

**VBA BANKRUPTCY LAW SECTION**  
**BENCH-BAR BROWN BAG LUNCH MEETING**  
*with Hon. Colleen A. Brown, U.S. Bankruptcy Judge*

**United States Bankruptcy Court, Rutland**  
**Friday, November 18, 2016 ~ 12:00 - 1:00 P.M.**  
**Dial-in number: (888) 398-2342, Access Code: 846 68 72#**

**AGENDA**

1. CAR LEASING COMPANIES Heather Cooper
2. CMP RULE TASK FORCE – FOLLOW UP ON REPORT (15 min) Jan Sensenich / Michelle Kainen
  - See attachments (*this continues discussion begun at Sept 7, 2016 BB mtg*)
3. MODEL CH 13 PLAN - PER NEW BK RULE 3015.1 (10 min) Judge Brown / Jan Sensenich
  - See attachments (*this continues discussion begun at Sept 7, 2016 BB mtg*)
  - Judge Brown will decide by 12/31/16 whether to opt out of the National Model Plan; seeking input from Bk Bar on this
  - Note: new Local Rules will be required to implement the Model Plan or the opt-out plan, and related rules, by effective date **12/1/2017**
    - **Will need Local Rules Task Force to work on this**
4. WAYS TO CONTACT JAN SENSENICH, CH 13 TRUSTEE Jan Sensenich
  - New phone system, etc.
5. NEW STANDING ORDERS (*copies attached*) Theresa Davidson
  - S.O. # 16-03 expands the PHV exception; PHV not needed to redact a POC
  - S.O. # 16-04 requires attorneys who submit electronic evidence for a trial or contested matter to bring their own laptop computer
6. ANNUAL HOLIDAY CLE (5 min) Heather Cooper
  - **Friday December 2<sup>nd</sup> at Essex Culinary Resort and Spa**
  - Current agenda attached
7. NEW TOPICS?

**These Bench-Bar lunch meetings are coordinated by the Bankruptcy Court**  
**Have a question about them? Contact Maria Dionne at 802-657-6432 or [maria\\_dionne@vtb.uscourts.gov](mailto:maria_dionne@vtb.uscourts.gov)**  
No fee and no pre-registration required. Bottled water will be provided.

Attachments: CMP Task Force Preliminary Report  
Standing Orders # 16-03 and # 16-04  
Agenda for Dec CLE  
Copy of Proposed Model Ch 13 Plan & Related Proposed Rules, with pertinent Advisory Notes

**PROPOSED RULE REVISION from the CMP Task Force 2016**

**(a) Conduit Mortgage Payments.**

- (1) **Local Bankruptcy Forms.** Paragraph (h) requires use of the following local bankruptcy forms: mortgage creditor checklist (Vt. LB Form Y-1); notice of conduit mortgage payment and authorization to release information to the Chapter 13 trustee (Vt. LB Form Y-2); model mortgage payment history (Vt. LB Form Y-5); and notice of transfer of claim (other than for security) (Official Form B210a). All of these forms are available on the Court's website, <http://www.vtb.uscourts.gov>. Use of these forms is required, with the exception that if a Mortgage Creditor (as defined in subparagraph (2)(G)) is already using forms that substantially conform to these forms and provide all of the information included on the forms, the Mortgage Creditor may use its own forms unless and until the Court orders otherwise.
- (2) **Definitions.** For purposes of this Rule, the following terms have the stated meanings:
  - (A) A "Conduit Mortgage Payment" is the Regular Monthly Mortgage Payment the debtor is obligated to pay to the Mortgage Creditor post-petition, which the Chapter 13 trustee disburses pursuant to the terms of this Rule.
  - (B) A "Conduit Mortgage Payment Plan" is a Chapter 13 plan that includes the payment of ongoing monthly mortgage payments on one or more mortgages, by the Chapter 13 trustee to the Mortgage Creditor from payments that are included in the debtor's Chapter 13 plan payments to the Chapter 13 trustee.
  - (C) The debtor is "Delinquent" when the debtor owes the Mortgage Creditor any past due payments or other charges as of the Filing Date. This term does not include a failure to make Regular Monthly Mortgage Payments that came due after the Filing Date.
  - (D) The "Filing Date" is the date the case was filed under, or converted to, Chapter 13.
  - (E) A "Mortgage Creditor" is an entity entitled to enforce an allowed claim secured by a properly perfected mortgage on the debtor's residential real property, or the servicer for that entity, as determined by which entity files a proof of claim for the mortgage debt. Wherever this Rule refers to notice on the Mortgage Creditor, or requires the Mortgage Creditor to file a document, it also refers to the Mortgage Creditor's attorney.
  - (F) The "Mortgage Payment Accounting" is a complete history of the Chapter 13 trustee's receipt of payments from the debtor and disbursement of payments to the Mortgage Creditor, with the disbursements showing separate entries for the Conduit Mortgage Payments, and Pre-Petition Mortgage Arrearage components.
  - (G)
  - (H) The "Post-Petition Mortgage Arrearage" is the sum of past due Regular Monthly Mortgage Payments the debtor owes to a Mortgage Creditor post-petition.
  - (I) The "Pre-Petition Mortgage Arrearage" is the sum of Regular Monthly Mortgage Payments the debtor owes to a Mortgage Creditor that came due prior to the Filing Date, without regard to any grace period that expires post-petition.
  - (J) A "Regular Monthly Mortgage Payment" is:

- (i) the sum of the principal, interest, taxes, insurance, administrative fees, and any other charges properly escrowed, charged, or assessed under a note and secured by a properly perfected mortgage on the debtor's residential real property, which is due each month; or
- (ii) a monthly amount of no less than the sum of the taxes, insurance, administrative fees, and anticipated interest and principal, which is proposed in conjunction with the debtor's participation in this Court's Mortgage Mediation and Loss Mitigation Program,
  - (a) a debtor's plan utilizing a regular monthly mortgage payment under subparagraph (ii) may only be confirmed by the court if
    - 1 after notice and opportunity the mortgage creditor does not object, and
    - 2 the debtor's plan provides that the debtor will promptly modify this figure to match the outcome of mortgage mediation, if necessary, as described in Vt. LBR \_\_\_\_.

(K) A "Waiver Order" is a Court order that waives the requirement to make Conduit Mortgage Payments to the Mortgage Creditor through a Chapter 13 plan.

(3) **Post-Petition Mortgage Payments.** A debtor is required to make Conduit Mortgage Payments as follows:

**(A) When the Debtor is Not Delinquent.**

- (i) Except as provided in subsections (iii) and (iv), below, a debtor who is not Delinquent is not required to make Conduit Mortgage Payments.
- (ii) A debtor who is not Delinquent may elect to make Conduit Mortgage Payments as outlined in this Rule, by so specifying in the Debtor's Chapter 13 plan.
- (iii) If (a) a debtor has been making Regular Monthly Mortgage Payments directly to a Mortgage Creditor post-petition pursuant to section (i), (b) the Mortgage Creditor files a motion for relief from stay based at least in part upon the debtor's post-petition default in Regular Monthly Mortgage Payments, (c) the Court finds the debtor is in default on those payments, but (d) the Court either allows the debtor to retain the real property that secures the Mortgage Creditor's claim and conditionally maintains the automatic stay or denies the motion based upon the debtor's election to make Conduit Mortgage Payments, then the Mortgage Creditor must include in its proposed order provisions directing the debtor to make Conduit Mortgage Payments commencing with the first Regular Monthly Mortgage Payment due date following entry of the order, requiring the debtor to increase the monthly plan payments to an amount sufficient to include the Conduit Mortgage Payment, and directing the debtor to comply with all applicable provisions of this paragraph.
- (iv) If (a) a debtor has been making Regular Monthly Mortgage Payments directly to a Mortgage Creditor post-petition pursuant to subsection (i), and (b) the debtor files a motion to modify the Chapter 13 plan based upon a post-petition default in Regular Monthly Mortgage Payments, the motion and corresponding proposed order must require the debtor

to make Conduit Mortgage Payments commencing with the first Regular Monthly Mortgage Payment due date following entry of the order granting modification of the plan, and to increase the monthly Chapter 13 plan payment to an amount sufficient to include the Conduit Mortgage Payment.

**(B) When the Debtor is Delinquent.**

- (i) Except as provided in subsection (ii), below, a debtor who is Delinquent is required to make Conduit Mortgage Payments.
  - (ii) A debtor who is Delinquent may obtain a Waiver Order only upon a showing of cause, based upon exigent circumstances.
    - (a) The debtor bears the burden of showing cause in any motion for a Waiver Order. The debtor must file the motion on notice to the Chapter 13 trustee and the Mortgage Creditor within seven days of the Filing Date, and may use the default procedure. See Vt. LBR 9013-4.
    - (b) The additional cost associated with the Chapter 13 trustee's fee on the Conduit Mortgage Payment will not constitute cause for entry of a Waiver Order unless the debtor shows that the additional cost would cause the Chapter 13 plan to fail.
  - (iii) A Mortgage Creditor or the Chapter 13 trustee may file a motion to revoke a Waiver Order if:
    - (a) the Mortgage Creditor files a motion for relief from stay based at least in part upon the debtor's post-petition default in Regular Monthly Mortgage Payments;
    - (b) the Court finds the debtor is in default of those payments;
    - (c) the outcome of the motion for relief from stay is the Court's entry of an order that either (1) allows the debtor to retain the real property that secures the Mortgage Creditor's claim and conditionally maintains the automatic stay, or (2) denies the motion for relief from stay based on the debtor's election to make Conduit Mortgage Payments; and
    - (d) the debtor has not filed a motion to modify the Chapter 13 plan to voluntarily commence making Conduit Mortgage Payments pursuant to section (A)(iv).
- (4) **Duties of the Debtor.** A debtor who is Delinquent, is otherwise subject to the Conduit Mortgage Payment requirement, or voluntarily chooses to make Conduit Mortgage Payments, must fulfill the following duties:

**(A) Duty to Specify Components of Mortgage Creditor's Claim in Chapter 13 Plan.**

- (i) In the Chapter 13 plan, the debtor must specify:
  - (a) the amount of the Conduit Mortgage Payment;
  - (b) The total amount of Conduit Mortgage Payments being paid through the plan.
    - (1) The total amount of Conduit Mortgage Payments being paid through the plan shall be calculated by multiplying the Conduit Mortgage Payment by the number of months of the plan, plus two additional months.

- (c) the amount of the Pre-Petition Mortgage Arrearage and the Regular Monthly Mortgage Payments included in that arrearage figure.
- (ii) The debtor must also file a wage withholding authorization (Vt. LB Form Y-8) with the Chapter 13 plan, unless the debtor files a motion for waiver of the wage withholding requirement.
- (B) Duty to Provide Forms to the Chapter 13 Trustee and Mortgage Creditor.** The debtor must complete the mortgage creditor checklist (Vt. LB Form Y-1) and the notice of conduit mortgage payment and authorization to release information to the Chapter 13 trustee (Vt. LB Form Y-2), and must provide both, along with a copy of the three most recent mortgage invoices or monthly payment vouchers, (if available), to the Chapter 13 trustee, with a copy to the Mortgage Creditor, no later than seven days after the Filing Date.
- (C) Duty to Make Timely First Chapter 13 Plan Payment Directly to the Chapter 13 Trustee.** The debtor must make the first Chapter 13 plan payment, in an amount that includes the full Conduit Mortgage Payment, directly to the Chapter 13 trustee within 30 days of the Filing Date.
- (D) Duty to Make Sufficient Chapter 13 Plan Payments.** If the amount of the Regular Monthly Mortgage Payment increases during the term of the Chapter 13 plan, the debtor must increase the amount of the Chapter 13 plan payment to the Chapter 13 trustee by an amount equal to the increase in the Regular Monthly Mortgage Payment due, plus the Chapter 13 trustee's fee allocable to that additional sum, and the Chapter 13 trustee must effectuate this via notice to the entity withholding the Chapter 13 plan payment. The increased Chapter 13 plan payment will be due on the effective date of the increase in the Regular Monthly Mortgage Payment. If the amount of the Regular Monthly Mortgage Payment decreases during the term of the Chapter 13 plan, the Chapter 13 plan payment will not change, and the Chapter 13 trustee must retain the additional funds and disburse them as set forth in subparagraph (7)(A)(iv), unless the debtor modifies the Chapter 13 plan to provide otherwise.
- (E) Penalty for Failure to Comply with Foregoing Requirements.** The debtor's failure to comply with the requirements of subparagraph (4) may result in the Court denying confirmation of the Chapter 13 plan.
- (F) Additional Duty to Object to Proof of Claim.** If the debtor believes that the Mortgage Creditor's proof of claim is inaccurate, the debtor must promptly file an objection to the proof of claim.
- (i) If the debtor's objection is overruled, within seven days of the Court's ruling, (a) the Chapter 13 trustee must file a notice of increased Chapter 13 plan payment and serve that notice on the debtor's employer to increase wage withholding to reimburse the Mortgage Creditor for any post-petition shortfall and to make correct payments going forward to comport with the allowed proof of claim, and (b) if needed, due to the change in treatment to other claimants under the plan, the debtor ~~should~~ shall file a motion to amend or modify the Chapter 13 plan.
- (ii) If the debtor's objection is sustained, the trustee must continue to disburse payments in the amount determined by the Court and file an amended proof of claim on behalf of the Mortgage Creditor consistent with the Court's order.

**(5) Duties of the Chapter 13 Trustee.**

- (A) Duty to Disburse Conduit Mortgage Payments.** Upon receipt of a mortgage creditor checklist (Vt. LB Form Y-1), notice of conduit mortgage payment and authorization to release information to the trustee (Vt. LB Form Y-2), and the first Chapter 13 plan payment, the Chapter 13 trustee must commence disbursing Conduit Mortgage Payments to the Mortgage Creditor in the amount specified in the debtor's Chapter 13 plan, unless the debtor has filed a motion requesting that no payments be made to the Mortgage Creditor until some future date (e.g., the filing of a proof of claim by the Mortgage Creditor, resolution of an objection to the Mortgage Creditor's proof of claim), and the Court enters an order granting the debtor's motion. If the Chapter 13 trustee makes payments to the Mortgage Creditor according to the Chapter 13 plan and it later becomes clear, by agreement or Court order, that the amount paid to the Mortgage Creditor was not due, either in whole or in part, the Mortgage Creditor must disgorge any such overpayments. See subparagraph (6)(B).
- (B) Duty Regarding Plan Payment Increases.** Upon receipt of a notice of mortgage payment change (Official Form B410S-1), pursuant to subparagraph (7)(A), the Chapter 13 trustee must:
- (i) file with the Court notice of any required Chapter 13 plan payment increase;
  - (ii) serve a copy of such notice on the debtor and the debtor's attorney; and
  - (iii) if the proposed increase in plan payment is less than 5% and the debtor does not object, pursuant to subparagraph (7), within 14 days of service of the notice of mortgage payment change, then the Chapter 13 trustee must file a notice of increased Chapter 13 plan payment and promptly serve notice of increased wage withholding on the entity withholding the Chapter 13 plan payment, and must commence making Conduit Mortgage Payments in the new amount on the later of the date the Chapter 13 trustee begins receiving increased Chapter 13 plan payments or the effective date of the new payment.
  - (iv) If the proposed increase in plan payment is 5% or more, the Chapter 13 trustee shall schedule a status conference so that the court can address feasibility of the proposed plan payment increase. If, prior to the status conference, the debtor files a Motion to Modify the Chapter 13 plan, or a Stipulation to Plan Payment Increase, with any necessary amended schedules, the trustee may withdraw the request for status conference, and commence making Conduit Mortgage Payments in the new amount, once the Motion to Modify has been granted or the Stipulation has been filed.
- (C) Duty to Disburse Only Full Payments; Duty When Insufficient Funds Available.** The Chapter 13 trustee must disburse payments only in an amount equal to the Regular Monthly Mortgage Payment to the Mortgage Creditor as Conduit Mortgage Payments unless the Chapter 13 trustee is disbursing a final payment due to satisfaction of claim, conversion, or dismissal. If funds in the debtor's account with the Chapter 13 trustee are not sufficient to make a full Conduit Mortgage Payment and pay the corresponding Chapter 13 trustee's fee, then the Chapter 13 trustee must hold such funds until the Chapter 13 trustee receives from the debtor funds sufficient to do so. In such an event, within seven days of the date the Chapter 13 trustee intended to make the Conduit Mortgage Payment, the Chapter 13 trustee must notify by email the debtor, the debtor's attorney, and the Mortgage Creditor that there are insufficient funds to make full payment and the amount of additional funds needed to make a full payment.

**(D) Duty to Specify Proper Application of Payment.** The Chapter 13 trustee's payments to a Mortgage Creditor must include a voucher narrative:

- (i) identifying the debtor's name, Chapter 13 case number, and the last four digits of the Mortgage Creditor's account number; and
- (ii) indicating the amount allocable to the Conduit Mortgage Payment, and the amount allocable to the Pre-Petition Mortgage Arrearage.

**(E) Duties upon the Debtor's Default.** If the debtor fails to make any timely or full Chapter 13 plan payment, including the first Chapter 13 plan payment, then the Chapter 13 trustee must take the following steps:

- (i) The first time the debtor fails to make a timely or full Chapter 13 plan payment, within 14 days of the default, the Chapter 13 trustee must file and serve upon the debtor, mortgage creditor, and their attorneys (if any) a notice of delinquency specifying the due date and amount of the missed payment, and the amount needed to cure the plan payment default. If the debtor does not cure the default or file a motion to modify the Chapter 13 plan within 30 days of the filing of the Chapter 13 trustee's notice, the Chapter 13 trustee must file and serve upon all parties in interest a motion to dismiss the case based upon the payment default and any other grounds the Chapter 13 trustee deems warrant dismissal of the case.
- (ii) The second time the debtor fails to make a timely or full Chapter 13 plan payment, within 14 days of the default, the Chapter 13 trustee must file and serve upon all parties in interest a motion to dismiss the case, specifying that it is the second Chapter 13 plan payment default and any other grounds the Chapter 13 trustee deems warrants dismissal of the case.
- (iii) Nothing in this paragraph precludes a Mortgage Creditor, or any other party in interest, from filing a motion to dismiss the case or a motion for relief from stay based upon a debtor's default in Chapter 13 plan payments or other requirements of this paragraph, or other grounds set forth in § 1307.

**(F) Duty to File Motion to Declare the Debtor Current Upon Completion of Conduit Mortgage Payments.** See subparagraph (8).

**(6) Duties of the Mortgage Creditor.**

**(A) Duty to File a Proof of Claim as Soon as Practicable.** A Mortgage Creditor with a Pre-Petition Mortgage Arrearage claim is encouraged to file a proof of claim as soon as practicable after receipt of notice of the debtor's bankruptcy filing. The Mortgage Creditor should attach to the proof of claim a mortgage proof of claim attachment (Official Form 410A) to facilitate a prompt commencement of post-petition payments in the correct amount, and is further encouraged to provide the mortgage proof of claim attachment to the Chapter 13 trustee in advance of filing the proof of claim.

**(B) Duty to Apply Payments Properly.** The Mortgage Creditor must apply each Conduit Mortgage Payment disbursed by the Chapter 13 trustee to the earliest outstanding post-petition payment due under the Chapter 13 plan.

**(C) Duty to Limit Late Fees.** The Mortgage Creditor may not charge the debtor a late fee unless the tardiness of the payment was caused by the debtor's failure to make a full or timely

Chapter 13 plan payment to the Chapter 13 trustee.

**(C) Duty to Provide Annual Payment History.**

- (i) During the pendency of the Chapter 13 case and using the model mortgage payment history form (Vt. LB Form Y-5), on or before March 1st of each year, the Mortgage Creditor must provide to the debtor, the debtor's attorney, and the Chapter 13 trustee, a summary of the 12-month mortgage payment history from January 1st through December 31st of the previous year, on the loan on which Conduit Mortgage Payments have been disbursed. If the case was filed or converted from another chapter on or after January 1st, the first summary must include activity on the account from the Filing Date through December 31st of the previous year.
- (ii) The mortgage payment history summary is not to be filed with the Court unless authorized by the Court to do so or it is pertinent to a motion for relief from stay or a motion to dismiss, in which event it shall be filed as an attachment to the motion.

**(E) Duty to Provide Documents to the Debtor's Attorney and the Chapter 13 Trustee.** The Mortgage Creditor must provide to the debtor's attorney and the Chapter 13 trustee copies of all documents sent to the debtor post-petition, including correspondence, statements, payment coupons, escrow notices, and default notices, and any other documents, which disclose a change in:

- (i) the name or identity of the Mortgage Creditor;
- (ii) the monthly payment amount;
- (iii) the interest rate or escrow requirements; or
- (iv) the address to which mortgage payments are to be sent.

**(D) Duty to Attach Information to Motion for Relief from Stay.** A motion for relief from stay in a Conduit Mortgage Payment case must be accompanied by either a mortgage payment history summary (Vt. LB Form Y-5) setting forth the post-petition account history, or a print-out from the Chapter 13 trustee's website showing the debtor's Chapter 13 plan payment history, including the portion of the website report showing the date the data was last updated. If the Mortgage Creditor prevails on its motion for relief from stay, demonstrates that payments were not timely made, and a conditional or absolute order for relief is entered, the proposed order may authorize the Mortgage Creditor to collect late fees on past due payments, if the Mortgage Creditor requested that relief in the motion. See also Vt. LBR 4001-1.

**(7) Post-Petition Changes and Additional Charges.**

**(A) Changes to Regular Monthly Mortgage Payment Amount.**

- (i) If the mortgage documents authorize the Mortgage Creditor to modify the Regular Monthly Mortgage Payment amount, and the Mortgage Creditor files and serves a notice of mortgage payment change (Official Form B410S-1) pursuant to Fed. R. Bankr. P. 3002.1(b), then the debtor, Chapter 13 trustee, or any other party in interest shall have 14 days to file a response or objection to the notice of mortgage payment change. If no response in opposition or objection is timely filed, then the debtor is deemed to have accepted the mortgage payment change, and that amount will become the new Regular Monthly Mortgage Payment on the effective date provided in the notice of mortgage



payment change.

- (ii) If the Mortgage Creditor offers, and the debtor accepts, a Trial Payment Plan (TPP), the debtor shall immediately file a copy of the TPP with the Court and the Trustee shall then disburse Conduit Mortgage Payments consistent with the terms of the TPP.
- (iii) If, during the term of the TPP, a Notice of Mortgage Payment Change is filed, the trustee shall disburse in accordance with the TPP, unless the Mortgage Creditor files a notice of termination of the TPP.
- (iv) If the plan payment needs to increase as a result of the increase in the Regular Monthly Mortgage Payment amount, the Chapter 13 trustee may arrange for the modification in withholding or bank account debit to satisfy the increase in the Regular Monthly Mortgage Payment amount, without a Court order. See subparagraph (5)(C).
- (v) When a modified Regular Monthly Mortgage Payment amount goes into effect pursuant to subparagraph 7(A)(i), the Chapter 13 trustee may disburse the new Conduit Mortgage Payment as of the effective date set forth in the notice of mortgage payment change, without an order of the Court.

**(B) Post-Petition Changes to the Name, Identity, or Address of the Mortgage Creditor.**

When a Mortgage Creditor transfers or assigns its claim to another entity, it shall file with the Court, and serve upon the debtor, the debtor's attorney (if any), and the Chapter 13 Trustee, a statement setting forth the name and address of the new holder of the claim, and the address to which the Chapter 13 Trustee should send Conduit Mortgage Payments, unless the Mortgage Creditor has filed a notice of transfer of claim (other than for security) (Official Form B210a) . The Mortgage Creditor will be precluded from seeking late fees based upon the Chapter 13 trustee's failure to send payments to the correct party or correct address if that failure is reasonably attributable to the timing or content of the notice by the Mortgage Creditor.

**(8) Motions Relating To Claims Secured By a Security Interest in the Debtor's Principal Residence, Upon Completion of Chapter 13 Payments.**

- (A) In Completed Conduit Mortgage Payment Cases.** The Chapter 13 Trustee shall file a motion, pursuant to Fed. R. Bankr. P. 3002.1(h) in every Chapter 13 case in which the debtor made Conduit Mortgage Payments.
- (B) In Completed Non-Conduit Mortgage Payment Cases.** The debtor may make a motion, motion, pursuant to Fed. R. Bankr. P. 3002.1(h), in Chapter 13 cases in which the debtor made mortgage payments directly to the Mortgage Creditor during the Chapter 13 case.

**(9) Jurisdiction.** This Court retains jurisdiction over any order entered pursuant to this paragraph.

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

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MEMORANDUM

**TO: THE BENCH, BAR, AND PUBLIC**

**FROM: Honorable Jeffrey S. Sutton, Chair**  
**Committee on Rules of Practice and Procedure**



**DATE: July 1, 2016**

**RE: Request for Comments by October 3, 2016 on Proposed Amendments to  
Bankruptcy Rule 3015 and new Rule 3015.1**

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The Judicial Conference Advisory Committee on Bankruptcy Rules has proposed amendments to Bankruptcy Rule 3015 and adoption of new Rule 3015.1 to modify its prior proposal for an official form for the plan of reorganization under chapter 13 of the Bankruptcy Code. It has requested that the two rules be circulated to the bench, bar, and public for comment. The proposed amendments, advisory committee report, and other information are attached and posted on the Judiciary's website at:

<http://www.uscourts.gov/rules-policies/proposed-amendments-published-public-comment>

**Opportunity for Public Comment and Notice of Shortened Comment Period**

The proposed amendment to Rule 3015, along with new Rule 3015.1, would modify the Advisory Committee's proposal (published for comment in 2014 and again in 2015) for a mandatory nation-wide official chapter 13 plan form. The proposed amendment to Rule 3015 would require use of the national official plan form unless a district instead adopts a local plan form that meets the requirements of proposed new Rule 3015.1. Given the prior rounds of public

comments on the proposed plan form package (Official Form 113 and related amendments to Rules 2002, 3002, 3007, 3012, 4003, 5009, 7001 and 9009), and given the limited nature of the proposed modification, the Committee on Rules of Practice and Procedure has approved a public comment period of three months for Rules 3015 and 3015.1.

All comments on these proposed amendments will be carefully considered by the Advisory Committee on Bankruptcy Rules, which is composed of experienced trial and appellate lawyers, judges, and scholars. Please provide any comments on the proposed amendments, whether favorable, adverse, or otherwise, as soon as possible, but **no later than Monday, October 3, 2016**. All comments are made part of the official record and will be available to the public.

Comments concerning the proposed amendments must be submitted electronically by following the instructions at:

<http://www.uscourts.gov/rules-policies/proposed-amendments-published-public-comment>

Members of the public who wish to present testimony may appear at the public hearing on these proposals. The Advisory Committee will hold a hearing on the proposed amendments on the following date:

September 27, 2016, in Pasadena, CA

If you wish to testify, you must notify the Committee in writing **at least 30 days before the scheduled hearing**. Requests to testify should be mailed to the Committee on Rules of Practice and Procedure, Administrative Office of the United States Courts, Thurgood Marshall Federal Judiciary Building, One Columbus Circle, N.E., Suite 7-240, Washington, D.C. 20544.

After the public comment period, the Advisory Committee will decide whether to recommend final approval of the amendments to Rules 3015 and 3015.1. At this time, the Committee on Rules of Practice and Procedure has not approved the proposed amendments except to authorize their publication for comment. The proposed amendments could become effective on December 1, 2017, if they are approved, with or without revision, by the Advisory Committee, the Committee on Rules of Practice and Procedure, the Judicial Conference, and the Supreme Court, and if Congress does not act to defer, modify, or reject them.

If you have questions about the rulemaking process or pending rules amendments, please contact the Rules Committee Support Office at 202-502-1820 or visit:

<http://www.uscourts.gov/rules-policies>

**PROPOSED AMENDMENTS TO THE FEDERAL  
RULES OF BANKRUPTCY PROCEDURE\***

1 **Rule 3015. Filing, Objection to Confirmation, Effect of**  
2 **Confirmation, and Modification of a Plan**  
3 **in a Chapter 12 ~~Family Farmer's Debt~~**  
4 **~~Adjustment~~ or a Chapter 13 ~~Individual's~~**  
5 **~~Debt Adjustment Case~~**

6 (a) FILING A CHAPTER 12 PLAN. The debtor  
7 may file a chapter 12 plan with the petition. If a plan is not  
8 filed with the petition, it shall be filed within the time  
9 prescribed by § 1221 of the Code.

10 (b) FILING A CHAPTER 13 PLAN. The debtor  
11 may file a chapter 13 plan with the petition. If a plan is not  
12 filed with the petition, it shall be filed within 14 days  
13 thereafter, and such time may not be further extended  
14 except for cause shown and on notice as the court may  
15 direct. If a case is converted to chapter 13, a plan shall be  
16 filed within 14 days thereafter, and such time may not be

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\* New material is underlined in red; matter to be omitted is lined through.

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17 further extended except for cause shown and on notice as  
18 the court may direct.

19 (c) ~~DATING.~~ ~~Every proposed plan and any~~  
20 ~~modification thereof shall be dated.~~ FORM OF  
21 CHAPTER 13 PLAN. If there is an Official Form for a  
22 plan filed in a chapter 13 case, that form must be used  
23 unless a Local Form has been adopted in compliance with  
24 Rule 3015.1. With either the Official Form or a Local  
25 Form, a nonstandard provision is effective only if it is  
26 included in a section of the form designated for  
27 nonstandard provisions and is also identified in accordance  
28 with any other requirements of the form. As used in this  
29 rule and the Official Form or a Local Form, “nonstandard  
30 provision” means a provision not otherwise included in the  
31 Official or Local Form or deviating from it.

32 (d) NOTICE AND COPIES. If the plan ~~The plan or~~  
33 ~~a summary of the plan shall be~~ is not included with the ~~each~~  
34 notice of the hearing on confirmation  
35 mailed under ~~pursuant to~~ Rule 2002, the debtor shall serve  
36 the plan on the trustee and all creditors when it is filed with  
37 the court. ~~If required by the court, the debtor shall furnish a~~  
38 ~~sufficient number of copies to enable the clerk to include a~~  
39 ~~copy of the plan with the notice of the hearing.~~

40 (e) TRANSMISSION TO UNITED STATES  
41 TRUSTEE. The clerk shall forthwith transmit to the  
42 United States trustee a copy of the plan and any  
43 modification thereof filed under ~~pursuant to~~ subdivision (a)  
44 or (b) of this rule.

45 (f) OBJECTION TO CONFIRMATION;  
46 DETERMINATION OF GOOD FAITH IN THE  
47 ABSENCE OF AN OBJECTION. An objection to

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48 confirmation of a plan shall be filed and served on the  
49 debtor, the trustee, and any other entity designated by the  
50 court, and shall be transmitted to the United States  
51 trustee, ~~before confirmation of the plan~~ at least seven days  
52 before the date set for the hearing on confirmation, unless  
53 the court orders otherwise. An objection to confirmation is  
54 governed by Rule 9014. If no objection is timely filed, the  
55 court may determine that the plan has been proposed in  
56 good faith and not by any means forbidden by law without  
57 receiving evidence on such issues.

58 (g) EFFECT OF CONFIRMATION. Upon the  
59 confirmation of a chapter 12 or chapter 13 plan:

60 (1) any determination in the plan made under  
61 Rule 3012 about the amount of a secured claim is  
62 binding on the holder of the claim, even if the holder  
63 files a contrary proof of claim or the debtor schedules

64 that claim, and regardless of whether an objection to  
65 the claim has been filed; and  
66 (2) any request in the plan to terminate the stay  
67 imposed by § 362(a), § 1201(a), or § 1301(a) is  
68 granted.

69 ~~(g)~~(h) MODIFICATION OF PLAN AFTER  
70 CONFIRMATION. A request to modify a plan pursuant  
71 ~~to~~ under § 1229 or § 1329 of the Code shall identify the  
72 proponent and shall be filed together with the proposed  
73 modification. The clerk, or some other person as the court  
74 may direct, shall give the debtor, the trustee, and all  
75 creditors not less than 21 days' notice by mail of the time  
76 fixed for filing objections and, if an objection is filed, the  
77 hearing to consider the proposed modification, unless the  
78 court orders otherwise with respect to creditors who are not  
79 affected by the proposed modification. A copy of the



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80 notice shall be transmitted to the United States trustee. A  
81 copy of the proposed modification, or a summary thereof,  
82 shall be included with the notice. ~~If required by the court,~~  
83 ~~the proponent shall furnish a sufficient number of copies of~~  
84 ~~the proposed modification, or a summary thereof, to enable~~  
85 ~~the clerk to include a copy with each notice.~~ Any objection  
86 to the proposed modification shall be filed and served on  
87 the debtor, the trustee, and any other entity designated by  
88 the court, and shall be transmitted to the United States  
89 trustee. An objection to a proposed modification is  
90 governed by Rule 9014.

**Committee Note**

This rule is amended and reorganized.

Subdivision (c) is amended to require use of an Official Form if one is adopted for chapter 13 plans unless a Local Form has been adopted consistent with Rule 3015.1. Subdivision (c) also provides that nonstandard provisions in a chapter 13 plan must be set out in the section of the Official or Local Form specifically

designated for such provisions and must be identified in the manner required by the Official or Local Form.

Subdivision (d) is amended to ensure that the trustee and creditors are served with the plan before confirmation. Service may be made either at the time the plan is filed or with the notice under Rule 2002 of the hearing to consider confirmation of the plan.

Subdivision (f) is amended to require service of an objection to confirmation at least seven days before the hearing to consider confirmation of a plan, unless the court orders otherwise.

Subdivision (g) is amended to set out two effects of confirmation. Subdivision (g)(1) provides that the amount of a secured claim under § 506(a) may be determined through a chapter 12 or chapter 13 plan in accordance with Rule 3012. That determination controls over a contrary proof of claim, without the need for a claim objection under Rule 3007, and over the schedule submitted by the debtor under § 521(a). The amount of a secured claim of a governmental unit, however, may not be determined through a chapter 12 or chapter 13 plan under Rule 3012. Subdivision (g)(2) provides for termination of the automatic stay under §§ 362, 1201, and 1301 as requested in the plan.

Subdivision (h) was formerly subdivision (g). It is redesignated and is amended to reflect that often the party proposing a plan modification is responsible for serving the proposed modification on other parties. The option to serve

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a summary of the proposed modification has been retained. Unless required by another rule, service under this subdivision does not need to be made in the manner provided for service of a summons and complaint by Rule 7004.

1 **Rule 3015.1. Requirements for a Local Form for Plans**  
2 **Filed in a Chapter 13 Case**

3 Notwithstanding Rule 9029(a)(1), a district may  
4 require that a Local Form for a plan filed in a chapter 13  
5 case be used instead of an Official Form adopted for that  
6 purpose if the following conditions are satisfied:

7 (a) a single Local Form is adopted for the district  
8 after public notice and an opportunity for public comment;

9 (b) each paragraph is numbered and labeled in  
10 boldface type with a heading stating the general subject  
11 matter of the paragraph;

12 (c) the Local Form includes an initial paragraph for  
13 the debtor to indicate that the plan does or does not:

14 (1) contain any nonstandard provision;

15 (2) limit the amount of a secured claim based  
16 on a valuation of the collateral for the claim; or

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17 (3) avoid a security interest or lien;

18 (d) the Local Form contains separate paragraphs

19 for:

20 (1) curing any default and maintaining  
21 payments on a claim secured by the debtor's principal  
22 residence;

23 (2) paying a domestic-support obligation;

24 (3) paying a claim described in the final  
25 paragraph of § 1325(a) of the Bankruptcy Code; and

26 (4) surrendering property that secures a claim  
27 with a request that the stay be terminated as to the  
28 surrendered collateral; and

29 (e) the Local Form contains a final paragraph for:

30 (1) the placement of nonstandard provisions, as  
31 defined in Rule 3015(c), along with a statement that

32 any nonstandard provision placed elsewhere in the  
33 plan is void; and  
34 (2) certification by the debtor’s attorney or by  
35 an unrepresented debtor that the plan contains  
36 no nonstandard provision other than those set out in  
37 the final paragraph.

#### **Committee Note**

This rule is new. It sets out features required for all Local Forms for plans in chapter 13 cases. If a Local Form does not comply with this rule, it may not be used in lieu of the Official Chapter 13 Plan Form. *See* Rule 3015(c).

Under the rule only one Local Form may be adopted in a district. The rule does not specify the method of adoption, but it does require that adoption of a Local Form be preceded by a public notice and comment period.

To promote consistency among Local Forms and clarity of content of chapter 13 plans, the rule prescribes several formatting and disclosure requirements. Paragraphs in such a form must be numbered and labeled in bold type, and the form must contain separate paragraphs for the cure and maintenance of home mortgages, payment of domestic support obligations, treatment of secured claims covered by the “hanging paragraph” of § 1325(a), and surrender of

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property securing a claim. Whether those portions of the Local Form are used in a given chapter 13 case will depend on the debtor's individual circumstances.

The rule requires that a Local Form begin with a paragraph for the debtor to call attention to the fact that the plan contains a nonstandard provision, limits the amount of a secured claim based on a valuation of the collateral, or avoids a lien. The last paragraph of a Local Form must be for the inclusion of any nonstandard provisions, as defined by Rule 3015(c), and must include a statement that nonstandard provisions placed elsewhere in the plan are void. The form must also require a certification by the debtor's attorney or unrepresented debtor that there are no nonstandard provisions other than those placed in the final paragraph.

Draft August 28, 2015

Debtor \_\_\_\_\_

United States Bankruptcy Court for the: \_\_\_\_\_

[Bankruptcy district]

Case number: \_\_\_\_\_

Check if this is an amended plan, and list below the sections of the plan that have been changed.

# Official Form 113 Chapter 13 Plan

12/16

## Part 1: Notices

**To Debtors:** This form sets out options that may be appropriate in some cases, but the presence of an option on the form does not indicate that the option is appropriate in your circumstances or that it is permissible in your judicial district. **Plans that do not comply with local rules and judicial rulings may not be confirmable.**

*In the following notice to creditors, you must check each box that applies.*

**To Creditors:** Your rights may be affected by this plan. Your claim may be reduced, modified, or eliminated.

You should read this plan carefully and discuss it with your attorney if you have one in this bankruptcy case. If you do not have an attorney, you may wish to consult one.

If you oppose the plan's treatment of your claim or any provision of this plan, you or your attorney must file an objection to confirmation at least 7 days before the date set for the hearing on confirmation, unless otherwise ordered by the Bankruptcy Court. The Bankruptcy Court may confirm this plan without further notice if no objection to confirmation is filed. See Bankruptcy Rule 3015. In addition, you may need to file a timely proof of claim in order to be paid under any plan.

**The following matters may be of particular importance. Debtors must check one box on each line to state whether or not the plan includes each of the following items. If an item is checked as "Not Included" or if both boxes are checked, the provision will be ineffective if set out later in the plan.**

1.1	A limit on the amount of a secured claim, set out in Section 3.2, which may result in a partial payment or no payment at all to the secured creditor	<input type="checkbox"/> Included	<input type="checkbox"/> Not included
1.2	Avoidance of a judicial lien or nonpossessory, nonpurchase-money security interest, set out in Section 3.4	<input type="checkbox"/> Included	<input type="checkbox"/> Not included
1.3	Nonstandard provisions, set out in Part 8	<input type="checkbox"/> Included	<input type="checkbox"/> Not included

## Part 2: Plan Payments and Length of Plan

**2.1 Debtor(s) will make regular payments to the trustee as follows:**

\$ \_\_\_\_\_ per \_\_\_\_\_ for \_\_\_\_\_ months

[and \$ \_\_\_\_\_ per \_\_\_\_\_ for \_\_\_\_\_ months.] *Insert additional lines if needed.*

If fewer than 60 months of payments are specified, additional monthly payments will be made to the extent necessary to make the payments to creditors specified in Parts 3 through 6 of this plan.



2.2 Regular payments to the trustee will be made from future income in the following manner:

Check all that apply.

- Debtor(s) will make payments pursuant to a payroll deduction order.
- Debtor(s) will make payments directly to the trustee.
- Other (specify method of payment): \_\_\_\_\_.

2.3 Income tax refunds.

Check one.

- Debtor(s) will retain any income tax refunds received during the plan term.
- Debtor(s) will supply the trustee with a copy of each income tax return filed during the plan term within 14 days of filing the return and will turn over to the trustee all income tax refunds received during the plan term.
- Debtor(s) will treat income tax refunds as follows:

\_\_\_\_\_

\_\_\_\_\_

2.4 Additional payments.

Check one.

- None. If "None" is checked, the rest of § 2.4 need not be completed or reproduced.
- Debtor(s) will make additional payment(s) to the trustee from other sources, as specified below. Describe the source, estimated amount, and date of each anticipated payment.

\_\_\_\_\_

\_\_\_\_\_

2.5 The total amount of estimated payments to the trustee provided for in §§ 2.1 and 2.4 is \$ \_\_\_\_\_.

Part 3: Treatment of Secured Claims

3.1 Maintenance of payments and cure of default, if any.

Check one.

- None. If "None" is checked, the rest of § 3.1 need not be completed or reproduced.
- The debtor(s) will maintain the current contractual installment payments on the secured claims listed below, with any changes required by the applicable contract and noticed in conformity with any applicable rules. These payments will be disbursed either by the trustee or directly by the debtor, as specified below. Any existing arrearage on a listed claim will be paid in full through disbursements by the trustee, with interest, if any, at the rate stated. Unless otherwise ordered by the court, the amounts listed on a proof of claim filed before the filing deadline under Bankruptcy Rule 3002(c) control over any contrary amounts listed below as to the current installment payment and arrearage. In the absence of a contrary timely filed proof of claim, the amounts stated below are controlling. If relief from the automatic stay is ordered as to any item of collateral listed in this paragraph, then, unless otherwise ordered by the court, all payments under this paragraph as to that collateral will cease, and all secured claims based on that collateral will no longer be treated by the plan. The final column includes only payments disbursed by the trustee rather than by the debtor.

Name of creditor	Collateral	Current installment payment (including escrow )	Amount of arrearage, if any	Interest rate on arrearage (if applicable)	Monthly plan payment on arrearage	Estimated total payments by trustee
_____	_____	\$ _____	\$ _____	_____ %	\$ _____	\$ _____
		Disbursed by:				
		<input type="checkbox"/> Trustee				
		<input type="checkbox"/> Debtor(s)				
_____	_____	\$ _____	\$ _____	_____ %	\$ _____	\$ _____
		Disbursed by:				
		<input type="checkbox"/> Trustee				
		<input type="checkbox"/> Debtor(s)				

Insert additional claims as needed.

**3.2 Request for valuation of security, payment of fully secured claims, and modification of undersecured claims. Check one.**

**None.** If "None" is checked, the rest of § 3.2 need not be completed or reproduced.

*The remainder of this paragraph will be effective only if the applicable box in Part 1 of this plan is checked.*

The debtor(s) request that the court determine the value of the secured claims listed below. For each non-governmental secured claim listed below, the debtor(s) state that the value of the secured claim should be as set out in the column headed *Amount of secured claim*. For secured claims of governmental units, unless otherwise ordered by the court, the value of a secured claim listed in a proof of claim filed in accordance with the Bankruptcy Rules controls over any contrary amount listed below. For each listed claim, the value of the secured claim will be paid in full with interest at the rate stated below.

The portion of any allowed claim that exceeds the amount of the secured claim will be treated as an unsecured claim under Part 5 of this plan. If the amount of a creditor's secured claim is listed below as having no value, the creditor's allowed claim will be treated in its entirety as an unsecured claim under Part 5 of this plan. Unless otherwise ordered by the court, the amount of the creditor's total claim listed on the proof of claim controls over any contrary amounts listed in this paragraph.

The holder of any claim listed below as having value in the column headed *Amount of secured claim* will retain the lien on the property interest of the debtor(s) or the estate(s) until the earlier of:

- (a) payment of the underlying debt determined under nonbankruptcy law, or
- (b) discharge of the underlying debt under 11 U.S.C. § 1328, at which time the lien will terminate and be released by the creditor. See Bankruptcy Rule 3015.

Name of creditor	Estimated amount of creditor's total claim	Collateral	Value of collateral	Amount of claims senior to creditor's claim	Amount of secured claim	Interest rate	Monthly payment to creditor	Estimated total of monthly payments
_____	\$ _____	_____	\$ _____	\$ _____	\$ _____	____%	\$ _____	\$ _____
_____	\$ _____	_____	\$ _____	\$ _____	\$ _____	____%	\$ _____	\$ _____

**3.3 Secured claims excluded from 11 U.S.C. § 506.**

Check one.

**None.** If "None" is checked, the rest of § 3.3 need not be completed or reproduced.

The claims listed below were either:

- (1) incurred within 910 days before the petition date and secured by a purchase money security interest in a motor vehicle acquired for the personal use of the debtor(s), or
- (2) incurred within 1 year of the petition date and secured by a purchase money security interest in any other thing of value.

These claims will be paid in full under the plan with interest at the rate stated below. These payments will be disbursed either by the trustee or directly by the debtor, as specified below. Unless otherwise ordered by the court, the claim amount stated on a proof of claim filed before the filing deadline under Bankruptcy Rule 3002(c) controls over any contrary amount listed below. In the absence of a contrary timely filed proof of claim, the amounts stated below are controlling. The final column includes only payments disbursed by the trustee rather than by the debtor.

Name of creditor	Collateral	Amount of claim	Interest rate	Monthly plan payment	Estimated total payments by trustee
_____	_____	\$ _____	____%	\$ _____	\$ _____
				Disbursed by:	
				<input type="checkbox"/> Trustee	
				<input type="checkbox"/> Debtor(s)	
_____	_____	\$ _____	____%	\$ _____	\$ _____
				Disbursed by:	
				<input type="checkbox"/> Trustee	
				<input type="checkbox"/> Debtor(s)	

Insert additional claims as needed.

**3.4 Lien avoidance.**

Check one.

**None.** If "None" is checked, the rest of § 3.4 need not be completed or reproduced.

**The remainder of this paragraph will be effective only if the applicable box in Part 1 of this plan is checked.**

The judicial liens or nonpossessory, nonpurchase money security interests securing the claims listed below impair exemptions to which the debtor(s) would have been entitled under 11 U.S.C. § 522(b). **Unless otherwise ordered by the court,** a judicial lien or security interest securing a claim listed below will be avoided to the extent that it impairs such exemptions upon entry of the order confirming the plan. The amount of the judicial lien or security interest that is avoided will be treated as an unsecured claim in Part 5 **to the extent allowed.** The amount, if any, of the judicial lien or security interest that is not avoided will be paid in full as a secured claim under the plan. See 11 U.S.C. § 522(f) and Bankruptcy Rule 4003(d). *If more than one lien is to be avoided, provide the information separately for each lien.*

Information regarding judicial lien or security interest	Calculation of lien avoidance	Treatment of remaining secured claim
<b>Name of creditor</b>  _____	a. Amount of lien \$ _____	<b>Amount of secured claim after avoidance</b> (line a minus line f) \$ _____
	b. Amount of all other liens \$ _____	
<b>Collateral</b>  _____	c. Value of claimed exemptions + \$ _____	<b>Interest rate</b> (if applicable)  _____ %
	d. Total of adding lines a, b, and c \$ _____	
<b>Lien identification</b> (such as judgment date, date of lien recording, book and page number)  _____ _____	e. Value of debtor's interest in property - \$ _____	<b>Monthly payment on secured claim</b> \$ _____
	f. Subtract line e from line d. \$ _____	<b>Estimated total payments on secured claim</b> \$ _____
Extent of exemption impairment (Check applicable box): <input type="checkbox"/> <b>Line f is equal to or greater than line a.</b> The entire lien is avoided. (Do not complete the next column.) <input type="checkbox"/> <b>Line f is less than line a.</b> A portion of the lien is avoided. (Complete the next column.)		

*Insert additional claims as needed.*

**3.5 Surrender of collateral.**

Check one.

**None.** If "None" is checked, the rest of § 3.5 need not be completed or reproduced.

The debtor(s) elect to surrender to each creditor listed below the collateral that secures the creditor's claim. **The debtor(s) request that upon confirmation of this plan the stay under 11 U.S.C. § 362(a) be terminated as to the collateral only and that the stay under § 1301 be terminated in all respects.** Any allowed unsecured claim resulting from the disposition of the collateral will be treated in Part 5 below.

Debtor \_\_\_\_\_

Case number \_\_\_\_\_

Name of creditor	Collateral
_____	_____
_____	_____

*Insert additional claims as needed.*

**Part 4: Treatment of Fees and Priority Claims**

**4.1 General**

Trustee's fees and all allowed priority claims, including domestic support obligations other than those treated in § 4.5, will be paid in full without postpetition interest.

**4.2 Trustee's fees**

Trustee's fees are governed by statute and may change during the course of the case but are estimated to be \_\_\_\_\_% of plan payments; and during the plan term, they are estimated to total \$\_\_\_\_\_.

**4.3 Attorney's fees**

The balance of the fees owed to the attorney for the debtor(s) is estimated to be \$\_\_\_\_\_.

**4.4 Priority claims other than attorney's fees and those treated in § 4.5.**

*Check one.*

- None.** *If "None" is checked, the rest of § 4.4 need not be completed or reproduced.*
- The debtor estimates the total amount of other priority claims to be \_\_\_\_\_.

**4.5 Domestic support obligations assigned or owed to a governmental unit and paid less than full amount.**

*Check one.*

- None.** *If "None" is checked, the rest of § 4.5 need not be completed or reproduced.*
- The allowed priority claims listed below are based on a domestic support obligation that has been assigned to or is owed to a governmental unit and will be paid less than the full amount of the claim under 11 U.S.C. § 1322(a)(4). *This plan provision requires that payments in § 2.1 be for a term of 60 months; see 11 U.S.C. § 1322(a)(4).*

Name of creditor	Amount of claim to be paid
_____	\$ _____
_____	\$ _____

*Insert additional claims as needed.*

**Part 5: Treatment of Nonpriority Unsecured Claims**

**5.1 Nonpriority unsecured claims not separately classified.**

Allowed nonpriority unsecured claims that are not separately classified will be paid, pro rata. If more than one option is checked, the option providing the largest payment will be effective. *Check all that apply.*

- The sum of \$\_\_\_\_\_.
- \_\_\_\_\_% of the total amount of these claims, an estimated payment of \$\_\_\_\_\_.
- The funds remaining after disbursements have been made to all other creditors provided for in this plan.

If the estate of the debtor(s) were liquidated under chapter 7, nonpriority unsecured claims would be paid approximately \$\_\_\_\_\_. Regardless of the options checked above, payments on allowed nonpriority unsecured claims will be made in at least this amount.

**5.2 Maintenance of payments and cure of any default on nonpriority unsecured claims. Check one.**

- None.** *If "None" is checked, the rest of § 5.2 need not be completed or reproduced.*
- The debtor(s) will maintain the contractual installment payments and cure any default in payments on the unsecured claims listed below on which the last payment is due after the final plan payment. **These payments will be disbursed either by the trustee or directly by the debtor, as specified below. The claim for the arrearage amount will be paid in full as specified below and disbursed by the trustee. The final column includes only payments disbursed by the trustee rather than by the debtor.**

Name of creditor	Current installment payment	Amount of arrearage to be paid	Estimated total payments by trustee
_____	\$_____	\$_____	\$_____
	Disbursed by: <input type="checkbox"/> Trustee <input type="checkbox"/> Debtor(s)		
_____	\$_____	\$_____	\$_____
	Disbursed by: <input type="checkbox"/> Trustee <input type="checkbox"/> Debtor(s)		

*Insert additional claims as needed.*

**5.3 Other separately classified nonpriority unsecured claims. Check one.**

- None.** *If "None" is checked, the rest of § 5.3 need not be completed or reproduced.*
- The nonpriority unsecured allowed claims listed below are separately classified and will be treated as follows

Name of creditor	Basis for separate classification and treatment	Amount to be paid on the claim	Interest rate (if applicable)	Estimated total amount of payments
_____	_____	\$_____	_____%	\$_____
_____	_____	\$_____	_____%	\$_____

*Insert additional claims as needed.*

**Part 6:** Executory Contracts and Unexpired Leases

**6.1 The executory contracts and unexpired leases listed below are assumed and will be treated as specified. All other executory contracts and unexpired leases are rejected. Check one.**

**None.** If "None" is checked, the rest of § 6.1 need not be completed or reproduced.

**Assumed items.** Current installment payments will be disbursed either by the trustee or directly by the debtor, as specified below, subject to any contrary court order or rule. Arrearage payments will be disbursed by the trustee. The final column includes only payments disbursed by the trustee rather than by the debtor.

Name of creditor	Description of leased property or executory contract	Current installment payment	Amount of arrearage to be paid	Treatment of arrearage (Refer to other plan section if applicable)	Estimated total payments by trustee
_____	_____	\$ _____ Disbursed by: <input type="checkbox"/> Trustee <input type="checkbox"/> Debtor(s)	\$ _____	_____	\$ _____
_____	_____	\$ _____ Disbursed by: <input type="checkbox"/> Trustee <input type="checkbox"/> Debtor(s)	\$ _____	_____	\$ _____

Insert additional contracts or leases as needed.

**Part 7:** Vesting of Property of the Estate

**7.1 Property of the estate will vest in the debtor(s) upon**

Check the applicable box:

- plan confirmation.
- entry of discharge.
- other: \_\_\_\_\_.

**Part 8:** Nonstandard Plan Provisions

**None.** If "None" is checked, the rest of Part 8 need not be completed or reproduced.

Under Bankruptcy Rule 3015(c), nonstandard provisions must be set forth below. A nonstandard provision is a provision not otherwise included in the Official Form or deviating from it. Nonstandard provisions set out elsewhere in this plan are ineffective.

The following plan provisions will be effective only if there is a check in the box "Included" in § 1.3.

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**Part 9:** Signatures

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**X** \_\_\_\_\_ Date \_\_\_\_\_

**Signature of Attorney for Debtor(s)**

**X** \_\_\_\_\_ Date \_\_\_\_\_

**X** \_\_\_\_\_ Date \_\_\_\_\_

**Signature(s) of Debtor(s) (required if not represented by an attorney; otherwise optional)**

**By filing this document, the Attorney for Debtor(s) or Debtor(s) themselves, if not represented by an attorney, also certify(ies) that the wording and order of the provisions in this Chapter 13 plan are identical to those contained in Official Form 113, other than any nonstandard provisions included in Part 8.**

## Exhibit: Total Amount of Estimated Trustee Payments

The following are the estimated payments that the plan requires the trustee to disburse. If there is any difference between the amounts set out below and the actual plan terms, the plan terms control.

- a. **Maintenance and cure payments on secured claims** *(Part 3, Section 3.1 total)* \$ \_\_\_\_\_
- b. **Modified secured claims** *(Part 3, Section 3.2 total)* \$ \_\_\_\_\_
- c. **Secured claims excluded from 11 U.S.C. § 506** *(Part 3, Section 3.3 total)* \$ \_\_\_\_\_
- d. **Judicial liens or security interests partially avoided** *(Part 3, Section 3.4 total)* \$ \_\_\_\_\_
- e. **Fees and priority claims** *(Part 4 total)* \$ \_\_\_\_\_
- f. **Nonpriority unsecured claims** *(Part 5, Section 5.1, highest stated amount)* \$ \_\_\_\_\_
- g. **Maintenance and cure payments on unsecured claims** *(Part 5, Section 5.2 total)* \$ \_\_\_\_\_
- h. **Separately classified unsecured claims** *(Part 5, Section 5.3 total)* \$ \_\_\_\_\_
- i. **Trustee payments on executory contracts and unexpired leases** *(Part 6, Section 6.1 total)* \$ \_\_\_\_\_
- j. **Nonstandard payments** *(Part 8, total)* + \$ \_\_\_\_\_

Total of lines a through j

\$ _____
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## Committee Note

Official Form 113 is new and is the required plan form in all chapter 13 cases, **except to the extent that Rule 3015(c)(1) permits the use of a Local Form. Except as permitted by Rule 9009, alterations to the Official Form are not permitted.** As the form explains, spaces for responses may be expanded or collapsed as appropriate, and sections that are inapplicable do not need to be reproduced. Portions of the form provide multiple options for provisions of a debtor's plan, but some of those options may not be appropriate in a given debtor's situation or may not be allowed in the court presiding over the case. Debtors are advised to refer to applicable local rulings. **Nothing in the Official Form requires confirmation of a plan containing provisions inconsistent with applicable law.**

*Part 1.* This part sets out warnings to both debtors and creditors. For creditors, if the plan includes one or more of the provisions listed in this part, the appropriate boxes must be checked. For example, if Part 8 of the plan proposes a provision not included in, or contrary to, the Official Form, that nonstandard provision will be ineffective if the appropriate check box in Part 1 is not selected.

*Part 2.* This part states the proposed periodic plan payments, the estimated total plan payments, and sources of funding for the plan. Section 2.1 allows the debtor or debtors to propose periodic payments in other than monthly intervals. For example, if the debtor receives a paycheck every week and wishes to make plan payments from each check, that should be indicated in § 2.1. If the debtor proposes to make payments according to different "steps," the amounts and intervals of those payments should also be indicated in § 2.1. Section 2.2 provides for the manner in which the debtor will make regular payments to the trustee. If the debtor selects the option of making payments pursuant to a payroll deduction order, that selection serves as a request by the debtor for entry of the order. Whether to enter a payroll deduction order is determined by the court. See Code § 1325(c). If the debtor selects the option of making payments other than by direct payments to the trustee or by a payroll deduction order, the alternative method (*e.g.*, a designated third party electronic funds transfer program) must be specified.

*Part 3.* This part provides for the treatment of secured claims.

The Official Form contains no provision for proposing preconfirmation adequate protection payments to secured creditors, leaving that subject to local rules, orders, forms, custom, and practice. A Director's Form for notice of and order on proposed adequate protection payments has been created and may be used for that purpose.

Section 3.1 provides for the treatment of claims under Code § 1322(b)(5) (maintaining current payments and curing any arrearage). For the claim of a secured creditor listed in § 3.1, an estimated arrearage amount should be given. A contrary arrearage amount listed on the creditor's proof of claim, unless contested by objection or motion, will control over the amount given in the plan.

In § 3.2, the plan may propose to determine under Code § 506(a) the value of a secured claim. For example, the plan could seek to reduce the secured portion of a creditor's claim to the value of the collateral securing it. For the secured claim of a non-governmental creditor, that determination would be binding upon confirmation of the plan. For the secured claim of a governmental unit, however, a contrary valuation listed on the creditor's proof of claim, unless contested by objection or motion, would control over the valuation given in the plan. *See* Bankruptcy Rule 3012. Bankruptcy Rule 3002 contemplates that a debtor, the trustee, or another entity may file a proof of claim if the creditor does not do so in a timely manner. *See* Bankruptcy Rules 3004 and 3005. Section 3.2 will not be effective unless the appropriate check box in Part 1 is selected.

Section 3.3 deals with secured claims that **under the so-called "hanging paragraph" of § 1325(a)(5)** may not be bifurcated into secured and unsecured portions under Code § 506(a), but it allows for **the proposal of** an interest rate other than the contract rate to be applied to payments on such a claim. If appropriate, a claim may be treated under § 3.1 instead of § 3.3.

In § 3.4, the plan may propose to avoid certain judicial liens or security interests encumbering exempt property in accordance with Code § 522(f). This section

includes space for the calculation of the amount of the judicial lien or security interest that is avoided. A plan proposing avoidance in § 3.4 must be served in the manner provided by Bankruptcy Rule 7004 for service of a summons and complaint. *See* Bankruptcy Rule 4003. Section 3.4 will not be effective unless the appropriate check box in Part 1 is selected.

Section 3.5 provides for elections to surrender collateral and **requests for** termination of the stay under § 362(a) and § 1301 with respect to the collateral surrendered. Termination will be effective upon confirmation of the plan.

*Part 4.* This part provides for the treatment of trustee's fees and claims entitled to priority status. Section 4.1 provides that trustee's fees and all allowed priority claims (other than those domestic support obligations treated in § 4.5) will be paid in full. In § 4.2, the plan lists an estimate of the trustee's fees. Although the estimate may indicate whether the plan will be feasible, it does not affect the trustee's entitlement to fees as determined by statute. In § 4.3, the form requests **a statement of** the balance of attorney's fees owed. Additional details about payments of attorney's fees, including information about their timing and approval, are left to the requirements of local practice. In § 4.4, the plan calls for an estimated amount of priority claims. A contrary amount listed on the creditor's proof of claim, unless changed by court order in response to an objection or motion, will control over the amount given in § 4.4. In § 4.5, the plan may propose to pay less than the full amount of a domestic support obligation that has been assigned to, or is owed to, a governmental unit, but not less than the amount that claim would have received in a chapter 7 liquidation. *See § 1322(a)(4) of the Code.*

*Part 5.* This part provides for the treatment of unsecured claims that are not entitled to priority status. In § 5.1, the plan may propose to pay nonpriority unsecured claims in accordance with several options. One or more options may be selected. For example, the plan could propose simply to pay unsecured creditors any funds remaining after disbursements to other creditors, or **it could** also provide that a defined percentage of the total amount of unsecured claims will be paid. **In § 5.2, the plan may**

propose to cure any arrearages and maintain periodic payments on long-term, nonpriority unsecured debts pursuant to § 1322(b)(5) of the Code. In § 5.3, the plan may provide for the separate classification of nonpriority unsecured claims (such as co-debtor claims) as permitted under Code § 1322(b)(1).

*Part 6.* This part provides for executory contracts and unexpired leases. An executory contract or unexpired lease is rejected unless it is listed in this part. If the plan proposes neither to assume nor reject an executory contract or unexpired lease, that treatment would have to be set forth as a nonstandard provision in Part 8.

The Official Form contains no provision on the order of distribution of payments under the plan, leaving that to local rules, orders, custom, and practice. If the debtor desires to propose a specific order of distribution, it must be contained in Part 8.

*Part 7.* This part defines when property of the estate will revert in the debtor or debtors. One choice must be selected—upon plan confirmation, upon entry of discharge the case, or upon some other specified event. This plan provision is subject to a contrary court order under Code § 1327(b).

*Part 8.* This part gives the debtor or debtors the opportunity to propose provisions that are not otherwise in, or are contrary to, the Official Form. All such nonstandard provisions must be set forth in this part and nowhere else in the plan. This part will not be effective unless the appropriate check box in Part 1 is selected. *See* Bankruptcy Rule 3015.

*Part 9.* The plan must be signed by the attorney for the debtor or debtors. If the debtor or debtors are not represented by an attorney, they must sign the plan, but the signature of represented debtors is optional. In addition to the certifications set forth in Rule 9011(b), the signature constitutes a certification that the wording and order of Official Form 113 have not been altered, other than by including any nonstandard provision in Part 8.

1 **Rule 3002. Filing Proof of Claim or Interest**

2 (a) NECESSITY FOR FILING. ~~An~~A secured  
3 creditor, unsecured creditor, or an equity security holder  
4 must file a proof of claim or interest for the claim or  
5 interest to be allowed, except as provided in Rules 1019(3),  
6 3003, 3004, and 3005. A lien that secures a claim against  
7 the debtor is not void due only to the failure of any entity to  
8 file a proof of claim.

9 (b) PLACE OF FILING. A proof of claim or  
10 interest shall be filed in accordance with Rule 5005.

11 (c) TIME FOR FILING. In a voluntary chapter 7  
12 ~~liquidation~~case, chapter 12 ~~family—farmer’s—debt~~  
13 ~~adjustment~~case, or chapter 13 ~~individual’s—debt~~  
14 ~~adjustment~~case, a proof of claim is timely filed if it is filed  
15 not later than ~~90~~6070 days after the order for relief under  
16 that chapter or the date of the order of conversion to a case  
17 under chapter 12, or chapter 13. In an involuntary chapter  
18 7 case, a proof of claim is timely filed if it is filed not later

19 | than 90 days after the order for relief under that chapter is  
20 | entered.~~the first date set for the meeting of creditors called~~  
21 | ~~under § 341(a) of the Code, except as follows:~~ But in all  
22 | these cases, the following exceptions apply:

23 | \* \* \* \* \*

24 | (6) ~~If notice of the time to file a proof of claim~~  
25 | ~~has been mailed to a creditor at a foreign address, o~~On  
26 | ~~motion filed by the~~a creditor before or after the  
27 | expiration of the time to file a proof of claim, the  
28 | court may extend the time by not more than 60 days  
29 | from the date of the order granting the motion. The  
30 | motion may be granted if the court finds that~~the~~  
31 | ~~notice was insufficient under the circumstances to~~  
32 | ~~give the creditor a reasonable time to file a proof of~~  
33 | ~~claim~~

34 | (A) the notice was insufficient under the  
35 | circumstances to give the creditor a reasonable  
36 | time to file a proof of claim because the debtor

37 failed to timely file the list of creditors' names  
38 and addresses required by Rule 1007(a); or

39 (B) the notice was insufficient under the  
40 circumstances to give the creditor a reasonable  
41 time to file a proof of claim, and the notice was  
42 mailed to the creditor at a foreign address.

43 (7) A proof of claim filed by the holder of a  
44 claim that is secured by a security interest in the  
45 debtor's principal residence is timely filed if:

46 (A) the proof of claim, together with the  
47 attachments required by Rule 3001(c)(2)(C), is  
48 filed not later than ~~60~~70 days after the order for  
49 relief is entered; and

50 (B) any attachments required by  
51 Rule 3001(c)(1) and (d) are filed as a supplement  
52 to the holder's claim not later than 120 days after  
53 the order for relief is entered.

## Committee Note

Subdivision (a) is amended to clarify that a creditor, including a secured creditor, must file a proof of claim in order to have an allowed claim. The amendment also clarifies, in accordance with § 506(d), that the failure of a secured creditor to file a proof of claim does not render the creditor's lien void. The inclusion of language from § 506(d) is not intended to effect any change of law with respect to claims subject to setoff under § 553. The amendment preserves the existing exceptions to this rule under Rules 1019(3), 3003, 3004, and 3005. Under Rule 1019(3), a creditor does not need to file another proof of claim after conversion of a case to chapter 7. Rule 3003 governs the filing of a proof of claim in chapter 9 and chapter 11 cases. Rules 3004 and 3005 govern the filing of a proof of claim by the debtor, trustee, or another entity if a creditor does not do so in a timely manner.

Subdivision (c) is amended to alter the calculation of the bar date for proofs of claim in chapter 7, chapter 12, and chapter 13 cases. The amendment changes the time for filing a proof of claim in a voluntary chapter 7 case, a chapter 12 case, or a chapter 13 case from 90 days after the § 341 meeting of creditors to ~~60~~70 days after the petition date. If a case is converted to chapter 12 or chapter 13, the ~~60~~70-day time for filing runs from the order of conversion. If a case is converted to chapter 7, Rule 1019(2) provides that a new time period for filing a claim commences under Rule 3002. In an involuntary chapter 7 case, a 90-day time for filing applies and runs from the entry of the order for relief.



Subdivision (c)(6) is amended to expand the exception to the bar date for cases in which a creditor received insufficient notice of the time to file a proof of claim. The amendment provides that the court may extend the time to file a proof of claim if the debtor fails to file a timely list of names and addresses of creditors as required by Rule 1007(a). The amendment also clarifies that if a court grants a creditor's motion under this rule to extend the time to file a proof of claim, the extension runs from the date of the court's decision on the motion.

Subdivision (c)(7) is added to provide a two-stage deadline for filing mortgage proofs of claim secured by an interest in the debtor's principal residence. Those proofs of claim must be filed with the appropriate Official Form mortgage attachment within 60 days of the order for relief. The claim will be timely if any additional documents evidencing the claim, as required by Rule 3001(c)(1) and (d), are filed within 120 days of the order for relief. The order for relief is the commencement of the case upon filing a petition, except in an involuntary case. See § 301 and § 303(h). The confirmation of a plan within the 120-day period set forth in subdivision (c)(7)(B) does not prohibit an objection to any proof of claim.

1 **Rule 3007. Objections to Claims**

2 (a) ~~OBJECTIONS TO CLAIMS~~ **TIME AND**  
3 **MANNER OF SERVICE.**

4 (1) *Time of Service.* An objection to the  
5 allowance of a claim **and a notice of objection that**  
6 **substantially conforms to the appropriate Official**  
7 **Form shall be in writing and filed, and served at least**  
8 **30 days before any scheduled hearing on the objection**  
9 **or any deadline for the claimant to request a**  
10 **hearing.** ~~A copy of the objection with notice of the~~  
11 ~~hearing thereon shall be mailed or otherwise delivered~~  
12 ~~to the claimant, the debtor or debtor in possession, and~~  
13 ~~the trustee at least 30 days prior to the hearing.~~ **The**  
14 **objection and notice shall be served as follows:**

15 (2) *Manner of Service.*

16 (A) **The objection and notice shall be**  
17 **served on the a claimant by first-class mail to the**

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revisions in blue (newest revisions in darker blue)

18 person most recently designated on the  
19 claimant’s original or amended proof of claim as  
20 the person to receive notices, at the address so  
21 indicated; and

22 (i) if the objection is to a claim of  
23 the United States, or any of its  
24 officers or agencies, in the manner  
25 provided for service of a summons  
26 and complaint by Rule 7004(b)(4) or  
27 (5); or

28 (ii) if the objection is to a claim  
29 of an insured depository institution,  
30 in the manner provided by Rule  
31 7004(h); ~~and.~~

32 (B) If, as authorized by Rule 3003(b)(1),  
33 no proof of claim was filed, ~~or a proof of claim~~  
34 ~~was filed by an entity other than the creditor~~  
35 ~~under Rule 3004 or 3005,~~ the objection and

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36 notice shall be served on the creditor by first-  
37 class mail at the address contained in the  
38 schedule of liabilities and, if applicable, in the  
39 manner provided in subdivision (a)(2)(A)(i) or  
40 (a)(2)(A)(ii).

41 (C) Service of the objection and notice  
42 shall ~~{also}~~ be made by first-class mail or other  
43 permitted means on the debtor or debtor in  
44 possession, and on the trustee, and, if applicable,  
45 the entity filing the proof of claim under Rule  
46 3005 by first class mail or other permitted  
47 means.

48 \* \* \* \* \*

#### Committee Note

Subdivision (a) is amended to specify the manner in which an objection to a claim and notice of the objection must be served. It clarifies that Rule 7004 does not apply to the service of most claim objections. Instead, a claimant must be served by first-class mail addressed to the person that the claimant most recently designated on its proof of claim to receive notices, at the address so indicated. If, however, the claimant is the United States, an officer or

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agency of the United States, or an insured depository institution, service must also be made according to the method prescribed by the appropriate provision of Rule 7004. The service methods for the depository institutions are statutorily mandated, and the size and dispersal of the decision-making and litigation authority of the federal government necessitate service on the appropriate United States attorney's office and the Attorney General, as well as the person designated on the proof of claim.

Subdivision (a)(2)(B) applies when a claim objection is made but ~~the creditor did not file a no~~ proof of claim was filed. This situation occurs when the creditor is not required to file a proof of claim in a chapter 9 or chapter 11 case because the claim was scheduled and not listed as contingent, disputed, or unliquidated, *see* Rule 3003, ~~or when someone other than the creditor filed the proof of claim under Rule 3004 or Rule 3005. In th~~atose situations ~~the creditor will not have designated on a proof of claim the person to receive notices, so~~ service on the creditor must be made at the address listed on the schedule of liabilities. In addition, if the creditor is the United States, an officer or agency of the United States, or an insured depository institution, service must also be made according to the method prescribed by the appropriate provision of Rule 7004.

As amended, subdivision (a) no longer requires that a hearing be scheduled or held on every objection. The rule requires the objecting party to provide notice and an opportunity for a hearing on the objection, but, by deleting from the subdivision references to “the hearing,” it permits local practices that require a claimant to timely request a hearing or file a response in order to obtain a hearing. The official notice form served with a copy of the objection will

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inform the claimant of any actions it must take. However, while a local rule may require the claimant to respond to the objection to a proof of claim, the court will still need to determine if the claim is valid, even if the claimant does not file a response to a claim objection or request a hearing.

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revisions in blue

1 **Rule 7001. Scope of Rules of Part VII**

2 An adversary proceeding is governed by the rules of  
3 this Part VII. The following are adversary proceedings:

4 \* \* \* \* \*

5 (2) a proceeding to determine the validity, priority, or  
6 extent of a lien or other interest in property, ~~other than~~ **but**  
7 **not** a proceeding under **Rule 3012** or Rule 4003(d);

8 \* \* \* \* \*

**Committee Note**

Subdivision (2) is amended to provide that the determination of the amount of a secured claim under Rule 3012, ~~or the validity, priority, or extent of like a proceeding by the debtor to avoid a lien on or other transfer of exempt property~~ under Rule 4003(d), does not require an adversary proceeding. The determination of the amount of a secured claim may be sought **by motion or** through a chapter 12 or chapter 13 plan in accordance with Rule 3012. ~~Thus, a debtor may propose to eliminate a wholly unsecured junior lien in a chapter 12 or chapter 13 plan without a separate adversary proceeding. Similarly, the avoidance of a lien on exempt property may be sought through a chapter 12 or chapter 13 plan in accordance with Rule 4003(d).~~ An adversary proceeding continues to be required for lien avoidance not governed by Rule 4003(d).

4 FEDERAL RULES OF BANKRUPTCY PROCEDURE

1 **Rule 3012. ~~Valuation of Security~~Determining the**  
2 **Amount of Secured and Priority Claims**

3 The court may determine the value of a claim secured  
4 by a lien on property in which the estate has an interest on  
5 motion of any party in interest and after a hearing on notice  
6 to the holder of the secured claim and any other entity as  
7 the court may direct.

8 (a) DETERMINATION OF AMOUNT OF CLAIM.  
9 On request by a party in interest and after notice—to the  
10 holder of the claim and any other entity the court  
11 designates—and a hearing, the court may determine

12 (1) the amount of a secured claim under §  
13 506(a) of the Code, or

14 (2) the amount of a claim entitled to priority  
15 under § 507 of the Code.

16 (b) REQUEST FOR DETERMINATION; HOW  
17 MADE. Except as provided in subdivision (c), a request to



18 determine the amount of a secured claim may be made by  
19 motion, in a claim objection, or in a plan filed in a  
20 chapter 12 or chapter 13 case. When the request is made in  
21 a chapter 12 or chapter 13 plan, the plan shall be served on  
22 the holder of the claim and any other entity the court  
23 designates in the manner provided for service of a  
24 summons and complaint by Rule 7004. A request to  
25 determine the amount of a claim entitled to priority may be  
26 made only by motion after a claim is filed or in a claim  
27 objection.

28 (c) CLAIMS OF GOVERNMENTAL UNITS. A  
29 request to determine the amount of a secured claim of a  
30 governmental unit may be made only by motion or in a  
31 claim objection after the governmental unit files a proof of  
32 claim or after the time for filing one under Rule 3002(c)(1)  
33 has expired.

## 6 FEDERAL RULES OF BANKRUPTCY PROCEDURE

### **Committee Note**

This rule is amended and reorganized.

Subdivision (a) provides, in keeping with the former version of this rule, that a party in interest may seek a determination of the amount of a secured claim. The amended rule provides that the amount of a claim entitled to priority may also be determined by the court.

Subdivision (b) is added to provide that a request to determine the amount of a secured claim may be made in a chapter 12 or chapter 13 plan, as well as by a motion or a claim objection. When the request is made in a plan, the plan must be served on the holder of the claim and any other entities the court designates according to Rule 7004. Secured claims of governmental units are not included in this subdivision and are governed by subdivision (c). The amount of a claim entitled to priority may be determined through a motion or a claim objection.

Subdivision (c) clarifies that a determination under this rule with respect to a secured claim of a governmental unit may be made only by motion or in a claim objection, but not until the governmental unit has filed a proof of claim or its time for filing a proof of claim has expired.

**UNITED STATES BANKRUPTCY COURT  
DISTRICT OF VERMONT**

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In re:

**MODIFICATION OF  
LOCAL RULES OF PRACTICE AND  
PROCEDURE IN BANKRUPTCY COURT,  
DISTRICT OF VERMONT**

**STANDING ORDER # 16-03**

**TO REVISE LOCAL RULE 2090-1(B)(6)  
TO ALLOW A NON-ADMITTED ATTORNEY  
TO FILE A MOTION TO REDACT A PROOF OF CLAIM  
WITHOUT PRO HAC VICE ADMISSION**

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Local Rule 2090-1(b)(6) provides that an attorney who is not a member of this Court's Bar need not be admitted *pro hac vice* to file a motion for relief from stay under § 362 or a proof of claim. The Court has determined this Rule should be expanded to include the filing of a motion to redact a proof of claim.

Therefore, IT IS HEREBY ORDERED that, effective immediately, Vermont Local Bankruptcy Rule 2001-1(b)(6) is revised to read:

- (6) **Waiver.** An attorney need not be admitted *pro hac vice* to file either a motion for relief from stay under § 362, ~~or~~ a proof of claim, or a motion to redact a proof of claim. However, unless waived by the Court, *pro hac vice* admission is required if litigation is necessary to adjudicate any of these matters.

SO ORDERED.

October 24, 2016  
Burlington, Vermont



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Colleen A. Brown  
United States Bankruptcy Judge

**UNITED STATES BANKRUPTCY COURT  
DISTRICT OF VERMONT**

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In re:

**MODIFICATION OF  
LOCAL RULES OF PRACTICE AND  
PROCEDURE IN BANKRUPTCY COURT,  
DISTRICT OF VERMONT**

**STANDING ORDER # 16-04**

**TO REVISE LOCAL RULE 9070-1(A)  
TO REQUIRE ATTORNEYS PRESENTING  
ELECTRONIC EXHIBITS TO BRING  
THEIR OWN LAPTOP COMPUTERS**

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Local Rule 9070-1(a) provides that an attorney may present trial and hearing exhibits in portable document (PDF) format on a CD. In order to facilitate the process for presentation of electronic exhibits and ensure the hearing runs smoothly, attorneys who wish to utilize this technology should bring their own laptop computers to connect to the Court's evidence presentation system.

To implement this change, IT IS HEREBY ORDERED that, effective immediately, Vermont Local Bankruptcy Rule 9070-1(a) is revised to read:

- (a) **Marking of Exhibits.** In an adversary proceeding or a contested matter, counsel (or *pro se* parties) must mark all trial and hearing exhibits prior to the time set for commencement of the trial or hearing. If more than 10 exhibits are to be introduced (1) each exhibit must be labeled, tabbed, and placed in a three-ring binder or submitted in PDF format on a CD; and (2) an index to all exhibits must be produced. Unless impracticable and waived by the Court, all documentary exhibits must be prepared in a quantity sufficient to provide copies to the Court, each opposing counsel, the examining attorney, and the witness. Counsel who choose to present exhibits in PDF format on a CD must bring a laptop to connect to the Court's evidence presentation system and to appear 30 minutes before the hearing begins to ensure the laptop is compatible with the Court's system.

SO ORDERED.

October 31, 2016  
Burlington, Vermont

  
\_\_\_\_\_  
Colleen A. Brown  
United States Bankruptcy Judge

**Vermont Bar Association  
Holiday Bankruptcy CLE and Luncheon  
December 2, 2016**

- |      |   |               |
|------|---|---------------|
| I.   | Welcoming Remarks   | 8:45-9:00     |
| II.  | Morning Session   |               |
|      | A. First Impressions: Client Intake   | 9:00-10:00    |
|      | Todd Taylor   |               |
|      | B. Embracing Change: How to Modify a Chapter 13 Plan  | 10:15-11:00   |
|      | Michelle Kainen   |               |
|      | Jan Sensenich   |               |
|      | C. The Year in Review   | 11:00 – 11:45 |
|      | Don Hayes   |               |
|      | Nancy Geise   |               |
|      | D. State of the Court   | 11:45-12:15   |
|      | The Honorable Colleen A. Brown  |               |
| III. | Lunch   | 12:15-1:15    |
| IV.  | Afternoon Session   |               |
|      | A. When Silence is Not Golden: Disclosure Issues in<br>Consumer Cases from Debtor and Creditor Perspectives | 1:15-2:45     |
|      | Lisa Penpraze   |               |
|      | Heather Cooper  |               |
|      | Douglas Wolinsky  |               |
|      | Alexandra Edelman   |               |
|      | B. Bench Bar Meeting  | 3:00- 4:00    |
|      | Updates and Upgrades in Conduit Mortgage cases  |               |
|      | The Honorable Colleen A. Brown  |               |
|      | Michelle Kainen   |               |
|      | Rebecca Rice  |               |
|      | National Chapter 13 Model Plan  |               |
|      | Introduction to Jan Version 2.0   |               |
|      | Electronic Payment Portals? Oh my   |               |