

THE FOLLOWING AMENDMENTS AND ADDITIONS TO THE FEDERAL RULES OF BANKRUPTCY PROCEDURE ARE EFFECTIVE DECEMBER 1, 2023:

Fed. R. Bankr. P. 3011 is amended to require the clerk to provide searchable access on the court's website to information about unclaimed funds deposited pursuant to § 347(a). The court may limit access to information about such funds in a specific case for cause, including, for example, if such access risks disclosing the identity of claimants whose privacy should be protected, or if the information about the unclaimed funds is so old as to be unreliable.

Fed. R. Bankr. P. 8003(a) is amended to conform to recent amendments to Fed. R. App. P. 3(c), which clarified that the designation of a particular interlocutory order in a notice of appeal does not prevent the appellate court from reviewing all orders that merged into the judgment or appealable order or decree. The amendments reflect that a notice of appeal is supposed to be a simple document that provides notice that a party is appealing and invokes the jurisdiction of the appellate court. The notice of appeal therefore must state who is appealing, what is being appealed, and to what court the appeal is being taken. It is the role of the briefs, not the notice of appeal, to focus the issues on appeal.

Fed. R. Bankr. P. 8003(a)(3)(B) is amended to avoid the misconception that it is necessary or appropriate to identify each and every order of the bankruptcy court that the appellant may wish to challenge on appeal. It requires the attachment of "the judgment—or the appealable order or decree—from which the appeal is taken"—and the phrase "or the part of it" is deleted. In most cases, because of the merger principle, it is appropriate for the appellant to identify and attach only the judgment or the appealable order or decree from which the appeal as of right is taken.

Fed. R. Bankr. P. 8003(a)(4) is amended to call attention to the merger principle. The general merger rule can be stated simply: an appeal from a final judgment or appealable order or decree permits review of all rulings that led up to the judgment, order, or decree. Because this general rule is subject to some exceptions and complications, the amendment does not attempt to codify the merger principle but instead leaves its details to case law. The amendment does not change the principle established in *Budinich v. Becton Dickinson & Co.*, 486 U.S. 196, 202-03 (1988), that "a decision on the merits is a 'final decision' ... whether or not there remains for adjudication a request for attorney's fees attributable to the case."

Fed. R. Bankr. P. 8003(a)(6) is added to enable intentional limitations of the notice of appeal. It allows an appellant to identify only part of a judgment or appealable order or decree by expressly stating that the notice of appeal is so limited. Without such an express statement, however, specific identifications do not limit the scope of the notice of appeal.

Fed. R. Bankr. P. 8003(a)(7) is added to provide that an appeal must not be dismissed because the appellant failed to properly identify the judgment or appealable order or decree if the notice of appeal (i) was filed after entry of the judgment or appealable order or decree, and (ii)

identifies an order that merged into the judgment, order, or decree from which the appeal is taken. In determining whether a notice of appeal was filed after the entry of judgment, Rules 8002(a)(2) and (b)(2) apply.

Fed. R. Bankr. P. 9006 is amended to add “Juneteenth National Independence Day” to the list of legal holidays.

Fed. R. Bankr. P. 9038 is a new rule. It provides authority to extend or toll the time limits in the rules during times of major emergencies affecting the bankruptcy courts.

Fed. Rule Bankr. P. 9038(a) specifies the limited circumstances under which the authority conferred by the new rule may be exercised.

Fed. Rule Bankr. P. 9038(b)(1) provides that an emergency declaration must specify the bankruptcy court to which it applies. The declaration must also specify a termination date that is no later than 90 days from the declaration’s issuance, and it must specify any limitations placed on the authority granted in subdivision (c) to modify time periods.

Fed. Rule Bankr. P. 9038(c)(1) and (c)(2) grant the authority, during declared emergencies, to extend or toll deadlines to the chief bankruptcy judge of a district on a district- or division-wide basis or to the presiding judge in specific cases.

Fed. Rule Bankr. P. 9038(c)(3) addresses the termination of extensions and tolling upon the termination of an emergency.

Fed. Rule Bankr. P. 9038(4) allows fine tuning in individual cases of extensions of time or tollings that have been granted.

Fed. Rule Bankr. P. 9038(5) excepts from the authority to extend time periods any time provision imposed by statute. However, if a statute merely incorporates by reference a time period imposed by a rule, that period may be extended.

***THE FOLLOWING AMENDED OFFICIAL BANKRUPTCY FORMS ARE EFFECTIVE
DECEMBER 1, 2023***

Form B410A Proof of Claim Attachment—Part 3 of the form is amended to provide for separate itemization of principal due and interest due.

Form B417A Notice of Appeal and Statement of Election—The form is amended to conform to the changes to Fed. Rule Bankr. P. 8003.

Director’s Form B1340 Application for Payment of Unclaimed Funds—Revisions were made to discourage fraudulent application from persons asserting that they are a successor claimholder.

***THE FOLLOWING AMENDMENT TO FEDERAL RULE OF CIVIL PROCEDURE 15 IS
EFFECTIVE DECEMBER 1, 2023:***

Fed. Rule Civ. P. 15 (applicable in adversary proceedings) is amended to substitute “no later than” for “within” to measure the time allowed to amend once as a matter of course.

***THE FOLLOWING AMENDMENTS TO FEDERAL RULES OF APPELLATE
PROCEDURE 26 AND 45 ARE EFFECTIVE DECEMBER 1, 2023:***

Fed. Rule App. P. 26 is amended to add “Juneteenth National Independence Day” to the list of legal holidays.

Fed. Rule App. P. 45 is amended to add “Juneteenth National Independence Day” to the list of legal holidays.