

2016

Changes to Bankruptcy Forms and Pending Bankruptcy Rule Changes

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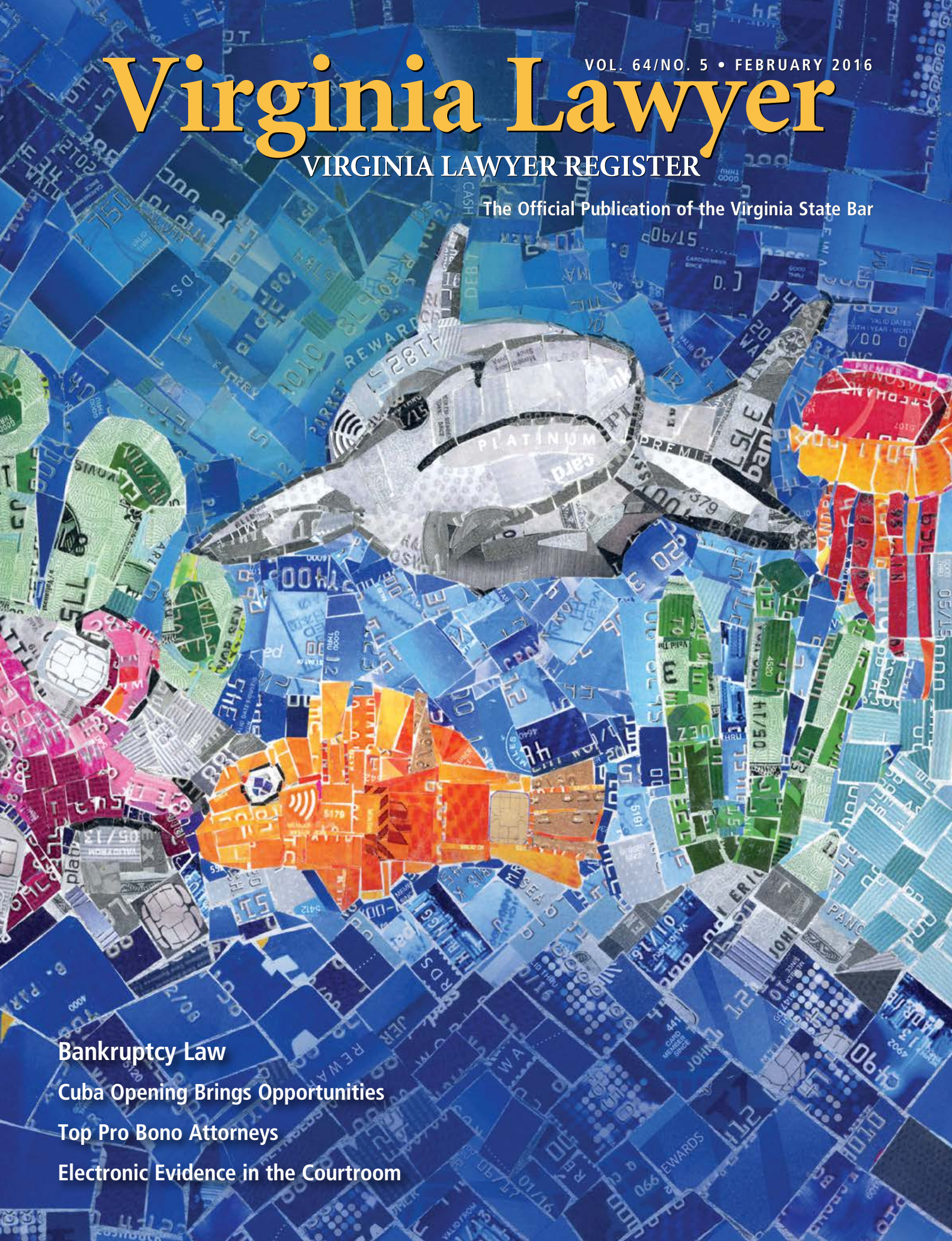
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Changes to Bankruptcy Forms and Pending Bankruptcy Rule Changes

by Kathleen Klepfer

Nearly every form used by the bankruptcy courts went through a significant overhaul in December as part of a seven-year project designed to streamline the filing process.¹ The voluntary petition—old Form B1—has now been split into three separate forms: B101 for individual debtors, B201 for nonindividual debtors, and B401 for foreign proceedings. This overhaul altered the format of most additional forms and schedules, including the internal “director’s forms,” all of which are now available on the court’s main form page.² Because most form numbers changed as well, the courts have provided a conversion chart that aligns the old and new form numbers with any title changes.³ Old forms can still be found on the main court website under the “Superseded Bankruptcy Forms” heading.⁴

The new format allows the forms to better fit the applicant. Revisions were undertaken to make both the forms and instructions “easier for debtors to understand and complete, and are designed to work with scheduled enhancements to the federal courts’ case opening and electronic case management system.”⁵ For example, questions specific to individuals will no longer appear on nonindividual debtor forms and instructions are included in-line with each question instead of appearing at the top of the form. Separate instruction sheets for each form have also been updated; they can be downloaded along with the form and include committee notes on the changes. Although many touted the edits as a way for debtors to file without consulting an attorney, it remains to be seen if the updates will increase the number of pro se filers.⁶

The American Bankruptcy Institute held a webinar in November on the changes.⁷ The panel encouraged practitioners to read the new forms carefully. Judge Arthur I. Harris of the US Bankruptcy Court for the Northern

District of Ohio noted that, although Rule 5005 in the Federal Rules of Bankruptcy Procedure directs clerks not to reject filings that do not conform to official forms, practitioners and pro se individuals will still have to correct any errors or omissions as a result of using outdated forms.

Local forms provided by both the Eastern and Western Districts of Virginia should continue to be used when filing in those courts. The local and administrative forms adapted from the national courts have all been updated to reflect the December changes on their respective court websites. Administrative forms specific to each court have only been updated if necessary, so a local may still be valid even if it bears a revision date prior to 2015. For example, the Chapter 13 plan forms from the 2009 revision are still valid, but practitioners should keep an eye on proposed rules changes for 2016.

The only official rule change this past year was a technical change to Rule 1007, but more changes are pending. A collection of proposed amendments to the Federal Rules was sent to the United States Supreme Court for review on October 9th. The amendments are lengthy, but include elimination of the three-day rule for electronic service, changes to international bankruptcy case procedures, and to Chapter 13 notices. Further amendments to specific Bankruptcy Rules, the so-called “Stern Amendments,” are the result of litigation surrounding the bankruptcy courts’ authority in *Stern v. Marshall*⁸ and were re-submitted on October 29th.⁹

Proposed changes to Bankruptcy Rules 1001 and 1006 opened for comment on August 15, 2015. The amendment to Rule 1006 would “clarify that courts may not refuse to accept petitions or summarily dismiss cases for failure to make initial installment payments at the time of filing.”¹⁰ The comment

period closed February 16, 2016, and is now being considered by the Judicial Conference Advisory Committee on Bankruptcy Rules.

Endnotes

- 1 Public Notice from United States Bankruptcy Court Eastern District of Virginia, Amendments to the Federal Rules of Procedure and Practice; Bankruptcy Forms, available at https://www.vaeb.uscourts.gov/wordpress/?wpfb_dl=648.
- 2 Bankruptcy Forms, USCourts.gov, <http://www.uscourts.gov/forms/bankruptcy-forms>.
- 3 Modernized Bankruptcy Forms Numbering Conversion Chart, available at <http://www.uscourts.gov/file/18167/download>.
- 4 *Superseded Bankruptcy Forms*, USCourts.gov, <http://www.uscourts.gov/forms/superseded-bankruptcy-forms> (last visited Jan. 6, 2016).
- 5 *Pending Changes in Bankruptcy Forms*, USCourts.gov, <http://www.uscourts.gov/rules-policies/pending-rules-amendments/pending-changes-bankruptcy-forms> (last visited Jan. 6, 2016).
- 6 Steve Rhode, *New Bankruptcy Forms Make It Easier to File Without an Attorney*, HUFF. POST (Nov. 24, 2015 05:35 PM), http://www.huffingtonpost.com/steve-rhode/new-bankruptcy-forms-make_b_8639066.html.
- 7 The webinar may be viewed on ABI’s website, <http://www.abi.org/newsroom/videos>. See also Diane Davis, *New Bankruptcy Forms Roll Out Effective Dec. 1*, BNA.com (Nov. 17, 2015), <http://www.bna.com/new-bankruptcy-forms-n57982063647/>.
- 8 *Stern v. Marshall*, 131 S.Ct. 2594 (2011).
- 9 *Pending Rules Amendments*, USCourts.gov, <http://www.uscourts.gov/rules-policies/pending-rules-amendments> (last visited Jan. 6, 2016).
- 10 Preliminary Draft of Proposed Amendments to the Federal Rule of Bankruptcy Procedure and the Federal Rules of Evidence, available at <http://www.uscourts.gov/file/18375/download>.



Kathleen Klepfer is a reference and research services librarian at the University of Richmond School of Law.