

**THE BANKRUPTCY SECTION
OF THE FEDERAL BAR ASSOCIATION, WESTERN DISTRICT OF MICHIGAN
PRESENTS**

**A PANEL DISCUSSION ON
REVISIONS TO THE FEDERAL RULES OF
BANKRUPTCY PROCEDURE EFFECTIVE 12/1/17**

Thursday, November 2, 2017
2:30-4:00 PM
Castle Boardroom
Michigan State University College of Law

Hon. Scott W. Dales
Chief Judge, U.S. Bankruptcy Court (W.D. Mich.)
Grand Rapids, Michigan

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Excerpt from
*Memorandum to the Bankruptcy Judges and Bankruptcy Clerks Advisory Groups*¹

¹ The Memorandum was prepared by Scott Myers, Esq., and Bridget Healy, Esq., attorneys within the Administrative Office of the United States Courts in Washington D.C., who support the Judicial Conference rules committees. The panelists and the FBA Bankruptcy Section acknowledge the work of Mr. Myers and Ms. Healy, and thank them for permitting the panel to use the Memorandum in connection with this program.

I Bankruptcy Rules and Forms effective December 1, 2017

A. *The Chapter 13 Plan form (Official Form 113) and related rules (Rules 2002, 3002, 3007, 3012, 3015, 3015.1, 4003, 5009, 7001, and 9009)*

Most of the rule and form changes on track to take effect this December are part of the Chapter 13 plan form package. At its fall 2015 meeting, the Advisory Committee approved the plan form (Official Form 113), and amendments to eight of the related rules—Bankruptcy Rules 2002, 3002, 3007, 3012, 4003, 5009, 7001, and 9009—but voted to defer submitting those items to the Standing Committee. On the recommendation of the Advisory Committee, the Standing Committee republished for comment one of the initial nine rules, Rule 3015, and new Rule 3015.1. Rules 3015 and 3015.1 introduced the possibility of a district-by-district opt-out from the national form plan concept, as long as the opt-out district adopts a local district-wide form plan that meets the requirements set forth in the new rule.

The Advisory Committee approved Rules 3015 and 3015.1 and the opt-out concept after the comment period, and recommended final approval of the full chapter 13 plan form package at its fall 2016 meeting. The rules were subsequently approved by the Standing Committee, the Judicial Conference and the Supreme Court and the full package is on track to go into effect on December 1, 2017.

As approved, the chapter 13 package requires use of Official Form 113 for chapter 13 plans filed in the district *unless* the district adopts a district-wide local plan form that meets the requirements in new Rule 3015.1. One requirement in the new rule is that adoption of a local plan must be preceded by “public notice and an opportunity for public comment.” Rule 3015.1(a). The rule does not specify the time or process for the notice and comment period. Most courts will likely follow the same process used for the adoption of local rules.

Some of the rule amendments are not limited in their application to chapter 13 cases. Some notable examples follow.

The changes to Rule 3002 (Filing Proof of Claim or Interest) clarify that a creditor, *including a secured creditor*, must file a proof of claim in order to have an allowed claim in a case. The rule is also alters the claims bar date (i.e. date by which the creditor must timely file a claim) in Chapter 7, 12 and 13 cases from 90 days after the § 341 meeting of creditors to 70 days after the petition date.

The changes to Rule 3007 (Objections to Claims) make clear that Rule 7004 does not apply to most claims objections. In addition the rule no longer will require that a hearing be scheduled or held on every objection. Rather, as amended, the rule permits local practices that require a claimant to timely request a hearing or file a response in order to obtain a hearing.

The changes to Rule 9009 (Forms) are also not limited to Chapter 13 cases. Current Rule 9009 requires only substantial compliance with official forms and expressly provides that

“[f]orms may be combined and their contents rearranged to permit economies in their use.” As amended, Rule 9009 is more restrictive and would require the use of official forms “without alteration, except as otherwise provided in these rules or in a particular Official Form.” The proposed changes are designed to limit and define the types of modifications that can be made to Official forms. In particular, the chapter 13 plan form requires nonstandard provisions to appear only in one portion of the form, and it would defeat the purpose of this feature if the form could be rearranged freely.

Amended Rule 9009 does not require pixel by pixel reproduction of official forms. Rather, the rule allows for deviations from an official form if permitted by the national instructions for the form or by instructions on the form itself. At its fall 2017 meeting, the Advisory Committee approved national instructions that will allow for modifications to the following official forms:

Official Form	Alteration Permitted by National Instructions
103A (Application for Individuals to Pay the Filing Fee in Installments)	“This form includes a proposed order for use by the court in considering the application. The court may modify the form of the order or use its own version of the order.” <i>Instructions – Bankruptcy Forms for Individuals, page 37.</i>
103B (Application to Have the Chapter 7 Filing Fee Waived)	“This form includes a proposed order for use by the court in considering the application. The court may modify the form of the order or use its own version of the order.” <i>Instructions – Bankruptcy Forms for Individuals, page 37.</i>
309A-I (Case Noticing Forms)	“Courts, or, in the event that the noticing function has been delegated, the individual or entity providing notice, may modify this form by adding additional information.”
312 (Order and Notice for Hearing on Disclosure Statement)	“Alterations may be made to this form.”
313 (Order Approving Disclosure Statement)	“Alterations may be made to this form.”
314 (Ballot for Accepting or Rejecting Plan)	“Alterations may be made to this form.”
315 (Order Confirming Plan)	“Alterations may be made to this form.”
318 (Discharge of Debtor – Chapter 7)	“Alterations may be made to this form.”
420A (Notice of Motion or Objection)	“Alterations may be made to this form in accordance with local court rules.”

B. Rules 1001, 1006(b), and 1015(b)

Rule 1001

Rule 1001 (Scope of Rules and Forms; Short Title) is the bankruptcy counterpart to Civil Rule 1, and it generally tracks the language of the civil rule. The last sentence of Rule 1001 currently states, “These rules shall be construed to secure the just, speedy, and inexpensive determination of every case and proceeding.” This language deviates from Civil Rule 1, which states: “[These rules] should be construed, administered, and employed by the court and the parties to secure the just, speedy, and inexpensive determination of every action and proceeding.” The proposed amendment to Rule 1001 changes the last sentence of the rule to conform to the language of Civil Rule 1.

Rule 1006(b)

Rule 1006(b) (Filing Fee) governs the payment of the bankruptcy filing fee in installments, as authorized for individual debtors by 28 U.S.C. § 1930(a). In evaluating a suggested amendment to the rule, the Advisory Committee became aware that some courts refuse to accept a petition or summarily dismiss a case if an installment payment is not made at the time the case is filed. The Advisory Committee concluded that such a practice is inconsistent with Rules 1006(b)(1) and 1017(b)(1). The latter provision allows for dismissal of a case for the failure to pay any installment of the filing fee only “after a hearing on notice to the debtor and the trustee.”

In order to 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, amended Rule 1006(b)(1) requires that an individual debtor’s petition must be accepted for filing so long as the debtor submits a signed application to pay the filing fee in installments—even if a required initial installment payment is not made at the same time. The committee note explains that dismissal of the case for failure to pay any installment must proceed according to Rule 1017(b)(1).

Rule 1015(b)

Rule 1015(b) (Cases Involving Two or More Related Debtors) provides for the joint administration of bankruptcy cases in which the debtors are closely related. Among the debtors covered by the rule are “a husband and wife.” The provision also implements a statutory requirement that a husband and wife with jointly administered cases choose the same exemption scheme—either federal bankruptcy exemptions, if permitted, or state exemptions.

After the decision in *United States v. Windsor*, 133 S. Ct. 2675 (2013), which held § 3 of the Defense of Marriage Act unconstitutional, the Advisory Committee received a suggestion that Rule 1015(b) be amended to substitute the word “spouses” for “husband and wife” in order to include joint bankruptcy cases of same-sex couples. Two years later, the Court decided *Obergefell v. Hodges*, 135 S. Ct. 2584 (2015), which held that the right to marry is a fundamental right under the Fourteenth Amendment and that same-sex couples may not be deprived of that

right. *Id.* at 2599. The Court further held in *Obergefell* that the Equal Protection Clause prevents states from denying same-sex couples the benefits of civil marriage on the same terms as opposite-sex couples. *Id.* at 2604.

In light of the holdings and reasoning in *Windsor* and *Obergefell*, both instances of “husband and wife” with “spouses” in Rule 1015(b) are replaced.

C. *Official Forms 25A, 25B, 25C, 26, 101, 309E, 309G, 309H, and 309I*

Official Forms 25A, 25B, 25C and 26 (Business forms)

Most official bankruptcy forms were renumbered effective December 1, 2015, as part the Advisory Committee’s Forms Modernization Project that began in 2008. Work on Official Forms 25A, 25B, 25C, and 26, however, was deferred to allow for review and consideration by the Advisory Committee’s Business Subcommittee. As amended, the forms are renumbered 425A, 425B, 425C, and 426. Official Forms 425A and 425B set forth an illustrative form plan of reorganization and disclosure statement, respectively, for small business debtors under chapter 11 of the Bankruptcy Code. Official Form 425C is the monthly operating report for small business debtors, and Official Form 426 is used to disclose information on the “value, operations, and profitability of any closely held corporation, partnership, or of any other entity in which the debtor [in a chapter 11 case] holds a substantial or controlling interest.”

The revised forms incorporate stylistic and formatting changes to conform to the general structure of the modernized forms. Certain changes have also been made to clarify the information requested and to make them easier for the debtor to complete.

Official Form 101

Official Form 101 (Petition for Individual Debtors Filing for Bankruptcy) is amended at question 11 to make the wording consistent with § 362(l)(5)(A) of the Bankruptcy Code. Question 11 currently only requires debtors who wish to remain in their residences to provide information concerning an eviction judgment against them. The Bankruptcy Code, however, requires that such information be reported regardless of whether the debtor wishes to stay in the residence.

Official Forms 309E, 309G, 309H, and 309I

Official Form 309F (Notice of Chapter 11 Bankruptcy Case—For Corporations or Partnerships). As published, the proposed amendment to Official Form 309F would change the instructions at line 8 of the form. The instructions currently require a creditor who seeks to have its claim excepted from the discharge under § 1141(d)(6)(A) of the Bankruptcy Code to file a complaint by the stated deadline. The applicability of the deadline is in some circumstances unclear, however, so the proposed revision leaves it to the creditor to decide whether the deadline applies to its claim. A conforming amendment was also made to line 11 of the form.

The amendments to Official Forms 309G, 309H, and 309I (respectively, the notices for

individual/joint debtor and corporate Chapter 12 cases, and for chapter 13 cases) conform to a pending amendment to Rule 3015 scheduled to take effect on December 1, 2017.

II Items for Publication

The following items were published for comment on August 15, 2017. The comment period closes on February 15, 2018. Comments can be submitted by going to the judiciary's public website (www.uscourts.gov), entering the term "public comments" in the search box at the top of the page, and following the instructions on the page entitled "Proposed Amendments Published for Public Comments."

A. *Rule 4001(c) (Obtaining Credit)*

The Advisory Committee received a suggestion concerning Rule 4001(c) and its application to chapter 13 cases. Rule 4001(c) details the process for obtaining approval of postpetition credit in a bankruptcy case. It requires a motion, in accordance with Rule 9014 (governing contested matters), that contains specific disclosures and information. The suggestion posited that many of the required disclosures are unnecessary in and unduly burdensome for most chapter 13 cases, and they should be made inapplicable in chapter 13.

The Advisory Committee reviewed the history of Rule 4001(c), which shows that the provision was designed to address issues particular to chapter 11 cases. Most members agreed that, regardless of whether a motion for post-petition credit is required under § 364 in all chapter 13 cases, Rule 4001(c) is not well suited to address typical financing issues that arise in chapter 13 cases. Accordingly, the Advisory Committee voted unanimously to propose for publication an amendment creating a new Rule 4001(c)(4) that makes subdivision (c) inapplicable to chapter 13 cases.

B. *Rules 2002(g) (Addressing Notices) and 9036 (Notice by Electronic Transmission) and Official Form 410 (Proof of Claim)*

The Advisory Committee has proposed amendments to Rules 2002(g), 9036, and Official Form 410 (Proof of Claim) to facilitate notice and service by electronic means. The proposed amendment to Rule 2002(g) would allow a creditor or equity interest holder to elect to receive notices by email in particular cases by making an appropriate designation on a proof of claim form or a proof of interest. Official Form 410 would be amended to provide a checkbox the creditor could use to consent to electronic notice in a particular case. The proposed amendments to Rule 9036 would permit electronic notice on registered users of the court's electronic-filing system who have appeared in a case, and, with the consent of the person served, allow for electronic service by means other than through the court's electronic-filing system.

C. *Rule 6007(b) (Motion to Abandon Property)*

The Advisory Committee received a suggestion concerning the process for abandoning estate property under § 554 of the Bankruptcy Code and Bankruptcy Rule 6007. The suggestion highlights the inconsistent treatment afforded notices to abandon property filed by the

bankruptcy trustee and motions to compel the trustee to abandon property filed by parties in interest. Specifically, Rule 6007(a) identifies the parties that the trustee is required to serve with its notice to abandon, but Rule 6007(b) is silent regarding the service of a party in interest's motion to compel abandonment. The Advisory Committee's proposed amendment to Rule 6007(b) would more closely align the two subdivisions by specifying the parties to be served with the motion to compel abandonment and notice of the motion, and by establishing an objection deadline.

D. Rule 9037(h) (Motion to Redact a Previously Filed Document)

In response to a suggestion submitted by the Committee on Court Administration and Case Management ("CACM"), the Advisory Committee is proposing a new subdivision (h) to Rule 9037 (Privacy Protections for Filings Made with the Court). The proposed amendment would provide a procedure for redacting personal identifiers in documents that were previously filed without complying with the rule's redaction requirements.

III. Rules and Forms Effective December 1, 2018

At its fall 2018 meeting, the Judicial Conference recommended final approval of amendments to Bankruptcy Rules 3002.1, 5005, 7004, 7062, 8002, 8006, 8007, 8010, 8011, 8013, 8015, 8016, 8017, 8021, 8022, 9025, of new Rule 8018.1 and the new Part VIII Appendix to the Bankruptcy Rules, and of amendments to Official Forms 417A and 417C. The proposed changes are on track to take effect December 1, 2018.

A. Rule 3002.1

Rule 3002.1 (Notice Relating to Claims Secured by Security Interest in the Debtor's Principal Residence) applies to home mortgage claims in chapter 13 cases. The amendments to subdivisions (b) and (e) do three things: they (i) create flexibility regarding a notice of payment change for home equity lines of credit; (ii) create a procedure for objecting to a notice of payment change; and (iii) expand the category of parties who can seek a determination of fees, expenses, and charges that are owed at the end of the case.

B. Rules 5005 and 8011

Rule 5005(a)(2) (Filing and Transmittal of Papers) addresses electronic filing in bankruptcy cases and Rule 8011 (Filing and Service; Signature) addresses filing, service, and signatures in bankruptcy appeals. The proposed amendments are coordinated with similar recommended amendments across the Federal Rules of Appellate, Civil and Criminal procedure that would require a person represented by counsel to file papers electronically, but allow exceptions for good cause. Courts would also have discretion to permit electronic filing by pro se parties, or require it if reasonable exceptions are allowed. Additionally, the amendment to Rule 8011 establishes a uniform national signature provision for bankruptcy appeals.

C. *Rule 7004*

Rule 7004 (Summons; Service; Proof of Service) incorporates by reference certain components of Civil Rule 4, including the provision addressing a defendant's waiver of service of a summons. Civil Rule 4(d) was amended in 2007 to change, among other things, the language and placement of the provision addressing waiver of service of summons. The cross-reference to Civil Rule 4(d)(1) in Rule 7004(a), however, was not changed at that time. The pending technical amendment to Rule 7004(a) would make the appropriate reference to Civil Rule 4(d)(5).

D. *Rules 7062, 8007, 8010, 8021, and 9025*

The amendments to Rules 7062, 8007, 8010, 8021, and 9025 conform these rules with pending amendments to Civil Rules 62 and 65.1 that would lengthen the period of the automatic stay of a judgment and modernize the terminology "supersedeas bond" and "surety" by using instead the broader term "bond or other security." (Pending amendments to Appellate Rules 8, 11, and 39 would adopt conforming terminology).

Because Bankruptcy Rule 7062 incorporates the whole of Civil Rule 62, the new security terminology will automatically apply in bankruptcy adversary proceedings when the civil rule goes into effect. Rule 62, however, also includes a change that would lengthen the automatic stay of a judgment entered in the district court from 14 to 30 days to address a gap between the end of the judgment-stay period and the 28-day time period for making certain post-judgment motions in civil practice. Because the deadline for post-judgment motions in bankruptcy is 14 days, however, the proposed amendment to Rule 7062 would maintain the current 14-day duration of the automatic stay of judgment.

E. *Rules 8002, 8011, 8013, 8015, 8016, 8017, and 8022, the Part VIII Appendix to the Bankruptcy Rules, and Official Forms 417A and 417C*

Amendments to Rules 8002, 8011, 8013, 8015, 8016, 8017, and 8022, and the Bankruptcy Rules Part VIII Appellate Rules Appendix bring the Bankruptcy Rules into conformity with amendments to the Federal Rules of Appellate Procedure ("FRAP") that went into effect on December 1, 2016, as well as some pending amendments to FRAP.

The amendments to Rules 8002(c) and 8011(a)(2)(C) include inmate-filing provisions that are virtually identical to, and are intended to conform to, the inmate-filing provisions of Appellate Rules 4(c) and 25(a)(2)(C). These rules treat notices of appeal and other papers as timely filed by inmates if certain specified requirements are met, including that the documents are deposited in the institution's internal mail system on or before the last day for filing. To implement the FRAP amendments, a new appellate form was adopted to provide a suggested form for an inmate declaration under Rules 4 and 25. A similar director's form was developed for bankruptcy appeals, and Official Form 417A (Notice of Appeal and Statement of Election) was amended to alert inmate filers of the existence of the director's form.

Rule 8002(b) and its counterpart, Appellate Rule 4(a)(4), set out a list of post-judgment motions that toll the time for filing an appeal. The 2016 amendment to Appellate Rule 4(a)(4) added an explicit requirement that the motion must be filed within the time period specified by the rule under which it is made in order to have a tolling effect for the purpose of determining the deadline for filing a notice of appeal. A similar amendment is made to Rule 8002(b).

The amendments to Rules 8013, 8015, 8016, and 8022, and the new Part VIII Appendix conform the bankruptcy appellate rules to the new FRAP length limits. Existing page limits are converted to word limits for documents prepared with a computer, and existing word limits are reduced. Official Form 417C (Certificate of Compliance with Type-Volume Limit, Typeface Requirements, and Type-Style Requirements) was amended to reflect the new limits, and the new Part VIII Appendix collects all the changes into a single chart, conforming to a similar appendix collecting FRAP length limits that was added to the Appellate Rules in 2016.

Rule 8017 is the bankruptcy counterpart to Appellate Rule 29. The 2016 amendment to Rule 29 provides a default rule concerning the timing and length of amicus briefs filed in connection with petitions for panel rehearing or rehearing en banc. A parallel amendment is made to Rule 8017. A pending amendment to Appellate Rule 29(a) would authorize a court of appeals to prohibit or strike the filing of an amicus brief if the filing would result in the disqualification of a judge. A similar amendment to Rule 8017 is made to maintain consistency between the two sets of rules.

F. Rule 8002

A new subdivision (a)(5) is added to Rule 8002 (Time for Filing Notice of Appeal) defining entry of judgment. The amendment clarifies that the time for filing a notice of appeal under subdivision (a) begins to run upon docket entry in contested matters and adversary proceedings for which Rule 58 does not require a separate document. In adversary proceedings for which Rule 58 does require a separate document, the time commences when the judgment, order, or decree is entered in the civil docket and either (1) it is set forth on a separate document, or (2) 150 days have run from the entry in the civil docket, whichever occurs first.

G. Rule 8006

The amendment to Rule 8006 (Certifying a Direct Appeal to the Court of Appeals) adds a new subdivision (c)(2) that authorizes the bankruptcy judge to file a statement on the merits of a certification for direct review by the court of appeals when the certification is made jointly by all the parties to the appeal.

H. Rule 8018.1

New Rule 8018.1 (District-Court Review of a Judgment that the Bankruptcy Court Lacked the Constitutional Authority to Enter) authorizes a district court to treat a bankruptcy court's judgment as proposed findings of fact and conclusions of law if the district court determines that the bankruptcy court lacked constitutional authority to enter a final judgment.

The procedure would eliminate the need to remand an appeal to the bankruptcy court merely to recharacterize the judgment as proposed findings and conclusions.

[END OF EXCERPT]

REDLINE CHANGES TO
to Fed. R. Bankr. P. 1001, 1006, 1015, 2002, 3002, 3007, 3012,
3015, 4003, 5009, 7001, and 9009, and

NEW
Fed. R. Bankr. P. 3015.1

EXCERPT FROM PACKAGE SUBMITTED TO CONGRESS
BY CHIEF JUSTICE JOHN G. ROBERTS
PURSUANT TO 28 U.S.C. §§ 331 & 2075
ON APRIL 27, 2017.

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

1 Rule 1001. Scope of Rules and Forms; Short Title

2 The Bankruptcy Rules and Forms govern procedure
3 in cases under title 11 of the United States Code. The rules
4 shall be cited as the Federal Rules of Bankruptcy Procedure
5 and the forms as the Official Bankruptcy Forms. These
6 rules shall be construed, administered, and employed by the
7 court and the parties to secure the just, speedy, and
8 inexpensive determination of every case and proceeding.

Committee Note

The last sentence of the rule is amended to incorporate the changes to Rule 1 F.R.Civ.P. made in 1993 and 2015.

The word “administered” is added to recognize the affirmative duty of the court to exercise the authority conferred by these rules to ensure that bankruptcy cases and the proceedings within them are resolved not only fairly, but also without undue cost or delay. As officers of the court, attorneys share this responsibility with the judge to whom the case is assigned.

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

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The addition of the phrase “employed by the court and the parties” emphasizes that parties share in the duty of using the rules to secure the just, speedy, and inexpensive determination of every case and proceeding. Achievement of this goal depends upon cooperative and proportional use of procedure by lawyers and parties.

This amendment does not create a new or independent source of sanctions. Nor does it abridge the scope of any other of these rules.

1 **Rule 1006. Filing Fee**

2 * * * * *

3 (b) PAYMENT OF FILING FEE IN
4 INSTALLMENTS.

5 (1) *Application to Pay Filing Fee in*
6 *Installments.* A voluntary petition by an individual
7 shall be accepted for filing, regardless of whether any
8 portion of the filing fee is paid, if accompanied by the
9 debtor's signed application, prepared as prescribed by
10 the appropriate Official Form, stating that the debtor
11 is unable to pay the filing fee except in installments.

12 * * * * *

Committee Note

Subdivision (b)(1) is amended to clarify that an individual debtor's voluntary petition, accompanied by an application to pay the filing fee in installments, must be accepted for filing, even if the court requires the initial installment to be paid at the time the petition is filed and the debtor fails to make that payment. Because the debtor's bankruptcy case is commenced upon the filing of the petition, dismissal of the case due to the debtor's failure to

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make the initial or a subsequent installment payment is governed by Rule 1017(b)(1).

**Rule 1015. Consolidation or Joint Administration of
Cases Pending in Same Court**

* * * * *

(b) CASES INVOLVING TWO OR MORE
RELATED DEBTORS. If a joint petition or two or more
petitions are pending in the same court by or against (1) a
~~husband and wife~~spouses, or (2) a partnership and one or
more of its general partners, or (3) two or more general
partners, or (4) a debtor and an affiliate, the court may
order a joint administration of the estates. Prior to entering
an order the court shall give consideration to protecting
creditors of different estates against potential conflicts of
interest. An order directing joint administration of
individual cases of a ~~husband and wife~~spouses shall, if one
spouse has elected the exemptions under § 522(b)(2) of the
Code and the other has elected the exemptions under
§ 522(b)(3), fix a reasonable time within which either may
amend the election so that both shall have elected the same

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19 exemptions. The order shall notify the debtors that unless
20 they elect the same exemptions within the time fixed by the
21 court, they will be deemed to have elected the exemptions
22 provided by § 522(b)(2).

23 * * * * *

Committee Note

Subdivision (b) is amended to replace “a husband and wife” with “spouses” in light of the Supreme Court’s decision in *Obergefell v. Hodges*, 135 S. Ct. 2584 (2015).

1 Rule 2002. Notices to Creditors, Equity Security
2 Holders, Administrators in Foreign
3 Proceedings, Persons Against Whom
4 Provisional Relief is Sought in Ancillary
5 and Other Cross-Border Cases, United
6 States, and United States Trustee

13 * * * * *

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

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16 (8) the time fixed for filing objections and the
17 hearing to consider confirmation of a chapter 12 plan;
18 and

19 (9) the time fixed for filing objections to
20 confirmation of a chapter 13 plan.

21 (b) TWENTY-EIGHT-DAY NOTICES TO
22 PARTIES IN INTEREST. Except as provided in
23 subdivision (l) of this rule, the clerk, or some other person
24 as the court may direct, shall give the debtor, the trustee, all
25 creditors and indenture trustees not less than 28 days'
26 notice by mail of the time fixed (1) for filing objections and
27 the hearing to consider approval of a disclosure statement
28 or, under § 1125(f), to make a final determination whether
29 the plan provides adequate information so that a separate
30 disclosure statement is not necessary;~~and~~ (2) for filing
31 objections and the hearing to consider confirmation of a

32 chapter 9, or chapter 11, or chapter 13 plan; and (3) for the
33 hearing to consider confirmation of a chapter 13 plan.

34 * * * * *

Committee Note

Subdivisions (a) and (b) are amended and reorganized to alter the provisions governing notice under this rule in chapter 13 cases. Subdivision (a)(9) is added to require at least 21 days' notice of the time for filing objections to confirmation of a chapter 13 plan. Subdivision (b)(3) is added to provide separately for 28 days' notice of the date of the confirmation hearing in a chapter 13 case. These amendments conform to amended Rule 3015, which governs the time for presenting objections to confirmation of a chapter 13 plan. Other changes are stylistic.

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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
12 ~~7 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~~70 days after the order for relief under that
16 chapter or the date of the order of conversion to a case
17 under chapter 12 or chapter 13. In an involuntary chapter 7

18 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
 29 days from the date of the order granting the motion.
 30 The 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.;~~

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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 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 70 days after the petition date.

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If a case is converted to chapter 12 or chapter 13, the 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 70 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.~~

14 (2) Manner of Service.

15 (A) The objection and notice shall be
16 served on a claimant by first-class mail to the
17 person most recently designated on the

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18 claimant's original or amended proof of claim as
19 the person to receive notices, at the address so
20 indicated; and

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

26 (ii) if the objection is to a claim of an
27 insured depository institution, in the
28 manner provided by Rule 7004(h).

29 (B) Service of the objection and notice
30 shall also be made by first-class mail or other
31 permitted means on the debtor or debtor in
32 possession, the trustee, and, if applicable, the
33 entity filing the proof of claim under Rule 3005.

34 * * * * *

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 whom 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 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.

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 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

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determine if the claim is valid, even if the claimant does not file a response to a claim objection or request a hearing.

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

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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.

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.

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

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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
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.

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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
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.

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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, unlike the amount of any current installment payments or arrearages, 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 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

17 (3) avoid a security interest or lien;

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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 under §§ 362(a) and
28 1301(a) be terminated as to the surrendered collateral;
29 and

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

31 (1) the placement of nonstandard provisions, as
32 defined in Rule 3015(c), along with a statement that
33 any nonstandard provision placed elsewhere in the
34 plan is void; and

35 (2) certification by the debtor’s attorney or by
36 an unrepresented debtor that the plan contains no
37 nonstandard provision other than those set out in the
38 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 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, as authorized by Rule 3012(b); or avoids a lien, as authorized by Rule 4003(d).

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. This part gives the debtor the opportunity to propose provisions that are not otherwise in, or that deviate from, the Local Form. 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.

1 **Rule 4003. Exemptions**

2 * * * * *

3 (d) AVOIDANCE BY DEBTOR OF TRANSFERS
4 OF EXEMPT PROPERTY. A proceeding under §
5 522(f) by the debtor to avoid a lien or other transfer of
6 property exempt under § 522(f) of the Code shall be
7 commenced by motion in the manner provided by in
8 accordance with Rule 9014, or by serving a chapter 12 or
9 chapter 13 plan on the affected creditors in the manner
10 provided by Rule 7004 for service of a summons and
11 complaint. Notwithstanding the provisions of subdivision
12 (b), a creditor may object to a ~~motion filed~~ request under §
13 522(f) by challenging the validity of the exemption asserted
14 to be impaired by the lien.

Committee Note

Subdivision (d) is amended to provide that a request under § 522(f) to avoid a lien or other transfer of exempt property may be made by motion or by a chapter 12 or chapter 13 plan. A plan that proposes lien avoidance in accordance with this rule must be served as provided under Rule 7004 for service of a summons and complaint. Lien avoidance not governed by this rule requires an adversary proceeding.

1 **Rule 5009. Closing Chapter 7—Liquidation, Chapter**
2 **12—Family Farmer's Debt Adjustment,**
3 **Chapter 13—Individual's Debt Adjustment,**
4 **and Chapter 15—Ancillary and Cross-**
5 **Border Cases; Order Declaring Lien**
6 **Satisfied**

7 (a) CLOSING OF CASES UNDER CHAPTERS 7,
8 12, AND 13. If in a chapter 7, chapter 12, or chapter 13
9 case the trustee has filed a final report and final account
10 and has certified that the estate has been fully administered,
11 and if within 30 days no objection has been filed by the
12 United States trustee or a party in interest, there shall be a
13 presumption that the estate has been fully administered.

14 * * * * *

15 (d) ORDER DECLARING LIEN SATISFIED. In a
16 chapter 12 or chapter 13 case, if a claim that was secured
17 by property of the estate is subject to a lien under
18 applicable nonbankruptcy law, the debtor may request entry
19 of an order declaring that the secured claim has been

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20 satisfied and the lien has been released under the terms of a
21 confirmed plan. The request shall be made by motion and
22 shall be served on the holder of the claim and any other
23 entity the court designates in the manner provided by
24 Rule 7004 for service of a summons and complaint.

Committee Note

Subdivision (d) is added to provide a procedure by which a debtor in a chapter 12 or chapter 13 case may request an order declaring a secured claim satisfied and a lien released under the terms of a confirmed plan. A debtor may need documentation for title purposes of the elimination of a second mortgage or other lien that was secured by property of the estate. Although requests for such orders are likely to be made at the time the case is being closed, the rule does not prohibit a request at another time if the lien has been released and any other requirements for entry of the order have been met.

Other changes to this rule are stylistic.

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,
6 priority, or extent of a lien or other interest in
7 property, ~~other than~~ but not a proceeding under
8 Rule 3012 or Rule 4003(d);

9 * * * * *

Committee Note

Subdivision (2) is amended to provide that the determination of the amount of a secured claim under Rule 3012, 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. An adversary proceeding continues to be required for lien avoidance not governed by Rule 4003(d).

1 **Rule 9009. Forms**

2 (a) OFFICIAL FORMS. ~~Except as otherwise~~
3 ~~provided in Rule 3016(d), the~~ The Official Forms
4 prescribed by the Judicial Conference of the United States
5 shall be ~~observed and used with alterations as may be~~
6 ~~appropriate~~ without alteration, except as otherwise
7 provided in these rules, in a particular Official Form, or in
8 the national instructions for a particular Official
9 Form. ~~Forms may be combined and their contents~~
10 ~~rearranged to permit economies in their use.~~ Official Forms
11 may be modified to permit minor changes not affecting
12 wording or the order of presenting information, including
13 changes that:

- 14 (1) expand the prescribed areas for responses in
15 order to permit complete responses;
16 (2) delete space not needed for responses; or

17 (3) delete items requiring detail in a question or
 18 category if the filer indicates—either by checking
 19 “no” or “none” or by stating in words—that there is
 20 nothing to report on that question or category.

21 (b) DIRECTOR’S FORMS. The Director of the
 22 Administrative Office of the United States Courts may
 23 issue additional forms for use under the Code.

24 (c) CONSTRUCTION. The forms shall be
 25 construed to be consistent with these rules and the Code.

Committee Note

This rule is amended and reorganized into separate subdivisions.

Subdivision (a) addresses permissible modifications to Official Forms. It requires that an Official Form be used without alteration, except when another rule, the Official Form itself, or the national instructions applicable to an Official Form permit alteration. The former language generally permitting alterations has been deleted, but the rule preserves the ability to make minor modifications to an Official Form that do not affect the wording or the order in which information is presented on a form. Permissible changes include those that merely expand or delete the

space for responses as appropriate or delete inapplicable items so long as the filer indicates that no response is intended. For example, when more space will be necessary to completely answer a question on an Official Form without an attachment, the answer space may be expanded. Similarly, varying the width or orientation of columnar data on a form for clarity of presentation would be a permissible minor change. On the other hand, many Official Forms indicate on their face that certain changes are not appropriate. Any changes that contravene the directions on an Official Form would be prohibited by this rule.

The creation of subdivision (b) and subdivision (c) is stylistic.