

**RULES ADVISORY COMMITTEE TO THE  
U.S. BANKRUPTCY COURT – E.D. (MICH.)**

April 27, 2015

**RULES ADVISORY COMMITTEE**

Michael E. Baum, Co-Chairperson  
Wallace M. Handler, Co-Chairperson  
Judy B. Calton, Reporter  
Jason W. Bank  
Rozanne M. Giunta  
Paul Randel  
Brian R. Trumbauer

**VIA HAND DELIVERY**

**CHAPTER 11 SUBCOMMITTEE**

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Brendan Best, Reporter  
Ken Burchfield  
Kelley Callard  
Lisa Gretchko  
Anthony Kochis  
Kay Kress  
David Lerner  
Judy Miller  
Megan O'Dell

Chief Judge Phillip Shefferly  
U.S. Bankruptcy Court  
211 West Fort Street  
Detroit, MI 48226

**Re: Local Bankruptcy Rules**

**CHAPTER 7 SUBCOMMITTEE**

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Robert Bassel, Reporter  
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Sean Cowley  
Karen Evangelista  
Marion J. Mack  
Dean Nelson  
Dan Sliwa

Dear Chief Judge Shefferly:

On behalf of the Rules Advisory Committee to the U.S. Bankruptcy Court for the Eastern District of Michigan (the “Rules Advisory Committee”) we are pleased to submit the Rules Advisory Committee’s report and recommendation concerning proposed modifications to the local bankruptcy court rules. In connection with this submission we would like to present a synopsis of the events that occasioned it.

**CHAPTER 13 SUBCOMMITTEE**

David W. Ruskin, Chairperson  
Charles J. Schneider, Reporter  
Kimberly A. Bedigian  
Charles D. Bullock  
Julia Caroff-Pidgeon  
Margaret Conti Schmidt  
Ethan David Dunn  
Rozanne M. Giunta  
Michael P. Hogan  
Kimberly A. Kramer  
Caralyce M. Lassner  
Lisa Kaufman Mullen  
Christopher F. Nelson  
Kim-Su Morden Rattet  
Richard A. Roble  
Karen L. Rowse-Oberle  
Craig S. Schoenherr, Sr.  
Kimberly J. Shorter-Siebert  
Kenneth A. VanNorwick  
Tamara A. White

On July 9, 2014, the bankruptcy court convened a meeting by inviting the nearly fifty (50) attorneys who participated in the review of the local rules which occurred in 2006 as well as other attorneys who expressed an interest in contributing to the process. The result was the formation of the Rules Advisory Committee as well as five subcommittees (the “Subcommittees”) which included (i) a Chapter 11 Subcommittee, (ii) a Chapter 7 Subcommittee, (iii) a Chapter 13 Subcommittee, (iv) an ECF Subcommittee, and (v) an Ethics/Civility Subcommittee.

**ECF SUBCOMMITTEE**

Debra Beth Pevos, Chairperson  
Jason P. Smalarz, Reporter  
Marilyn Somers-Kantzner  
Maria Gotsis  
Ken VanNorwick  
Jill Gies  
Rich Collins

Drawing upon the experiences of the review process that occurred in 2006, a time frame for the project was established. Each of the Subcommittees was asked to complete a review of the local rules and to submit a written report containing their recommendations to the Rules Advisory Committee by November 15, 2014. April 1, 2015 was set as the date by which the Rules Advisory Committee would submit this report. At the request of the Rules Advisory Committee, this deadline was extended to April 27, 2015.

**ETHICS/CIVILITY SUBCOMMITTEE**

Judith Greenstone Miller, Chairperson \* Charles D. Bullock, Reporter \* Leslie K. Berg \* Krispen S. Carroll \*  
Lisa Sommers Gretchko \* Paul R. Hage, Michael S. Leib \* Megan B. Odell \* Tammy L. Terry

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As reflected in the margin of this correspondence, the participation has been overwhelming. Each of the volunteers met with their respective Subcommittees on numerous occasions. As part of the review process, one member of the Rules Advisory Committee was designated to serve as a liaison with each of the Subcommittees. Additionally, a member of the Court and of the Clerk's office participated as a liaison with both the Rules Advisory Committee and each of the Subcommittees. The purpose of that participation was not to formulate the recommendations, but rather to monitor the events and to encourage the efforts of the individuals. Each of the Subcommittees submitted a written report to the Rules Advisory Committee.

At the outset, the Rules Advisory Committee and the Subcommittees undertook to perform the following tasks:

- To recommend that new rules be adopted where necessary.
- To recommend whether existing rules should be eliminated or modified.
- To recommend changes to the ECF Procedures and to reconcile those changes with the proposed changes to the local rules.
- To recommend ways of coordinating the local rules with both the current version of the national rules and any pending amendments.
- To recommend ways of coordinating the local rules with Administrative Orders.
- To review the existing Administrative Orders in an effort to determine whether such orders should be continued, modified or stricken.

The Rules Advisory Committee comprehensively reviewed each of the submitted reports and harmonized this presentation. The task, although enthusiastically performed, was monumental in scope. In addition to the proposed revisions to the local rules, the Rules Advisory Committee is also recommending certain changes to the ECF Procedures. Enclosed are the Rules Advisory Committee's proposed revised drafts of the local rules and the ECF Procedures. Also enclosed for the court's convenience are redlines of those two documents, showing changes to the existing local rules and ECF Procedures.

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We would like to highlight some of the new recommended provisions.

- Rule 1007-5 which will authorize the clerk’s office to reject a bankruptcy petition if the filer is unable to provide a government issued photo identification. The rule provides for the court to grant relief from this requirement in a specific case.
- Rule 1015-1(g) sets forth that the filing of a Chapter 13 Plan in a jointly filed case by a husband and wife will constitute a motion for the joint administration of the estates.
- Rule 2016-1(a)(15)(B) was amended to include the United States Trustee Guidelines for Reviewing Applications for Compensation and Reimbursement of Expenses.
- Rule 3007-1(d) sets forth that unless otherwise ordered by the Court, the initial hearing on an objection to claim will not be an evidentiary hearing.
- Rule 4001-2(b)(2) sets forth as a local rule what was previously a guideline. See also Rule 6004-1(c).
- ECF Procedures were edited with suggested amendments to, among other things, coordinate defined terms with the local rules.
- As part of the ECF Procedures, it is being recommended that the filing of an electronically scanned copy of an original signature with the Court or the electronic storage of an original signature will replace the need to maintain hard copies. This is very germane as both courts and law firms are becoming paperless. See ECF Procedure 10.

We also updated the comments that follow each local rule. With respect to a few of the new or revised local rules, we thought that it would be appropriate they only be applicable to cases filed after the effective date of the amendments, in which case we so specified in the proposed comment to the rule. For the majority of the rules, however, it is our recommendation that they be applicable in pending cases and that concept is covered by Local Rule 9029-4.

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We would also like to highlight some of the recommended changes that were received from the Subcommittees that the Rules Advisory Committee elected not to adopt as part of its recommendations.

- Establishing a local rule to address jurisdictional questions that have arisen or may arise as a result of the United States Supreme Court's decision in *Stern v Marshall*, 131 S. Ct. 2594 (2011) and the progeny of cases that have emanated since that decision some of which are currently being considered by the United States Supreme Court.

The Rules Advisory Committee felt that it would be appropriate to allow for the passage of time for these jurisdictional questions, if they do indeed present difficulties, to be sorted.

- E-Discovery.

The Rules Advisory Committee was aware E-Discovery is currently being reviewed by the United States District Court for the Eastern District of Michigan. The Rules Advisory Committee concluded it was not necessary to adopt an elaborate scheme of rules to address these issues. Inasmuch as it is entirely possible that some, if not many, adversary proceedings may ultimately be decided by the District Court (because of *Stern*), the consensus of the Rules Advisory Committee was to allow whatever rules are adopted by the District Court regarding E-Discovery to be applicable in the bankruptcy court, unless otherwise ordered by the bankruptcy court. See Rule 7026-4.

I would like to bring to the court's attention two additional items that have been made part of the report. They are:

- Fed. R. Bankr. P. 7026(f) incorporates Rule 26(f) of the Federal Rules of Civil Procedure. The Rules Advisory Committee is recommending a form which is enclosed as Tab No. 5 for the bankruptcy court to consider posting on its website; and
- Enclosed as Tab No. 6 are some proposed new forms prepared by the Chapter 13 Subcommittee for the bankruptcy court to consider posting on its website.

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I would be remiss if I did not mention to you that each of the members of the Rules Advisory Committee and the Subcommittees, especially their respective chair persons and reporters, have worked extremely hard and have spent many long hours reviewing numerous drafts of proposed rules and meticulously preparing very comprehensive reports. I must, however, publically acknowledge the efforts of Ms. Judy Calton who has served as the reporter for the Rules Advisory Committee and Mr. Brian Trumbauer who served as its editor. Each of them gave unstintingly of themselves towards this endeavor.

On behalf of each of the members of the Rules Advisory Committee and the Subcommittees, I thank you for the opportunity to serve. It was an honor and a privilege. We stand ready, willing and able to address any of your questions.

Very truly yours,

RULES ADVISORY COMMITTEE

By:   
Michael E. Baum  
Its: Co-Chairperson

MEB/jmb

cc: Judges of the Bankruptcy Court  
Clerk of the Bankruptcy Court  
Subcommittee Chairs (for distribution to their members)

**TABS:**

1. Clean Revised Local Rules
2. Redlined Revised Local Rules
3. Clean Revised ECF Guidelines
4. Redlined Revised ECF Guidelines
5. Proposed Rule 26(f) Form
6. Proposed Chapter 13 Forms