119th Congress, 1st Session – – – – – – – – – – – – – House Document 119–46

AMENDMENTS TO THE FEDERAL RULES OF BANKRUPTCY PROCEDURE

COMMUNICATION

FROM

THE CHIEF JUSTICE, THE SUPREME COURT OF THE UNITED STATES

TRANSMITTING

AMENDMENTS TO THE FEDERAL RULES OF BANKRUPTCY PROCEDURE THAT HAVE BEEN ADOPTED BY THE SUPREME COURT, PURSUANT TO 28 U.S.C. 2075, PURSUANT TO 28 U.S.C. 2075; PUBLIC LAW 88–623, SEC. 1 (AS AMENDED BY PUBLIC LAW 103–394, SEC. 104(f)); (108 STAT. 4110)

APRIL 24, 2025.—Referred to the Committee on the Judiciary and ordered to be printed

U.S. GOVERNMENT PUBLISHING OFFICE

★59–011 WASHINGTON : 2025

SUPREME COURT OF THE UNITED STATES,
Washington, DC, April 23, 2025.

Hon. MIKE JOHNSON,
Speaker, United States House of Representatives,
Washington, DC.

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

Accompanying the amended rules are the following materials that were submitted to the Court for its consideration pursuant to Section 331 of Title 28, United States Code: a transmittal letter to the Court dated October 17, 2024; a blackline version of the rules with committee notes; an excerpt from the September 2024 report of the Committee on Rules of Practice and Procedure to the Judicial Conference of the United States; and an excerpt from the May 2024 report of the Advisory Committee on Bankruptcy Rules.

Sincerely,

JOHN G. ROBERTS, Jr.,
Chief Justice.

April 23, 2025

SUPREME COURT OF THE UNITED STATES

ORDERED:

1. The Federal Rules of Bankruptcy Procedure are amended to include amendments to Rules 3002.1 and 8006.

[*See infra* pp. ___ ___ ___.]

2. The foregoing amendments to the Federal Rules of Bankruptcy Procedure shall take effect on December 1, 2025, and shall govern in all proceedings in bankruptcy cases thereafter commenced and, insofar as just and practicable, all proceedings then pending.

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

PROPOSED AMENDMENTS TO THE FEDERAL RULES OF BANKRUPTCY PROCEDURE

Rule 3002.1. Chapter 13—Claim Secured by a Security Interest in the Debtor's Principal Residence

(a) **In General.** This rule applies in a Chapter 13 case to a claim that is secured by a security interest in the debtor's principal residence and for which the plan provides for the trustee or debtor to make payment on the debt. Unless the court orders otherwise, the requirements of this rule cease when an order terminating or annulling the automatic stay related to that residence becomes effective.

(b) **Notice of a Payment Change; Home-Equity Line of Credit; Effect of an Untimely Notice; Objection.**

(1) ***Notice by the Claim Holder—In General.*** The claim holder must file a notice of any change in the payment amount, including one

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resulting from an interest-rate or escrow-account adjustment. The notice must be served on:

- the debtor;
- the debtor's attorney; and
- the trustee.

Except as provided in (b)(2), it must be filed and served at least 21 days before the new payment is due.

(2) ***Notice of a Change in a Home-Equity Line of Credit.***

(A) *Deadline for the Initial Filing; Later Annual Filing.* If the claim arises from a home-equity line of credit, the notice of a payment change must be filed and served either as provided in (b)(1) or within one year after the bankruptcy-petition filing, and then at least annually.

(B) *Content of the Annual Notice.* The annual notice must:

(i) state the payment amount due for the month when the notice is filed; and

(ii) include a reconciliation amount to account for any overpayment or underpayment during the prior year.

(C) *Amount of the Next Payment.* The first payment due at least 21 days after the annual notice is filed and served must be increased or decreased by the reconciliation amount.

(D) *Effective Date.* The new payment amount stated in the annual notice (disregarding the reconciliation amount) is effective on the first payment due date after the payment under (C) has been made and remains effective until a new notice becomes effective.

(E) *Payment Changes Greater Than $10.* If the claim holder chooses to give annual notices under (b)(2) and the monthly payment increases or decreases by more than $10 in any month, the holder must file and serve (in addition to the annual notice) a notice under (b)(1) for that month.

(3) ***Effect of an Untimely Notice.*** If the claim holder does not timely file and serve the

notice required by (b)(1) or (b)(2), the effective date of the new payment amount is as follows:

(A) when the notice concerns a payment increase, on the first payment due date that is at least 21 days after the untimely notice was filed and served; or

(B) when the notice concerns a payment decrease, on the actual payment due date, even if it is prior to the notice.

(4) ***Party in Interest's Objection.*** A party in interest who objects to a payment change noticed under (b)(1) or (b)(2) may file and serve a motion to determine the change's validity. Unless the court orders otherwise, if no motion is filed before the day the new payment is due, the change goes into effect

on that date.

(c) Fees, Expenses, and Charges Incurred After the Case Was Filed; Notice by the Claim Holder. The claim holder must file a notice itemizing all fees, expenses, and charges incurred after the case was filed that the holder asserts are recoverable against the debtor or the debtor's principal residence. Within 180 days after the fees, expenses, or charges are incurred, the notice must be filed and served on the individuals listed in (b)(1).

(d) Filing Notice as a Supplement to a Proof of Claim. A notice under (b) or (c) must be filed as a supplement to a proof of claim using Form 410S-1 or 410S-2, respectively. The notice is not subject to Rule 3001(f).

(e) Determining Fees, Expenses, or Charges. On a party in interest's motion, the court must, after notice and a hearing, determine whether paying any claimed fee, expense, or charge is required by the underlying agreement and applicable nonbankruptcy law. The motion must be filed within one year after the notice under (c) was served, unless a party in interest requests and the court orders a shorter period.

(f) Motion to Determine Status; Response; Court Determination.

(1) ***Timing; Content and Service.*** At any time after the date of the order for relief under Chapter 13 and until the trustee files the notice under (g)(1), the trustee or debtor may file a motion to determine the status of any claim described in (a). The motion must be prepared using Form 410C13-M1 and be served on:

- the debtor and the debtor's attorney, if the trustee is the movant;

- the trustee, if the debtor is the movant; and
- the claim holder.

(2) ***Response; Content and Service.*** If the claim holder disagrees with facts set forth in the motion, it must file a response within 28 days after the motion is served. The response must be prepared using Form 410C13-M1R and be served on the individuals listed in (b)(1).

(3) ***Court Determination.*** If the claim holder's response asserts a disagreement with facts set forth in the motion, the court must, after notice and a hearing, determine the status of the claim and enter an appropriate order. If the claim holder does not respond to the motion or files a response agreeing with the facts set forth in it, the court may grant the

motion based on those facts and enter an appropriate order.

(g) Trustee's End-of-Case Notice of Disbursements Made; Response; Court Determination.

(1) ***Timing and Content.*** Within 45 days after the debtor completes all payments due to the trustee under a Chapter 13 plan, the trustee must file a notice:

(A) stating what amount the trustee disbursed to the claim holder to cure any default and whether it has been cured;

(B) stating what amount the trustee disbursed to the claim holder for payments that came due during the pendency of the case and whether such payments are current as of the date of the notice; and

(C) informing the claim holder of its obligation to respond under (g)(3).

(2) ***Service.*** The notice must be prepared using Form 410C13-N and be served on:

- the claim holder;
- the debtor; and
- the debtor's attorney.

(3) ***Response.*** The claim holder must file a response to the notice within 28 days after its service. The response, which is not subject to Rule 3001(f), must be filed as a supplement to the claim holder's proof of claim. The response must be prepared using Form 410C13-NR and be served on the individuals listed in (b)(1).

(4) ***Court Determination of a Final Cure and Payment.***

(A) *Motion.* Within 45 days after service of the response under (g)(3) or after service of the trustee's notice under (g)(1) if no response is filed by the claim holder, the debtor or trustee may file a motion to determine whether the debtor has cured all defaults and paid all required postpetition amounts on a claim described in (a). The motion must be prepared using Form 410C13-M2 and be served on the entities listed in (f)(1).

(B) *Response.* If the claim holder disagrees with the facts set forth in the motion, it must file a response within 28 days after the motion is served. The response must be prepared using

Form 410C13-M2R and be served on the individuals listed in (b)(1).

(C) *Court Determination.* After notice and a hearing, the court must determine whether the debtor has cured all defaults and paid all required postpetition amounts. If the claim holder does not respond to the motion or files a response agreeing with the facts set forth in it, the court may enter an appropriate order based on those facts.

(h) Claim Holder's Failure to Give Notice or Respond. If the claim holder fails to provide any information as required by this rule, the court may, after notice and a hearing, do one or more of the following:

(1) preclude the holder from presenting the

omitted information in any form as evidence in a contested matter or adversary proceeding in the case—unless the court determines that the failure was substantially justified or is harmless;

(2) award other appropriate relief, including reasonable expenses and attorney's fees caused by the failure; and

(3) take any other action authorized by this rule.

PROPOSED AMENDMENTS TO THE
FEDERAL RULES OF BANKRUPTCY PROCEDURE

Rule 8006. Certifying a Direct Appeal to the Court of Appeals

* * * * *

(g) Request After Certification for a Court of Appeals to Authorize a Direct Appeal. Within 30 days after the certification has become effective under (a), any party to the appeal may ask the court of appeals to authorize a direct appeal by filing a petition with the circuit clerk in accordance with Fed. R. App. P. 6(c).

JUDICIAL CONFERENCE OF THE UNITED STATES

WASHINGTON, D.C. 20544

THE CHIEF JUSTICE
OF THE UNITED STATES
Presiding

HONORABLE ROBERT J. CONRAD, JR.
Secretary

October 17, 2024

MEMORANDUM

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

From: Judge Robert J. Conrad, Jr. Robert J Conrad Jr.
Secretary

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

By direction of the Judicial Conference of the United States, pursuant to the authority conferred by 28 U.S.C. § 331, I transmit for the Court's consideration proposed amendments to Rules 3002.1 and 8006 of the Federal Rules of Bankruptcy Procedure, which have been approved by the Judicial Conference. The Judicial Conference recommends that the amended rules be adopted by the Court and transmitted to Congress pursuant to law.

For your assistance in considering the proposed amendments, I am transmitting (i) clean and blackline copies of the amended rules along with committee notes; (ii) an excerpt from the September 2024 report of the Committee on Rules of Practice and Procedure to the Judicial Conference; and (iii) an excerpt from the May 2024 report of the Advisory Committee on Bankruptcy Rules.

Attachments

April 2025: Before this package was sent to Congress, footnote 2 in Bankruptcy Rules 3002.1 and 8006 indicating that changes were made to the restyled versions of rules not yet in effect was removed

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

Rule 3002.1. ~~Notice Relating to~~ Chapter 13—~~Claims~~—Claim Secured by a Security Interest in the Debtor's Principal Residence ~~in a Chapter 13 Case~~

(a) In General. This rule applies in a Chapter 13 case to a claim that is secured by a security interest in the debtor's principal residence and for which the plan provides for the trustee or debtor to make ~~contractual installment~~ payments on the debt. Unless the court orders otherwise, the ~~notice~~ requirements of this rule cease when an order terminating or annulling the automatic stay related to that residence becomes effective.

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

(b) Notice of a Payment Change; Home-Equity Line of Credit; Effect of an Untimely Notice; Objection.

(1) ***Notice by the Claim Holder—In General.*** The claim holder must file a notice of any change in the payment amount~~, of an installment payment~~ including ~~any change~~ one resulting from an interest-rate or escrow-account adjustment. ~~At least 21 days before the new payment is due, the~~ The notice must be ~~filed and~~ served on:

- the debtor;
- the debtor's attorney; and
- the trustee.

Except as provided in (b)(2), it must be filed and served at least 21 days before the new payment is due. ~~If the claim arises from a home-equityline of credit, the court may~~

~~modify this requirement.~~

(2) ***Notice of a Change in a Home-Equity Line of Credit.***

(A) *Deadline for the Initial Filing; Later Annual Filing.* If the claim arises from a home-equity line of credit, the notice of a payment change must be filed and served either as provided in (b)(1) or within one year after the bankruptcy-petition filing, and then at least annually.

(B) *Content of the Annual Notice.* The annual notice must:

(i) state the payment amount due for the month when the notice is filed; and

(ii) include a reconciliation amount to account for any overpayment or underpayment during the prior year.

(C) *Amount of the Next Payment.* The first payment due at least 21 days after the annual notice is filed and served must be increased or decreased by the reconciliation amount.

(D) *Effective Date.* The new payment amount stated in the annual notice (disregarding the reconciliation amount) is effective on the first payment due date after the payment under (C) has been made and remains effective until a new notice becomes effective.

(E) *Payment Changes Greater Than $10.* If the claim holder chooses to give annual notices under (b)(2) and the monthly payment increases or decreases by more than $10 in any month, the holder must file and serve (in addition to the annual notice) a notice under (b)(1) for that month.

(3) ***Effect of an Untimely Notice.*** If the claim holder does not timely file and serve the notice required by (b)(1) or (b)(2), the effective date of the new payment amount is as follows:

(A) when the notice concerns a payment increase, on the first payment due date that is at least 21 days after the untimely notice was filed and served; or

(B) when the notice concerns a payment decrease, on the actual payment due date, even if it is prior to the notice.

(~~2~~4) ***Party in Interest's Objection.*** A party in interest who objects to ~~the~~ a payment change noticed under (b)(1) or (b)(2) may file and serve a motion to determine ~~whether the change is required to maintain payments under § 1322(b)(5)~~ the change's validity. Unless the court orders otherwise, if no motion is filed ~~by~~ before the day ~~before~~ the new payment is due, the change goes into effect on that date.

(c) Fees, Expenses, and Charges Incurred After the Case Was Filed; Notice by the Claim Holder. The claim holder must file a notice itemizing all fees, expenses, and charges incurred after the case was filed that the holder asserts are recoverable against the debtor or the debtor's principal residence. Within 180 days after the fees, expenses, or charges ~~were~~ are incurred, the notice must be filed and served on the individuals listed in (b)(1).~~:~~

- ~~the debtor;~~
- ~~the debtor's attorney; and~~
- ~~the trustee.~~

(d) **Filing Notice as a Supplement to a Proof of Claim.** A notice under (b) or (c) must be filed as a supplement to ~~the~~ a proof of claim using Form 410S-1 or 410S-2, respectively. The notice is not subject to Rule 3001(f).

(e) **Determining Fees, Expenses, or Charges.** On a party in interest's motion ~~filed within one year after the notice in (c) was served~~, the court must, after notice and a hearing, determine whether paying any claimed fee, expense, or charge is required by the underlying agreement and applicable nonbankruptcy law. ~~to cure a default or maintain payments under § 1322(b)(5).~~The motion must be filed within one year after the notice under (c) was served, unless a party in interest requests and the court orders a shorter period.

(f) Motion to Determine Status; Response; Court Determination.

(1) ***Timing; Content and Service.*** At any time after the date of the order for relief under Chapter 13 and until the trustee files the notice under (g)(1), the trustee or debtor may file a motion to determine the status of any claim described in (a). The motion must be prepared using Form 410C13-M1 and be served on:

- the debtor and the debtor's attorney, if the trustee is the movant;
- the trustee, if the debtor is the movant; and
- the claim holder.

(2) ***Response; Content and Service.*** If the claim holder disagrees with facts set forth in the motion, it must file a response within 28 days after the motion is served. The response must be prepared using Form 410C13-M1R and be served on the individuals listed in (b)(1).

(3) ***Court Determination.*** If the claim holder's response asserts a disagreement with facts set forth in the motion, the court must, after notice and a hearing, determine the status of the claim and enter an appropriate order. If the claim holder does not respond to the

motion or files a response agreeing with the facts set forth in it, the court may grant the motion based on those facts and enter an appropriate order.

(~~f~~g) ~~**Notice of the Final Cure Payment.**~~ **Trustee's End-of-Case Notice of Disbursements Made; Response; Court Determination.**

(1) *~~Contents of a Notice~~ Timing and Content.* Within ~~30~~ 45 days after the debtor completes all payments due to the trustee under a Chapter 13 plan, the trustee must file a notice:

(A) stating ~~that the debtor has paid in full the~~ what amount ~~required~~ the trustee disbursed to the claim holder to cure any default ~~on the claim~~and whether it has been cured; ~~and~~

(B) stating what amount the trustee disbursed to the claim holder for

April 2025: Before this package was sent to Congress, at line 179 the underlining from the period after (g)(3) was removed.

payments that came due during the pendency of the case and whether such payments are current as of the date of the notice; and

(C) informing the claim holder of its obligation to ~~file and serve a response~~ respond under (g)(3).

(2) ***~~Serving the Notice~~ Service.*** The notice must be prepared using Form 410C13-N and be served on:

- the claim holder;
- the debtor; and
- the debtor's attorney.

(3) ***Response.*** The claim holder must file a response to the notice within 28 days after its service. The response, which is not subject to Rule 3001(f), must be filed as a supplement to the claim holder's proof of claim. The

response must be prepared using Form 410C13-NR and be served on the individuals listed in (b)(1).

~~(3) *The Debtor's Right to File.* The debtor may file and serve the notice if:~~

~~(A) the trustee fails to do so;~~

~~(B) and the debtor contends that the final cure payment has been made and all plan payments have been completed.~~

(4) ***Court Determination of a Final Cure and Payment.***

(A) *Motion.* Within 45 days after service of the response under (g)(3) or after service of the trustee's notice under (g)(1) if no response is filed by the claim holder, the debtor or trustee may file a motion to determine whether the debtor has cured all defaults and paid all required postpetition amounts on a claim described in (a). The motion must be prepared using Form 410C13-M2 and be served on the entities listed in (f)(1).

(B) *Response.* If the claim holder disagrees with the facts set forth in the motion, it must file a response within 28 days after the motion is served. The response must be prepared using Form 410C13-M2R and be served on the individuals listed in (b)(1).

(C) *Court Determination.* After notice and a hearing, the court must determine whether the debtor has cured all defaults and paid all required postpetition amounts. If the claim holder does not respond to the motion or files a response agreeing with the facts set forth in it, the court may enter an appropriate order based on those facts.

~~**(g) Response to a Notice of the Final Cure Payment.**~~

~~(1) *Required Statement.* Within 21 days after the notice under (f) is served, the claim holder must file and serve a statement that:~~

~~(A) indicates whether:~~

~~(i) the claim holder agrees that the debtor has paid in full the amount required to cure any default on the claim; and~~

~~(ii) the debtor is otherwise current on all payments under § 1322(b)(5); and~~

~~(B) itemizes the required cure or~~

~~postpetition amounts, if any, that the claim holder contends remain unpaid as of the statement's date.~~

~~(2) *Persons to be Served.* The holder must serve the statement on:~~

- ~~the debtor;~~
- ~~the debtor's attorney; and~~
- ~~the trustee.~~

~~(3) *Statement to be a Supplement.* The statement must be filed as a supplement to the proof of claim and is not subject to Rule 3001(f).~~

~~**(h) Determining the Final Cure Payment.** On the debtor's or trustee's motion filed within 21 days after the statement under (g)is served, the court must, after notice and a hearing, determine whether the debtor has cured the default and made all required postpetition payments.~~

(~~i~~h) Claim Holder's Failure to Give Notice or

Respond. If the claim holder fails to provide any information as required by ~~(b), (c), or (g)~~this rule, the court may, after notice and a hearing, ~~take one or both of these actions~~do one or more of the following:

(1) preclude the holder from presenting the omitted information in any form as evidence in a contested matter or adversary proceeding in the case—unless the court determines that the failure was substantially justified or is harmless; ~~and~~

(2) award other appropriate relief, including reasonable expenses and attorney's fees caused by the failure; and

(3) take any other action authorized by this rule.

Committee Note

The rule is amended to encourage a greater degree of compliance with its provisions and to allow assessments of a mortgage claim's status while a chapter 13 case is pending in order to give the debtor an opportunity to cure any postpetition defaults that may have occurred. Stylistic changes are made throughout the rule, and its title and subdivision headings have been changed to reflect the amended content.

Subdivision (a), which describes the rule's applicability, is amended to delete the words "contractual" and "installment" in the phrase "contractual installment payments" in order to clarify and broaden the rule's applicability. The deletion of "contractual" is intended to make the rule applicable to home mortgages that may be modified and are being paid according to the terms of the plan rather than strictly according to the contract, including mortgages being paid in full during the term of the plan. The word "installment" is deleted to clarify the rule's applicability to reverse mortgages. They are not paid in installments, but a debtor may be curing a default on a reverse mortgage under the plan. If so, the rule applies.

In addition to stylistic changes, subdivision (b) is amended to provide more detailed provisions about notice of payment changes for home-equity lines of credit ("HELOCs") and to add provisions about the effective date of late payment change notices. The treatment of HELOCs presents a special issue under this rule because the amount owed changes frequently, often in small amounts. Requiring a notice for each change can be overly burdensome. Under new subdivision (b)(2), a HELOC claimant may choose to file only annual payment change notices—including a reconciliation figure (net overpayment or underpayment for the past year)—unless the payment change in a single month is for more than $10. This provision also ensures at least 21 days' notice before a payment increase takes effect.

As a sanction for noncompliance, subdivision (b)(3) now provides that late notices of a payment increase do not go into effect until the first payment due date after the required notice period (at least 21 days) expires. The claim holder will not be permitted to collect the increase for the interim period. There is no delay, however, in the effective date of an untimely notice of a payment decrease. It may even take effect retroactively, if the actual due date of the decreased payment occurred before the claim holder gave notice of the change.

The changes made to subdivisions (c) and (d) are largely stylistic. Stylistic changes are also made to subdivision (e). In addition, the court is given authority, upon motion of a party in interest, to shorten the time for seeking a determination of the fees, expenses, or charges owed. Such a shortening, for example, might be appropriate in the later stages of a chapter 13 case.

Subdivision (f) is new. It provides a procedure for assessing the status of the mortgage at any point before the trustee files the notice under (g)(1). This optional procedure, which should be used only when necessary and appropriate for carrying out the plan, allows the debtor and the trustee to be informed of any deficiencies in payment and to reconcile records with the claim holder in time to become current before the case is closed. The procedure is initiated by motion of the trustee or debtor. An Official Form has been adopted for this purpose. The claim holder then must respond if it disagrees with facts stated in the motion, again using an Official Form to provide the required information. If the claim holder's response asserts such a disagreement, the court, after notice and a hearing, will determine the status of the mortgage claim. If the claim holder fails to respond or does not dispute the facts set forth in the motion, the court may enter an order favorable to the moving party based on those facts.

Under subdivision (g), within 45 days after the last plan payment is made to the trustee, the trustee must file an

End-of-Case Notice of Disbursements Made. An Official Form has been adopted for this purpose. The notice will state the amount that the trustee has paid to cure any default on the claim and whether the default has been cured. It will also state the amount that the trustee has disbursed on obligations that came due during the case and whether those payments are current as of the date of the notice. If the trustee has disbursed no amounts to the claim holder under either or both categories, the notice should be filed stating $0 for the amount disbursed. The claim holder then must respond within 28 days after service of the notice, again using an Official Form to provide the required information.

Either the trustee or the debtor may file a motion for a determination of final cure and payment. The motion, using the appropriate Official Form, may be filed within 45 days after the claim holder responds to the trustee's notice under (g)(1), or, if the claim holder fails to respond to the notice, within 45 days after the notice was served. If the claim holder disagrees with any facts in the motion, it must respond within 28 days after the motion is served, using the appropriate Official Form. The court will then determine the status of the mortgage. A Director's Form provides guidance on the type of information that should be included in the order.

Subdivision (h) was previously subdivision (i). It has been amended to clarify that the listed sanctions are authorized in addition to any other actions that the rule authorizes the court to take if the claim holder fails to provide notice or respond as required by the rule. Stylistic changes have also been made to the subdivision.

April 2025: Before this package was sent to Congress, footnote 2 in Bankruptcy Rules 3002.1 and 8006 indicating that changes were made to the restyled versions of rules not yet in effect was removed.

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

Rule 8006. Certifying a Direct Appeal to the Court of Appeals

* * * * *

(g) Request After Certification for ~~Leave to Take a Direct Appeal to~~ a Court of Appeals ~~After Certification~~ to Authorize a Direct Appeal. Within 30 days after the certification has become effective under (a), ~~a request for leave to take a direct appeal to a court of appeals must be filed~~ any party to the appeal may ask the court of appeals to authorize a direct appeal by filing a petition with the circuit clerk in accordance with Fed. R. App. P. 6(c).

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

Committee Note

Rule 8006(g) is revised to clarify that any party to the appeal may file a request that a court of appeals authorize a direct appeal. There is no obligation to do so if no party wishes the court of appeals to authorize a direct appeal.

Excerpt from the September 2024 Report of the Committee on Rules of Practice and Procedure

Agenda E-19
Rules
September 2024

REPORT OF THE JUDICIAL CONFERENCE

COMMITTEE ON RULES OF PRACTICE AND PROCEDURE

TO THE CHIEF JUSTICE OF THE UNITED STATES AND MEMBERS OF THE JUDICIAL CONFERENCE OF THE UNITED STATES:

The Committee on Rules of Practice and Procedure (Standing Committee or Committee) met on June 4, 2024. All members participated.

* * * * *

FEDERAL RULES OF BANKRUPTCY PROCEDURE

Rules * * * Recommended for Approval and Transmission

The Advisory Committee on Bankruptcy Rules recommended for final approval: (1) amendments to Bankruptcy Rule 3002.1 * * *; (2) amendments to Rule 8006; * * *. The Standing Committee unanimously approved the Advisory Committee's recommendations.

<u>Rule 3002.1 (Notice Relating to Claims Secured by a Security Interest in the Debtor's Principal Residence in a Chapter 13 Case) and Related Official Forms</u>

Rule 3002.1 is amended to encourage a greater degree of compliance with its provisions by adding an optional motion process the debtor or case trustee can initiate to determine a mortgage claim's status while a chapter 13 case is pending to give the debtor an opportunity to cure any postpetition defaults that may have occurred. The changes also add more detailed provisions about notice of payment changes for home-equity lines of credit.

* * * * *

Excerpt from the September 2024 Report of the Committee on Rules of Practice and Procedure

Stylistic changes are made throughout the rule, and its title and subdivision headings have been changed to reflect the amended content.

Rule 8006 (Certifying a Direct Appeal to a Court of Appeals)

Rule 8006 addresses the process for requesting that an appeal go directly from the bankruptcy court to the court of appeals under 28 U.S.C. § 158(d)(2). The proposed amendment to Rule 8006(g) clarifies that any party to the appeal may file a request that a court of appeals authorize a direct appeal. There is no obligation to do so if no party wishes the court of appeals to authorize a direct appeal. This amendment dovetails with the proposed amendments to Appellate Rule 6 discussed earlier in this report.

* * * * *

Recommendation: That the Judicial Conference approve the following:

a. Proposed amendments to Bankruptcy Rules 3002.1 and 8006, as set forth in Appendix B, and transmit them to the Supreme Court for consideration with a recommendation that they be adopted by the Court and transmitted to Congress in accordance with the law; * * *

* * * * *

Respectfully submitted,

John D. Bates, Chair

Paul Barbadoro	Lisa O. Monaco
Elizabeth J. Cabraser	Andrew J. Pincus
Louis A. Chaiten	D. Brooks Smith
William J. Kayatta, Jr.	Kosta Stojilkovic
Edward M. Mansfield	Jennifer G. Zipps
Troy A. McKenzie	
Patricia Ann Millett	

* * * * *

Excerpt from the May 10, 2024 Report of the Advisory Committee on Bankruptcy Rules

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

OHN D. BATES
CHAIR

IOMAS BYRON III
SECRETARY

CHAIRS OF ADVISORY COMMITTEES

JAY S. BYBEE
APPELLATE RULES

REBECCA B. CONNELLY
BANKRUPTCY RULES

ROBIN L. ROSENBERG
CIVIL RULES

JAMES C. DEVER III
CRIMINAL RULES

PATRICK J. SCHILTZ
EVIDENCE RULES

MEMORANDUM

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

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

RE: Report of the Advisory Committee on Bankruptcy Rules*

DATE: May 10, 2024

I. Introduction

The Advisory Committee on Bankruptcy Rules met in Denver on April 11, 2024. Two Committee members attended remotely; the rest of the Committee met in person. * * *

At the meeting, the Advisory Committee voted to give final approval to amendments to Bankruptcy Rules 3002.1 (Notice Relating to Claims Secured by a Security Interest in the

* A copy of the full committee report can be found in the June 2024 Standing Committee agenda book publicly available on www.uscourts.gov.

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Debtor's Principal Residence in a Chapter 13 Case) and Bankruptcy Rule 8006 (Certifying a Direct Appeal to a Court of Appeals), as well as * * *.

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

A. Items for Final Approval

Rules and Forms published for comment in August 2023:

- Rule 3002.1;
- Rule 8006;
- * * *; and
- * * *.

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II. **Action Items**

A. **Items for Final Approval**

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

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

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

Subdivision (a) – In General. The Advisory Committee voted to delete the word "contractual" in the first sentence of subdivision (a) so that the end of the sentence now reads, "for which the plan provides for the trustee or debtor to make payments on the debt." Several comments were submitted suggesting this deletion. They explained that sometimes home mortgages may be modified in chapter 13—such as those paid in full or short-term mortgages—

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and they are paid according to the terms of the plan, rather than strictly according to the terms of the contract. The Advisory Committee thought that the rule should apply in these situations and that making this change would not require republication. The Advisory Committee also approved a change to the Committee Note's discussion of subdivision (a) that clarifies that the amended rule applies to reverse mortgages.

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

Subdivision (b) – Notice of a Payment Change; Home-Equity Line of Credit; Effect of an Untimely Notice; Objection. In response to several of the mortgage organizations' comments, the Advisory Committee voted to state in subdivision (b)(3)(B) that a payment decrease is effective on the actual payment due date, even if that date is in the past. There are instances where a payment decrease is retroactively applied, and the debtor should get the benefit of that decrease. As revised, (b)(3)(B) would state that the effective date of the new payment amount is, "when the notice concerns a payment decrease, on the actual payment due date, even if prior to the notice."

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

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

Mortgage organizations suggested a number of limitations that they thought should be added to prevent the abusive use of this subdivision. Those restrictions included limiting the time period during which a motion to determine the status of a mortgage could be filed or limiting the number of times it could be filed, specifying potential remedies for the mortgage claimant if the provision is misused, providing that a pro se debtor must provide an attestation as to the facts set forth in the motion, and providing that it is a ground for setting aside an adverse order if the movant failed to name and serve the correct mortgage claimant/servicer. The Advisory Committee made no changes in response to these comments. If a debtor, debtor's attorney, or trustee files a motion under this provision, Rule 9011 applies and could result in sanctions if the court determines that the motion was filed "for any improper purpose" or that the

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factual allegations lack evidentiary support. Furthermore, relief would be available outside of this rule if an adverse order is entered against a party that was not served.

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

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

Several comments noted that in subdivision (g)(4)(A), no deadline was stated for filing a motion to determine the status of the mortgage if the claim holder responded to the trustee's notice. It merely said that the motion could be filed "[a]fter service of the response." Agreeing with the comments, the Advisory Committee voted to rewrite the first sentence of subparagraph (A) to make a 45-day deadline applicable to that situation as well as to when the claim holder does not respond to the notice.

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

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

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

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

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

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