



**FEDERAL RULES OF APPELLATE PROCEDURE
INTRODUCTION
[ALL-IN-ONE DOCUMENT]**

Introduction

December 1, 2016

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FOREWORD

This document contains the Federal Rules of Appellate Procedure together with forms, as amended to December 1, 2016. The rules and forms have been promulgated and amended by the United States Supreme Court pursuant to law, and further amended by Acts of Congress. This document has been prepared by the Committee in response to the need for an official up-to-date document containing the latest amendments to the rules.

For the convenience of the user, where a rule has been amended a reference to the date the amendment was promulgated and the date the amendment became effective follows the text of the rule.

The Committee on Rules of Practice and Procedure and the Advisory Committee on the Federal Rules of Appellate Procedure, Judicial Conference of the United States, prepared notes explaining the purpose and intent of the amendments to the rules. The Committee Notes may be found in the Appendix to Title 28, United States Code, following the particular rule to which they relate.



DECEMBER 1, 2016.

Chairman, Committee on the Judiciary.

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AUTHORITY FOR PROMULGATION OF RULES | TITLE 28, UNITED STATES CODE

§2072. Rules of Procedure and Evidence; Power to Prescribe

(a) The Supreme Court shall have the power to prescribe general rules of practice and procedure and rules of evidence for cases in the United States district courts (including proceedings before magistrate judges thereof) and courts of appeals.

(b) Such rules shall not abridge, enlarge or modify any substantive right. All laws in conflict with such rules shall be of no further force or effect after such rules have taken effect.

(c) Such rules may define when a ruling of a district court is final for the purposes of appeal under section 1291 of this title.

(Added Pub. L. 100–702, title IV, § 401(a), Nov. 19, 1988, 102 Stat. 4648, eff. Dec. 1, 1988; amended Pub. L. 101–650, title III, §§ 315, 321, Dec. 1, 1990, 104 Stat. 5115, 5117.)

§2073. Rules of Procedure and Evidence; Method of Prescribing

(a)

(1) The Judicial Conference shall prescribe and publish the procedures for the consideration of proposed rules under this section.

(2) The Judicial Conference may authorize the appointment of committees to assist the Conference by recommending rules to be prescribed under sections 2072 and 2075 of this title. Each such committee shall consist of members of the bench and the professional bar, and trial and appellate judges.

(b) The Judicial Conference shall authorize the appointment of a standing committee on rules of practice, procedure, and evidence under subsection (a) of this section. Such standing committee shall review each recommendation of any other committees so appointed and recommend to the Judicial Conference rules of practice, procedure, and evidence and such changes in rules proposed by a committee appointed under subsection (a)(2) of this section as may be necessary to



maintain consistency and otherwise promote the interest of justice.

(c)

(1) Each meeting for the transaction of business under this chapter by any committee appointed under this section shall be open to the public, except when the committee so meeting, in open session and with a majority present, determines that it is in the public interest that all or part of the remainder of the meeting on that day shall be closed to the public, and states the reason for so closing the meeting. Minutes of each meeting for the transaction of business under this chapter shall be maintained by the committee and made available to the public, except that any portion of such minutes, relating to a closed meeting and made available to the public, may contain such deletions as may be necessary to avoid frustrating the purposes of closing the meeting.

(2) Any meeting for the transaction of business under this chapter, by a committee appointed under this section, shall be preceded by sufficient notice to enable all interested persons to attend.

(d) In making a recommendation under this section or under section 2072 or 2075, the body making that recommendation shall provide a proposed rule, an explanatory note on the rule, and a written report explaining the body's action, including any minority or other separate views.

(e) Failure to comply with this section does not invalidate a rule prescribed under section 2072 or 2075 of this title.

(Added Pub. L. 100–702, title IV, § 401(a), Nov. 19, 1988, 102 Stat. 4649, eff. Dec. 1, 1988; amended Pub. L. 103–394, title I, § 104(e), Oct. 22, 1994, 108 Stat. 4110.)

§2074. Rules of Procedure and Evidence; Submission to Congress; Effective Date

(a) The Supreme Court shall transmit to the Congress not later than May 1 of the year in which a rule prescribed under section 2072 is to become effective a copy of the proposed rule. Such rule shall take effect no earlier than December 1



of the year in which such rule is so transmitted unless otherwise provided by law. The Supreme Court may fix the extent such rule shall apply to proceedings then pending, except that the Supreme Court shall not require the application of such rule to further proceedings then pending to the extent that, in the opinion of the court in which such proceedings are pending, the application of such rule in such proceedings would not be feasible or would work injustice, in which event the former rule applies.

(b) Any such rule creating, abolishing, or modifying an evidentiary privilege shall have no force or effect unless approved by Act of Congress.

(Added Pub. L. 100–702, title IV, § 401(a), Nov. 19, 1988, 102 Stat. 4649, eff. Dec. 1, 1988.)

§2075. Bankruptcy Rules

The Supreme Court shall have the power to prescribe by general rules, the forms of process, writs, pleadings, and motions, and the practice and procedure in cases under title 11.

Such rules shall not abridge, enlarge, or modify any substantive right.

The Supreme Court shall transmit to Congress not later than May 1 of the year in which a rule prescribed under this section is to become effective a copy of the proposed rule. The rule shall take effect no earlier than December 1 of the year in which it is transmitted to Congress unless otherwise provided by law.

The bankruptcy rules promulgated under this section shall prescribe a form for the statement required under section 707(b) (2) (C) of title 11 and may provide general rules on the content of such statement.

(Added Pub. L. 88–623, § 1, Oct. 3, 1964, 78 Stat. 1001; amended Pub. L. 95–598, title II, § 247, Nov. 6, 1978, 92 Stat. 2672; Pub. L. 103–394, title I, § 104(f), Oct. 22, 1994, 108 Stat. 4110; Pub. L. 109–8, title XII, § 1232, Apr. 20, 2005, 119 Stat. 202.)



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HISTORICAL NOTE

The Supreme Court prescribes Federal Rules of Appellate Procedure pursuant to section 2072 of Title 28, United States Code, as enacted by Title IV "Rules Enabling Act" of Pub. L. 100-702 (approved November 19, 1988, 102 Stat. 4648), effective December 1, 1988, and section 2075 of Title 28. Pursuant to section 2074 of Title 28, the Supreme Court transmits to Congress (not later than May 1 of the year in which a rule prescribed under section 2072 is to become effective) a copy of the proposed rule. The rule takes effect no earlier than December 1 of the year in which the rule is transmitted unless otherwise provided by law.

Prior to enactment of Pub. L. 100-702, the Supreme Court promulgated Federal Rules of Appellate Procedure pursuant to section 3772 of Title 18 and sections 2072 and 2075 of Title 28 of the United States Code. Pursuant to this authority the Rules of Appellate Procedure were adopted by order of the Court on December 4, 1967, transmitted to Congress by the Chief Justice on January 15, 1968, and became effective on July 1, 1968 (389 U.S. 1063; Cong. Rec., vol. 114, pt. 1, p. 113, Exec. Comm. 1361; H. Doc. 204, 90th Cong.). Effective December 1, 1988, section 3772 of Title 18 and former section 2072 of Title 28 were repealed and supplanted by new sections 2072 and 2074 of Title 28, see first paragraph of Historical Note above.

By the same order, the Court abrogated several rules relating to appellate procedure formerly contained in the Rules of Criminal Procedure for the District Courts and the Rules of Civil Procedure for the District Courts.

Amendments were adopted by the Court by order dated March 30, 1970, transmitted to Congress by the Chief Justice on the same day, and became effective July 1, 1970 (398 U.S. 971; Cong. Rec., vol. 116, pt. 7, p. 9861, Exec. Comm. 1838; H. Doc. 91-290). The amendments affected Rules 30(a), (c) and 31(a).

Additional amendments were adopted by the Court by order dated March 1, 1971, transmitted to Congress by the Chief Justice on the same day, and became effective July 1, 1971 (401 U.S. 1029; Cong. Rec., vol. 117, pt. 4, p. 4629, Exec. Comm. 341; H. Doc. 92-57). The amendments affected Rules 26(a) and 45(a).

An additional amendment was adopted by the Court by order dated April 24, 1972, transmitted to Congress by the Chief Justice on the same day, and became effective October 1, 1972 (406 U.S. 1005;

Cong. Rec., vol. 118, pt. 11, p. 14262, Exec. Comm. 1903; H. Doc. 92-285). The amendment affected Rule 9(c).

Additional amendments were adopted by the Court by order dated April 30, 1979, transmitted to Congress by the Chief Justice on the same day, and became effective August 1, 1979 (441 U.S. 969; Cong. Rec., vol. 125, pt. 8, p. 9366, Exec. Comm. 1456; H. Doc. 96-112). The amendments affected Rules 1(a), 3(c), (d), (e), 4(a), 5(d), 6(d), 7, 10(b), 11(a), (b), (c), (d), 12, 13(a), 24(b), 27(b), 28(g), (j), 34(a), (b), 35(b), (c), 39(c), (d), and 40.

Section 210 of Public Law 98-473 (approved October 12, 1984, 98 Stat. 1987) amended Rule 9(c).

Additional amendments were adopted by the Court by order dated March 10, 1986, transmitted to Congress by the Chief Justice on the same day (475 U.S. 1153; Cong. Rec., vol. 132, pt. 3, p. 4267, Exec. Comm. 2971; H. Doc. 99-179), and became effective July 1, 1986. The amendments included new Rules 3.1, 5.1, and 15.1, and affected Rules 3(d), 8(b), 10(b), (c), 11(b), 12(a), 19, 23(b), (c), 24(a), 25(a), (b), 26(a), (c), 28(c), (j), 30(a), (b), (c), 31(a), (c), 34(a), (e), 39(c), (d), 43(a), (c), 45(a), (b), (d), and 46(a), (b).

Section 7111 of Public Law 100-690 (approved November 18, 1988, 102 Stat. 4419) amended Rule 4(b).

Additional amendments were adopted by the Court by order dated April 25, 1989, transmitted to Congress by the Chief Justice on the same day (490 U.S. 1125; Cong. Rec., vol. 135, pt. 6, p. 7542, Exec. Comm. 1058; H. Doc. 101-53), and became effective December 1, 1989. The amendments affected Rules 1(a), 3(a), 26(a), 27(a), and 28(g) and included new Rules 6 and 26.1 and a new Official Form 5.

Additional amendments were adopted by the Court by order dated April 30, 1991, transmitted to Congress by the Chief Justice on the same day (500 U.S. 1007; Cong. Rec., vol. 137, pt. 7, p. 9721, Ex. Comm. 1192; H. Doc. 102-79), and became effective December 1, 1991. The amendments affected Rules 4(a), 6, 10(c), 25(a), 26(a), 26.1, 28(a), (b), (h), 30(b), and 34(d).

Additional amendments were adopted by the Court by order dated April 22, 1993, transmitted to Congress by the Chief Justice on the same day (507 U.S. 1059; Cong. Rec., vol. 139, pt. 6, p. 8127, Ex. Comm. 1100; H. Doc. 103-72), and became effective December 1,

1993. The amendments affected Rules 3, 3.1, 4, 5.1, 6, 10, 12, 15, 25, 28, and 34, and Forms 1, 2, and 3.

Additional amendments were adopted by the Court by order dated April 29, 1994, transmitted to Congress by the Chief Justice on the same day (511 U.S. 1155; Cong. Rec., vol. 140, pt. 7, p. 8903, Ex. Comm. 3082; H. Doc. 103-247), and became effective December 1, 1994. The amendments affected Rules 1, 3, 5, 5.1, 9, 13, 21, 25, 26.1, 27, 28, 30, 31, 33, 35, 38, 40, 41, and 48.

Additional amendments were adopted by the Court by order dated April 27, 1995, transmitted to Congress by the Chief Justice on the same day (514 U.S. 1137; Cong. Rec., vol. 141, pt. 8, p. 11745, Ex. Comm. 809; H. Doc. 104-66), and became effective December 1, 1995. The amendments affected Rules 4, 8, 10, and 47.

Additional amendments were adopted by the Court by order dated April 23, 1996, transmitted to Congress by the Chief Justice on the same day (517 U.S. 1255; Cong. Rec., vol. 142, pt. 6, p. 8831, Ex. Comm. 2489; H. Doc. 104-203), and became effective December 1, 1996. The amendments affected Rules 21, 25, and 26.

Section 103 of Public Law 104-132 (approved April 24, 1996, 110 Stat. 1218) amended Rule 22.

Additional amendments were adopted by the Court by order dated April 24, 1998, transmitted to Congress by the Chief Justice on the same day (523 U.S. 1147; Cong. Rec., vol. 144, pt. 6, p. 8652, Ex. Comm. 9072; H. Doc. 105-269), and became effective December 1, 1998. The amendments affected Rules 1 to 48 and Form 4.

Additional amendments were adopted by the Court by order dated April 29, 2002, transmitted to Congress by the Chief Justice on the same day (535 U.S. 1123; Cong. Rec., vol. 148, pt. 5, p. 6813, Ex. Comm. 6622; H. Doc. 107-206), and became effective December 1, 2002. The amendments affected Rules 1, 4, 5, 21, 24, 25, 26, 26.1, 27, 28, 31, 32, 36, 41, 44, and 45 and included a new Official Form 6.

Additional amendments were adopted by the Court by order dated March 27, 2003, transmitted to Congress by the Chief Justice on the same day (538 U.S. 1071; Cong. Rec., vol. 149, pt. 6, p. 7689, Ex. Comm. 1496; H. Doc. 108-59), and became effective December 1, 2003. The amendments affected Forms 1, 2, 3, and 5.

Additional amendments were adopted by the Court by order dated April 25, 2005, transmitted to Congress by the Chief Justice on



the same day (544 U.S. 1151; Cong. Rec., vol. 151, pt. 7, p. 8784, Ex. Comm. 1907; H. Doc. 109-24), and became effective December 1, 2005. The amendments affected Rules 4, 26, 27, 28, 32, 34, 35, and 45, and added new Rule 28.1.

Additional amendments were adopted by the Court by order dated April 12, 2006, transmitted to Congress by the Chief Justice on the same day (547 U.S. 1221; Cong. Rec., vol. 152, pt. 6, p. 7213, Ex. Comm. 7318; H. Doc. 109-106), and became effective December 1, 2006. The amendments affected Rule 25 and added new Rule 32.1.

An additional amendment was adopted by the Court by order dated April 30, 2007, transmitted to Congress by the Chief Justice on the same day (550 U.S. 983; Cong. Rec., vol. 153, pt. 8, p. 10611, Ex. Comm. 1374; H. Doc. 110-24), and became effective December 1, 2007. The amendment affected Rule 25.

Additional amendments were adopted by the Court by order dated March 26, 2009, transmitted to Congress by the Chief Justice on March 25, 2009 (556 U.S. 1291; Cong. Rec., vol. 155, pt. 8, p. 10210, Ex. Comm. 1263; H. Doc. 111-28), and became effective December 1, 2009. The amendments affected Rules 4, 5, 6, 10, 12, 15, 19, 22, 25, 26, 27, 28.1, 30, 31, 39, and 41, and added new Rule 12.1.

Additional amendments were adopted by the Court by order dated April 28, 2010, transmitted to Congress by the Chief Justice on the same day (559 U.S. 1119; Cong. Rec., vol. 156, pt. 6, p. 8139, Ex. Comm. 7474; H. Doc. 111-112), and became effective December 1, 2010. The amendments affected Rules 1, 4, and 29, and Form 4.

Additional amendments were adopted by the Court by order dated April 26, 2011, transmitted to Congress by the Chief Justice on the same day (563 U.S. 1045; Cong. Rec., vol. 157, pt. 6, p. 7770, Ex. Comm. 1663; H. Doc. 112-30), and became effective December 1, 2011. The amendments affected Rules 4 and 40.

Additional amendments were adopted by the Court by order dated April 16, 2013, transmitted to Congress by the Chief Justice on the same day (569 U.S. 1125; Cong. Rec., vol. 159, pt. 5, p. 6968, Ex. Comm. 1493; H. Doc. 113-27), and became effective December 1, 2013. The amendments affected Rules 13, 14, 24, 28, and 28.1 and Form 4.

An additional amendment was adopted by the Court by order dated April 25, 2014, transmitted to Congress by the Chief Justice on the same day (572 U.S. 1161; Cong. Rec., vol. 160, pt. 11, p.



15506, Ex. Comm. 7577; H. Doc. 113-161), and became effective December 1, 2014. The amendment affected Rule 6.

Additional amendments were adopted by the Court by order dated April 28, 2016, transmitted to Congress by the Chief Justice on the same day (578 U.S. 1031; Cong. Rec., vol. 162, pt. 4, p. 5467, Ex. Comm. 5234; H. Doc. 114-129), and became effective December 1, 2016. The amendments affected Rules 4, 5, 21, 25, 26, 27, 28, 28.1, 29, 32, 35, and 40, and Forms 1, 5, and 6, added Form 7, and added Appendix: Length Limits Stated in the Federal Rules of Appellate Procedure.

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Committee Notes

Committee Notes prepared by the Committee on Rules of Practice and Procedure and the Advisory Committee on the Federal Rules of Appellate Procedure, Judicial Conference of the United States, explaining the purpose and intent of the amendments are set out in the Appendix to Title 28, United States Code, following the particular rule to which they relate. In addition, the rules and amendments, together with Committee Notes, are set out in the House documents listed above.

APPENDIX



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