

# EXHIBIT D

COMMITTEE ON RULES  
OF  
PRACTICE AND PROCEDURE

Washington, DC  
June 1-2, 2009

Volume I

**AGENDA**  
**COMMITTEE ON RULES OF PRACTICE AND PROCEDURE**  
**JUNE 1-2, 2009**

1. Opening Remarks of the Chair
  - A. Report on the March 2009 Judicial Conference session
  - B. Transmission of Supreme Court-approved proposed rules amendments to Congress
  - C. Enactment of Statutory Time-Periods Technical Amendments Act of 2009
2. **ACTION** – Approving Minutes of January 2009 committee meeting
3. Report of the Administrative Office
  - A. Legislative Report
  - B. Administrative Report
4. Report of the Federal Judicial Center
5. Report of the Civil Rules Committee
  - A. **ACTION** – Approving and transmitting to the Judicial Conference proposed amendments to Civil Rules 8(c), 26, and 56
  - B. **ACTION** – Approving publishing for public comment proposed amendments to Supplemental Rule E(4)(f) (publication deferred)
  - C. Minutes and other informational items
6. Report of the Appellate Rules Committee
  - A. **ACTION** – Approving and transmitting to the Judicial Conference proposed amendments to Appellate Rules 1, 29, 40, and Form 4
  - B. Minutes and other informational items
7. Report of the Bankruptcy Rules Committee
  - A. **ACTION** – Approving and transmitting to the Judicial Conference proposed amendments to Bankruptcy Rules 1007, 1014, 1015, 1018, 1019, 4001, 4004, 5009, 7001, 9001, and new Rule 5012, and proposed amendments to Official Form 23
  - B. **ACTION** – Approving publishing for public comment proposed

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- amendments to Bankruptcy Rules 2003, 2019, 3001, and 4004, and new Rules 1004.2 and 3002.1, and proposed amendments to Official Forms 22A, 22B, and 22C
  - C. Minutes and other informational items (later mailing)
8. Report of the Evidence Rules Committee
- A. **ACTION** – Approving proposed “style” amendments to Evidence Rules 801-1103
  - B. **ACTION** – Approving publishing for public comment proposed “style” revision of Evidence Rules 101-1103
  - C. **ACTION** – Approving and transmitting to the Judicial Conference proposed amendments to Evidence Rule 804(b)(3)
  - D. Minutes and other informational items
9. Report of the Criminal Rules Committee
- A. **ACTION** – Approving and transmitting to the Judicial Conference proposed amendments to Criminal Rules 12.3, 15, 21, and 32.1
  - B. **ACTION** – Approving publishing for public comment proposed amendments to Criminal Rules 1, 3, 4, 9, 12, 32.1, 40, 41, 43, 47, and 49, and new Rule 4.1
  - C. Minutes and other informational items
10. **ACTION** — Approving and transmitting to the Judicial Conference proposed *Guidelines for Distinguishing Between Matters Appropriate for Standing Orders and Matters Appropriate for Local Rules and for Posting Standing Orders on a Court’s Website*
11. Report on Observance of Rules Enabling Act 75<sup>th</sup> Anniversary (oral report)
12. Report on Sealed Cases (oral report)
13. Long-Range Planning Report
14. Next Meeting: January 2010

COMMITTEE ON RULES OF PRACTICE AND PROCEDURE  
OF THE  
JUDICIAL CONFERENCE OF THE UNITED STATES  
WASHINGTON, D.C. 20544

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ROBERT L. HINKLE  
EVIDENCE RULES

**Report and Recommended Guidelines on  
Standing Orders in District and Bankruptcy Courts**

**I. Executive Summary**

For years, judges and lawyers have been concerned about the proliferation of “standing orders,” “administrative orders,” and “general orders” in the federal district courts. The term “standing orders” describes orders — including “administrative orders” or “general orders” — adopted by district courts or bankruptcy courts as district-wide or division-wide orders, without an opportunity for notice or public comment. The term includes individual-judge orders that are intended to apply generally. Individual-judge standing orders are not the focus of this report but are included in the guidelines for posting orders so they can be easily located and accessed.

The concerns raised by the proliferation of standing orders are similar to the concerns over local rules that led to congressional attention and launched earlier studies by the Judicial Conference. Like local rules, standing orders are meant to apply generally. Like local rules, standing orders can lead to a lack of uniformity in federal practice, undermining consistency in areas where the national rules were meant to provide it and creating traps for the unwary and even for the wary. But standing orders can raise even more serious problems than local rules for several reasons. First, standing orders are promulgated without the benefit of public comment. Second, standing orders are often harder to find and retrieve than local rules. Third, because standing orders may be entered by individual judges as well as by a division or district, there is significant variation even within the same district or division. Standing orders may raise these and other problems to such a degree as to risk invalidity and to invite congressional scrutiny.

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