

1949—Act May 24, 1949, expressed recognition to the Supreme Court's power to prescribe its own rules and give a better description of its procedural rules.

EFFECTIVE DATE OF 1988 AMENDMENT

Pub. L. 100-702, title IV, §407, Nov. 19, 1988, 102 Stat. 4652, provided that: "This title [enacting sections 2072 to 2074 of this title, amending this section, sections 331, 332, 372, 604, 636, and 2077 of this title, section 460n-8 of Title 16, Conservation, and section 3402 of Title 18, Crimes and Criminal Procedure, repealing former section 2072 and section 2076 of this title and sections 3771 and 3772 of Title 18, and enacting provisions set out as notes under this section] shall take effect on December 1, 1988."

EFFECTIVE DATE OF 1983 AMENDMENT

Pub. L. 97-462, §4, Jan. 12, 1983, 96 Stat. 2530, provided that: "The amendments made by this Act [enacting provisions set out as notes below, amending Rule 4 of the Federal Rules of Civil Procedure, set out in the Appendix to this title, adding Form 18-A in the Appendix of Forms, and amending section 951 of Title 18, Crimes and Criminal Procedure] shall take effect 45 days after the enactment of this Act [Jan. 12, 1983]."

SHORT TITLE OF 1983 AMENDMENT

Pub. L. 97-462, §1, Jan. 12, 1983, 96 Stat. 2527, provided: "That this Act [enacting provisions set out as notes below, amending Rule 4 of the Federal Rules of Civil Procedure, set out in the Appendix to this title, adding Form 18-A in the Appendix of Forms, and amending section 951 of Title 18, Crimes and Criminal Procedure] may be cited as the 'Federal Rules of Civil Procedure Amendments Act of 1982.'"

SAVINGS PROVISION

Pub. L. 100-702, title IV, §406, Nov. 19, 1988, 102 Stat. 4652, provided that: "The rules prescribed in accordance with law before the effective date of this title [Dec. 1, 1988] and in effect on the date of such effective date shall remain in force until changed pursuant to the law as amended by this title [see Effective Date of 1988 Amendment note above]."

RULEMAKING AUTHORITY OF SUPREME COURT AND JUDICIAL CONFERENCE

Pub. L. 109-2, §8, Feb. 18, 2005, 119 Stat. 14, provided that: "Nothing in this Act [see Short Title of 2005 Amendments note set out under section 1 of this title] shall restrict in any way the authority of the Judicial Conference and the Supreme Court to propose and prescribe general rules of practice and procedure under chapter 131 of title 28, United States Code."

TAX COURT RULEMAKING NOT AFFECTED

Pub. L. 100-702, title IV, §405, Nov. 19, 1988, 102 Stat. 4652, provided that: "The amendments made by this title [see Effective Date of 1988 Amendment note above] shall not affect the authority of the Tax Court to prescribe rules under section 7453 of the Internal Revenue Code of 1986 [26 U.S.C. 7453]."

ADMIRALTY RULES

The Rules of Practice in Admiralty and Maritime Cases, promulgated by the Supreme Court on Dec. 20, 1920, effective Mar. 7, 1921, as revised, amended, and supplemented, were rescinded, effective July 1, 1966, in accordance with the general unification of civil and admiralty procedure which became effective July 1, 1966. Provision for certain distinctly maritime remedies were preserved however in the Supplemental Rules for Certain Admiralty and Maritime Claims, rules A to F, Federal Rules of Civil Procedure, Appendix to this title. The Supplemental Rules for Certain Admiralty and Maritime Claims were subsequently renamed the Supplemental Rules for Admiralty or Maritime Claims and Asset Forfeiture Actions.

§ 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; amended Pub. L. 101-650, title III, §§315, 321, Dec. 1, 1990, 104 Stat. 5115, 5117.)

PRIOR PROVISIONS

A prior section 2072, acts June 25, 1948, ch. 646, 62 Stat. 961; May 24, 1949, ch. 139, §103, 63 Stat. 104; July 18, 1949, ch. 343, §2, 63 Stat. 446; May 10, 1950, ch. 174, §2, 64 Stat. 158; July 7, 1958, Pub. L. 85-508, §12(m), 72 Stat. 348; Nov. 6, 1966, Pub. L. 89-773, §1, 80 Stat. 1323, authorized the Supreme Court to prescribe rules of civil procedure, prior to repeal by Pub. L. 100-702, §§401(a), 407, effective Dec. 1, 1988.

AMENDMENTS

1990—Subsec. (c). Pub. L. 101-650 added subsec. (c).

CHANGE OF NAME

Words "magistrate judges" substituted for "magistrates" in subsec. (a) pursuant to section 321 of Pub. L. 101-650, set out as a note under section 631 of this title.

EFFECTIVE DATE

Section effective Dec. 1, 1988, see section 407 of Pub. L. 100-702, set out as an Effective Date of 1988 Amendment note under section 2071 of this title.

APPLICABILITY TO VIRGIN ISLANDS

Rules of civil procedure promulgated under this section as applicable to the District Court of the Virgin Islands, see section 1615 of Title 48, Territories and Insular Possessions.

ADMIRALTY RULES

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§ 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; amended Pub. L. 103-394, title I, § 104(e), Oct. 22, 1994, 108 Stat. 4110.)

PRIOR PROVISIONS

A prior section 2073, acts June 25, 1948, ch. 646, 62 Stat. 961; May 24, 1949, ch. 139, § 104, 63 Stat. 104; May 10, 1950, ch. 174, § 3, 64 Stat. 158, empowered the Supreme Court to prescribe, by general rules, the practice and procedure in admiralty and maritime cases in the district courts, prior to repeal by Pub. L. 89-773, § 2, Nov. 6, 1966, 80 Stat. 1323.

AMENDMENTS

1994—Subsec. (a)(2). Pub. L. 103-394, § 104(e)(1), substituted “sections 2072 and 2075” for “section 2072”.

Subsecs. (d), (e). Pub. L. 103-394, § 104(e)(2), inserted “or 2075” after “2072”.

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103-394 effective Oct. 22, 1994, and not applicable with respect to cases commenced under Title 11, Bankruptcy, before Oct. 22, 1994, see section 702 of Pub. L. 103-394, set out as a note under section 101 of Title 11.

EFFECTIVE DATE

Section effective Dec. 1, 1988, see section 407 of Pub. L. 100-702, set out as an Effective Date of 1988 Amendment note under section 2071 of this title.

MORE COMPLETE INFORMATION REGARDING ASSETS OF THE ESTATE

Pub. L. 109-8, title IV, § 419, Apr. 20, 2005, 119 Stat. 109, provided that:

“(a) IN GENERAL.—

“(1) DISCLOSURE.—The Judicial Conference of the United States, in accordance with section 2075 of title 28 of the United States Code and after consideration of the views of the Director of the Executive Office for United States Trustees, shall propose amended Federal Rules of Bankruptcy Procedure and in accordance with rule 9009 of the Federal Rules of Bankruptcy Procedure [11 U.S.C. App.] shall prescribe official bankruptcy forms directing debtors under chapter 11 of title 11 of United States Code, to disclose the information described in paragraph (2) by filing and serving periodic financial and other reports designed to provide such information.

“(2) INFORMATION.—The information referred to in paragraph (1) is the value, operations, and profitability of any closely held corporation, partnership, or of any other entity in which the debtor holds a substantial or controlling interest.

“(b) PURPOSE.—The purpose of the rules and reports under subsection (a) shall be to assist parties in interest taking steps to ensure that the debtor's interest in any entity referred to in subsection (a)(2) is used for the payment of allowed claims against debtor.”

STANDARD FORM DISCLOSURE STATEMENT AND PLAN

Pub. L. 109-8, title IV, § 433, Apr. 20, 2005, 119 Stat. 110, provided that: “Within a reasonable period of time after the date of enactment of this Act [Apr. 20, 2005], the Judicial Conference of the United States shall prescribe in accordance with rule 9009 of the Federal Rules of Bankruptcy Procedure [11 U.S.C. App.] official standard form disclosure statements and plans of reorganization for small business debtors (as defined in section 101 of title 11, United States Code, as amended by this Act), designed to achieve a practical balance between—

“(1) the reasonable needs of the courts, the United States trustee, creditors, and other parties in interest for reasonably complete information; and

“(2) economy and simplicity for debtors.”

UNIFORM REPORTING RULES AND FORMS FOR SMALL BUSINESS CASES

Pub. L. 109-8, title IV, § 435, Apr. 20, 2005, 119 Stat. 111, provided that:

“(a) PROPOSAL OF RULES AND FORMS.—The Judicial Conference of the United States shall propose in accordance with section 2073 of title 28 of the United States Code amended Federal Rules of Bankruptcy Procedure, and shall prescribe in accordance with rule 9009 of the Federal Rules of Bankruptcy Procedure [11 U.S.C. App.] official bankruptcy forms, directing small business debtors to file periodic financial and other reports containing information, including information relating to—

“(1) the debtor's profitability;

“(2) the debtor's cash receipts and disbursements; and

“(3) whether the debtor is timely filing tax returns and paying taxes and other administrative expenses when due.

“(b) PURPOSE.—The rules and forms proposed under subsection (a) shall be designed to achieve a practical balance among—

“(1) the reasonable needs of the bankruptcy court, the United States trustee, creditors, and other parties in interest for reasonably complete information;

“(2) a small business debtor's interest that required reports be easy and inexpensive to complete; and

“(3) the interest of all parties that the required reports help such debtor to understand such debtor's fi-

nancial condition and plan the [sic] such debtor's future."

§ 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.)

PRIOR PROVISIONS

A prior section 2074, act July 27, 1954, ch. 583, §1, 68 Stat. 567, empowered the Supreme Court to prescribe rules for review of decisions of the Tax Court of the United States, prior to repeal by Pub. L. 89-773, §2, Nov. 6, 1966, 80 Stat. 1323.

EFFECTIVE DATE

Section effective Dec. 1, 1988, see section 407 of Pub. L. 100-702, set out as an Effective Date of 1988 Amendment note under section 2071 of this title.

AMENDMENT TO RULE 23 OF FEDERAL RULES OF CIVIL PROCEDURE; EFFECTIVE DATE

Pub. L. 109-2, §7, Feb. 18, 2005, 119 Stat. 13, provided that: "Notwithstanding any other provision of law, the amendments to rule 23 of the Federal Rules of Civil Procedure, which are set forth in the order entered by the Supreme Court of the United States on March 27, 2003, shall take effect on the date of enactment of this Act [Feb. 18, 2005] or on December 1, 2003 (as specified in that order), whichever occurs first."

MODIFICATION OF AMENDMENTS TO FEDERAL RULES OF CRIMINAL PROCEDURE PROPOSED APRIL 29, 2002; EFFECTIVE DATE

Pub. L. 107-273, div. C, title I, §11019(a), Nov. 2, 2002, 116 Stat. 1825, provided that: "The proposed amendments to the Federal Rules of Criminal Procedure that are embraced by an order entered by the Supreme Court of the United States on April 29, 2002, shall take effect on December 1, 2002, as otherwise provided by law, but with the amendments made in subsection (b) [amending Rule 16 of the Federal Rules of Criminal Procedure]."

MODIFICATION OF AMENDMENTS TO FEDERAL RULES OF EVIDENCE PROPOSED APRIL 29, 1994; EFFECTIVE DATE

Pub. L. 103-322, title IV, §40141, Sept. 13, 1994, 108 Stat. 1918, provided that:

"(a) **MODIFICATION OF PROPOSED AMENDMENT.**—The proposed amendments to the Federal Rules of Evidence that are embraced by an order entered by the Supreme Court of the United States on April 29, 1994, shall take effect on December 1, 1994, as otherwise provided by law, but with the amendment made by subsection (b).

"(b) **RULE.**—[Amended Rule 412 of the Federal Rules of Evidence.]

"(c) **TECHNICAL AMENDMENT.**—[Amended table of contents for the Federal Rules of Evidence.]"

MODIFICATION OF AMENDMENTS TO FEDERAL RULES OF CRIMINAL PROCEDURE PROPOSED APRIL 29, 1994; EFFECTIVE DATE

Pub. L. 103-322, title XXIII, §230101, Sept. 13, 1994, 108 Stat. 2077, provided that:

"(a) **MODIFICATION OF PROPOSED AMENDMENTS.**—The proposed amendments to the Federal Rules of Criminal Procedure which are embraced by an order entered by the Supreme Court of the United States on April 29, 1994, shall take effect on December 1, 1994, as otherwise provided by law, but with the following amendments:

"(b) **IN GENERAL.**—[Amended Rule 32 of the Federal Rules of Criminal Procedure.]

"(c) **EFFECTIVE DATE.**—The amendments made by subsection (b) shall become effective on December 1, 1994."

AMENDMENTS TO CIVIL RULES PROPOSED APRIL 30, 1991

Pub. L. 102-198, §11, Dec. 9, 1991, 105 Stat. 1626, provided that:

"(a) **TECHNICAL AMENDMENT.**—Rule 15(c)(3) of the Federal Rules of Civil Procedure for the United States Courts, as transmitted to the Congress by the Supreme Court pursuant to section 2074 of title 28, United States Code, to become effective on December 1, 1991, is amended by striking 'Rule 4(m)' and inserting 'Rule 4(j)'.
 "(b) **AMENDMENT TO FORMS.**—Form 1-A, Notice of Lawsuit and Request for Waiver of Service of Summons, and Form 1-B, Waiver of Service of Summons, included in the transmittal by the Supreme Court described in subsection (a), shall not be effective and Form 18-A, Notice and Acknowledgment for Service by Mail, abrogated by the Supreme Court in such transmittal, effective December 1, 1991, shall continue in effect on or after that date."

AMENDMENTS TO CIVIL RULES PROPOSED APRIL 28, 1982
 Pub. L. 97-462, §5, Jan. 12, 1983, 96 Stat. 2530, provided that: "The amendments to the Federal Rules of Civil Procedure [Rule 4], the effective date of which was delayed by the Act entitled 'An Act to delay the effective date of proposed amendments to rule 4 of the Federal Rules of Civil Procedure', approved August 2, 1982 (96 Stat. 246) [Pub. L. 97-227, see below], shall not take effect."
 Pub. L. 97-227, Aug. 2, 1982, 96 Stat. 246, provided: "That notwithstanding the provisions of section 2072 of title 28, United States Code, the amendments to rule 4 of the Federal Rules of Civil Procedure as proposed by the Supreme Court of the United States and transmitted to the Congress by the Chief Justice on April 28, 1982, shall take effect on October 1, 1983, unless previously approved, disapproved, or modified by Act of Congress.
 "SEC. 2. This Act shall be effective as of August 1, 1982, but shall not apply to the service of process that takes place between August 1, 1982, and the date of enactment of this Act [Aug. 2, 1982]."

AMENDMENTS TO CIVIL RULES PROPOSED APRIL 28, 1982

Pub. L. 97-462, §5, Jan. 12, 1983, 96 Stat. 2530, provided that: "The amendments to the Federal Rules of Civil Procedure [Rule 4], the effective date of which was delayed by the Act entitled 'An Act to delay the effective date of proposed amendments to rule 4 of the Federal Rules of Civil Procedure', approved August 2, 1982 (96 Stat. 246) [Pub. L. 97-227, see below], shall not take effect."
 Pub. L. 97-227, Aug. 2, 1982, 96 Stat. 246, provided: "That notwithstanding the provisions of section 2072 of title 28, United States Code, the amendments to rule 4 of the Federal Rules of Civil Procedure as proposed by the Supreme Court of the United States and transmitted to the Congress by the Chief Justice on April 28, 1982, shall take effect on October 1, 1983, unless previously approved, disapproved, or modified by Act of Congress.
 "SEC. 2. This Act shall be effective as of August 1, 1982, but shall not apply to the service of process that takes place between August 1, 1982, and the date of enactment of this Act [Aug. 2, 1982]."

AMENDMENTS TO CRIMINAL RULES AND RULES OF EVIDENCE PROPOSED APRIL 30, 1979; POSTPONEMENT OF EFFECTIVE DATE
 Pub. L. 96-42, July 31, 1979, 93 Stat. 326, provided: "That notwithstanding any provision of section 3771 or 3772 of title 18 of the United States Code or of section 2072, 2075, or 2076 of title 28 of the United States Code to the contrary—
 "(1) the amendments proposed by the United States Supreme Court and transmitted by the Chief Justice on April 30, 1979, to the Federal Rules of Criminal Procedure affecting rules 11(e)(6), 17(h), 32(f), and 44(c), and adding new rules 26.2 and 32.1, and the amendment so proposed and transmitted to the Federal Rules of Evidence affecting rule 410, shall not take effect until December 1, 1980, or until and then only to the extent approved by Act of Congress, whichever is earlier; and

AMENDMENTS TO CRIMINAL RULES AND RULES OF EVIDENCE PROPOSED APRIL 30, 1979; POSTPONEMENT OF EFFECTIVE DATE

Pub. L. 96-42, July 31, 1979, 93 Stat. 326, provided: "That notwithstanding any provision of section 3771 or 3772 of title 18 of the United States Code or of section 2072, 2075, or 2076 of title 28 of the United States Code to the contrary—

"(1) the amendments proposed by the United States Supreme Court and transmitted by the Chief Justice on April 30, 1979, to the Federal Rules of Criminal Procedure affecting rules 11(e)(6), 17(h), 32(f), and 44(c), and adding new rules 26.2 and 32.1, and the amendment so proposed and transmitted to the Federal Rules of Evidence affecting rule 410, shall not take effect until December 1, 1980, or until and then only to the extent approved by Act of Congress, whichever is earlier; and