

CHANGES TO LOCAL AND NATIONAL RULES, FORMS AND FEES EFFECTIVE DECEMBER 1, 2014

The following summary of changes to **BOTH LOCAL AND NATIONAL** rules, forms and fees is provided solely as a convenience to attorneys and parties participating in bankruptcy cases and proceedings in the District of Minnesota and is not intended as a complete statement of the changes.

For complete information on the changes to the national rules, forms and fees, please consult:

For rule changes:

www.uscourts.gov/RulesAndPolicies/rules/pending-rules.aspx

For form changes:

www.uscourts.gov/FormsAndFees/Forms/BankruptcyForms/BankruptcyFormsPendingChanges.aspx

For fee changes:

www.uscourts.gov/FormsAndFees/Fees/BankruptcyCourtMiscellaneousFeeSchedule.aspx

For complete information on the changes to the local rules and forms, please review the court's website (on December 1 and after) under the **Code, Rules and Forms** tab.

FEE CHANGES

- Motion to redact a record

A new *Motion to redact a record* will be available in CM/ECF. The motion will require a \$25 filing fee.

- Direct Appeal or Direct Cross-Appeal

Upon notice from the court of appeals that a direct appeal or direct cross-appeal has been authorized, an additional fee of \$207 must be collected.

FORM CHANGES - OFFICIAL FORMS

- **Form 3A (Application for individual to pay the filing fee in installments)**

This form was revised to remove references to fee amounts.

- **Form 3B (Application to have the chapter 7 filing fee waived)**

This form was revised to remove references to fee amounts.

- **Forms 22A-1 (Chapter 7 Statement of Your Current Monthly Income), 22A-1 Supp (Statement of Exemption from Presumption of Abuse Under §707(b)(2)), 22A-2 (Chapter 7 Means Test Calculation), 22B (Chapter 11 Statement of Your Current Monthly Income), 22C-1 (Chapter 13 Statement of Your Current Monthly Income and Calculation of Commitment Period) and 22C-2 (Chapter 13 Calculation of Your Disposable Income)**

The means test forms are revised to accommodate changes in the law as a result of Supreme Court precedent and as part of the Bankruptcy Rules Advisory Committee's ongoing Forms Modernization Project.

- **Form B6 (Summary of Schedules)**

This form is updated to provide line references corresponding to the amended means test forms.

- **Form 17A (Notice of Appeal and Statement of Election)**

This form is amended to add to the Notice of Appeal an optional Statement of Election to have the appeal heard by the district court rather than by the bankruptcy appellate panel (BAP).

- **Form 17B (Optional Appellee Statement of Election to Proceed in District Court)**

This new form is for use by an appellee to state its election to have an appeal heard by the district court rather than by the BAP.

FORM CHANGES - LOCAL FORMS

- **Signature Declaration form**

This form has been revised to remove outdated information and to make clear that the form is for use by attorneys filing cases electronically and not for use by pro se debtors.

The new form can be found under **Code, Rules and Forms → Local Forms → Other Local Forms → Signature Declaration** on the court's website.

- **Local Forms 4001-2(a) and 4001-2(b)**

These new local form orders must be submitted as proposed forms of order with any motions for relief from stay where the movant seeks relief as to collateral.

The form orders can be found under **Code, Rules and Forms → Local Forms → Official Local Forms → Local Form 4001-2(a)** and **Code, Rules and Forms → Local Forms → Official Local Forms → Local Form 4001-2(b)** on the court's website.

RULE CHANGES - FEDERAL RULES OF BANKRUPTCY PROCEDURE

- **Rule 1014(b)**

Rule 1014(b) addresses petitions involving the same or related debtors filed in different courts. The amendment to Rule 1014(b) provides that proceedings in subsequently filed cases are stayed only upon order of the court where the first-filed petition is pending, and expands the list of persons entitled to notice of a motion in the first court to determine where the related cases should proceed.

- **Rule 7004(e)**

The amendment to Rule 7004(e) reduces from 14 to 7 days after issuance of the summons the period during which service of the summons and complaint must be made. Because Rule 7012 provides that the defendant's time to answer the complaint is calculated from the date the summons is issued, a lengthy delay between issuance and service of the summons may unduly shorten the defendant's time to respond. Therefore, this amendment seeks to ensure prompt service.

- **Rules 7008(b) and 7054**

These amendments change the procedure for seeking attorney's fees in bankruptcy proceedings, bringing the Bankruptcy Rules in closer alignment with the Rules of Civil Procedure.

- ▶ Rule 7008(b), which currently addresses attorney's fees, is deleted.
- ▶ Rule 7054 includes procedures for seeking an award of attorney's fees, unless the governing substantive law requires the fees to be provided at trial as an element of damages.

- **Appeals Rules generally - Rules 8001-8028**

The amendments to Part 8 of the Bankruptcy Rules govern appeals to district courts and bankruptcy appellate panels. The purpose of the amendments is to: (1) bring the bankruptcy appellate rules into closer alignment with the Federal Rules of Appellate Procedure; (2) incorporate a presumption favoring electronic transmission, filing and service of court documents; and (3) adopt a clearer and simpler style.

- **Rule 8003**

Rule 8003 requires the clerk to serve the notice of appeal instead of providing notice of the filing of the notice of appeal. The Notice of Electronic Filing (NEF) will suffice as notice except when pro se parties are involved.

- **Rule 8003(d)(1)**

Rule 8003(d)(1) requires the clerk to transmit the notice of appeal promptly to the district court or BAP. The Committee note makes clear that this transmission should no longer be delayed until the record is complete.

- **Rule 8005(a)**

Rule 8005(a) eliminates the requirement that a separate document be filed when a party to an appeal elects to have the appeal heard by the district court rather than the BAP (See also reference to **Official Form 17A**, above).

- **Rule 8008**

Rule 8008 provides a procedure for the issuance of an indicative ruling when a bankruptcy court determines that, because of a pending appeal, the court lacks jurisdiction to grant a request for relief that the court concludes is meritorious or raises a substantial issue.

- **Rule 8009**

- < addresses transcripts, when a transcript is or is not ordered, and allows an appellant to file a statement of in lieu of transcript, when a transcript is unavailable.
- < permits the parties to file an agreed Statement of the Case in lieu of the record on appeal.
- < if a sealed document is designated as part of the record on appeal, the party making the designation must file a motion requesting that the appellate court accept the sealed document. The bankruptcy court may not transmit the designated sealed document without an order from the appellate court.

- **Rule 8010**

Rule 8010 requires that if a party moves in the district, BAP, or court of appeals for any of the following: leave to appeal; dismissal; a stay pending appeal; approval of a supersedeas bond, or additional security on a bond or undertaking on appeal; or any other intermediate order, the bankruptcy clerk must transmit to the clerk of the court where the relief is sought any parts of the record designated by a party to the appeal or a notice that those parts are available electronically.

- **Rules 9023 and 9024**

Rule 9023 (governing new trials and amendment of judgments) and Rule 9024(governing relief from a judgment or order) add reference to the procedure in amended Rule 8008 addressing indicative rulings.

RULE CHANGES - LOCAL RULES OF BANKRUPTCY PROCEDURE

- **Local Rules 1007-2(c), 2015.1-1 and 9013-3(a)(3): health care regulators**

New subsection (c) to Local Rule 1007-2 requires the filing by a debtor in a health care case of a list and supplemental matrix containing the names and addresses of all entities that issue licenses to or regulate the debtor or the debtor's principal.

To facilitate the filing of this list in CM/ECF, a new event, *List of health care regulators*, has been added under **Bankruptcy → Commencement Events → Case Completion**. In addition, filers must upload the matrix of regulators and licensors using the *Upload list of creditors* functionality, also under **Bankruptcy → Commencement Events**.

In addition, new subsection (a)(3) to Local Rule 9013-3 provides that any motion seeking a determination that the appointment of a patient care ombudsman is not necessary must be served on the health care regulators and licensors identified in the list filed by the debtor pursuant to Local Rule 1007-2(c). Similarly, new Local Rule 2015.1-1 requires that notice of a patient care ombudsman's report must be served on those same health care regulators and licensors.

- **Local Rule 4001-1(c): Orders granting relief from stay as to collateral**

To facilitate the use of the new Local Form orders granting relief from stay, subsection (c) to Local Rule 4001-1 has been added to provide that, "[i]f a proposed order provides for relief as to collateral, it shall substantially conform to Local Form 4001-2(a) (pre-discharge) or Local Form 4001-2(b) (post-discharge)."

- **Appeal Rules (Part VIII)**

The following changes have been made to Part VIII of the Local Rules, to make the local rules on appeals consistent with the national rules, and to eliminate redundancy between the two:

- < Local Rules 8003-1, 8005-1, 8006-1(a) and (d), 8006-2, 8007-1, 8010-1, 8010-3, 8011-1 and 8016-1(a) have been abrogated.
- < The remaining text of Local Rule 8006-1 has been renumbered as Local Rule 8009-1 and is amended to provide as follows:

RULE 8009-1. DESIGNATION OF RECORD - APPEAL.

(a) DESIGNATED RECORD. The appellant and other parties shall designate in writing, in the manner otherwise provided in Federal Rule of Bankruptcy Procedure 8009, the particular documents of the official record on appeal to be included in the designated record. Each document designated shall be described specifically by the name of the document, the number of the document on the docket, and the date filed. The fact that parts of the record on appeal are not included in the designated record shall not prevent the parties or the district court from relying on them.

(b) SEPARATE APPENDICES. In lieu of a designated record, the appellant and other parties may file, within 14 days after the filing of the notice of appeal or entry of an order granting leave to appeal, a stipulation providing that the parties shall file with the clerk of the district court separate appendices. Unless the district court orders otherwise, the parties shall serve and file with the clerk of the district court their separate appendices along with their respective briefs. The parties also shall arrange for the clerk of the bankruptcy court to transmit transcripts or exhibits separately to the clerk of the district court.

(c) TRANSCRIPTS. If the appellant or other party designates any transcript of proceedings or any part thereof, the party shall order a transcript and file with the bankruptcy clerk a copy of the transcript order as required by Federal Rule of Bankruptcy Procedure 8009(b)(1)(A) and if no such transcript is to be ordered, file with the bankruptcy clerk a certification to that effect.

NOTE: This rule is promulgated by the district court.

< The remaining text of Local Rule 8007-2 will be renumbered as Local Rule 8010-1 and amended to provide as follows:

RULE 8010-1. TRANSMISSION OF RECORD - APPEAL.

For purposes of Federal Rule of Bankruptcy Procedure 8010(b)(1), the record is considered complete when the parties' designations of record, statements of the issues, and any transcripts have been filed, or 45 days after the filing of the notice of appeal, whichever is earlier.

NOTE: This rule is promulgated by the district court.