

**VBA BANKRUPTCY LAW SECTION**  
**BENCH-BAR BROWN BAG LUNCH MEETING**  
*with Hon. Colleen A. Brown, U.S. Bankruptcy Judge*

**United States Bankruptcy Court, Burlington**  
**Wednesday, September 12, 2018 ~ 12:00 - 1:00 PM**  
*Dial-in number: (888) 398-2342. Access code: 846 68 72#*  
*If you dial into the meeting, please use your “mute” function, unless speaking.*

**AGENDA**

1. NEW CO-CHAIRS OF THE VBA BANKRUPTCY SECTION! JUDGE BROWN
  - Donald Hayes & Nancy Geise, effective September 1, 2018
  
2. BANKRUPTCY SECTION’S 18<sup>TH</sup> ANNUAL HOLIDAY CLE HEATHER COOPER
  - December 7, 2018 – location?
  - Need for speakers? topic suggestions?
  
3. CHAPTER 13 PRACTICE POINTERS JAN SENSENICH
  - Secured creditors need to send monthly stmts once CMPs are completed
  - Impact of the means test calculation on the div to GUS
  - Debtors’ attorneys need to include 2 extra CMP pmts in Plan
  
4. PROPOSED AMENDMENTS TO FEDERAL BANKRUPTCY RULES (Attachment) JUDGE BROWN
  - Would amend Bk Rules **2002, 2004, and 8012**, effective Dec 2020 or 2021
  - Comment period ends **February 15, 2019**
  
5. INTRODUCING THE NEW UST STAFF ATTORNEY FOR VT CASES LISA PENPRAZE
  - Amy Ginsberg
  
6. OVERVIEW OF PROCEDURES FOR POSTPONING 341 MEETINGS (Attachment) LISA PENPRAZE
  - Always need for trustee consent. When is a court order required?
  
7. NEW IRS TAX TRANSCRIPT (Attachment) MELISSA RANALDO
  - New form designed to better protect tax payer data
  
8. COURT CALENDAR FOR FALL OF 2018 AND ALL OF 2019 JUDGE BROWN
  - Hrg dates for Rutland & Burlington, for all of 2019, shd be posted next month
  - Changing Burlington hrg days from Wednesdays to Tuesdays
  - Rutland hrgs will remain on Friday
  - During the Fell trial this fall, Rutland Bk hearings will be in Grand Jury suite
    - We tried this arrangement out recently and it worked pretty well; feedback welcome!
  
9. REPRISE OF LEASE ASSUMPTION/ REAFFIRMATION ISSUES: HEATHER COOPER
  - Procedure will remain as is, bar will need to seek relief through motion if a lessor insists on a reaf
  
10. CLERK’S OFFICE UPDATE THERESA DAVIDSON / JODY KENNEDY

These Bench-Bar lunch meetings are coordinated by the Bankruptcy Court.  
They are free and no pre-registration is required. 1 CLE credit provided per meeting.  
Contact Maria Dionne @ 802-657-6432 or [maria\\_dionne@vtb.uscourts.gov](mailto:maria_dionne@vtb.uscourts.gov) with any questions.

# PRELIMINARY DRAFT OF

## Proposed Amendments to the Federal Rules of Appellate, Bankruptcy, and Civil Procedure, and the Federal Rules of Evidence

### Request For Comment

Comments are Sought  
on Amendments to:

Appellate Rules 35 and 40

**Bankruptcy Rules 2002, 2004, and 8012**

Civil Rule 30

Evidence Rule 404

All Written Comments are Due  
by February 15, 2019



THE UNITED STATES COURTS

Prepared by the  
Committee on Rules of Practice and Procedure of the  
Judicial Conference of the United States

AUGUST 2018

**Excerpt from the May 21, 2018 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

DAVID G. CAMPBELL  
CHAIR

REBECCA A. WOMELDORF  
SECRETARY

CHAIRS OF ADVISORY COMMITTEES

MICHAEL A. CHAGARES  
APPELLATE RULES

SANDRA SEGAL IKUTA  
BANKRUPTCY RULES

JOHN D. BATES  
CIVIL RULES

DONALD W. MOLLOY  
CRIMINAL RULES

DEBRA ANN LIVINGSTON  
EVIDENCE RULES

**MEMORANDUM**

**TO:** Hon. David G. Campbell, Chair  
Committee on Rules of Practice and Procedure

**FROM:** Hon. Sandra Segal Ikuta, Chair  
Advisory Committee on Bankruptcy Rules

**RE:** Report of the Advisory Committee on **Bankruptcy Rules**

**DATE:** May 21, 2018

---

**I. Introduction**

The Advisory Committee on Bankruptcy Rules met in San Diego, California, on April 3, 2018. The draft minutes of that meeting are attached.

\* \* \* \* \*

**II. Action Items**

\* \* \* \* \*

**B. Items for Publication**

**The Committee recommends that the following rule amendments be published for public comment in August 2018.** The rules in this group appear in Bankruptcy Appendix B.

## Excerpt from the May 21, 2018 Report of the Advisory Committee on Bankruptcy Rules

**Action Item 6. Rule 2002(f), (h), and (k) (Notices).** Rule 2002 specifies the timing and content of numerous notices that must be provided in a bankruptcy case. The Committee seeks publication for public comment of amendments to three of the rule's subdivisions. This package of amendments would (i) require giving notice of the entry of an order confirming a chapter 13 plan, (ii) limit the need to provide notice to creditors that do not file timely proofs of claim in chapter 12 and chapter 13 cases, and (iii) add a cross-reference in response to the relocation of the provision specifying the deadline for objecting to confirmation of a chapter 13 plan.

*Rule 2002(f).* Rule 2002(f)(7) currently requires the clerk, or someone else designated by the clerk, to give notice to the debtor and all creditors of the “entry of an order confirming a chapter 9, 11, or 12 plan.” Noticeably absent from the list is an order confirming a chapter 13 plan. The Committee received a suggestion (12-BK-B) from Matthew T. Loughney (Chair, Bankruptcy Noticing Working Group), that such notice also be given in chapter 13 cases. As he explained, “There is not a rule specifically addressing the notice of entry of an order confirming a chapter 13 plan, and no reason is identified in the Committee note for this omission.”

Additional research revealed that in 1988 the Committee's reporter proposed an amendment to Rule 2002(f) that would have made the rule applicable to confirmation of a plan under any chapter, but the Committee, without explanation in the minutes, rejected that amendment. Ascertaining no reason currently for the exclusion of chapter 13 plans and agreeing with Mr. Loughney that “it would be helpful to have a rule that specifically addresses this notice in chapter 13 cases in order that it be made clear who should receive it,” the Committee voted unanimously at the spring 2017 meeting to seek publication for public comment of the proposed amendment.

*Rule 2002(h).* Rule 2002(h) provides an exception to the general noticing requirements set forth in Rule 2002(a). Rule 2002(a) generally requires the clerk (or some other party as directed by the court) to give “the debtor, the trustee, all creditors and indenture trustees” at least 21 days' notice by mail of certain matters in bankruptcy cases. But Rule 2002(h) eliminates that requirement in chapter 7 cases with respect to creditors that fail to file a timely proof of claim. Bankruptcy Judge Scott W. Dales (W.D. Mich.) submitted a suggestion (12-BK-M) that this exception also be made applicable to chapter 13 cases. He noted the time and cost associated with providing extensive notice in chapter 13 cases and lawyers' desire to mitigate these expenses to the extent possible.

In considering the proposed amendment, the Committee concluded that the cost and time savings generated by limiting notices under Rule 2002(h) in both chapter 12 and chapter 13, as well as chapter 7, cases support an amendment. Members pointed out that even creditors that do not file timely proofs of claim will still be required to receive notice of the filing of the case and the date of the meeting of creditors (which notice also includes relevant deadlines); notice of the confirmation hearing; and, if the proposed amendment to Rule 2002(f)(7) is approved, notice of the confirmation order. Because an amendment to Rule 3002 that became effective on December 1, 2017, changes the deadline for filing a proof of claim, the time provisions of Rule 2002(f)(7) would also be amended.

## Excerpt from the May 21, 2018 Report of the Advisory Committee on Bankruptcy Rules

*Rule 2002(k)*. Included in the package of amendments accompanying the chapter 13 plan form was an amendment to Rule 2002 that added a new subdivision (a)(9). The amendment went into effect on December 1, 2017, and it provides that at least 21 days' notice be given to the debtor, trustee, creditors, and indenture trustees of "the time fixed for filing objections to confirmation of a chapter 13 plan." Previously Rule 2002(b) had required that at least 28 days' notice of that deadline for filing objections be given.

In making this change and relocating the provision from subdivision (b) to subdivision (a)(9), the need to amend Rule 2002(k) was overlooked. Subdivision (k) provides for transmitting notices under specified parts of Rule 2002 to the U.S. trustee. Included within this provision is the requirement to provide the U.S. trustee with notices under subdivision (b). Thus, prior to December, the rule required transmitting notice to the U.S. trustee of the deadline for objecting to confirmation of a chapter 13 plan.

Because that deadline is now located in subdivision (a)(9), which is not specified in subdivision (k), the rule no longer requires that notice be transmitted to the U.S. trustee. The Committee voted at the spring meeting to publish an amendment that would cure this oversight by **amending the first sentence of Rule 2002(k) to include a reference to subdivision (a)(9).**

**Action Item 7. Rule 2004(c) (Examination)**. Rule 2004 provides for the examination of debtors and other entities regarding a broad range of issues relevant to a bankruptcy case. Under subdivision (c) of the rule, the attendance of a witness and the production of documents may be compelled by means of a subpoena. The Business Law Section of the American Bar Association, on behalf of its Committee on Bankruptcy Court Structure and Insolvency Process, submitted a suggestion (17-BK-B) that Rule 2004(c) be amended to specifically impose a proportionality limitation on the scope of the production of documents and electronically stored information ("ESI"). Our Committee discussed the suggestion at the fall 2017 and spring 2018 meetings. By a close vote, the Committee decided not to add a proportionality requirement to the rule, but it decided unanimously **to propose amendments to Rule 2004(c) to refer specifically to electronically stored information and to harmonize its subpoena provisions with the current provisions of Civil Rule 45,** which is made applicable in bankruptcy cases by Bankruptcy Rule 9016.

The proposal before the Committee at the fall meeting, recommended by the Subcommittee on Business Issues, would have added to Rule 2004(c) a provision similar to the proportionality requirement of Civil Rule 26(b)(1). The following sentence would have been added to the end of the paragraph:

A request for the production of documents or electronically stored information in connection with an examination under this rule shall be proportional to the needs of the case and of the party seeking production, in light of the following factors, to the extent relevant: the importance of the issues at stake, the amount in controversy, the parties' relative access to relevant information, the parties' resources, the importance of the discovery in resolving issues, whether the burden or expense of the proposed discovery outweighs its likely benefit, and the purpose for which the request is being made.

## Excerpt from the May 21, 2018 Report of the Advisory Committee on Bankruptcy Rules

Members of the Committee expressed differing views about whether consideration of proportionality is appropriate for Rule 2004 examinations and what factors a bankruptcy court should consider in assessing proportionality. Some members said that the current rule is working and that Rule 2004 examinations are supposed to be broad, so no additional limitation should be imposed. Another member suggested that proportionality should be required for requests for ESI but not for paper documents. Others agreed with the Subcommittee that a proportionality requirement should be imposed both for requests for documents and for ESI. A judge member said that disputes arise concerning the scope of document and ESI requests in connection with Rule 2004 examinations and that it would be helpful to have a standard in the rule that imposes some limit. The Associate Reporter said that it seemed that the main concern expressed by those supportive of the proposed amendment was that documents and ESI are sometimes sought for an improper purpose, and she suggested that any amendment should focus on that concern.

In a straw poll, the Committee voted 6 to 5 in favor of the concept of adding a proportionality requirement, although specific language was not agreed upon. There seemed to be general support for the other proposed amendments to Rule 2004(c), which would add references to ESI and conform the rule to the amended subpoena rules. The proposal was sent back to the subcommittee for further consideration and a recommendation at the spring meeting.

At the spring meeting, the Subcommittee recommended that Rule 2004(c) be amended to incorporate the concept of proportionality, while giving bankruptcy judges flexibility in interpreting and imposing that requirement. Its proposal was to require that a request for the production of documents or electronically stored information in connection with a Rule 2004 examination be “proportional to the needs of the case and of the party seeking production,” but without specifying the factors that should be considered in making that determination. The Subcommittee suggested that such an approach would be consistent with the notion that Rule 2004 examinations are supposed to be broad ranging and relatively unconfined, while still providing a means of reining in requests for documents and ESI when the costs and efforts of complying are disproportionate to the needs of the case.

Again the Committee was closely divided about the proportionality proposal. Those opposing it did not think that the elimination of specific factors improved the amendment, and some members expressed concern that such a provision would lead to more litigation. After a full discussion, the Committee voted 7 to 6 not to proceed with a proportionality amendment.

The Committee unanimously approved seeking publication of amendments to Rule 2004(c) that would add a reference to electronically stored information to the title and first sentence of the subdivision. Doing so acknowledges the form in which information now commonly exists and the type of production that is frequently sought in connection with an examination under Rule 2004. The Committee also unanimously approved publication of the revised subpoena provisions of Rule 2004(c), which eliminate the reference to “the court in which the examination is to be held.” This change conforms the rule to the current provisions of Civil Rule 45 and Bankruptcy Rule 9016, under which a subpoena always issues from the court where the action is pending, even for a deposition in another district, and an attorney admitted to practice in the issuing court may issue and sign it.

**Excerpt from the May 21, 2018 Report of the Advisory Committee on Bankruptcy Rules**

**Action Item 8. Rule 8012 (Corporate Disclosure Statement).** Rule 8012 requires a nongovernmental corporate party to a bankruptcy appeal in the district court or bankruptcy appellate panel to file a statement identifying any parent corporation and any publicly held corporation that owns 10% or more of the party's stock (or file a statement that there is no such corporation). It is modeled on FRAP 26.1. The Appellate Rules Committee has proposed amendments to FRAP 26.1 that were published for comment in August 2017, including one that is specific to bankruptcy appeals. Our Committee now requests that conforming amendments to Rule 8012 be published for public comment this summer.

Prior to publication of the amendments to FRAP 26.1, the Appellate Rules Committee consulted with our Committee about the possible addition of a provision to deal specifically with bankruptcy cases. Although initially considering a broader provision, the Appellate Rules Committee agreed with our recommendation that, insofar as bankruptcy appeals are concerned, an amendment was needed to require only the disclosure of the names of any debtors not revealed by the caption and that the requirements of subdivision (a) should be made to apply to any corporate debtors. At the fall 2017 meeting, our Committee voted to propose similar amendments to Rule 8012, subject to considering any changes made to the Rule 26.1 amendments in response to comments.

At the spring meeting, the Committee considered and approved for publication amendments to Rule 8012 that track the relevant amendments to FRAP 26.1 for which final approval is being sought. These amendments would add a new subdivision (b) to Rule 8012, addressing disclosure about the debtor. This subdivision would require the disclosure of the names of any debtors in the underlying bankruptcy case that are not revealed by the caption of an appeal and, for any corporate debtors in the underlying bankruptcy case, the disclosure of the information required of corporations under subdivision (a) of the rule. Other amendments tracking FRAP 26.1 would add a provision to subdivision (a) requiring disclosure by corporations seeking to intervene in a bankruptcy appeal and would make stylistic changes to what would become subdivision (c), regarding supplemental disclosure statements.

\* \* \* \* \*

**PROPOSED AMENDMENTS TO THE FEDERAL  
RULES OF BANKRUPTCY PROCEDURE<sup>1</sup>**

1 **Rule 2002. Notices to Creditors, Equity Security**  
2  **Holders, Administrators in Foreign**  
3  **Proceedings, Persons Against Whom**  
4  **Provisional Relief is Sought in Ancillary**  
5  **and Other Cross-Border Cases, United**  
6  **States, and United States Trustee**

7 \* \* \* \* \*

8 (f) OTHER NOTICES. Except as provided in  
9 subdivision (l) of this rule, the clerk, or some other person as  
10 the court may direct, shall give the debtor, all creditors, and  
11 indenture trustees notice by mail of:

12 \* \* \* \* \*

13 (7) entry of an order confirming a chapter 9, 11,  
14 ~~or 12,~~ or 13 plan;

15 \* \* \* \* \*

16 (h) NOTICES TO CREDITORS WHOSE CLAIMS  
17 ARE FILED. ~~In a chapter 7 case, after 90 days following~~

---

<sup>1</sup> New material is underlined in red; matter to be omitted is lined through.



2 FEDERAL RULES OF BANKRUPTCY PROCEDURE

18 ~~the first date set for the meeting of creditors under § 341 of~~  
19 ~~the Code,~~

20 (1) Voluntary Case. In a voluntary chapter 7  
21 case, chapter 12 case, or chapter 13 case, after 70 days  
22 following the order for relief under that chapter or the  
23 date of the order converting the case to chapter 12 or  
24 chapter 13, the court may direct that all notices required  
25 by subdivision (a) of this rule be mailed only to:

- 26 • the debtor,
- 27 • the trustee,
- 28 • all indenture trustees,
- 29 • creditors that hold claims for which proofs of  
30 claim have been filed, and
- 31 • creditors, if any, that are still permitted to file  
32 claims because an extension was granted  
33 under Rule 3002(c)(1) or (c)(2).

34 (2) Involuntary Case. In an involuntary chapter

35 7 case, after 90 days following the order for relief under  
36 that chapter, the court may direct that all notices  
37 required by subdivision (a) of this rule be mailed only  
38 to:

- 39 • the debtor,
- 40 • the trustee,
- 41 • all indenture trustees,
- 42 • creditors that hold claims for which proofs of  
43 claim have been filed, and
- 44 • creditors, if any, that are still permitted to file  
45 claims ~~by reason of~~ because an extension was  
46 granted ~~pursuant to~~ under Rule 3002(c)(1) or  
47 (c)(2).

48 (3) *Insufficient Assets.* In a case where notice of  
49 insufficient assets to pay a dividend has been given to  
50 creditors ~~pursuant to~~ under subdivision (e) of this rule,  
51 after 90 days following the mailing of a notice of the

4 FEDERAL RULES OF BANKRUPTCY PROCEDURE

52 time for filing claims ~~pursuant to~~under  
53 Rule 3002(c)(5), the court may direct that notices be  
54 mailed only to the entities specified in the preceding  
55 sentence.

56 \* \* \* \* \*

57 (k) NOTICES TO UNITED STATES TRUSTEE.

58 Unless the case is a chapter 9 municipality case or unless the  
59 United States trustee requests otherwise, the clerk, or some  
60 other person as the court may direct, shall transmit to the  
61 United States trustee notice of the matters described in  
62 subdivisions (a)(2), (a)(3), (a)(4), (a)(8), (a)(9), (b), (f)(1),  
63 (f)(2), (f)(4), (f)(6), (f)(7), (f)(8), and (q) of this rule and  
64 notice of hearings on all applications for compensation or  
65 reimbursement of expenses.

66 \* \* \* \* \*

**Committee Note**

Subdivision (f) is amended to add cases under chapter 13 of the Bankruptcy Code to paragraph (7).

Subdivision (h) is amended to add cases under chapters 12 and 13 of the Bankruptcy Code and to conform the time periods in the subdivision to the respective deadlines for filing proofs of claim under Rule 3002(c).

Subdivision (k) is amended to add a reference to subdivision (a)(9) of this rule. This change corresponds to the relocation of the deadline for objecting to confirmation of a chapter 13 plan from subdivision (b) to subdivision (a)(9). The rule thereby continues to require transmittal of notice of that deadline to the United States trustee.

6 FEDERAL RULES OF BANKRUPTCY PROCEDURE

1 **Rule 2004. Examination**

2 \* \* \* \* \*

3 (c) COMPELLING ATTENDANCE AND  
4 PRODUCTION OF DOCUMENTS OR  
5 ELECTRONICALLY STORED INFORMATION. The  
6 attendance of an entity for examination and for the  
7 production of documents or electronically stored  
8 information, whether the examination is to be conducted  
9 within or without the district in which the case is pending,  
10 may be compelled as provided in Rule 9016 for the  
11 attendance of a witness at a hearing or trial. As an officer of  
12 the court, an attorney may issue and sign a subpoena on  
13 behalf of the court ~~for the district in which the examination~~  
14 ~~is to be held~~ where the case is pending if the attorney is  
15 admitted to practice in that court ~~or in the court in which the~~  
16 ~~case is pending~~.

17 \* \* \* \* \*

**Committee Note**

Subdivision (c) is amended in two respects. First, the provision now refers expressly to the production of electronically stored information, in addition to the production of documents. This change is an acknowledgment of the form in which information now commonly exists and the type of production that is frequently sought in connection with an examination under Rule 2004.

Second, subdivision (c) is amended to bring its subpoena provision into conformity with the current version of F.R. Civ. P. 45, which Rule 9016 makes applicable in bankruptcy cases. Under Rule 45, a subpoena always issues from the court where the action is pending, even for a deposition in another district, and an attorney admitted to practice in the issuing court may issue and sign it. In light of this procedure, a subpoena for a Rule 2004 examination is now properly issued from the court where the bankruptcy case is pending and by an attorney authorized to practice in that court, even if the examination is to occur in another district.

1 **Rule 8012. ~~Corporate Disclosure Statement~~**

2 (a) ~~WHO MUST FILE~~ NONGOVERNMENTAL  
3 CORPORATIONS. Any nongovernmental ~~corporate party~~  
4 ~~appearing~~ corporation that is a party to a proceeding in the  
5 district court or BAP must file a statement that identifies any  
6 parent corporation and any publicly held corporation that  
7 owns 10% or more of its stock or states that there is no such  
8 corporation. The same requirement applies to a  
9 nongovernmental corporation that seeks to intervene.

10 (b) DISCLOSURE ABOUT THE DEBTOR. The  
11 debtor, the trustee, or, if neither is a party, the appellant must  
12 file a statement that:

13 (1) identifies each debtor not named in the  
14 caption; and

15 (2) for each debtor that is a corporation,  
16 discloses the information required by Rule 8012(a).

17 ~~(b)~~ (c) TIME TO FILE; SUPPLEMENTAL FILING. A

18 ~~party must file the~~ A Rule 8012 statement must:

19 (1) be filed with ~~its~~ the principal brief or upon  
20 filing a motion, response, petition, or answer in the  
21 district court or BAP, whichever occurs first, unless a  
22 local rule requires earlier filing.:

23 (2) Even if the statement has already been filed,  
24 ~~the party's principal brief must~~ be included ~~include a~~  
25 ~~statement~~ before the table of contents in the principal  
26 brief; and

27 (3) A party must supplement its statement be  
28 supplemented whenever the ~~required~~ information  
29 required by Rule 8012 changes.

#### Committee Note

The rule is amended to conform to recent amendments to Fed. R. App. P. 26.1. Subdivision (a) is amended to encompass nongovernmental corporations that seek to intervene on appeal.

New subdivision (b) requires disclosure of the name of all of the debtors in the bankruptcy case. The names of the debtors are not always included in the caption of appeals. It



10 FEDERAL RULES OF BANKRUPTCY PROCEDURE

also requires, for corporate debtors, disclosure of the same information required to be disclosed under subdivision (a).

Subdivision (c), previously subdivision (b), now applies to all the disclosure requirements in Rule 8012.

## **FIRST MEETING OF CREDITORS**

11 U.S.C. § 341(a) - "Within a reasonable time after the order for relief in a case under this title, the United States Trustee shall convene and preside at a meeting of creditors."<sup>1</sup>

### **BACKGROUND:**

- 341 meeting calendars are developed approximately one year in advance and include consideration of numerous factors including: courtroom availability, judge availability (chapter 13 days), court motion calendars, trustee availability, state and federal holidays, other conflicts.
- Once a case is filed, trustee assigned, and 341 docketed, Clerk's Office is required to serve notice of the order for relief. This is the "Notice of Chapter \_\_ Bankruptcy Case Filing." 11 U.S.C. § 342(a); Official Form 309.
- Because the United States Trustee does not have a staffed office in the District of Vermont, we have up to 60 days from the order for relief to hold 341 meeting (regularly 40 days) but not less than 21. See FRBP 2003(a).

---

### **OPTIONS ONCE THE 341 MEETING IS SCHEDULED:**

1. Conduct the 341 meeting as scheduled and mark it closed.
2. Do not conduct the 341 meeting on scheduled date, but reschedule it to a different date.
3. Open the 341 meeting and adjourn it.
4. Seek court order to waive debtor's personal appearance at 341.

---

### **RESCHEDULING THE 341 MEETING**

If the trustee is *rescheduling* the 341 meeting (i.e.; not holding the 341 as scheduled, but changing it to a different date) then the Official Form 309 needs to be amended and re-noticed. This is NOT done by the Clerk's Office.

- See Vt. LBR 2003-1(c) (rescheduling because debtor cannot produce all docs at least 7 days prior)

---

<sup>1</sup> 11 U.S.C. § 102(9) – United States Trustee includes AUST ... and designees (case trustees) pursuant to Rule 9001(11).

**(c) Document Production Prior to the First Meeting of Creditors.**

See also Vt. LBR 2003-1(b).

- (1) If a debtor is unable to file the schedules, statements, and other required documents at least 7 days before the date of the first meeting of creditors (see subparagraphs (c)(2)–(4) below), the debtor must notify all creditors of this fact. With the case trustee’s consent, the debtor may reschedule the meeting of creditors to the next available date. However, if the debtor is unable to obtain the trustee’s consent to reschedule the meeting, the debtor and the debtor’s attorney (if any), must appear at the originally scheduled meeting of creditors.

---

**ADJOURNING THE 341 MEETING:**

**FRBP 2003(e)**

“Adjournment. The meeting may be adjourned from time to time by announcement at the meeting of the adjourned date and time. The presiding official shall promptly file a statement specifying the date and time to which the meeting is adjourned.”

- This Rule contemplates the trustee opening the 341 meeting, then *adjourning*.

---

**WAIVER OF APPEARANCE AT 341 MEETING:**

“Neither the trustee nor the United States Trustee may waive the requirement for the appearance of the debtor at the meeting.” Chapter 7 Trustee Handbook at 3-9.

- Waiver of appearance at 341 meeting REQUIRES a court order.
- Grounds may include – military service, disability, terminal illness, etc.
- Vt. LBR 2003-1(a) requires debtor to file an application for waiver and obtain trustee consent

**VT. LBR 2003-1. MEETING OF CREDITORS OR EQUITY SECURITY HOLDERS.**

**(a) Waiver of Debtor’s Appearance.**

On application by or on behalf of a debtor setting forth an adequate showing of exigent circumstances, and with the filed consent of the case trustee, the Court may excuse or otherwise waive a debtor’s attendance at a duly noticed first meeting of creditors on terms to which the case trustee consents. This application does not require notice or a hearing.

# IRS to Introduce New Tax Transcript to Better Protect Taxpayer Data

By ConsiderChapter13, on August 26th, 2018

Moving to better protect taxpayer data, on 8/22/18 the IRS announced a new format for individual tax transcripts that will redact personally identifiable information from the Form 1040 series.

The new transcript replaces the previous format and will be the default format available via Get Transcript Online, Get Transcript by Mail or the Transcript Delivery System for tax professionals as of September 23. Financial entries will remain visible, which will give taxpayers and third-parties the data they need for tax preparation or income verification.

**The IRS has also created a new Customer File Number that lenders, colleges and other third parties that order transcripts for non-tax purposes can use as an identifying number instead of the taxpayer's SSN.**

As the IRS has made inroads, criminals need more taxpayer details to better impersonate their victims, making the tax transcript a sought-after document. Criminals attempt to pose as taxpayers accessing their own account or as tax preparers or third parties requesting client information.

The following information will be provided on the new transcript:

- Last 4 digits of any SSN listed on the transcript: XXX-XX-1234
- Last 4 digits of any EIN listed on the transcript: XX-XXX-1234
- Last 4 digits of any account or telephone number
- First 4 characters of the last name for any individual
- First 4 characters of a business name
- First 6 characters of the street address, including spaces
- All money amounts, including balance due, interest and penalties

**On September 23, the IRS will post an updated Form 4506-T and Form 4506T-EZ, Request for Transcript of Tax Return, that will have a new Line 5b\* for a 10-digit Customer File Number. Legitimate third parties with a need for income verification or tax data often request taxpayers complete a Form 4506-T.**

As of September 23, third parties or taxpayers can create any 10-digit number, except for the taxpayer's SSN, for use as an identifier. The Customer File Number listed on the 4506-T automatically will be posted and visible on the requested tax transcript, allowing the third party to match the document to the taxpayer. A Customer File Number can be, for example, a loan account number.

\*Line 5b is an optional line, intended for those third parties that request high volumes of transcripts.

There is no change in the process for students seeking income verification through Free Application for Federal Student Aid (FAFSA) or disaster victims seeking FEMA assistance. Nor will business tax transcripts change.

“Since the IRS joined in partnership with the states and tax industry in 2015, we’ve made great progress in our effort to combat stolen identity refund fraud. Our numbers are going in the right direction,” said Acting IRS Commissioner David Kautter. “To maintain our progress, we continue to evaluate our policies

and procedures on an ongoing basis. One area that we identified as in need of change was the individual tax transcript area. We believe the change we are announcing today will better protect taxpayer data from unauthorized disclosure and theft.”

See “[About the New Tax Transcript: FAQs](#)” for additional details and see a sample of the new transcript format.