

**PROPOSED AMENDMENTS TO THE FEDERAL
RULES OF BANKRUPTCY PROCEDURE¹**

1 **Rule 3002.1 Notice Relating to Claims Secured by**
2 **Security Interest in the Debtor's Principal**
3 **Residence**

4 * * * * *

5 (b) NOTICE OF PAYMENT CHANGES;
6 OBJECTION.

7 (1) Notice. The holder of the claim shall file and
8 serve on the debtor, debtor's counsel, and the trustee a
9 notice of any change in the payment amount, including
10 any change that results from an interest~~_~~rate or escrow~~_~~
11 account adjustment, no later than 21 days before a
12 payment in the new amount is due. If the claim arises
13 from a home-equity line of credit, this requirement may
14 be modified by court order.

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

Committee Note

Subdivision (b) is subdivided and amended in two respects. First, it is amended in what is now subdivision (b)(1) to authorize courts to modify its requirements for claims arising from home equity lines of credit (HELOCs). Because payments on HELOCs may adjust frequently and in small amounts, the rule provides flexibility for courts to specify alternative procedures for keeping the person who is maintaining payments on the loan apprised of the current payment amount. Courts may specify alternative requirements for providing notice of changes in HELOC payment amounts by local rules or orders in individual cases.

Second, what is now subdivision (b)(2) is amended to acknowledge the right of the trustee, debtor, or other party in interest, such as the United States trustee, to object to a change in a home-mortgage payment amount after receiving notice of the change under subdivision (b)(1). The amended rule does not set a deadline for filing a motion for a determination of the validity of the payment change, but it provides as a general matter—subject to a contrary court order—that if no motion has been filed on or before the day before the change is to take effect, the announced change goes into effect. If there is a later motion and a determination that the payment change was not required to maintain payments under § 1322(b)(5), appropriate adjustments will have to be made to reflect any overpayments. If, however, a motion is made during the time specified in subdivision (b)(2), leading to a suspension of the payment change, a determination that the payment change was valid will require

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the debtor to cure the resulting default in order to be current on the mortgage at the end of the bankruptcy case.

Subdivision (e) is amended to allow parties in interest in addition to the debtor or trustee, such as the United States trustee, to seek a determination regarding the validity of any claimed fee, expense, or charge.

1 **Rule 5005. Filing and Transmittal of Papers**

2 (a) FILING.

3 * * * * *

4 (2) Electronic Filing and Signing by Electronic
5 Means.

6 (A) By a Represented Entity—Generally
7 Required; Exceptions. ~~A court may by local rule~~
8 ~~permit or require documents to be filed, signed, or~~
9 ~~verified by electronic means that are consistent~~
10 ~~with technical standards, if any, that the Judicial~~
11 ~~Conference of the United States establishes. A~~
12 ~~local rule may require filing by electronic means~~
13 ~~only if reasonable exceptions are allowed. An~~
14 ~~entity represented by an attorney shall file~~
15 ~~electronically, unless nonelectronic filing is~~
16 ~~allowed by the court for good cause or is allowed~~
17 ~~or required by local rule.~~

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18 (B) By an Unrepresented Individual—
19 When Allowed or Required. An individual not
20 represented by an attorney:

21 (i) may file electronically only if
22 allowed by court order or by local rule; and

23 (ii) may be required to file
24 electronically only by court order, or by a
25 local rule that includes reasonable
26 exceptions.

27 (C) Signing. A filing made through a
28 person's electronic-filing account and authorized
29 by that person, together with that person's name
30 on a signature block, constitutes the person's
31 signature.

32 (D) Same as a Written Paper. A paper
33 document filed electronically by electronic means
34 in compliance with a local rule constitutes is a

35 written paper for the purposes of applying these
36 rules, the Federal Rules of Civil Procedure made
37 applicable by these rules, and § 107 of the Code.

38 * * * * *

Committee Note

Electronic filing has matured. Most districts have adopted local rules that require electronic filing and allow reasonable exceptions as required by the former rule. The time has come to seize the advantages of electronic filing by making it mandatory in all districts, except for filings made by an individual not represented by an attorney. But exceptions continue to be available. Paper filing must be allowed for good cause. And a local rule may allow or require paper filing for other reasons.

Filings by an individual not represented by an attorney are treated separately. It is not yet possible to rely on an assumption that pro se litigants are generally able to seize the advantages of electronic filing. Encounters with the court's system may prove overwhelming to some. Attempts to work within the system may generate substantial burdens on a pro se party, on other parties, and on the court. Rather than mandate electronic filing, filing by pro se litigants is left for governing by local rules or court order. Efficiently handled electronic filing works to the advantage of all parties and the court. Many courts now allow electronic filing by pro se litigants with the court's permission. Such approaches may expand with growing experience in these and other courts, along with the growing availability of the systems

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required for electronic filing and the increasing familiarity of most people with electronic communication. Room is also left for a court to require electronic filing by a pro se litigant by court order or by local rule. Care should be taken to ensure that an order to file electronically does not impede access to the court, and reasonable exceptions must be included in a local rule that requires electronic filing by a pro se litigant.

A filing made through a person's electronic-filing account and authorized by that person, together with that person's name on a signature block, constitutes the person's signature. A person's electronic-filing account means an account established by the court for use of the court's electronic-filing system, which account the person accesses with the user name and password (or other credentials) issued to that person by the court.

1 **Rule 7004. Process; Service of Summons,**
2 **Complaint**

3 (a) SUMMONS; SERVICE; PROOF OF SERVICE.

4 (1) Except as provided in Rule 7004(a)(2), Rule
5 4(a), (b), (c)(1), (d)~~(4)~~(5), (e)–(j), (l), and (m)
6 F.R.Civ.P. applies in adversary proceedings. Personal
7 service under Rule 4(e)–(j) F.R.Civ.P. may be made by
8 any person at least 18 years of age who is not a party,
9 and the summons may be delivered by the clerk to any
10 such person.

11 * * * * *

Committee Note

In 1996, Rule 7004(a) was amended to incorporate by reference F.R.Civ.P. 4(d)(1). Civil Rule 4(d)(1) addresses the effect of a defendant's waiver of service. In 2007, Civil Rule 4 was amended, and the language of old Civil Rule 4(d)(1) was modified and renumbered as Civil Rule 4(d)(5). Accordingly, Rule 7004(a) is amended to update the cross-reference to Civil Rule 4.

1 **Rule 7062. Stay of Proceedings to Enforce a Judgment**

2 Rule 62 F.R.Civ.P. applies in adversary proceedings,

3 except that proceedings to enforce a judgment are stayed for

4 14 days after its entry.

Committee Note

The rule is amended to retain a 14-day period for the automatic stay of a judgment. F.R.Civ.P. 62(a) now provides for a 30-day stay to accommodate the 28-day time periods under the Federal Rules of Civil Procedure for filing post-judgment motions and the 30-day period for filing a notice of appeal. Under the Bankruptcy Rules, however, those periods are limited to 14 days. *See* Rules 7052, 8002, 9015, and 9023.

1 **Rule 8002. Time for Filing Notice of Appeal**

2 (a) IN GENERAL.

3 * * * * *

4 (5) Entry Defined.

5 (A) A judgment, order, or decree is entered
6 for purposes of this Rule 8002(a):

7 (i) when it is entered in the docket
8 under Rule 5003(a), or

9 (ii) if Rule 7058 applies and
10 Rule 58(a) F.R.Civ.P. requires a separate
11 document, when the judgment, order, or
12 decree is entered in the docket under
13 Rule 5003(a) and when the earlier of these
14 events occurs:

- 15 • the judgment, order, or
16 decree is set out in a separate
17 document; or

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18 • 150 days have run from
19 entry of the judgment, order, or
20 decree in the docket under
21 Rule 5003(a).

22 (B) A failure to set out a judgment, order,
23 or decree in a separate document when required
24 by Rule 58(a) F.R.Civ.P. does not affect the
25 validity of an appeal from that judgment, order, or
26 decree.

27 (b) EFFECT OF A MOTION ON THE TIME TO
28 APPEAL.

29 (1) *In General.* If a party ~~timely~~ files in the
30 bankruptcy court any of the following motions and
31 does so within the time allowed by these rules, the time
32 to file an appeal runs for all parties from the entry of
33 the order disposing of the last such remaining motion:

34 * * * * *

35 (c) APPEAL BY AN INMATE CONFINED IN AN
36 INSTITUTION.

37 (1) *In General.* If an institution has a system
38 designed for legal mail, an inmate confined there must
39 use that system to receive the benefit of this
40 Rule 8002(c)(1). If an inmate ~~confined in an institution~~
41 files a notice of appeal from a judgment, order, or
42 decree of a bankruptcy court, the notice is timely if it is
43 deposited in the institution's internal mail system on or
44 before the last day for filing. ~~If the institution has a~~
45 ~~system designed for legal mail, the inmate must use that~~
46 ~~system to receive the benefit of this rule. Timely filing~~
47 ~~may be shown by a declaration in compliance with 28~~
48 ~~U.S.C. § 1746 or by a notarized statement, either of~~
49 ~~which must set forth the date of deposit and state that~~
50 ~~first class postage has been prepaid. and:~~

51 (A) it is accompanied by:

52 (i) a declaration in compliance
53 with 28 U.S.C. § 1746—or a
54 notarized statement—setting out the
55 date of deposit and stating that first-
56 class postage is being prepaid; or
57 (ii) evidence (such as a
58 postmark or date stamp) showing
59 that the notice was so deposited and
60 that postage was prepaid; or
61 (B) the appellate court exercises its
62 discretion to permit the later filing of a declaration
63 or notarized statement that satisfies Rule
64 8002(c)(1)(A)(i).

65 * * * * *

Committee Note

Clarifying amendments are made to subdivisions (a), (b), and (c) of the rule. They are modeled on parallel provisions of F.R.App.P. 4.

Paragraph (5) is added to subdivision (a) to clarify the effect of the separate-document requirement of F.R.Civ.P. 58(a) on the entry of a judgment, order, or decree for the purpose of determining the time for filing a notice of appeal.

Rule 7058 adopts F.R.Civ.P. 58 for adversary proceedings. If Rule 58(a) requires a judgment to be set out in a separate document, the time for filing a notice of appeal runs—subject to subdivisions (b) and (c)—from when the judgment is docketed and the judgment is set out in a separate document or, if no separate document is prepared, from 150 days from when the judgment is entered in the docket. The court’s failure to comply with the separate-document requirement of Rule 58(a), however, does not affect the validity of an appeal.

Rule 58 does not apply in contested matters. Instead, under Rule 9021, a separate document is not required, and a judgment or order is effective when it is entered in the docket. The time for filing a notice of appeal under subdivision (a) therefore begins to run upon docket entry in contested matters, as well as in adversary proceedings for which Rule 58 does not require a separate document.

A clarifying amendment is made to subdivision (b)(1) to conform to a recent amendment to F.R.App.P. 4(a)(4)—from which Rule 8002(b)(1) is derived. Former Rule 8002(b)(1) provided that “[i]f a party timely files in the bankruptcy court” certain post-judgment motions, “the time to file an appeal runs for all parties from the entry of the order disposing of the last such remaining motion.” Responding to a circuit split concerning the meaning of “timely” in F.R.App.P. 4(a)(4), the amendment adopts the majority approach and rejects the approach taken in *National*

Ecological Foundation v. Alexander, 496 F.3d 466 (6th Cir. 2007). A motion made after the time allowed by the Bankruptcy Rules will not qualify as a motion that, under Rule 8002(b)(1), re-starts the appeal time—and that fact is not altered by, for example, a court order that sets a due date that is later than permitted by the Bankruptcy Rules, another party’s consent or failure to object to the motion’s lateness, or the court’s disposition of the motion without explicit reliance on untimeliness.

Subdivision (c)(1) is revised to conform to F.R.App.P. 4(c)(1), which was recently amended to streamline and clarify the operation of the inmate-filing rule. The rule requires the inmate to show timely deposit and prepayment of postage. It is amended to specify that a notice is timely if it is accompanied by a declaration or notarized statement stating the date the notice was deposited in the institution’s mail system and attesting to the prepayment of first-class postage. The declaration must state that first-class postage “is being prepaid,” not (as directed by the former rule) that first-class postage “has been prepaid.” This change reflects the fact that inmates may need to rely upon the institution to affix postage after the inmate has deposited the document in the institution’s mail system. A new Director’s Form sets out a suggested form of the declaration.

The amended rule also provides that a notice is timely without a declaration or notarized statement if other evidence accompanying the notice shows that the notice was deposited on or before the due date and that postage was prepaid. If the notice is not accompanied by evidence that establishes timely deposit and prepayment of postage, then the appellate court—district court, BAP, or court of appeals in the case of a direct appeal—has discretion to accept a

declaration or notarized statement at a later date. The rule uses the phrase “exercises its discretion to permit”—rather than simply “permits”—to help ensure that pro se inmates are aware that a court will not necessarily forgive a failure to provide the declaration initially.

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

3 * * * * *

4 (c) JOINT CERTIFICATION BY ALL
5 APPELLANTS AND APPELLEES.

6 (1) How Accomplished. A joint certification by
7 all the appellants and appellees under 28 U.S.C.
8 § 158(d)(2)(A) must be made by using the appropriate
9 Official Form. The parties may supplement the
10 certification with a short statement of the basis for the
11 certification, which may include the information listed
12 in subdivision (f)(2).

13 (2) Supplemental Statement by the Court.
14 Within 14 days after the parties' certification, the
15 bankruptcy court or the court in which the matter is
16 then pending may file a short supplemental statement
17 about the merits of the certification.

18 * * * * *

Committee Note

Subdivision (c) is amended to provide authority for the court to file a statement on the merits of a certification for direct review by the court of appeals when the certification is made jointly by all of the parties to the appeal. It is a counterpart to subdivision (e)(2), which allows a party to file a similar statement when the court certifies direct review on the court's own motion.

The bankruptcy court may file a supplemental statement within 14 days after the certification, even if the appeal is no longer pending before it according to subdivision (b). If the appeal is pending in the district court or BAP during that 14-day period, the appellate court is authorized to file a statement. In all cases, the filing of a statement by the court is discretionary.

1 **Rule 8007. Stay Pending Appeal; Bonds; Suspension**
2 **of Proceedings**

3 (a) INITIAL MOTION IN THE BANKRUPTCY
4 COURT.

5 (1) *In General.* Ordinarily, a party must move
6 first in the bankruptcy court for the following relief:

7 (A) a stay of a judgment, order, or decree of
8 the bankruptcy court pending appeal;

9 (B) the approval of a ~~supersedeas bond or~~
10 other security provided to obtain a stay of
11 judgment;

12 * * * * *

13 (c) FILING A BOND OR OTHER SECURITY. The
14 district court, BAP, or court of appeals may condition relief
15 on filing a bond or other ~~appropriate~~ security with the
16 bankruptcy court.

17 (d) BOND OR OTHER SECURITY FOR A
18 TRUSTEE OR THE UNITED STATES. The court may

19 require a trustee to file a bond or other appropriate security
20 when the trustee appeals. A bond or other security is not
21 required when an appeal is taken by the United States, its
22 officer, or its agency or by direction of any department of the
23 federal government.

24 * * * * *

Committee Note

The amendments to subdivisions (a)(1)(B), (c), and (d) conform this rule with the amendment of Rule 62 F.R.Civ.P., which is made applicable to adversary proceedings by Rule 7062. Rule 62 formerly required a party to provide a “supersedeas bond” to obtain a stay of the judgment and proceedings to enforce the judgment. As amended, Rule 62(b) allows a party to obtain a stay by providing a “bond or other security.”

1 **Rule 8010. Completing and Transmitting the Record**

2 * * * * *

3 (c) RECORD FOR A PRELIMINARY MOTION IN
4 THE DISTRICT COURT, BAP, OR COURT OF
5 APPEALS. This subdivision (c) applies if, before the record
6 is transmitted, a party moves in the district court, BAP, or
7 court of appeals for any of the following relief:

- 8 • leave to appeal;
- 9 • dismissal;
- 10 • a stay pending appeal;
- 11 • approval of a ~~supersedeas~~ supersedeas bond, or other security
12 provided to obtain a stay of judgment ~~additional~~
13 ~~security on a bond or undertaking on appeal; or~~
- 14 • any other intermediate order.

15 The bankruptcy clerk must then transmit to the clerk of the
16 court where the relief is sought any parts of the record

- 17 designated by a party to the appeal or a notice that those parts
18 are available electronically.

Committee Note

The amendment of subdivision (c) conforms this rule with the amendment of Rule 62 F.R.Civ.P., which is made applicable in adversary proceedings by Rule 7062. Rule 62 formerly required a party to provide a “supersedeas bond” to obtain a stay of the judgment and proceedings to enforce the judgment. As amended, Rule 62(b) allows a party to obtain a stay by providing a “bond or other security.”

1 **Rule 8011. Filing and Service; Signature**

2 (a) FILING.

3 * * * * *

4 (2) *Method and Timeliness.*

5 (A) Nonelectronic Filing.

6 ~~(A)(i)~~ *In General.* ~~Filing~~For a
7 document not filed electronically, filing may
8 be accomplished by ~~transmission~~mail
9 addressed to the clerk of the district court or
10 BAP. Except as provided in subdivision
11 ~~(a)(2)(B) and (C)~~ (a)(2)(A)(ii) and (iii), filing
12 is timely only if the clerk receives the
13 document within the time fixed for filing.

14 ~~(B)(ii)~~ *Brief or Appendix.* A brief
15 or appendix not filed electronically is also
16 timely filed if, on or before the last day for
17 filing, it is:

18 (i)• mailed to the clerk by first-
19 class mail—or other class of mail that is
20 at least as expeditious—postage
21 prepaid, ~~if the district court's or BAP's~~
22 ~~procedures permit or require a brief or~~
23 ~~appendix to be filed by mailing; or~~

24 (ii)• dispatched to a third-party
25 commercial carrier for delivery within 3
26 days to the clerk, ~~if the court's~~
27 ~~procedures so permit or require.~~

28 ~~(C)~~(iii) *Inmate Filing.* If an
29 institution has a system designed for legal
30 mail, an inmate confined there must use that
31 system to receive the benefit of this
32 Rule 8011(a)(2)(A)(iii). A document not
33 filed electronically by an inmate confined in
34 an institution is timely if it is deposited in the

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35 institution's internal mailing system on or
36 before the last day for filing. ~~If the institution~~
37 ~~has a system designed for legal mail, the~~
38 ~~inmate must use that system to receive the~~
39 ~~benefit of this rule. Timely filing may be~~
40 ~~shown by a declaration in compliance with 28~~
41 ~~U.S.C. § 1746 or by a notarized statement,~~
42 ~~either of which must set forth the date of~~
43 ~~deposit and state that first class postage has~~
44 ~~been prepaid. and:~~

- 45 • it is accompanied by a
46 declaration in compliance with 28
47 U.S.C. § 1746—or a notarized
48 statement—setting out the date of
49 deposit and stating that first-class
50 postage is being prepaid; or evidence
51 (such as a postmark or date stamp)

52 showing that the notice was so
53 deposited and that postage was prepaid;
54 or
55 • the appellate court exercises
56 its discretion to permit the later filing of
57 a declaration or notarized statement that
58 satisfies this Rule 8011(a)(2)(A)(iii).

59 (B) *Electronic Filing.*

60 (i) *By a Represented Person—*
61 *Generally Required; Exceptions.* An entity
62 represented by an attorney must file
63 electronically, unless nonelectronic filing is
64 allowed by the court for good cause or is
65 allowed or required by local rule.

66 (ii) *By an Unrepresented*
67 *Individual—When Allowed or Required.* An
68 individual not represented by an attorney:

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69 • may file electronically only
70 if allowed by court order or by local
71 rule; and

72 • may be required to file
73 electronically only by court order, or by
74 a local rule that includes reasonable
75 exceptions.

76 (iii) Same as a Written Paper. A
77 document filed electronically is a written
78 paper for purposes of these rules.

79 ~~(D)~~(C) *Copies.* If a document is filed
80 electronically, no paper copy is required. If a
81 document is filed by mail or delivery to the district
82 court or BAP, no additional copies are required.
83 But the district court or BAP may require by local
84 rule or by order in a particular case the filing or
85 furnishing of a specified number of paper copies.

86

* * * * *

87

(c) MANNER OF SERVICE.

88

(1) Nonelectronic Service. Methods. ~~Service~~

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~~must be made electronically, unless it is being made by~~

90

~~or on an individual who is not represented by counsel~~

91

~~or the court's governing rules permit or require service~~

92

~~by mail or other means of delivery. Service~~

93

Nonelectronic service may be made by or on an

94

unrepresented party by any of the following methods:

95

(A) personal delivery;

96

(B) mail; or

97

(C) third-party commercial carrier for

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delivery within 3 days.

99

(2) Electronic Service. Electronic service may

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be made by sending a document to a registered user by

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filing it with the court's electronic-filing system or by

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102 using other electronic means that the person served
103 consented to in writing.

104 ~~(2)~~(3) *When Service ~~is~~ Complete.* Service
105 by electronic means is complete on ~~transmission~~filing
106 or sending, unless the ~~party~~person making service
107 receives notice that the document was not ~~transmitted~~
108 ~~successfully~~received by the person served. Service by
109 mail or by commercial carrier is complete on mailing
110 or delivery to the carrier.

111 (d) PROOF OF SERVICE.

112 (1) *What ~~is~~ Required.* A document presented
113 for filing must contain either of the following if it was
114 served other than through the court's electronic-filing
115 system:

116 (A) an acknowledgment of service by the
117 person served; or

118 (B) proof of service consisting of a
119 statement by the person who made service
120 certifying:

121 (i) the date and manner of service;

122 (ii) the names of the persons served;

123 and

124 (iii) the mail or electronic address, the
125 fax number, or the address of the place of
126 delivery, as appropriate for the manner of
127 service, for each person served.

128 * * * * *

129 (e) SIGNATURE. Every document filed
130 electronically must include the electronic signature of the
131 person filing it or, if the person is represented, the electronic
132 signature of counsel. ~~The electronic signature must be~~
133 ~~provided by electronic means that are consistent with any~~
134 ~~technical standards that the Judicial Conference of the~~

135 ~~United States establishes.~~ A filing made through a person's
136 electronic-filing account and authorized by that person,
137 together with that person's name on a signature block,
138 constitutes the person's signature. Every document filed in
139 paper form must be signed by the person filing the document
140 or, if the person is represented, by counsel.

Committee Note

The rule is amended to conform to the amendments to F.R.App.P. 25 on inmate filing, electronic filing, signature, service, and proof of service.

Consistent with Rule 8001(c), subdivision (a)(2) generally makes electronic filing mandatory. The rule recognizes exceptions for persons proceeding without an attorney, exceptions for good cause, and variations established by local rule.

Subdivision (a)(2)(A)(iii) is revised to conform to F.R.App.P. 25(a)(2)(A)(iii), which was recently amended to streamline and clarify the operation of the inmate-filing rule. The rule requires the inmate to show timely deposit and prepayment of postage. It is amended to specify that a notice is timely if it is accompanied by a declaration or notarized statement stating the date the notice was deposited in the institution's mail system and attesting to the prepayment of first-class postage. The declaration must state that first-class postage "is being prepaid," not (as directed by the former

rule) that first-class postage “has been prepaid.” This change reflects the fact that inmates may need to rely upon the institution to affix postage after the inmate has deposited the document in the institution’s mail system. A new Director’s Form sets out a suggested form of the declaration.

The amended rule also provides that a notice is timely without a declaration or notarized statement if other evidence accompanying the notice shows that the notice was deposited on or before the due date and that postage was prepaid. If the notice is not accompanied by evidence that establishes timely deposit and prepayment of postage, then the appellate court—district court, BAP, or court of appeals in the case of a direct appeal—has discretion to accept a declaration or notarized statement at a later date. The rule uses the phrase “exercises its discretion to permit”—rather than simply “permits”—to help ensure that pro se inmates are aware that a court will not necessarily forgive a failure to provide the declaration initially.

Subdivision (c) is amended to authorize electronic service by means of the court’s electronic-filing system on registered users without requiring their written consent. All other forms of electronic service require the written consent of the person served.

Service is complete when a person files the paper with the court’s electronic-filing system for transmission to a registered user, or when one person sends it to another person by other electronic means that the other person has consented to in writing. But service is not effective if the person who filed with the court or the person who sent by other agreed-upon electronic means receives notice that the paper did not reach the person to be served. The rule does

not make the court responsible for notifying a person who filed the paper with the court's electronic-filing system that an attempted transmission by the court's system failed. But a filer who receives notice that the transmission failed is responsible for making effective service.

As amended, subdivision (d) eliminates the requirement of proof of service when service is made through the electronic-filing system. The notice of electronic filing generated by the system serves that purpose.

Subdivision (e) requires the signature of counsel or an unrepresented party on every document that is filed. A filing made through a person's electronic-filing account and authorized by that person, together with that person's name on a signature block, constitutes the person's signature. A person's electronic-filing account means an account established by the court for use of the court's electronic-filing system, which account the person accesses with the user name and password (or other credentials) issued to that person by the court.

1 **Rule 8013. Motions; Intervention**

2 * * * * *

3 (f) FORM OF DOCUMENTS; PAGELLENGTH
4 LIMITS; NUMBER OF COPIES.

5 * * * * *

6 (2) *Format of an Electronically Filed*
7 *Document.* A motion, response, or reply filed
8 electronically must comply with the requirements for a
9 paper version regarding covers, line spacing, margins,
10 typeface, and type style. It must also comply with the
11 pagelength limits under paragraph (3).

12 (3) *PageLength Limits.* ~~Unless the district court~~
13 ~~or BAP orders otherwise:~~Except by the district court's
14 or BAP's permission, and excluding the accompanying
15 documents authorized by subdivision (a)(2)(C):

16 (A) a motion or a response to a motion ~~must~~
17 ~~not exceed 20 pages, exclusive of the corporate~~

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18 ~~disclosure — statement — and — accompanying~~
19 ~~documents authorized by subdivision (a)(2)(C)~~
20 produced using a computer must include a
21 certificate under Rule 8015(h) and not exceed
22 5,200 words; and

23 (B) ~~a reply to a response must not exceed~~
24 ~~10 pages.~~ a handwritten or typewritten motion or a
25 response to a motion must not exceed 20 pages;

26 (C) a reply produced using a computer
27 must include a certificate under Rule 8015(h) and
28 not exceed 2,600 words; and

29 (D) a handwritten or typewritten reply must
30 not exceed 10 pages.

31 * * * * *

Committee Note

Subdivision (f)(3) is amended to conform to F.R.App.P. 27(d)(2), which was recently amended to replace page limits with word limits for motions and responses produced using a computer. The word limits were derived

from the current page limits, using the assumption that one page is equivalent to 260 words. Documents produced using a computer must include the certificate of compliance required by Rule 8015(h); Official Form 417C suffices to meet that requirement. Page limits are retained for papers prepared without the aid of a computer (i.e., handwritten or typewritten papers). For both the word limit and the page limit, the calculation excludes the accompanying documents required by Rule 8013(a)(2)(C) and any items listed in Rule 8015(h).

1 **Rule 8015. Form and Length of Briefs; Form of**
2 **Appendices and Other Papers**

3 (a) PAPER COPIES OF A BRIEF. If a paper copy
4 of a brief may or must be filed, the following provisions
5 apply:

6 * * * * *

7 (7) *Length.*

8 (A) *Page ~~H~~Limitation.* A principal brief
9 must not exceed 30 pages, or a reply brief 15
10 pages, unless it complies with subparagraph (B)
11 ~~and (C)~~.

12 (B) *Type-volume ~~H~~Limitation.*

13 (i) A principal brief is acceptable if it
14 contains a certificate under Rule 8015(h) and:

- 15 • ~~it~~—contains no more than
16 ~~14,000~~ 13,000 words; or

17 • ~~it~~ uses a monospaced face
18 and contains no more than 1,300 lines
19 of text.

20 (ii) A reply brief is acceptable if it
21 includes a certificate under Rule 8015(h) and
22 contains no more than half of the type volume
23 specified in item (i).

24 ~~(iii) Headings, footnotes, and~~
25 ~~quotations count toward the word and line~~
26 ~~limitations. The corporate disclosure~~
27 ~~statement, table of contents, table of citations,~~
28 ~~statement with respect to oral argument, any~~
29 ~~addendum containing statutes, rules, or~~
30 ~~regulations, and any certificates of counsel do~~
31 ~~not count toward the limitation.~~

32 ~~(C) Certificate of Compliance.~~

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33 (i) ~~A brief submitted under~~
34 subdivision ~~(a)(7)(B) must include a~~
35 certificate signed by the attorney, or an
36 unrepresented party, that the brief complies
37 with the type volume limitation. The person
38 preparing the certificate may rely on the word
39 or line count of the word processing system
40 used to prepare the brief. The certificate must
41 state either:

42 • ~~the number of words in the~~
43 brief; or

44 • ~~the number of lines of~~
45 monospaced type in the brief.

46 (ii) ~~The certification requirement is~~
47 satisfied by a certificate of compliance that
48 conforms substantially to the appropriate
49 Official Form.

50

* * * * *

51

(f) LOCAL VARIATION. A district court or BAP

52

must accept documents that comply with the applicable form

53

requirements of this rule and the length limits set by Part

54

VIII of these rules. By local rule or order in a particular case,

55

a district court or BAP may accept documents that do not

56

meet all of the form requirements of this rule or the length

57

limits set by Part VIII of these rules.

58

(g) ITEMS EXCLUDED FROM LENGTH. In

59

computing any length limit, headings, footnotes, and

60

quotations count toward the limit, but the following items do

61

not:

62

• the cover page;

63

• a corporate disclosure statement;

64

• a table of contents;

65

• a table of citations;

66

• a statement regarding oral argument;

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- 67 • an addendum containing statutes, rules, or
- 68 regulations;
- 69 • certificates of counsel;
- 70 • the signature block;
- 71 • the proof of service; and
- 72 • any item specifically excluded by these rules
- 73 or by local rule.

74 (h) CERTIFICATE OF COMPLIANCE.

75 (1) *Briefs and Documents That Require a*
76 *Certificate.* A brief submitted under
77 Rule 8015(a)(7)(B), 8016(d)(2), or 8017(b)(4)—and a
78 document submitted under Rule 8013(f)(3)(A),
79 8013(f)(3)(C), or 8022(b)(1)—must include a
80 certificate by the attorney, or an unrepresented party,
81 that the document complies with the type-volume
82 limitation. The individual preparing the certificate may
83 rely on the word or line count of the word-processing

84 system used to prepare the document. The certificate
85 must state the number of words—or the number of lines
86 of monospaced type—in the document.
87 (2) *Acceptable Form.* The certificate
88 requirement is satisfied by a certificate of compliance
89 that conforms substantially to the appropriate Official
90 Form.

Committee Note

The rule is amended to conform to recent amendments to F.R.App.P. 32, which reduced the word limits generally allowed for briefs. When Rule 32(a)(7)(B)'s type-volume limits for briefs were adopted in 1998, the word limits were based on an estimate of 280 words per page. Amended F.R.App.P. 32 applies a conversion ratio of 260 words per page and reduces the word limits accordingly. Rule 8015(a)(7) adopts the same reduced word limits for briefs prepared by computer.

In a complex case, a party may need to file a brief that exceeds the type-volume limitations specified in these rules, such as to include unusually voluminous information explaining relevant background or legal provisions or to respond to multiple briefs by opposing parties or amici. The Committee expects that courts will accommodate those situations by granting leave to exceed the type-volume limitations as appropriate.

Subdivision (f) is amended to make clear a court's ability (by local rule or order in a case) to increase the length limits for briefs and other documents. Subdivision (f) already established this authority as to the length limits in Rule 8015(a)(7); the amendment makes clear that this authority extends to all length limits in Part VIII of the Bankruptcy Rules.

A new subdivision (g) is added to set out a global list of items excluded from length computations, and the list of exclusions in former subdivision (a)(7)(B)(iii) is deleted. The certificate-of-compliance provision formerly in subdivision (a)(7)(C) is relocated to a new subdivision (h) and now applies to filings under all type-volume limits (other than Rule 8014(f)'s word limit)—including the new word limits in Rules 8013, 8016, 8017, and 8022. Conforming amendments are made to Official Form 417C.

1 **Rule 8016. Cross-Appeals**

2 * * * * *

3 (d) LENGTH.

4 (1) *Page Limitation.* Unless it complies with
5 paragraphs (2) ~~and (3)~~, the appellant's principal brief
6 must not exceed 30 pages; the appellee's principal and
7 response brief, 35 pages; the appellant's response and
8 reply brief, 30 pages; and the appellee's reply brief, 15
9 pages.

10 (2) *Type-~~volume~~ Volume Limitation.*

11 (A) The appellant's principal brief or the
12 appellant's response and reply brief is acceptable
13 if it includes a certificate under Rule 8015(h) and:

14 (i) ~~it~~ contains no more than ~~14,000~~
15 13,000 words; or

16 (ii) ~~it~~ uses a monospaced face and
17 contains no more than 1,300 lines of text.

18 (B) The appellee's principal and response
19 brief is acceptable if it includes a certificate under
20 Rule 8015(h) and:

21 (i) ~~it contains no more than 16,500~~
22 15,300 words; or

23 (ii) ~~it uses a monospaced face and~~
24 contains no more than 1,500 lines of text.

25 (C) The appellee's reply brief is acceptable
26 if it includes a certificate under Rule 8015(h) and
27 contains no more than half of the type volume
28 specified in subparagraph (A).

29 ~~(D) Headings, footnotes, and quotations~~
30 ~~count toward the word and line limitations. The~~
31 ~~corporate disclosure statement, table of contents,~~
32 ~~table of citations, statement with respect to oral~~
33 ~~argument, any addendum containing statutes,~~

34 ~~rules, or regulations, and any certificates of~~
35 ~~counsel do not count toward the limitation.~~

36 ~~(3) Certificate of Compliance. A brief~~
37 ~~submitted either electronically or in paper form under~~
38 ~~paragraph (2) must comply with Rule 8015(a)(7)(C).~~

39 * * * * *

Committee Note

The rule is amended to conform to recent amendments to F.R.App.P. 28.1, which reduced the word limits generally allowed for briefs in cross-appeals. When Rule 28.1 was adopted in 2005, it modeled its type-volume limits on those set forth in F.R.App.P. 32(a)(7) for briefs in cases that did not involve a cross-appeal. At that time, Rule 32(a)(7)(B) set word limits based on an estimate of 280 words per page. Amended F.R.App.P. 32 and 28.1 apply a conversion ratio of 260 words per page and reduce the word limits accordingly. Rule 8016(d)(2) adopts the same reduced word limits.

In a complex case, a party may need to file a brief that exceeds the type-volume limitations specified in these rules, such as to include unusually voluminous information explaining relevant background or legal provisions or to respond to multiple briefs by opposing parties or amici. The Committee expects that courts will accommodate those situations by granting leave to exceed the type-volume limitations as appropriate.

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Subdivision (d) is amended to refer to new Rule 8015(h) (which now contains the certificate-of-compliance provision formerly in Rule 8015(a)(7)(C)).

1 **Rule 8017. Brief of an Amicus Curiae**

2 (a) DURING INITIAL CONSIDERATION OF A
3 CASE ON THE MERITS.

4 (1) Applicability. This Rule 8017(a) governs
5 amicus filings during a court's initial consideration of
6 a case on the merits.

7 (2) When Permitted. The United States or its
8 officer or agency or a state may file an amicus-~~curiae~~
9 brief without the consent of the parties or leave of court.
10 Any other amicus curiae may file a brief only by leave
11 of court or if the brief states that all parties have
12 consented to its filing, but a district court or BAP may
13 prohibit the filing of or may strike an amicus brief that
14 would result in a judge's disqualification. On its own
15 motion, and with notice to all parties to an appeal, the
16 district court or BAP may request a brief by an amicus
17 curiae.

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18 ~~(b)~~(3) *Motion for Leave to File.* The motion
19 must be accompanied by the proposed brief and state:

20 ~~(1)~~(A) the movant's interest; and

21 ~~(2)~~(B) the reason why an amicus brief is
22 desirable and why the matters asserted are
23 relevant to the disposition of the appeal.

24 ~~(c)~~(4) *Contents and Form.* An amicus brief
25 must comply with Rule 8015. In addition to the
26 requirements of Rule 8015, the cover must identify the
27 party or parties supported and indicate whether the
28 brief supports affirmance or reversal. If an amicus
29 curiae is a corporation, the brief must include a
30 disclosure statement like that required of parties by
31 Rule 8012. An amicus brief need not comply with Rule
32 8014, but must include the following:

33 ~~(1)~~(A) a table of contents, with page
34 references;

35 ~~(2)~~(B) a table of authorities—cases
36 (alphabetically arranged), statutes, and other
37 authorities—with references to the pages of the
38 brief where they are cited;

39 ~~(3)~~(C) a concise statement of the identity
40 of the amicus curiae, its interest in the case, and
41 the source of its authority to file;

42 ~~(4)~~(D) unless the amicus curiae is one
43 listed in the first sentence of subdivision (a)(2), a
44 statement that indicates whether:

45 ~~(A)~~(i) a party’s counsel authored
46 the brief in whole or in part;

47 ~~(B)~~(ii) a party or a party’s counsel
48 contributed money that was intended to fund
49 preparing or submitting the brief; and

50 ~~(C)~~(iii) a person—other than the
51 amicus curiae, its members, or its counsel—

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52 contributed money that was intended to fund
53 preparing or submitting the brief and, if so,
54 identifies each such person;

55 ~~(5)~~(E) an argument, which may be
56 preceded by a summary and need not include a
57 statement of the applicable standard of review;
58 and

59 ~~(6)~~(F) a certificate of compliance, if
60 required by Rule 8015(a)(7)(C) or 8015(b)(h).

61 ~~(d)~~(5) *Length.* Except by the district court's
62 or BAP's permission, an amicus brief must be no more
63 than one-half the maximum length authorized by these
64 rules for a party's principal brief. If the court grants a
65 party permission to file a longer brief, that extension
66 does not affect the length of an amicus brief.

67 ~~(e)~~(6) *Time for Filing.* An amicus curiae
68 must file its brief, accompanied by a motion for filing

69 when necessary, no later than 7 days after the principal
70 brief of the party being supported is filed. An amicus
71 curiae that does not support either party must file its
72 brief no later than 7 days after the appellant's principal
73 brief is filed. The district court or BAP may grant leave
74 for later filing, specifying the time within which an
75 opposing party may answer.

76 ~~(f)(7)~~ *Reply Brief.* Except by the district
77 court's or BAP's permission, an amicus curiae may not
78 file a reply brief.

79 ~~(g)(8)~~ *Oral Argument.* An amicus curiae may
80 participate in oral argument only with the district
81 court's or BAP's permission.

82 (b) DURING CONSIDERATION OF WHETHER
83 TO GRANT REHEARING.

84 (1) Applicability. This Rule 8017(b) governs
85 amicus filings during a district court's or BAP's

86 consideration of whether to grant rehearing, unless a
87 local rule or order in a case provides otherwise.

88 (2) *When Permitted.* The United States or its
89 officer or agency or a state may file an amicus brief
90 without the consent of the parties or leave of court.
91 Any other amicus curiae may file a brief only by leave
92 of court.

93 (3) *Motion for Leave to File.* Rule 8017(a)(3)
94 applies to a motion for leave.

95 (4) *Contents, Form, and Length.*
96 Rule 8017(a)(4) applies to the amicus brief. The brief
97 must include a certificate under Rule 8015(h) and not
98 exceed 2,600 words.

99 (5) *Time for Filing.* An amicus curiae
100 supporting the motion for rehearing or supporting
101 neither party must file its brief, accompanied by a
102 motion for filing when necessary, no later than 7 days

103 after the motion is filed. An amicus curiae opposing
104 the motion for rehearing must file its brief,
105 accompanied by a motion for filing when necessary, no
106 later than the date set by the court for the response.

Committee Note

Rule 8017 is amended to conform to the recent amendment to F.R.App.P. 29, which now addresses amicus filings in connection with petitions for rehearing. Former Rule 8017 is renumbered Rule 8017(a), and language is added to that subdivision (a) to state that its provisions apply to amicus filings during the district court's or BAP's initial consideration of a case on the merits. New subdivision (b) is added to address amicus filings in connection with a motion for rehearing. Subdivision (b) sets default rules that apply when a district court or BAP does not provide otherwise by local rule or by order in a case. A court remains free to adopt different rules governing whether amicus filings are permitted in connection with motions for rehearing and the procedures when such filings are permitted.

The amendment to subdivision (a)(2) authorizes orders or local rules that prohibit the filing of or permit the striking of an amicus brief by party consent if the brief would result in a judge's disqualification. The amendment does not alter or address the standards for when an amicus brief requires a judge's disqualification. It is modeled on an amendment to F.R.App.P. 29(a). A comparable amendment to subdivision (b) is not necessary. Subdivision (b)(1) authorizes local

rules and orders governing filings during a court's consideration of whether to grant rehearing. These local rules or orders may prohibit the filing of or permit the striking of an amicus brief that would result in a judge's disqualification. In addition, under subdivision (b)(2), a court may deny leave to file an amicus brief that would result in a judge's disqualification.

1 **Rule 8018.1. District-Court Review of a Judgment that**
2 **the Bankruptcy Court Lacked the**
3 **Constitutional Authority to Enter**

4 If, on appeal, a district court determines that the
5 bankruptcy court did not have the power under Article III of
6 the Constitution to enter the judgment, order, or decree
7 appealed from, the district court may treat it as proposed
8 findings of fact and conclusions of law.

Committee Note

This rule is new. It is added to prevent a district court from having to remand an appeal whenever it determines that the bankruptcy court lacked constitutional authority to enter the judgment, order, or decree appealed from. Consistent with the Supreme Court's decision in *Executive Benefits Ins. Agency v. Arkison*, 134 S. Ct. 2165 (2014), the district court in that situation may treat the bankruptcy court's judgment as proposed findings of fact and conclusions of law. Upon making the determination to proceed in that manner, the district court may choose to allow the parties to file written objections to specific proposed findings and conclusions and to respond to another party's objections, *see* Rule 9033; treat the parties' briefs as objections and responses; or prescribe other procedures for the review of the proposed findings of fact and conclusions of law.

1 **Rule 8021. Costs**

2 * * * * *

3 (c) COSTS ON APPEAL TAXABLE IN THE
4 BANKRUPTCY COURT. The following costs on appeal
5 are taxable in the bankruptcy court for the benefit of the party
6 entitled to costs under this rule:

7 (1) the production of any required copies of a
8 brief, appendix, exhibit, or the record;

9 (2) the preparation and transmission of the
10 record;

11 (3) the reporter's transcript, if needed to
12 determine the appeal;

13 (4) premiums paid for a ~~supersedeas~~ bond or
14 other security bonds to preserve rights pending appeal;
15 and

16 (5) the fee for filing the notice of appeal.

17 * * * * *

Committee Note

The amendment of subdivision (c) conforms this rule with the amendment of F.R.Civ.P. 62, which is made applicable in adversary proceedings by Rule 7062. Rule 62 formerly required a party to provide a “supersedeas bond” to obtain a stay of the judgment and proceedings to enforce the judgment. As amended, Rule 62(b) allows a party to obtain a stay by providing a “bond or other security.”

1 **Rule 8022. Motion for Rehearing**

2 * * * * *

3 (b) FORM OF THE MOTION; LENGTH. The
4 motion must comply in form with Rule 8013(f)(1) and (2).
5 Copies must be served and filed as provided by Rule 8011.
6 ~~Unless the district court or BAP orders otherwise, a motion~~
7 ~~for rehearing must not exceed 15 pages.~~Except by the district
8 court's or BAP's permission:

9 (1) a motion for rehearing produced using a
10 computer must include a certificate under Rule 8015(h)
11 and not exceed 3,900 words; and

12 (2) a handwritten or typewritten motion must
13 not exceed 15 pages.

Committee Note

Subdivision (b) is amended to conform to the recent amendment to F.R.App.P. 40(b), which was one of several appellate rules in which word limits were substituted for page limits for documents prepared by computer. The word limits were derived from the previous page limits using the assumption that one page is equivalent to 260 words.

Documents produced using a computer must include the certificate of compliance required by Rule 8015(h); completion of Official Form 417C suffices to meet that requirement.

Page limits are retained for papers prepared without the aid of a computer (i.e., handwritten or typewritten papers). For both the word limit and the page limit, the calculation excludes any items listed in Rule 8015(g).

1 **Rule 9025. Security: Proceedings Against Sureties**
2 **Security Providers**

3 Whenever the Code or these rules require or permit ~~the~~
4 ~~giving of security by a party~~ a party to give security, and
5 security is given ~~in the form of a bond or stipulation or other~~
6 ~~undertaking~~ with one or more ~~sureties~~ security providers,
7 each ~~surety~~ provider submits to the jurisdiction of the court,
8 and liability may be determined in an adversary proceeding
9 governed by the rules in Part VII.

Committee Note

This rule is amended to reflect the amendment of Rule 62 F.R.Civ.P., which is made applicable to adversary proceedings by Rule 7062. Rule 62 allows a party to obtain a stay of a judgment “by providing a bond or other security.” Limiting this rule’s enforcement procedures to sureties might exclude use of those procedures against a security provider that is not a surety. All security providers are brought into the rule by these amendments.

**Appendix:
Length Limits Stated in Part VIII of the
Federal Rules of Bankruptcy Procedure**

This chart shows the length limits stated in Part VIII of the Federal Rules of Bankruptcy Procedure. Please bear in mind the following:

- In computing these limits, you can exclude the items listed in Rule 8015(g).
- If you are using a word limit or line limit (other than the word limit in Rule 8014(f)), you must include the certificate required by Rule 8015(h).
- If you are using a line limit, your document must be in monospaced typeface. A typeface is monospaced when each character occupies the same amount of horizontal space.
- For the limits in Rules 8013 and 8022:
 - You must use the word limit if you produce your document on a computer; and
 - You must use the page limit if you handwrite your document or type it on a typewriter.

	Rule	Document Type	Word Limit	Page Limit	Line Limit
Motions	8013(f)(3)	• Motion • Response to a motion	5,200	20	Not applicable
	8013(f)(3)	• Reply to a response to a motion	2,600	10	Not applicable
Parties' briefs (where no cross-appeal)	8015(a)(7)	• Principal brief	13,000	30	1,300
	8015(a)(7)	• Reply brief	6,500	15	650

	Rule	Document Type	Word Limit	Page Limit	Line Limit
Parties' briefs (where cross-appeal)	8016(d)	<ul style="list-style-type: none"> • Appellant's principal brief • Appellant's response and reply brief 	13,000	30	1,300
	8016(d)	• Appellee's principal and response brief	15,300	35	1,500
	8016(d)	• Appellee's reply brief	6,500	15	650
Party's supplemental letter	8014(f)	• Letter citing supplemental authorities	350	Not applicable	Not applicable
Amicus briefs	8017(a)(5)	• Amicus brief during initial consideration of case on merits	One-half the length set by the Part VIII Rules for a party's principal brief	One-half the length set by the Part VIII Rules for a party's principal brief	One-half the length set by the Part VIII Rules for a party's principal brief
	8017(b)(4)	• Amicus brief during consideration of whether to grant rehearing	2,600	Not applicable	Not applicable
Motion for rehearing	8022(b)	• Motion for rehearing	3,900	15	Not applicable