharge.—In a chapter 7 case, on expiration of the time fixed for filing a complaint objecting to discharge, the court shall forthwith grant the discharge unless (1) the debtor is not an individual, (2) a complaint objecting to the discharge has been filed, or (3) the debtor has filed a waiver under § 727(a)(10) of the Code. Notwithstanding the foregoing, on motion of the debtor, the court may defer the entry of an order granting a discharge for 30 days and, on motion within such period, the court may defer entry of the order to a date certain.

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

(e) Order of discharge.—An order of discharge shall conform to Official Form No. 27.

(f) Registration in other districts.—An order of discharge that has become final may be registered in any other district by filing a certified copy of the order in the office of the clerk of the bankruptcy court of that district. When so registered the order of discharge shall have the same effect as an order of the court of the district where registered.

(g) Notice of discharge.—The clerk shall promptly mail a copy of the final order of discharge to the persons specified in subdivision (a) of this rule.

Rule 4005. Burden of proof in objecting to discharge.

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

Rule 4006. Notice of no discharge.

If an order is entered denying or revoking a discharge or if a waiver of discharge is filed, after the order becomes final or the waiver is filed the clerk shall promptly give notice thereof to all creditors in the manner provided in Rule 2002.

Rule 4007. Determination of dischargeability of a debt.

(a) Persons entitled to file complaint.—A debtor or any creditor may file a complaint with the court to obtain a determination of the dischargeability of any debt.

(b) Time for commencing proceeding other than under § 523(c) of the code.—A complaint other than under § 523(c) may be filed at any time. A case may be reopened without payment of an additional filing fee for the purpose of filing a complaint to obtain a determination under this rule.

(c) Time for filing complaint under § 523(c) in Chapter 7 liquidation and Chapter 11 reorganization cases; notice of time fixed.—A complaint to determine the dischargeability of any debt pursuant to § 523(c) of the Code shall be filed not later than 60 days following the first date set for the meeting of creditors held pursuant to § 341(a). The court shall give all creditors not less than 30 days notice of the time so fixed in the manner provided in Rule 2002. On motion of any party in interest, after hearing on notice, the court may for cause extend the time fixed under this subdivision. The motion shall be made before the time has expired.

(d) Time for filing complaint under § 523(c) in Chapter 13 individual's debt adjustment cases; notice of time fixed.—On motion by a debtor for a discharge under § 1328(b), the court shall enter an order fixing a time for the filing of a complaint to determine the dischargeability of any debt pursuant to § 523(c) and shall give not less than 30 days notice of the time fixed to all creditors in the manner provided in Rule 2002. On motion of any party in interest after hearing on notice the court may for cause extend the time fixed under this subdivision. The motion shall be made before the time has expired.

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

Rule 4008. Discharge and reaffirmation hearing.

Not more than 30 days following the entry of an order granting or denying a discharge, or confirming a plan in

a chapter 11 reorganization case concerning an individual debtor and on not less than 10 days notice to the debtor and the trustee, the court shall hold a hearing as provided in § 524(d) of the Code. A motion by the debtor for approval of a reaffirmation agreement shall be filed before or at the hearing.

PART V. BANKRUPTCY COURTS AND CLERKS

Rule 5001. Bankruptcy courts and clerks' offices.

(a) Bankruptcy courts always open.—Bankruptcy courts shall be deemed always open for the purpose of filing any pleading or other proper paper, issuing and returning process, and filing, making, or entering motions, orders and rules.

(b) Trials and hearings; orders in chambers.—All trials 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) Clerk's office.—The clerk's office with the clerk or a deputy in attendance shall be open during business hours on all days except Saturdays, Sundays and the legal holidays listed in Rule 6(a) F. R. Civ. P. A local rule or order may provide that the clerk's office shall be open for specified hours on Saturdays or particular legal holidays other than those listed in Rule 77(c) F. R. Civ. P.

Rule 5002. Prohibited appointments.

No person may be appointed as a trustee or examiner or be employed as an attorney, accountant, appraiser, auctioneer, or other professional person pursuant to § 327 or § 1103 of the Code if (1) the person is a relative of any judge of the court making the appointment or approving the employment or (2) the person is or has been so connected with any judge of the court making the appointment or approving the employ-

ment as to render such appointment or employment improper. Whenever under this rule a person is ineligible for appointment or employment, the person's firm, partnership, corporation, or any other form of business association or relationship, and all members, associates and professional employees thereof are also ineligible for appointment or employment.

Rule 5003. Records kept by the clerk.

(a) Bankruptcy dockets.—The clerk shall keep bankruptcy dockets recording all judgments and orders and the activity in each case as prescribed by the Director of the Administrative Office of the United States Courts. The entry of a judgment or order in a docket shall show the date the entry is made.

(b) Claims register.—The clerk shall keep in a claims register a list of claims filed in a case when it appears that there will be a distribution to unsecured creditors.

(c) Judgments.—The clerk shall keep, in the form and manner as the Director of the Administrative Office of the United States Courts may prescribe, a correct copy of every final judgment or order affecting title to or lien on real property or for the recovery of money or property, and any other order which the court may direct to be kept.

(d) Index of cases; certificate of search.—The clerk shall keep suitable indices of all cases filed under the Code as prescribed by the Director of the Administrative Office of the United States Courts. On request, the clerk shall make a search of any index and papers in his custody and certify whether a case has been filed in or transferred to the court or a discharge entered in its records.

(e) Other books and records of the clerk.—The clerk shall also keep such other books and records as may be required by the Director of the Administrative Office of the United States Courts.

Rule 5004. Disqualification.

(a) Disqualification of judge.—When a judge is disqualified from acting by 28 U. S. C. § 455, he shall disqualify him-

self from presiding over the adversary proceeding or contested matter in which the disqualifying circumstance arises or, if appropriate, he shall disqualify himself from presiding over the case.

(b) Disqualification of judge from allowing compensation.—A judge shall disqualify himself from allowing compensation to a person who is a relative or with whom he is so associated as to render it improper for him to authorize such compensation.

Rule 5005. Filing of papers.

(a) Filing.—The petition, proofs of claim or interest, complaints, motions, applications, objections and other papers required to be filed by these rules, except as provided in 28 U. S. C. § 1473, shall be filed with the clerk of the court in which the case under the Code is pending. The judge of that court may permit the papers to be filed with him, in which event he shall note thereon the filing date and forthwith transmit them to the clerk.

(b) Error in filing.—A paper intended to be filed but erroneously delivered to the trustee, the attorney for the trustee, a bankruptcy judge, a district judge, or the clerk of the district court shall, after the date of its receipt has been noted thereon, be transmitted forthwith to the clerk of the bankruptcy court. 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 5006. Certification of copies of papers.

The clerk shall issue a certified copy of the record of any proceeding in a case under the Code or of any paper filed with the court on payment of any prescribed fee.

Rule 5007. Record of proceedings and transcripts.

(a) Filing of record or transcript.—The reporter or operator of a recording device shall certify the original notes of testimony, tape recording, or other original record of the proceeding and promptly file them with the clerk. The person

preparing any transcript shall promptly file a certified copy with the clerk.

(b) Transcript fees.—The fees for copies of transcripts shall be charged at rates prescribed by the Judicial Conference of the United States. No fee may be charged for the certified copy filed with the clerk for the records of the court.

(c) Admissibility of record in evidence.—A certified sound recording or a transcript of a proceeding shall be admissible as prima facie evidence to establish the record.

Rule 5008. Funds of the estate.

(a) Court approval required.—A deposit or investment for which a bond or deposit of securities is required under § 345(b) of the Code shall not be made until the court, on motion with such notice as the court directs, approves the bond or the deposit of securities.

(b) Report of deposit or investment.—Promptly after making the initial deposit or investment of the estate's funds and thereafter as the court may direct, the trustee shall file a report which identifies the depository or describes the investment and states the amount of any deposit or investment and whether any portion is insured or guaranteed by the United States or a department, agency, or instrumentality of the United States, or backed by the full faith and credit of the United States.

(c) Deposit of securities; agreement.—Securities accepted for deposit in lieu of a surety on a depository bond shall be deposited in the custody of the Federal Reserve Bank or branch thereof designated by the court or in the custody of such other person as the court may direct. The securities shall be deposited conditioned on proper accounting for all money deposited or invested and for any return on any such money, prompt repayment of such money and return thereon, and faithful performance of the duties as a depository or entity with whom an investment is made. The entity depositing securities shall execute an agreement for the deposit of securities in favor of the United States which incor-

porates the foregoing conditions. Securities subject to such an agreement shall be subject to the order of the court.

(d) Action on bond or agreement for deposit of securities.—Proceedings on a bond given pursuant to § 345(b) of the Code or on an agreement for deposit of securities required by subdivision (c) of this rule shall be in the name of the United States for the use of the estate or any person injured by a breach of the condition.

(e) Prohibition of deposits when adequacy of security doubtful.—No trustee or other person shall deposit or invest funds received or held by him as a fiduciary under the Code if there is reasonable cause to believe that the bond or the security therefor or the deposited securities are or may be inadequate in view of existing and expected deposits or investments.

(f) Reports required.—Depositories and entitites with whom deposits or investments are made shall file reports as prescribed by regulations of the Director of the Administrative Office of the United States Courts.

(g) Deficiency in amount of bond or deposited securities.—Whenever the bond and any deposited securities do not or will not constitute adequate security because of existing and expected deposits or investments, the court shall require the depository or entity with whom an investment is made to increase the amount of the bond or the deposited securities within a fixed time. If within the time fixed the depository or entity with whom an investment is made fails to increase the amount of the bond or the deposited securities to an amount adequate for existing and expected deposits or investments, the court shall order immediate payment of all money on deposit or invested with it, with all interest payable thereon.

(h) Relief from liability on bond.—A surety on a bond may move to be relieved from liability with respect to any subsequent default. If after hearing on notice to the depository or entity with whom the investment is made, to other sureties, to trustees and to other representatives of estates having money of the estate protected by the bond, the court

determines that the motion may be granted without injury to any party in interest, the surety shall be relieved after a new bond or other appropriate security is submitted and approved.

(i) Combining of funds for deposit.—The court may authorize the deposit or investment of funds from more than one estate in a single account or investment instrument. The trustee shall maintain records identifying separately the money of each estate. The court shall require that a statement of account be filed at least quarterly.

Rule 5009. Closing cases.

When an estate has been fully administered and the court has discharged the trustee, the case shall be closed.

Rule 5010. Reopening cases.

A case may be reopened on motion of the debtor or other party in interest pursuant to § 350(b) of the Code.

PART VI. COLLECTION AND LIQUIDATION OF THE ESTATE

Rule 6001. Burden of proof as to validity of postpetition transfer.

Any entity asserting the validity of a transfer under § 549 of the Code shall have the burden of proof.

Rule 6002. Accounting by prior custodian of property of the estate.

(a) Accounting required.—Any custodian required by the Code to deliver property in his possession or control to the trustee, shall promptly file a 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, after hearing on notice the court shall determine the propriety of the administration, including the reasonableness of all disbursements.

Rule 6003. Disbursement of money of the estate.

Disbursement of estate funds shall be by check unless another method is approved by the court. On motion of a party in interest, the court may require countersignatures except that signature by the judge shall not be permitted.

Rule 6004. Use, sale, or lease of property.

(a) Notice of proposed use, sale, or lease of property.—Notice of a proposed use, sale, or lease of property other than in the ordinary course of business shall be given pursuant to Rule 2002(a)(2), (c), and (i).

(b) Objection to proposal.—Except as provided in subdivision (c) of this rule, an objection to a proposed use, sale, or lease of property shall be filed and served not less than five days before the date set for the proposed action or within the time fixed by the court.

(c) Sale of property under $2,500.—Notwithstanding subdivision (a) of this rule, when all of the nonexempt property of the estate has an aggregate gross value less than $2,500, it shall be sufficient to give a general notice of intent to sell such property other than in the ordinary course of business to all creditors, indenture trustees, committees appointed or elected pursuant to the Code and other persons as the court may direct. An objection to any such sale may be filed and served by a party in interest within 15 days of the mailing of the notice, or within the time fixed by the court.

(d) Hearing.—If a timely objection is made pursuant to subdivision (b) or (c) of the rule, the date of the hearing thereon may be set in the notice given pursuant to subdivision (a) of this rule.

(e) Conduct of sale not in the ordinary course of business.

(1) Public or private sale.—All sales not in the ordinary course of business may be private or by public auction. Unless it is impracticable, 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 shall be filed with the clerk on completion of a sale. If the property is sold by an auctioneer, he shall file the statement

and furnish a copy to the trustee, debtor in possession, or chapter 13 debtor. If the property is not sold by an auctioneer, the trustee, debtor in possession, or chapter 13 debtor shall file the statement.

(2) Execution of instruments.—After a sale in accordance with this rule the debtor, the trustee, or debtor in possession, as the case may be, shall execute any instrument necessary or ordered by the court to effectuate the transfer to the purchaser.

Rule 6005. Appraisers and auctioneers.

The order of the court approving the employment of an appraiser or auctioneer shall fix the amount or rate of his 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 appraiser or auctioneer. No residence or licensing requirement shall disqualify an appraiser or auctioneer from employment.

Rule 6006. Assumption, rejection and assignment of executory contracts.

(a) Proceeding to assume, reject, or assign.—A proceeding to assume, reject, or assign an executory contract, including an unexpired lease, other than as part of a plan is governed by Rule 9014.

(b) Proceeding to require trustee to act.—A proceeding by a party to an executory contract or unexpired lease in a chapter 9 municipality case, chapter 11 reorganization case, or chapter 13 individual's debt adjustment case, to require the trustee, debtor in possession, or debtor to determine whether to assume or reject the contract or lease is governed by Rule 9014.

(c) Hearing.—When a motion is made pursuant to subdivision (a) or (b) of this rule, the court shall set a hearing on notice to the other party to the contract and to other parties in interest as the court may direct.

Rule 6007. Abandonment or disposition of property.

(a) Notice of proposed abandonment or disposition; objections.—Unless otherwise directed by the court, the trustee or debtor in possession shall give notice of a proposed abandonment or disposition of property to all creditors, indenture trustees and committees appointed or elected pursuant to the Code. An objection may be filed and served by a party in interest within 15 days of the mailing of the notice, or within the time fixed by the court.

(b) Motion by party in interest.—A party in interest may file and serve a motion requiring the trustee or debtor in possession to abandon property of the estate.

(c) Hearing.—If a timely objection is made as prescribed by subdivision (a) of this rule, or if a motion is made as prescribed by subdivision (b), the court shall set a hearing on notice to the persons as the court may direct.

Rule 6008. Redemption of property from lien or sale.

On motion by the debtor, trustee, or debtor in possession and after hearing on 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 6009. Prosecution and defense of proceedings by trustee or debtor in possession.

With or without court approval, the trustee or debtor in possession may prosecute or may enter an 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 6010. Proceeding to avoid indemnifying lien or transfer to surety.

If a lien voidable under § 547 of the Code 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 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, on motion by any party in interest after notice and hearing the court shall ascertain the value of such property or lien. If the value is less than the amount for which the 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 in possession, within the time fixed by the court.

Part VII. Adversary Proceedings

Rule 7001. Scope of rules of Part VII.

An adversary proceeding is governed by the rules of this Part VII. It is a proceeding in a bankruptcy court (1) to recover money or property, except a proceeding under § 554(b) or § 725 of the Code, Rule 2017, or Rule 6002, (2) to determine the validity, priority, or extent of a lien or other interest in property, other than a proceeding under Rule 4003(d), (3) to obtain approval pursuant to § 363(h) for the sale of both the interest of the estate and of a co-owner in property, (4) to object to or revoke a discharge, (5) to revoke an order of confirmation of a chapter 11 or chapter 13 plan, (6) to determine the dischargeability of a debt, (7) to obtain an injunction or other equitable relief, (8) to subordinate any allowed claim or interest, except when subordination is provided in a chapter 9, 11, or 13 plan, (9) to obtain a declaratory judgment relating to any of the foregoing, or (10) to determine a claim or cause of action removed to a bankruptcy court.

Rule 7002. References to Federal Rules of Civil Procedure.

Whenever a Federal Rule of Civil Procedure applicable to adversary proceedings makes reference to another Federal Rule of Civil Procedure, the reference shall be read as a reference to the Federal Rule of Civil Procedure as modified in this Part VII.

Rule 7003. Commencement of adversary proceeding.

Rule 3 F. R. Civ. P. applies in adversary proceedings.

Rule 7004. Process; service of summons, complaint.

(a) Summons; service; proof of service.—Rule 4(a), (b), (d), (e) and (g)–(i) F. R. Civ. P. applies in adversary proceedings.

Personal service pursuant to Rule 4(d) F. R. Civ. P. may be made by any person not less than 18 years of age who is not a party and the summons may be delivered by the clerk to any such person.

(b) Service by first class mail.—In addition to the methods of service authorized by Rule 4(d) F. R. Civ. P., service may be made within the United States by first class mail postage prepaid as follows:

(1) Upon an individual other than an infant or incompetent, by mailing a copy of the summons and complaint 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 and complaint 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 and complaint 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 and complaint 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 and complaint to the United States attorney for the dis-

trict in which the action is brought and also 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 and complaint to such officer or agency.

(5) Upon any officer or agency of the United States, by mailing a copy of the summons and complaint 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 and complaint 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 and complaint 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 court of general jurisidiction of that state.

(8) Upon any defendant, it is also sufficient if a copy of the summons and complaint 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 and complaint to the defendant as provided in this subdivision.

(9) Upon the debtor, after a petition has been filed by or served upon the debtor and until the case is dismissed or closed, by mailing copies of the summons and complaint to

the debtor at the address shown in the petition or statement of affairs or to such other address as the debtor may designate in writing filed with the court and, if the debtor is represented by an attorney, to the attorney at his post-office address.

(c) 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 Rule 4(d) or (i) F. R. Civ. P. or subdivision (b) of this rule, the court may order the summons and complaint to be served by mailing copies thereof by first class mail postage prepaid, to the party's last known address and by at least one publication in such manner and form as the court may direct.

(d) Nationwide service of process.—The summons and complaint and all other process except a subpoena may be served anywhere in the United States.

(e) Service on debtor and others in foreign country.—The summons and complaint and all other process except a subpoena may be served as provided in Rule 4(d)(1) and (d)(3) in a foreign country (A) on the debtor, any person required to perform the duties of a debtor, any general partner of a partnership debtor, or any attorney who is a party to a transaction subject to examination under Rule 2017; 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 (e).

(f) Summons: time limit for service.—If service is made pursuant to Rule 4(d)(1)–(7) it shall be made by delivery of the summons and complaint within 10 days following issuance of the summons. If service is made by any authorized form of mail, the summons and complaint shall be deposited in the mail within 10 days following issuance of the summons. If a summons is not timely delivered or mailed, another summons shall be issued and served.

Rule 7005. Service and filing of pleadings and other papers.

Rule 5 F. R. Civ. P. applies in adversary proceedings.

Rule 7007. Pleadings allowed.

Rule 7 F. R. Civ. P. applies in adversary proceedings.

Rule 7008. General rules of pleading.

(a) Applicability of Rule 8 F. R. Civ. P.—Rule 8 F. R. Civ. P. applies in adversary proceedings. The allegation of jurisdiction required by Rule 8(a) shall also contain a reference to the name, number, and chapter of the case under the Code to which the adversary proceeding relates and to the district and division where the case under the Code is pending.

(b) Attorney's fees.—A request for an award of attorney's fees shall be pleaded as a claim in a complaint, cross-claim, third-party complaint, answer, or reply as may be appropriate.

Rule 7009. Pleading special matters.

Rule 9 F. R. Civ. P. applies in adversary proceedings.

Rule 7010. Form of pleadings.

Rule 10 F. R. Civ. P. applies in adversary proceedings, except that the caption of each pleading in such a proceeding shall conform substantially to Official Form No. 34.

Rule 7012. Defenses and objections—when and how presented—by pleading or motion—motion for judgment on the pleadings.

(a) When presented.—If a complaint is duly served, the defendant shall serve an answer within 30 days after the issuance of the summons, except when a different time is prescribed by the court. The court shall prescribe the time for service of the answer when service of a complaint is made by publication or upon a party in a foreign country. A party served with a pleading stating a cross-claim shall serve an answer thereto within 20 days after service. The plaintiff

shall serve a reply to a counterclaim in the answer within 20 days after service of the answer or, if a reply is ordered by the court, within 20 days after service of the order, unless the order otherwise directs. The United States or an officer or agency thereof shall serve an answer to a complaint within 35 days after the issuance of the summons, and shall serve an answer to a cross-claim, or a reply to a counterclaim, within 35 days after service upon the United States attorney of the pleading in which the claim is asserted. The service of a motion permitted under this rule alters these periods of time as follows, unless a different time is fixed by order of the court: (1) if the court denies the motion or postpones its disposition until the trial on the merits, the responsive pleading shall be served within 10 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 10 days after the service of a more definite statement.

(b) Applicability of Rule 12(b)–(h) F. R. Civ. P.—Rule 12(b)–(h) F. R. Civ. P. applies in adversary proceedings.

Rule 7013. Counterclaim and cross-claim.

Rule 13 F. R. Civ. P. applies in adversary proceedings, except that a party sued by a trustee or debtor in possession need not state as a counterclaim any claim which he has against the debtor, his property, or the estate, unless the claim arose after the entry of an order for relief. A trustee or debtor in possession who fails to plead a counterclaim through oversight, inadvertence, or excusable neglect, or when justice so requires, may by leave of court amend the pleading, or commence a new adversary proceeding or separate action.

Rule 7014. Third-party practice.

Rule 14 F. R. Civ. P. applies in adversary proceedings.

Rule 7015. Amended and supplemental pleadings.

Rule 15 F. R. Civ. P. applies in adversary proceedings.

Rule 7016. Pre-trial procedure; formulating issues.

Rule 16 F. R. Civ. P. applies in adversary proceedings.

Rule 7017. Parties plaintiff and defendant; capacity.

Rule 17 F. R. Civ. P. applies in adversary proceedings, except as provided in Rules 2010(d) and 5008(d).

Rule 7018. Joinder of claims and remedies.

Rule 18 F. R. Civ. P. applies in adversary proceedings.

Rule 7019. Joinder of persons needed for just determination.

Rule 19 F. R. Civ. P. applies in adversary proceedings, except that (1) if a person joined as a party raises the defense that the bankruptcy court lacks jurisdiction over the subject matter and the defense is sustained, the court shall dismiss such person from the adversary proceedings and (2) if a person joined as a party properly and timely raises the defense of improper venue, the court shall determine, as provided in 28 U. S. C. § 1477, whether that part of the proceeding involving the joined party shall be retained or transferred to another district, or whether the entire adversary proceeding shall be transferred to another district.

Rule 7020. Permissive joinder of parties.

Rule 20 F. R. Civ. P. applies in adversary proceedings.

Rule 7021. Misjoinder and non-joinder of parties.

Rule 21 F. R. Civ. P. applies in adversary proceedings.

Rule 7022. Interpleader.

Rule 22(1) F. R. Civ. P. applies in adversary proceedings.

Rule 7023. Class proceedings.

Rule 23 F. R. Civ. P. applies in adversary proceedings.

Rule 7023.1. Derivative proceedings by shareholders.

Rule 23.1 F. R. Civ. P. applies in adversary proceedings.

Rule 7023.2. Adversary proceedings relating to unincorporated associations.

Rule 23.2 F. R. Civ. P. applies in adversary proceedings.

Rule 7024. Intervention.

Rule 24 F. R. Civ. P. applies in adversary proceedings.

Rule 7025. Substitution of parties.

Subject to the provisions of Rule 2012, Rule 25 F. R. Civ. P. applies in adversary proceedings.

Rule 7026. General provisions governing discovery.

Rule 26 F. R. Civ. P. applies in adversary proceedings.

Rule 7027. Depositions before adversary proceedings or pending appeal.

Rule 27 F. R. Civ. P. applies to adversary proceedings.

Rule 7028. Persons before whom depositions may be taken.

Rule 28 F. R. Civ. P. applies in adversary proceedings.

Rule 7029. Stipulations regarding discovery procedure.

Rule 29 F. R. Civ. P. applies in adversary proceedings.

Rule 7030. Depositions upon oral examination.

Rule 30 F. R. Civ. P. applies in adversary proceedings.

Rule 7031. Deposition upon written questions.

Rule 31 F. R. Civ. P. applies in adversary proceedings.

Rule 7032. Use of depositions in adversary proceedings.

Rule 32 F. R. Civ. P. applies in adversary proceedings.

Rule 7033. Interrogatories to parties.

Rule 33 F. R. Civ. P. applies in adversary proceedings.

Rule 7034. Production of documents and things and entry upon land for inspection and other purposes.

Rule 34 F. R. Civ. P. applies in adversary proceedings.

Rule 7035. Physical and mental examination of persons.

Rule 35 F. R. Civ. P. applies in adversary proceedings.

Rule 7036. Requests for admission.

Rule 36 F. R. Civ. P. applies in adversary proceedings.

Rule 7037. Failure to make discovery: sanctions.

Rule 37 F. R. Civ. P. applies in adversary proceedings.

Rule 7040. Assignment of cases for trial.

Rule 40 F. R. Civ. P. applies in adversary proceedings.

Rule 7041. Dismissal of adversary proceedings.

Rule 41 F. R. Civ. P. applies in adversary proceedings, except that a complaint objecting to the debtor's discharge shall not be dismissed at the plaintiff's instance without notice to the trustee and only on order of the court containing terms and conditions which the court deems proper.

Rule 7042. Consolidation of adversary proceedings; separate trials.

Rule 42 F. R. Civ. P. applies in adversary proceedings.

Rule 7052. Findings by the court.

Rule 52 F. R. Civ. P. applies in adversary proceedings.

Rule 7054. Judgments; costs.

(a) Judgments.—Rule 54(a)–(c) F. R. Civ. P. applies in adversary proceedings.

(b) Costs.—The court may allow costs to the prevailing party except when a statute of the United States or these

rules otherwise provides. Costs against the United States, its officers and agencies shall be imposed only to the extent permitted by law. Costs may be taxed by the clerk on one day's notice; on motion served within five days thereafter, the action of the clerk may be reviewed by the court.

Rule 7055. Default.

Rule 55 F. R. Civ. P. applies in adversary proceedings.

Rule 7056. Summary judgment.

Rule 56 F. R. Civ. P. applies in adversary proceedings.

Rule 7062. Stay of proceedings to enforce a judgment.

Rule 62 F. R. Civ. P. applies in adversary proceedings except that an order granting relief from an automatic stay provided by § 362, § 922, or § 1301 of the Code, an order authorizing or prohibiting the use of cash collateral or property of the estate under § 363, and an order authorizing the trustee to obtain credit pursuant to § 364 shall be additional exceptions to Rule 62(a).

Rule 7064. Seizure of person or property.

Rule 64 F. R. Civ. P. applies in adversary proceedings.

Rule 7065. Injunctions.

Rule 65 F. R. Civ. P. applies in adversary proceedings, except that a temporary restraining order or preliminary injunction may be issued on application of a debtor, trustee, or debtor in possession without compliance with Rule 65(c).

Rule 7067. Deposit in court.

Rule 67 F. R. Civ. P. applies in adversary proceedings.

Rule 7068. Offer of judgment.

Rule 68 F. R. Civ. P. applies in adversary proceedings.

Rule 7069. Execution.

Rule 69 F. R. Civ. P. applies in adversary proceedings.

Rule 7070. Judgment for specific acts; vesting title.

Rule 70 F. R. Civ. P. applies in adversary proceedings and the court may enter a judgment divesting the title of any party and vesting title in others whenever the real or personal property involved is subject to the jurisdiction of the bankruptcy court.

Rule 7071. Process in behalf of and against persons not parties.

Rule 71 F. R. Civ. P. applies in adversary proceedings.

Rule 7087. Transfer of adversary proceeding.

On motion and after a hearing, the court may transfer an adversary proceeding or any part thereof to another district pursuant to 28 U. S. C. § 1475 and § 1477, except as provided in Rule 7019(2).

Part VIII. Appeals to District Court or Bankruptcy Appellate Panel

Rule 8001. Manner of taking appeal; voluntary dismissal; effect of appeal to court of appeals.

(a) Appeal as of right; how taken.—An appeal from a final judgment, order, or decree of a bankruptcy judge to a district court or bankruptcy appellate panel shall be taken by filing a notice of appeal with the clerk of the bankruptcy court within the time allowed by Rule 8002. Failure of an appellant to take any step other than the timely filing of a notice of appeal does not affect the validity of the appeal, but is ground only for such action as the district court or bankruptcy appellate panel deems appropriate, which may include dismissal of the appeal. The notice of appeal shall conform substantially to Official Form No. 35, shall contain the names of all parties to the judgment, order, or decree appealed from and the names, addresses and telephone numbers of their respective attorneys, and be accompanied by the prescribed fee. Each appellant shall file a sufficient number of copies of the notice of

appeal to enable the clerk of the bankruptcy court to comply promptly with Rule 8004.

(b) Appeal by leave; how taken.—An appeal from an interlocutory judgment, order or decree of a bankruptcy judge as permitted by 28 U. S. C. § 1334(b) or § 1482(b) shall be taken by filing a notice of appeal, as prescribed in subdivision (a) of this rule, accompanied by a motion for leave to appeal prepared in accordance with Rule 8003 and with proof of service in accordance with Rule 8008.

(c) Voluntary dismissal.

(1) Before docketing.—If an appeal has not been docketed, the appeal may be dismissed by the bankruptcy judge on the filing of a stipulation for dismissal signed by all the parties, or on motion and notice by the appellant.

(2) After docketing.—If an appeal has been docketed and the parties to the appeal sign and file with the clerk of the district court or bankruptcy appellate panel an agreement that the appeal be dismissed and pay any court costs or fees that may be due, the clerk of the district court or bankruptcy appellate panel shall enter an order dismissing the appeal. An appeal may also be dismissed on motion of the appellant on terms and conditions fixed by the district court or bankruptcy appellate panel.

(d) Effect of taking a direct appeal to the court of appeals.

(1) Dismissal of pending appeal to the district court or the bankruptcy appellate panel.—On the filing of a notice of a direct appeal by agreement of the parties to the court of appeals under 28 U. S. C. § 1293(b), the clerk of the bankruptcy court shall enter an order vacating any prior notice of appeal to the district court or bankruptcy appellate panel from the same judgment, order, or decree of the bankruptcy court and, if the appeal to the district court or bankruptcy appellate panel has not been docketed, the clerk of the bankruptcy court shall enter an order dismissing the appeal. If the appeal to the district court or bankruptcy appellate panel has been docketed, the clerk of the bankruptcy court shall forward to the clerk of the district court or the clerk of the bankruptcy appellate panel a copy of the order vacating the notice

of appeal and on receipt thereof the clerk of the district court or the clerk of the bankruptcy appellate panel shall enter an order dismissing the appeal.

(2) Dismissal of subsequent appeal to the district court or the bankruptcy appellate panel.—If a notice of direct appeal under 28 U. S. C. § 1293(b) is filed and thereafter a notice of appeal to the district court or bankruptcy appellate panel from the same judgment, order, or decree is filed, the clerk of the bankruptcy court shall enter an order dismissing the appeal to the district court or the bankruptcy appellate panel.

(3) Appeal after dismissal of direct appeal by court of appeals.—If the direct appeal under 28 U. S. C. § 1293(b) is dismissed by the court of appeals on the ground that the judgment, order, or decree appealed from is not final, the appellant or cross appellant may, within 10 days of entry of the order of the dismissal in the court of appeals, file a notice of appeal, as prescribed in subdivision (a) of this rule, accompanied by a motion for leave to appeal prepared in accordance with Rule 8003 and with proof of service in accordance with Rule 8008.

Rule 8002. Time for filing notice of appeal.

(a) Ten-day period.—The notice of appeal shall be filed with the clerk of the bankruptcy court within 10 days of the date of the entry of the judgment, order, or decree appealed from. If a timely notice of appeal is filed by a party, any other party may file a notice of appeal within 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. If a notice of appeal is mistakenly filed with the district court or the bankruptcy appellate panel, the clerk of that court or the clerk of the appellate panel shall note thereon the date on which it was received and transmit it to the clerk of the bankruptcy court and it shall be deemed filed in the bankruptcy court on the date so noted.

(b) Effect of motion on time for appeal.—If a timely motion is filed in the bankruptcy court by any party: (1) for judgment notwithstanding the verdict under Rule 9015; (2) under

Rule 7052(b) to amend or make additional findings of fact, whether or not an alteration of the judgment would be required if the motion is granted; (3) under Rule 9023 to alter or amend the judgment; or (4) under Rule 9023 for a new trial, the time for appeal for all parties shall run from the entry of the order denying a new trial or granting or denying any other such motion. A notice of appeal filed before the disposition of any of the above motions shall have no effect; a new notice of appeal must be filed. No additional fees shall be required for such filing.

(c) Extension of time for appeal.—The bankruptcy court 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 the time for filing a notice of appeal has expired, except that a request made no more than 20 days after the expiration of the time for filing a notice of appeal may be granted upon a showing of excusable neglect if the judgment or order appealed from does not authorize the sale of any property or the obtaining of credit or the incurring of debt under § 364 of the Code, or is not a judgment or order approving a disclosure statement, confirming a plan, dismissing a case, or converting the case to a case under another chapter of the Code.

Rule 8003. Leave to appeal.

(a) Content of motion; answer.—A motion for leave to appeal under 28 U. S. C. § 1334(b) or § 1482(b) shall contain: (1) a statement of the facts necessary to an understanding of the questions to be presented by the appeal; (2) a statement of those questions and of the relief sought; (3) a statement of the reasons why an appeal should be granted; and (4) a copy of the judgment, order, or decree complained of and of any opinion or memorandum relating thereto. Within 10 days after service of the motion an adverse party may file with the clerk of the bankruptcy court an answer in opposition.

(b) Transmittal; determination of motion.—The clerk of the bankruptcy court shall transmit the notice of appeal, the

motion for leave to appeal and any answer thereto to the clerk of the district court or the clerk of the bankruptcy appellate panel as soon as all parties have filed answers or the time for filing an answer has expired. The motion and answer shall be submitted without oral argument unless otherwise ordered.

(c) Appeal improperly taken regarded as a motion for leave to appeal.—If a required motion for leave to appeal is not filed, but a notice of appeal is timely filed, the district court or bankruptcy appellate panel may grant leave to appeal or direct that a motion for leave to appeal be filed. The district court or the bankruptcy appellate panel may also deny leave to appeal but in so doing shall consider the notice of appeal as a motion for leave to appeal. Unless an order directing that a motion for leave to appeal be filed provides otherwise, the motion shall be filed within 10 days of entry of the order.

Rule 8004. Service of the notice of appeal.

The clerk of the bankruptcy court 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 clerk 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 copies are mailed and the date of the mailing.

Rule 8005. Stay pending appeal.

A motion for a stay of the judgment, order, or decree of a bankruptcy court, for approval of a supersedeas bond, or for other relief pending appeal must ordinarily be made in the first instance in the bankruptcy court. Notwithstanding Rule 7062 but subject to the power of the district court and the bankruptcy appellate panel reserved hereinafter, the bankruptcy court may suspend or order the continuation of other proceedings in the case under the Code or make any

other appropriate order during the pendency of an appeal on 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 bankruptcy court, may be made to the district court or the bankruptcy appellate panel, but the motion shall show why the relief, modification, or termination was not obtained from the bankruptcy court. The district court or the bankruptcy appellate panel may condition the relief it grants under this rule on the filing of a bond or other appropriate security with the bankruptcy court. When an appeal is taken by a trustee, a bond or other appropriate security may be required, but when an appeal is taken by the United States or an officer or agency thereof or by direction of any department of the Government of the United States a bond or other security shall not be required.

Rule 8006. Record and issues on appeal.

Within 10 days after filing the notice of appeal as provided by Rule 8001(a) or entry of an order granting leave to appeal the appellant shall file with the clerk of the bankruptcy court and serve on the appellee a designation of the items to be included in the record on appeal and a statement of the issues to be presented. Within seven days after the service of the statement of the appellant the appellee may file and serve on the appellant a designation of additional items to be included in the record on appeal and, if the appellee has filed a cross appeal, the appellee as cross appellant shall file and serve a statement of the issues to be presented on the cross appeal and a designation of additional items to be included in the record. A cross appellee may, within seven days of service of the statement of the cross appellant, file and serve on the cross appellant a designation of additional items to be included in the record. The record on appeal shall include the items so designated by the parties, the notice of appeal, the judgment, order, or decree appealed from, and any opinion, findings of fact, and conclusions of law of the court. If the record designated by any party includes a transcript of any proceeding or a part thereof, he shall immediately after filing

the designation deliver to the reporter and file with the clerk of the bankruptcy court a written request for the transcript and make satisfactory arrangements for payment of its cost. All parties shall take any other action necessary to enable the clerk to assemble and transmit the record.

Rule 8007. Completion and transmission of the record; docketing of the appeal.

(a) Duty of reporter to prepare and file transcript.—On receipt of a request for a transcript, the reporter shall acknowledge on the request the date it was received and the date on which he expects to have the transcript completed and shall transmit the request, so endorsed, to the clerk of the bankruptcy court. On completion of the transcript the reporter shall file it with the clerk of the bankruptcy court. If the transcript cannot be completed within 30 days of receipt of the request the reporter shall seek an extension of time from the clerk of the bankruptcy court and the action of the clerk shall be entered in the docket and the parties notified. If the reporter does not file the transcript within the time allowed, the clerk of the bankruptcy court shall notify the bankruptcy judge.

(b) Duty of clerk to transmit record; copies of record; docketing of appeal.—When the record is complete for purposes of appeal, the clerk of the bankruptcy court shall transmit it forthwith to the clerk of the district court or the clerk of the bankruptcy appellate panel. If the record is to be retained in the bankruptcy court as provided in subdivision (c) of this rule, the clerk shall transmit the notice of appeal and the judgment, order, or decree appealed from, and any opinion, findings of fact and conclusions of law of the court. On receipt of the transmission the clerk of the district court or the clerk of the bankruptcy appellate panel shall enter the appeal in the docket and give notice promptly to all parties to the judgment, order, or decree appealed from of the date on which the appeal was docketed. If the bankruptcy appellate panel directs that additional copies of the record be furnished, the clerk of the bankruptcy appellate panel shall

notify the appellant and, if the appellant fails to provide the copies, the clerk shall prepare the copies at the expense of the appellant.

(c) Retention of record in bankruptcy court.—Any part of the record on appeal may be retained in the bankruptcy court if the parties to the appeal so stipulate or the bankruptcy court so orders. The record on appeal for all purposes shall nevertheless be the record as designated under Rule 8006. When the bankruptcy court has ordered retention, the parties shall provide to the clerk of the bankruptcy court copies of any papers retained and the clerk shall transmit those copies to the district court or the bankruptcy appellate panel. If papers have been retained pursuant to a stipulation of the parties, on request of a party to the stipulation the clerk of the bankruptcy court shall transmit the papers so requested to the district court or the bankruptcy appellate panel. On order of the district court or the bankruptcy appellate panel the bankruptcy clerk shall transmit any retained papers to the clerk of that court or the clerk of the appellate panel.

(d) Record for preliminary hearing.—If prior to the time the record is transmitted a party moves in the district court or before the bankruptcy appellate panel for dismissal, for a stay pending appeal, for additional security on the bond on appeal or on a supersedeas bond, or for any intermediate order, the clerk of the bankruptcy court at the request of any party to the appeal shall transmit to the clerk of the district court or the clerk of the bankruptcy appellate panel the parts of the original record as any party to the appeal shall designate.

Rule 8008. Filing and service.

(a) Filing.—Papers required or permitted to be filed with the clerk of the district court or the clerk of the bankruptcy appellate panel may be filed by mail addressed to the clerk, but filing shall not be timely unless the papers are received by the clerk within the time fixed for filing, except that briefs shall be deemed filed on the day of mailing. An original and one copy of all papers shall be filed when an appeal is to the

district court; an original and three copies shall be filed when an appeal is to a bankruptcy appellate panel. The district court or bankruptcy appellate panel may require that additional copies be furnished.

(b) Service of all papers required.—Copies of all papers filed by any party and not required by these rules to be served by the clerk of the district court or the clerk of the bankruptcy appellate panel shall, at or before the time of filing, be served by the party or a person acting for him on all other parties to the appeal. Service on a party represented by counsel shall be made on counsel.

(c) Manner of service.—Service may be personal or by mail. Personal service includes delivery of the copy to a clerk or other responsible person at the office of counsel. Service by mail is complete on mailing.

(d) Proof of service.—Papers presented for filing shall contain an acknowledgment of service by the person served or proof of service in the form of a statement of the date and manner of service and of the names of the persons served, certified by the person who made service. The clerk may permit papers to be filed without acknowledgment or proof of service but shall require the acknowledgment or proof of service to be filed promptly thereafter.

Rule 8009. Briefs and appendix; filing and service.

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

(1) The appellant shall serve and file his brief within 15 days after entry of the appeal on the docket pursuant to Rule 8007.

(2) The appellee shall serve and file his brief within 15 days after service of the brief of appellant. If the appellee has filed a cross appeal, the brief of the appellee shall contain the issues and argument pertinent to the cross appeal, denominated as such, and the response to the brief of the appellant.

(3) The appellant may serve and file a reply brief within 10 days after service of the brief of the appellee, and if the ap-

pellee has cross-appealed, the appellee may file and serve a reply brief to the response of the appellant the issues presented in the cross appeal within 10 days after service of the reply brief of the appellant. No further briefs may be filed except with leave of the district court or the bankruptcy appellate panel.

(b) Appendix to brief.—If the appeal is to a bankruptcy appellate panel, the appellant shall serve and file with his brief excerpts of the record as an appendix, which shall include the following:

(1) The complaint and answer or other equivalent pleadings;

(2) Any pretrial order;

(3) The judgment, order, or decree from which the appeal is taken;

(4) Any other orders relevant to the appeal;

(5) The opinion, findings of fact, or conclusions of law filed or delivered orally by the court and citations of the opinion if published;

(6) Any motion and response on which the court rendered decision;

(7) The notice of appeal; and

(8) The relevant entries in the bankruptcy court docket.

An appellee may also serve and file an appendix which contains material required to be included by the appellant but omitted by appellant.

Rule 8010. Form of briefs; length.

(a) Form of briefs.—Unless the district court or the bankruptcy appellate panel by local rule otherwise provides, the form of brief shall be as follows:

(1) Brief of the appellant.—The brief of the appellant shall contain under appropriate headings and in the order here indicated:

(A) A table of contents, with page references, and a table of cases alphabetically arranged, statutes and other authorities cited, with references to the pages of the brief where they are cited.

(B) A statement of the basis of appellate jurisdiction.

(C) A statement of the issues presented and the applicable standard of appellate review.

(D) A statement of the case.—The statement shall first indicate briefly the nature of the case, the course of the proceedings, and the disposition in the court below. There shall follow a statement of the facts relevant to the issues presented for review, with appropriate references to the record.

(E) An argument.—The argument may be preceded by a summary. The argument shall contain the contentions of the appellant with respect to the issues presented, and the reasons therefor, with citations to the authorities, statutes and parts of the record relied on.

(F) A short conclusion stating the precise relief sought.

(2) Brief of the appellee.—The brief of the appellee shall conform to the requirements of paragraph (1)(A)–(E) of this subdivision, except that a statement of the basis of appellate jurisdiction, of the issues, or of the case need not be made unless the appellee is dissatisfied with the statement of the appellant.

(b) Reproduction of statutes, rules, regulations, or similar material.—If determination of the issues presented requires reference to the Code or other statutes, rules, regulations, or similar material, relevant parts thereof shall be reproduced in the brief or in an addendum or they may be supplied to the court in pamphlet form.

(c) Length of briefs.—Unless the district court or the bankruptcy appellate panel by local rule or order otherwise provides, principal briefs shall not exceed 50 pages, and reply briefs shall not exceed 25 pages, exclusive of pages containing the table of contents, tables of citations and any addendum containing statutes, rules, regulations, or similar material.

Rule 8011. Motions.

(a) Content of motions; response; reply.—A request for an order or other relief shall be made by filing with the clerk of the district court or the clerk of the bankruptcy appellate panel a motion for such order or relief with proof of service on

all other parties to the appeal. The motion shall contain or be accompanied by any matter required by a specific provision of these rules governing such a motion, shall state with particularity the grounds on which it is based, and shall set forth the order or relief sought. If a motion is supported by briefs, affidavits or other papers, they shall be served and filed with the motion. Any party may file a response in opposition to a motion other than one for a procedural order within seven days after service of the motion, but the district court or the bankruptcy appellate panel may shorten or extend the time for responding to any motion.

(b) Determination of motions for procedural orders.—Notwithstanding subdivision (a) of this rule, motions for procedural orders, including any motion under Rule 9006, may be acted on at any time, without awaiting a response thereto and without hearing. Any party adversely affected by such action may move for reconsideration, vacation, or modification of the action.

(c) Determination of all motions.—All motions will be decided without oral argument unless the court orders otherwise. A motion for a stay, or for other emergency relief may be denied if not presented promptly.

(d) Emergency motions.—Whenever a movant requests expedited action on a motion on the ground that, to avoid irreparable harm, relief is needed in less time than would normally be required for the district court or bankruptcy appellate panel to receive and consider a response, the word "Emergency" shall precede the title of the motion. The motion shall be accompanied by an affidavit setting forth the nature of the emergency. The motion shall state whether all grounds advanced in support thereof were submitted to the bankruptcy judge and, if any grounds relied on were not submitted, why the motion should not be remanded to the bankruptcy judge for reconsideration. The motion shall include the office addresses and telephone numbers of moving and opposing counsel and shall be served pursuant to Rule 8008. Prior to filing the motion, the movant shall make every practicable effort to notify opposing counsel in time for counsel to respond to the motion. The affidavit accompanying the mo-

tion shall also state when and how opposing counsel was notified or if opposing counsel was not notified why it was not practicable to do so.

(e) Power of a single judge to entertain motions.—A single judge of a bankruptcy appellate panel may grant or deny any request for relief which under these rules may properly be sought by motion, except that a single judge may not dismiss or otherwise decide an appeal or a motion for leave to appeal. The action of a single judge may be reviewed by the panel.

Rule 8012. Oral argument.

Oral argument shall be allowed in all cases unless the district judge or the judges of the bankruptcy appellate panel unanimously determine after examination of the briefs and record, or appendix to the brief, that oral argument is not needed. Any party shall have an opportunity to file a statement setting forth the reason why oral argument should be allowed.

Oral argument will not be allowed if (1) the appeal is frivolous; (2) the dispositive issue or set of issues has been recently authoritatively decided; or (3) the facts and legal arguments are adequately presented in the briefs and record and the decisional process would not be significantly aided by oral argument.

Rule 8013. Disposition of appeal; weight accorded bankruptcy judge's findings of fact.

On an appeal the district court or bankruptcy appellate panel may affirm, modify, or reverse a bankruptcy court's judgment, order, or decree or remand with instructions for further proceedings. Findings of fact shall not be set aside unless clearly erroneous, and due regard shall be given to the opportunity of the bankruptcy court to judge the credibility of the witnesses.

Rule 8014. Costs.

Except as otherwise provided by law, agreed to by the parties, or ordered by the district court or the bankruptcy appel-

late panel, 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 production of copies of briefs, the appendices, and the record and 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 clerk of the bankruptcy court as costs of the appeal in favor of the party entitled to costs under this rule.

Rule 8015. Motion for rehearing.

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

Rule 8016. Duties of clerk of district court and bankruptcy appellate panel.

(a) Entry of judgment.—The clerk of the district court or the clerk of the bankruptcy appellate panel shall prepare, sign and enter the judgment following receipt of the opinion of the court or the appellate panel or, if there is no opinion, following the instruction of the court or the appellate panel. The notation of a judgment in the docket constitutes entry of judgment.

(b) Notice of orders or judgments; return of record.—Immediately on the entry of a judgment or order the clerk of the district court or the clerk of the bankruptcy appellate panel shall transmit a notice of the entry to each party to the appeal and to the clerk of the bankruptcy court, together with a copy of any opinion respecting the judgment or order, and shall make a note of the transmission in the docket. Original papers transmitted as the record on appeal shall be returned to the bankruptcy court on disposition of the appeal.

Rule 8017. Stay of judgment of district court or bankruptcy appellate panel.

(a) Automatic stay of judgment on appeal.—Judgments of the district court or the bankruptcy appellate panel are stayed until the expiration of 10 days after entry, unless otherwise ordered by the district court or the bankruptcy appellate panel.

(b) Stay pending appeal to the court of appeals.—On motion and notice to the parties to the appeal, the district court or the bankruptcy appellate panel may stay its judgment pending an appeal to the court of appeals. The stay shall not extend beyond 30 days after the entry of the judgment of the district court or the bankruptcy appellate panel unless the period is extended for cause shown. If before the expiration of a stay entered pursuant to this subdivision there is an appeal to the court of appeals by the party who obtained the stay, the stay shall continue until final disposition by the court of appeals. A bond or other security may be required as a condition to the grant or continuation of a stay of the judgment. A bond or other security may be required if a trustee obtains a stay but a bond or security shall not be required if a stay is obtained by the United States or an officer or agency thereof or at the direction of any department of the Government of the United States.

(c) Power of court of appeals not limited.—This rule does not limit the power of a court of appeals or any judge thereof to stay proceedings during the pendency of an appeal or to suspend, modify, restore, or grant an injunction during the pendency of an appeal or to make any order appropriate to preserve the status quo or the effectiveness of the judgment subsequently to be entered.

Rule 8018. Rules by circuit councils and district courts.

Circuit councils which have authorized bankruptcy appellate panels pursuant to 28 U. S. C. § 160 and the district courts in districts in which an appellate panel has not been authorized may by action of a majority of the judges of the

council or district court make and amend rules governing practice and procedure for appeals from the bankruptcy courts to the respective bankruptcy appellate panel or district court, not inconsistent with the rules of this Part VIII. Copies of rules and amendments so made shall on promulgation be furnished to the Administrative Office of the United States Courts. The clerk of each district court and the clerk of each bankruptcy appellate panel 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 or the bankruptcy appellate panel may regulate its practice in any manner not inconsistent with these rules.

Rule 8019. Suspension of rules in Part VIII.

In the interest of expediting decision or for other good cause, the district court or the bankruptcy appellate panel may suspend the requirements or provisions of the rules in Part VIII, except Rules 8001, 8002 and 8013, and may order proceedings in accordance with its direction.

Part IX. General Provisions

Rule 9001. General definitions.

The definitions of words and phrases in § 101, § 902 and § 1101 and the rules of construction in § 102 of the Code govern their use in these rules. In addition, the following words and phrases used in these rules have the meanings indicated:

(1) "Act" means the Bankruptcy Act of 1898 as amended.

(2) "Bankruptcy court," "court," or "United States Bankruptcy Court" means the court of bankruptcy as defined in § 1(10) and created under § 2a of the Act and the United States Bankruptcy Court created under 28 U. S. C. § 151.

(3) "Bankruptcy Code" or "Code" means title 11 of the United States Code.

(4) "Clerk" means clerk of the bankruptcy court.

(5) "Debtor." When any act is required by these rules to be performed by a debtor or when it is necessary to compel attendance of a debtor for examination and the debtor is not a natural person: (A) if the debtor is a corporation, "debtor" 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 debtor is a partnership, "debtor" includes any or all of its general partners or, if designated by the court, any other person in control.

(6) "Firm" includes a partnership or professional corporation of attorneys or accountants.

(7) "Judgment" means any appealable order.

(8) "Mail" means first class, postage prepaid.

(9) "Regular associate" means any attorney regularly employed by, associated with, or counsel to an individual or firm.

(10) "Trustee" includes a debtor in possession in a chapter 11 case.

Rule 9002. Meanings of words in the federal rules of civil procedure when applicable to cases under the code.

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

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

(2) "Appeal" means an appeal as provided by 28 U. S. C. § 1334 or § 1482.

(3) "Clerk" or "clerk of the district court" means clerk of the bankruptcy court.

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

(5) "Judgment" includes any order appealable to an appellate court.

Rule 9003. Prohibition of ex parte contacts.

Except as otherwise permitted by applicable law, any party in interest and any attorney, accountant, or employee of a party in interest shall refrain from ex parte meetings and communications with the bankruptcy judge concerning matters affecting a particular case or proceeding.

Rule 9004. General requirements of form.

(a) Legibility; abbreviations.—All petitions, pleadings, schedules and other papers shall be clearly legible. Abbreviations 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 9005. Harmless error.

Rule 61 F. R. Civ. P. applies in cases under the Code. When appropriate, the court may order the correction of any error or defect or the cure of any omission which does not affect substantial rights.

Rule 9006. Time.

(a) Computation.—In computing any period of time prescribed or allowed by these rules, by the local rules, by order of court, or by any applicable statute, the day of the act, event, or default from which the designated period of time begins to run shall not be included. The last day of the period so computed shall be included, unless it is a Saturday, a Sunday, or a legal holiday, in which event the period runs until the end of the next day which is not a Saturday, a Sunday, or a legal holiday. When the period of time prescribed or allowed is less than seven days, intermediate Saturdays, Sundays, and legal holidays shall be excluded in the computation. As used in this rule and in Rule 5001(c), "legal holiday" includes New Year's Day, Washington's Birthday, Memorial Day, Independence Day, Labor Day, Columbus Day, Veterans Day, Thanksgiving Day, Christmas Day, and any other

day appointed as a holiday by the President or the Congress of the United States, or by the state in which the bankruptcy court is held.

(b) Enlargement.

(1) In general.—Except as provided in paragraphs (2) and (3) of this subdivision, when an act is required or allowed to be done at or within a specified period by these rules or by a notice given thereunder or by order of court, the court for cause shown may at any time in its discretion (1) with or without motion or notice order the period enlarged if the request therefor is made before the expiration of the period originally prescribed or as extended by a previous order or (2) on motion 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.

(2) Enlargement not permitted.—The court may not enlarge the time for taking action under Rule 1007(d), 1017 (b)(3), 1019(2), 2003(a) and (d), 4001(b), 7052, 9015(f), 9023, and 9024.

(3) Enlargement limited.—The court may enlarge the time for taking action under Rules 1006(b)(2), 3002(c), 4003(b), 4004(a), 4007(c), and 8002 only to the extent and under the conditions stated in those rules.

(c) Reduction.

(1) In general.—Except as provided in paragraph (2) of this subdivision, when an act is required or allowed to be done at or within a specified time by these rules or by a notice given thereunder or by order of court, the court for cause shown may in its discretion with or without motion or notice order the period reduced.

(2) Reduction not permitted.—The court may not reduce the time for taking action under Rules 2002(a)(4) and (a)(8), 2003(a), 3002(c), 3014, 3015, 4003(a), 4004(a), 4007(c) and 8002.

(d) For motions—affidavits.—A written motion, other than one which may be heard ex parte, and notice of any hearing shall be served not later than five days before the time specified for such hearing, unless a different period is

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

(e) Time of service.—Service of process and service of any paper other than process or of notice by mail is complete on mailing.

(f) Addditional time after service by mail.—When there is a right or requirement to do some act or undertake some proceedings within a prescribed period after service of a notice or other paper and the notice or paper other than process is served by mail, three days shall be added to the prescribed period.

Rule 9007. General authority to regulate notices.

When 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. When feasible, the court may order any notices under these rules to be combined.

Rule 9008. Service or notice by 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 9009. Forms.

The Official Forms prescribed by the Judicial Conference of the United States shall be observed and used with alterations as may be appropriate. 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 issue additional forms for use under the Code.

Rule 9010. Representation and appearances; powers of attorney.

(a) Authority to act personally or by attorney.—A debtor, creditor, equity security holder, indenture trustee, committee or other party may (1) appear in a case under the Code and act either in his or its own behalf or by an attorney authorized to practice in the court, and (2) 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 in a case under the Code shall file a notice of appearance with his name, office address and telephone number, 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 or the acceptance or rejection of a plan shall be evidenced by a power of attorney conforming substantially to Official Form No. 17 or Official Form No. 18. The execution of any such power of attorney shall be acknowledged before one of the officers enumerated in 28 U. S. C. § 459, § 953, or a person authorized to administer oaths under the laws of the state where the oath is administered.

Rule 9011. Signing and verification of papers.

(a) Signature.—Every petition, pleading, motion and other paper served or filed in a case under the Code on behalf of a party represented by an attorney, except a list, schedule, statement of financial affairs, statement of executory contracts, Chapter 13 Statement, or amendments thereto, shall be signed by at least one attorney of record in his individual name, whose office address and telephone number shall be stated. A party who is not represented by an attorney shall sign all papers and state his address and telephone number. The signature of an attorney or a party constitutes a certifi-

cate by him that he has read the document; that to the best of his knowledge, information, and belief formed after reasonable inquiry it is well grounded in fact and is warranted by existing law or a good faith argument for the extension, modification, or reversal of existing law; and that it is not interposed for any improper purpose, such as to harass, to cause delay, or to increase the cost of litigation. If a document is not signed, it shall be stricken unless it is signed promptly after the omission is called to the attention of the person whose signature is required. If a document is signed in violation of this rule, the court on motion or on its own initiative, shall impose on the person who signed it, the represented party, or both, an appropriate sanction, which may include an order to pay to the other party or parties the amount of the reasonable expenses incurred because of the filing of the document, including a reasonable attorney's fee.

(b) Verification.—Except as otherwise specifically provided by these rules, papers filed in a case under the Code need not be verified. Whenever verification is required by these rules, an unsworn declaration as provided in 28 U. S. C. § 1746 satisfies the requirement of verification.

(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 9012. Affirmations.

When in a case under the Code an oath is required to be taken, a solemn affirmation may be accepted in lieu thereof.

Rule 9013. Motions: form and service.

A request for an order, except when an application is authorized by these rules, shall be by written motion, unless made during a hearing. The motion shall state with particularity the grounds therefor, and shall set forth the relief or order sought. Every written motion other than one which may be considered ex parte shall be served by the moving party on the trustee or debtor in possession and on those per-

sons specified by these rules or, if service is not required or the persons to be served are not specified by these rules, the moving party shall serve the persons the court directs.

Rule 9014. Contested matters.

In a contested matter in a case under the Code 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. No response is required under this rule unless the court orders an answer to a motion. The motion shall be served in the manner provided for service of a summons and complaint by Rule 7004, and, unless the court otherwise directs, the following rules shall apply: 7021, 7025, 7026, 7028–7037, 7041, 7042, 7052, 7054–7056, 7062, 7064, 7069, and 7071. 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 testimony may proceed in the same manner as provided in Rule 7027 for the taking of a deposition before an adversary proceeding. The clerk shall give notice to the parties of the entry of any order directing that additional rules of Part VII are applicable or that certain of the rules of Part VII are not applicable. The notice shall be given within such time as is necessary to afford the parties a reasonable opportunity to comply with the procedures made applicable by the order.

Rule 9015. Jury trial.

(a) Trial by jury.—Issues triable of right by jury shall, if timely demanded, be by jury, unless the parties or their attorneys of record, by written stipulation filed with the court or by an oral stipulation made in open court and entered in the record, consent to trial by the court sitting without a jury.

(b) Demand.

(1) Time; form.—Any party may demand a trial by jury of any issue triable by a jury by serving on the other parties a

demand therefor in writing not later than 10 days after service of the last pleading directed to such issue. The demand may be indorsed on a pleading of the party. When a jury trial is demanded it shall be designated by the clerk in the docket as a jury matter.

(2) Specification of issues.—In his demand a party may specify the issues which he wishes so tried; otherwise he shall be deemed to have demanded trial by jury of all the issues so triable. If he has demanded trial by jury of only some of the issues, 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 or all of the issues.

(3) Determination by court.—On motion or on its own initiative the court may determine whether there is a right to trial by jury of the issues for which a jury trial is demanded or whether a demand for trial by jury in a proceeding on a contested petition shall be granted.

(c) Waiver.—The failure of a party to serve a demand as required by this rule and to file it as required by Rule 5005 constitutes a waiver of trial by jury. A demand for trial by jury made as herein provided may not be withdrawn without the consent of the parties.

(d) Trial by the court.—Issues not demanded for trial by jury shall be tried by the court. Notwithstanding the failure of a party to demand a jury when such a demand might have been made of right, the court on its own initiative may order a trial by jury of any or all issues.

(e) Advisory jury and trial by consent.—In all actions not triable of right by jury the court on motion or on its own initiative may try any issue with an advisory jury or, except in actions against the United States when a statute of the United States provides for trial without a jury, the court, with the consent of both parties, may order a trial with a jury whose verdict has the same effect as if trial by jury had been a matter of right.

(f) Applicability of certain of the federal rules of civil procedure.—Rules 47–51 of F. R. Civ. P. apply when a jury trial is conducted.

Rule 9016. Subpoena.

Rule 45 F. R. Civ. P. applies in bankruptcy cases under the Code.

Rule 9017. Evidence.

The Federal Rules of Evidence and Rules 43, 44 and 44.1 F. R. Civ. P. apply in cases under the Code.

Rule 9018. Secret confidential, scandalous, or defamatory matter.

On motion or on its own initiative, with or without notice, the court may make any order which justice requires (1) to protect the estate or any entity in respect of a trade secret or other confidential research, development, or commercial information, (2) to protect any entity against scandalous or defamatory matter contained in any paper filed in a case under the Code, or (3) to protect governmental matters that are made confidential by statute or regulation. If an order is entered under this rule without notice, any entity affected thereby may move to vacate or modify the order, and after a hearing on notice the court shall determine the motion.

Rule 9019. Compromise and arbitration.

(a) Compromise.—On motion by the trustee and after a hearing on notice to creditors, the debtor and indenture trustees as provided in Rule 2002(a) and to such other persons as the court may designate, the court may approve a compromise or settlement.

(b) Authority to compromise or settle controversies within classes.—After a hearing on such notice as the court may direct, the court may fix a class or classes of controversies and authorize the trustee to compromise or settle controversies within such class or classes without further hearing or notice.

(c) 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 9020. Criminal contempt proceedings.

(a) Procedure.

(1) Summary disposition.—Criminal contempt which may be punished by a bankruptcy judge acting pursuant to 28 U. S. C. § 1481 may be punished summarily by a bankruptcy judge if he saw or heard the conduct constituting the contempt and if it was committed in his actual presence. The order of contempt shall recite the facts and shall be signed by the judge and entered of record.

(2) Disposition after a hearing.—Criminal contempt which may be punished by a bankruptcy judge acting pursuant to 28 U. S. C. § 1481, except when determined as provided in paragraph (1) of this subdivision, may be punished by the bankruptcy judge only after a hearing on notice. The notice shall be in writing, shall state the essential facts constituting the criminal contempt charged and describe the contempt as criminal and shall state the time and place of hearing, allowing a reasonable time for the preparation of the defense. The notice may be given on the court's own initiative or on application of the United States attorney or by an attorney appointed by the court for that purpose. If the contempt charged involves disrespect to or criticism of a bankruptcy judge, that judge is disqualified from presiding at the hearing except with the consent of the person charged.

(3) Certification to district court.—If it appears to a bankruptcy judge that criminal contempt has occurred but the court is without power under 28 U. S. C. § 1481, to punish or to impose the appropriate punishment for the criminal contempt the judge may certify the facts to the district court.

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

Rule 9021. Entry of judgment; district court record of judgment.

(a) Original entry of judgment of bankruptcy court.—Subject to the provisions of Rule 54(b) F. R. Civ. P.: (1) on a general verdict of a jury, or on a decision by the court that a

party shall recover only a sum certain or costs or that all relief shall be denied, the clerk, unless the court otherwise orders, shall forthwith prepare, sign and enter the judgment without awaiting any direction by the court; (2) on a decision by the court granting other relief, or on a special verdict or a general verdict accompanied by answers to interrogatories, the court shall promptly approve the form of the judgment, and the clerk shall thereupon enter it. Every judgment entered in an adversary proceeding or contested matter shall be set forth on a separate document. A judgment is effective when entered as provided in Rule 5003. Entry of the judgment shall not be delayed for the taxing of costs.

(b) District court record of judgments of bankruptcy courts.—On certification by the clerk of the bankruptcy court to the clerk of the district court of a copy of a judgment of the bankruptcy court for the recovery of money or property, the clerk of the district court shall keep and index the copy in substantially the form and manner prescribed by Rule 79 F. R. Civ. P. for judgments of the district court. Retention and indexing of a judgment by the clerk of the district court 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 7069, or the availability of relief under Rule 7062 or 7070 but after it has been so indexed, the judgment shall have the same effect and may be enforced as a judgment of the district court so indexed.

(c) Entry of judgment of district court.—A judgment entered by a district judge in a case or proceeding under the Code shall be indexed in the district court's civil docket. The clerk of the district court shall certify a copy of the judgment to the clerk of the bankruptcy court.

Rule 9022. Notice of judgment or order.

(a) Judgment or order of bankruptcy judge.—Immediately on the entry of a judgment or order the clerk shall serve a notice of the entry by mail in the manner provided by Rule

7005 on the contesting parties and on other entities as the court directs. Service of the notice shall be noted in the 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 8002.

(b) Judgment or order of district judge.—Notice of a judgment or order entered by a district judge while acting in a case under the Code is governed by Rule 77(d) F. R. Civ. P.

Rule 9023. New trials; amendment of judgments.

Rule 59 F. R. Civ. P. applies in cases under the Code, except as provided in Rule 3008.

Rule 9024. Relief from judgment or order.

Rule 60 F. R. Civ. P. applies in cases under the Code except that (1) a motion to reopen a case under the Code 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 prescribed in Rule 60(b), (2) a complaint to revoke a discharge in a chapter 7 liquidation case may be filed only within the time allowed by § 727(e) of the Code, and (3) a complaint to revoke an order confirming a plan may be filed only within the time allowed by § 1144 or § 1330.

Rule 9025. Security: proceedings against sureties.

Whenever the Code or 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 to the jurisdiction of the court, and liability may be determined in an adversary proceeding governed by the rules in Part VII.

Rule 9026. Exceptions unnecessary.

Rule 46 F. R. Civ. P. applies in cases under the Code.

Rule 9027. Removal.

(a) Application.

(1) Where filed; form and content.—An application for removal shall be filed in the bankruptcy court for the district and division within which is located the state or federal court where the civil action is pending. The application shall be verified and contain a short and plain statement of the facts which entitle the applicant to remove and be accompanied by a copy of all process and pleadings.

(2) Time for filing; civil action initiated before commencement of the case under the Code.—If the claim or cause of action in a civil action is pending when a case under the Code is commenced, an application for removal may be filed in the bankruptcy court only within the longest of (A) 90 days after the order for relief in the case under the Code, (B) 30 days after entry of an order terminating a stay, if the claim or cause of action in a civil action has been stayed under § 362 of the Code, or (C) 30 days after a trustee qualifies in a chapter 11 reorganization case but not later than 180 days after the order for relief.

(3) Time for filing; civil action initiated after commencement of the case under the Code.—If a case under the Code is pending when a claim or cause of action is asserted in a court other than a bankruptcy court, an application for removal may be filed in the bankruptcy court only within the shorter of (A) 30 days after receipt, through service or otherwise, of a copy of the initial pleading setting forth the claim or cause of action sought to be removed or (B) 30 days after receipt of the summons if the initial pleading has been filed with the court but not served with the summons.

(b) Bond.—An application for removal, except when the applicant is the trustee, debtor, debtor in possession, or the United States shall be accompanied by a bond with good and sufficient surety conditioned that the party will pay all costs and disbursements incurred by reason of the removal should it be determined that the claim or cause of action was not removable or was improperly removed.

(c) Notice.—Promptly after filing the application and the bond, if required, in the bankruptcy court, the applicant shall serve a copy of the application on all parties to the removed claim or cause of action.

(d) Filing in non-bankruptcy court.—Removal of the claim or cause of action is effected on the filing of a copy of the removal application with the clerk of the court from which the claim or cause of action is removed. The parties shall proceed no further in that court unless and until the claim or cause of action is remanded.

(e) Remand.—A motion for remand of the removed claim or cause of action may be filed only in the bankruptcy court and shall be served on the parties to the removed claim or cause of action. A motion to remand shall be determined as soon as practicable. A certified copy of an order of remand shall be mailed to the clerk of the court from which the claim or cause of action was removed.

(f) Procedure after removal.

(1) After removal of a claim or cause of action to a bankruptcy court the bankruptcy court may issue all necessary orders and process to bring before it all proper parties whether served by process issued by the court from which the claim or cause of action was removed or otherwise.

(2) The bankruptcy court may require the applicant to file with the clerk copies of all records and proceedings relating to the claim or cause of action in the court from which the claim or cause of action was removed.

(g) Process after removal.—If one or more of the defendants has not been served with process, the service has not been perfected prior to removal, or the process served proves to be defective, such process or service may be completed or new process issued in the same manner as in adversary proceedings originally filed in the bankruptcy court. This subdivision shall not deprive any defendant on whom process is served after removal of his right to move to remand the case.

(h) Applicability of Part VII.—The rules of Part VII apply to a claim or cause of action removed to a bankruptcy

court from a federal or state court and govern procedure after removal. Repleading is not necessary unless the court so orders. In a removed action in which the defendant has not answered, he shall answer or present the other defenses or objections available to him under the rules of Part VII within 20 days following the receipt through service or otherwise of a copy of the initial pleading setting forth the claim for relief on which the action or proceeding is based, or within 20 days following the service of summons on such initial pleading, or within five days following the filing of the application for removal, whichever period is longest.

(i) Time for filing a demand for jury trial.—If at the time of removal all necessary pleadings have been served, a party entitled to trial by jury shall be accorded it, if his demand therefor is served within 10 days following the filing of the application for removal if he is the applicant, or if he is not the applicant, within 10 days following service on him of notice of the filing of the application. A party who, prior to removal, has made an express demand for trial by jury in accordance with federal or state law, need not renew the demand after removal. If state law applicable in the court from which the claim or cause of action is removed does not require the parties to make an express demand for trial by jury, they need not make a demand after removal unless the bankruptcy court so directs. The bankruptcy court may so direct on its own initiative and shall so direct at the request of any party to the removed claim or cause of action. The failure of a party to make demand as directed constitutes a waiver by him of trial by jury.

(j) Record supplied.—When a party is entitled to copies of the records and proceedings in any civil action or proceeding in a federal or a state court, to be used in a bankruptcy court, and the clerk of the federal or state court, on demand accompanied by payment or tender of the lawful fees, fails to deliver certified copies, the bankruptcy court may, on affidavit reciting the facts, direct such record to be supplied by affidavit or otherwise. Thereupon the proceedings, trial and judgment may be had in the bankruptcy court, and all

process awarded, as if certified copies had been filed in the bankruptcy court.

(k) Attachment or sequestration; securities.—When a claim or cause of action is removed to a bankruptcy court, any attachment or sequestration of property in the court from which the claim or cause of action was removed shall hold the property to answer the final judgment or decree in the same manner as the property would have been held to answer final judgment or decree had it been rendered by the court from which the claim or cause of action was removed. All bonds, undertakings, or security given by either party to the claim or cause of action prior to its removal shall remain valid and effectual notwithstanding such removal. All injunctions issued, orders entered and other proceedings had prior to removal shall remain in full force and effect until dissolved or modified by the bankruptcy court.

Rule 9028. Disability of a judge.

If by reason of death, sickness, or other disability, a judge before whom an involuntary petition or an adversary proceeding has been tried or a hearing conducted is unable to perform the duties to be performed by the court under these rules after a verdict is returned, or findings of fact and conclusions of law or a memorandum is filed, then any other judge regularly sitting in or assigned to the court in which the trial or hearing was conducted may perform those duties; but if the other judge is satisfied that he cannot perform those duties because he did not preside or for any other reason, he may in his discretion grant a new trial.

Rule 9029. Local bankruptcy rules.

Each bankruptcy court by action of a majority of the judges thereof may make and amend rules governing its practice and procedure not inconsistent with these rules. Copies of rules and amendments so made shall on their promulgation be furnished to the Administrative Office of the United States Courts. The clerk of each court shall make appropriate ar-

rangements, subject to the approval of the Director of the Administrative Office of the United States Courts, for making copies of the rules available to members of the public who may request them. In all cases not provided for by rule, the bankruptcy court may regulate its practice in any manner not inconsistent with these rules.

Rule 9030. Jurisdiction and venue unaffected.

These rules shall not be construed to extend or limit the jurisdiction of the bankruptcy courts or the venue of any matters therein.

Rule 9031. Masters not authorized.

Rule 53 F. R. Civ. P. does not apply in cases under the Code.

Rule 9032. Effect of amendment of federal rules of civil procedure.

The Federal Rules of Civil Procedure which are incorporated by reference and made applicable by these rules shall be the Federal Rules of Civil Procedure in effect on the effective date of these rules and as thereafter amended, unless otherwise provided by such amendment.

PART X. UNITED STATES TRUSTEES

Rule X–1001. Applicability of rules.

(a) Part X rules.—The rules in Part X apply to cases under the Code filed in or transferred to any district in which a United States trustee is authorized.

(b) Inapplicability of rules.—The following rules do not apply in cases under the Code filed in or transferred to any district specified in subdivision (a) of this rule: 2001(a), (c), 2002(a)(1), 2003(a), (b)(1), (2), (d), 2007, 2008, 2009(c), (d), (e), 2010(a), 5008, and the second sentence of 6003.

Rule X–1002. Petitions, lists, schedules and statements.

(a) Petitions and accompanying materials.

(1) Number of copies.—In addition to the number of copies required to be filed pursuant to Rules 1002(b), 1003(b) and 1007(f), there shall be filed one copy of the petition, the list of creditors, the schedule of assets and liabilities, the statement of financial affairs, the statement of executory contracts, and the Chapter 13 Statement and any amendments thereto.

(2) Transmission to United States trustee.—The clerk shall forthwith transmit to the United States trustee the additional copies filed pursuant to this subdivision. Written notice of a hearing for an extension of time to file schedules, statements and lists pursuant to Rule 1007(a)(4) shall be given the United States trustee.

(b) Filing lists by debtor in Chapter 11 reorganization cases.—In chapter 11 cases, the debtor shall file an additional copy of the lists of creditors and of the 20 largest unsecured creditors required by Rule 1007(a) and (d). The lists shall contain additional information as the United States trustee may require and one copy of each shall be transmitted forthwith by the clerk to the United States trustee.

Rule X–1003. Appointment of interim trustee before order for relief in a Chapter 7 liquidation case.

(a) Appointment.—At any time following the commencement of an involuntary liquidation case and before an order for relief, the court on written motion of a party in interest may order the appointment of an interim trustee under § 15303 of the Code. The motion shall set forth the necessity for the appointment and may be granted only after hearing on notice to the debtor, the United States trustee, and other parties in interest as the court may designate.

(b) Form of order.—The order directing the appointment of an interim trustee shall state why the appointment is necessary and shall specify the trustee's duties.

Rule X–1004. Notification to trustee of selection; blanket bond.

(a) Notification.—The United States trustee shall immediately notify the trustee of his selection, how he may qualify,

and, if applicable, the amount of the bond. The trustee shall give written notification to the court and the United States trustee of the acceptance or rejection of the office within five days after receipt of notice of selection.

(b) Blanket bond.—The United States trustee may authorize a blanket bond in favor of the United States conditioned on the faithful performance of official duties by the trustee or trustees to cover (1) a person who qualifies as trustee in a number of cases, and (2) a number of trustees each of whom qualifies in a different case.

Rule X–1005. Trustees for estates when joint administration ordered.

(a) Appointment of trustees for estates being jointly administered.

(1) Chapter 7 liquidation cases.—The United States trustee may appoint one or more interim trustees for estates being jointly administered in chapter 7 cases.

(2) Chapter 11 reorganization cases.—If a trustee is ordered, the United States trustee may appoint one or more trustees for estates being jointly administered in chapter 11 cases.

(3) Chapter 13 individual's debt adjustment cases.—The United States trustee may appoint one or more trustees for estates being jointly administered in chapter 13 cases.

(b) Potential conflicts of interest.—On a showing that creditors of the different estates will be prejudiced by conflicts of interest of a common trustee the court shall order the appointment of separate trustees for estates being jointly administered.

Rule X–1006. Meetings of creditors or equity security holders.

(a) Date and place.—The United States trustee shall call a meeting of creditors to be held not less than 20 nor more than 40 days after the order for relief. If there is an appeal from or a motion to vacate the order for relief, or if there is a motion to dismiss the case, the United States trustee may set a

later time for the meeting. The meeting may be held at a regular place for holding court or at any other place designated by the United States trustee within the district convenient for the parties in interest.

(b) Order of meeting.

(1) Meeting of creditors.—The United States trustee or his designee shall preside at the meeting of creditors. The business of the meeting shall include the examination of the debtor under oath and, in a chapter 7 liquidation case, may include the election of a trustee or of a creditors' committee. The presiding officer shall have the authority to administer oaths.

(2) Meeting of equity security holders.—If the court orders a meeting of equity security holders pursuant to § 341(b) of the Code, the United States trustee shall fix a date for the meeting and he or his designee shall preside.

(c) Report to the court.—The United States trustee shall transmit to the court the name and address of any person elected trustee or a member of a creditors' committee. If an election is disputed, the presiding officer shall promptly inform the court in writing of the dispute. Pending disposition of the dispute by the court, the interim trustee shall continue in office. If no motion for the resolution of the election dispute is made to the court within ten days after the date of the creditors' meeting, the interim trustee shall serve as trustee in the case.

(d) Special meetings.—The United States trustee may call a special meeting of creditors on application or on his own initiative.

(e) Final meeting.—If the United States trustee calls a final meeting of creditors in a case in which the net proceeds realized exceed $250, the clerk of the bankruptcy court 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 or his designee shall attend the final meeting and shall, if requested, report on the administration of the estate.

Rule X–1007. Duty of trustee or debtor in possession to make reports, furnish information, and cooperate with United States trustee.

(a) Duty to file inventory.—A trustee or debtor in possession shall file the inventory required by Rule 2015(a)(1) with the United States trustee and with the court if the court so directs.

(b) Duty to furnish information to, and cooperate with, United States trustee.—The trustee or debtor in possession shall cooperate with the United States trustee by furnishing such information as the United States trustee may reasonably require in supervising the administration of the estate. The trustee or debtor in possession in a chapter 11 reorganization case, and the debtor in a chapter 13 individual's debt adjustment case when the debtor is engaged in business, shall furnish the United States trustee and file with the clerk regular reports of operations as the United States trustee may reasonably require.

Rule X–1008. Notices to United States trustee.

(a) Notices to be furnished to United States trustees.—Unless the United States trustee otherwise requests, the United States trustee shall receive notice of and pleadings relating to:

(1) the matters described in Rule 2002(a)(2), (5), (7), 2002(b), and (f);

(2) applications for approval of the employment of professional persons under Rule 2014;

(3) applications for compensation of professional persons under Rule 2016;

(4) the hearing to consider a disclosure statement pursuant to Rule 3017;

(5) the hearing on the appointment of a trustee or examiner; and

(6) any other matter notice of which is requested by the United States trustee or ordered by the court.

(b) Time for notice to United States trustee.—Subject to Rule 2002, the United States trustee shall receive notice

within sufficient time to permit him to participate in the matter.

(c) United States trustee need not furnish notice.—The United States trustee shall not be required to give any notice provided for in Rule 2002(a) or (b).

Rule X–1009. Right to be heard; filing papers.

(a) Right to be heard.—The United States trustee may raise and appear and be heard on any issue relating to his responsibilities in a case under the Code.

(b) Filing of papers.—In the interest of effective administration, the court or the United States trustee may require a party in interest to file with the United States trustee a copy of any paper filed with the court.

Rule X–1010. Prohibition of ex parte contacts.

The United States trustee, his assistants, and agents shall refrain from ex parte meetings and communications with the bankruptcy judge concerning matters affecting a particular case or proceeding. This rule does not preclude communication with a bankruptcy judge to discuss general problems of administration and improvement of bankruptcy administration, including the operation of the United States trustee system.