

NEWS FROM THE ADMINISTRATIVE OFFICE

By JIM WANNAMAKER
Staff Attorney
Bankruptcy Judges Division

Implementing the Privacy Amendments

Work is underway at the Administrative Office and in the bankruptcy courts to implement the pending privacy amendments to Federal Rules of Bankruptcy Procedure 1005, 1007, and 2002, and Bankruptcy Official Forms 1, 3, 5, 6, 7, 8, 9, 10, 16A, 16C, and 19. Copies of the amended rules and forms, which are scheduled to take effect on December 1, 2003, are available on the Rule Making page of the Judiciary's website at www.uscourts.gov/rules.

The privacy amendments, which were proposed by the Advisory Committee on Bankruptcy Rules and approved by the Judicial Conference, will take effect if approved by the Supreme Court, and unless Congress acts otherwise before December 1. The amendments are consistent with the Judicial Conference's September 2001 policy statement that documents in bankruptcy cases should be made generally available electronically with the proviso that the Bankruptcy Code and Rules should be amended as necessary to allow the court to collect a debtor's full Social Security number but display only the last four digits. In addition, the amendments address several concerns raised by the E-Government Act discussed above.

As amended, the petition, Official Form 1, will contain only the last four digits of individual debtors' Social Security numbers, but the amendments to Rule 1007 will require debtors to submit a verified statement containing the full nine-digit number. The new Statement of Social Security Number will not be filed in the case or become part of the case file available to the public at the court or over the Internet. Copies of a form for the new statement will be distributed shortly.

Rule 2002 would be amended to require the clerk to include the debtor's full Social Security number in the copy of the meeting of creditors notice, Official Form 9, sent to creditors. The copy of the section 341 notice included in the court case file, however, will contain only the last four digits of the Social Security number. Official Form 16A, the full caption, will be amended to include only the last four digits. Accordingly, subsequent notices will either include the last four digits or none, if Official Form 16B, the short caption is used.

Filers — not the clerk — are responsible for redacting Social Security numbers and other personal identifiers such as dates of birth, financial account numbers, and names of minor children in documents they file with the court. Because pre-existing financial documents including personal identifiers may be filed as attachments to court papers, the courts may revise their local rules on filing these documents and other attachments.

Under the provisions of the E-Government Act, Pub. L. 107-347, signed by President Bush on December 17, filers have the option in certain circumstances of filing an unredacted version of a document under seal. In addition, many bankruptcy courts provide in their local

electronic filing rules for filing extracts of attachments. Personal identifiers may be redacted when the extract is prepared for filing.

The privacy amendments require changes in both the bankruptcy courts' automated case management systems and in the courts' noticing process. CM/ECF, PACER (Public Access to Electronic Records), and VCIS (Voice Case Information System) will be revised so that the CM/ECF system stores the full nine-digit Social Security number submitted by the debtor but only the last four digits will be displayed on the public terminals in the clerk's office and given out on PACER and VCIS.

Creditors will be able to confirm that they have correctly identified the debtor in their records by using the debtor's name and address or by inputting a full nine-digit Social Security number in the look-up screens in PACER or the U.S. Party/Case Index system, which allows searches to determine whether or not a party is involved in federal litigation almost anywhere in the nation.

Changes also must be made at the handful of BANCAP and NIBS courts which are not expected to have completed implementation of the CM/ECF system by December 1. Just as in the CM/ECF courts, debtors will submit — rather than file — a verified statement containing their full Social Security number; the copy of the meeting of creditors notice sent to creditors will contain the nine-digit number; and the copy of the notice in the case file will only include the last four digits. Because the BANCAP and NIBS systems are being phased out, the information displayed on PACER, VCIS, and at the counter in these courts may be curtailed in the interim before the courts implement CM/ECF.

Work is underway at the Bankruptcy Noting Center to accommodate the changes in the noticing process for both the CM/ECF courts and the remaining BANCAP and NIBS courts.