

Chapter 13 Roundtable

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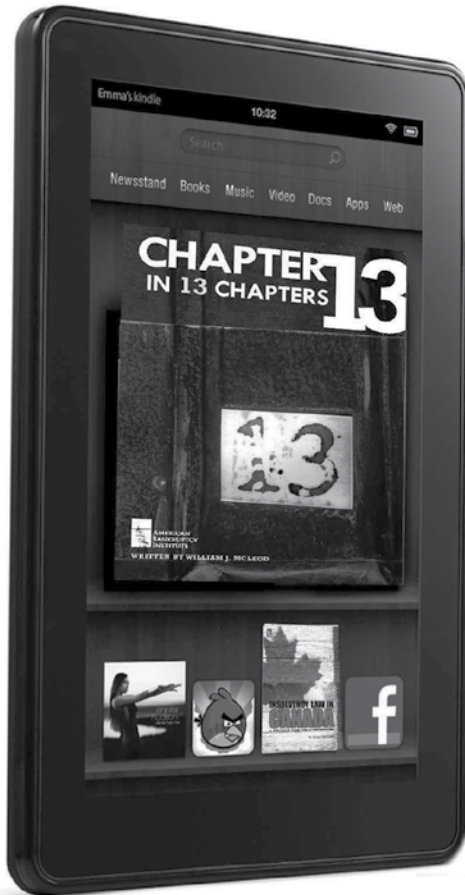
Chapter 13 Trustee; Las Vegas

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CHAPTER 13 ROUNDTABLE

(An Informal Discussion on the Proposed Uniform National Plan Form)

American Bankruptcy Institute
21st Annual Southwest Bankruptcy Conference
Incline Village, Nevada - August 23, 2013

Panelists

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Richmond, Virginia

Honorable Randall L. Dunn

U.S. Bankruptcy Court (D. Ore.)

Portland, Oregon

Kathleen A. Leavitt

Chapter 13 Trustee

Las Vegas, Nevada

Moderator

Brian L. Shaw

Shaw Fishman Glantz & Towbin LLC

Chicago, Illinois

The Proposed Uniform National Plan Form¹

A. The Notice Boxes (Part 1)

1. Proper completion.
2. Does heightened notice truly address notice concerns. Is there a better avenue to do so, such as Bankruptcy Rule 7004 or some other special notice?

B. Plan Payments and Length of Plan (Part 2)

1. Is the new tax refund treatment and identification adequate?
2. Is the provision of a statement regarding a Commitment Period creating the potential for more litigation?
3. Can a plan be confirmed for a period of less than 36 months?

C. Treatment of Secured Claims (Part 3)

1. Proposed Amendment to Rule 3002(a), 60 day bar date, and timely filed proofs of claim control amount for purposes of Plan.
2. How does Section 3.1 (Maintenance of Payment of Cure of Any Default) impact trustee's ability to pay arrears on claims when stay relief is requested and conditional settlement is then reached?
3. How does Section 3.2 (Request for Valuation of Security and Claim Modification) affect the ability of the Debtor to cram down secured debt of governmental units?
4. How does Section 3.5 (Surrender of Collateral) impact a creditor's right to participate in the Plan?

D. Treatment of Trustee's Fees, Administrative and Other Priority Claims (Part 4)

1. Will Section 4.5 (Domestic Support Obligations Assigned to a Governmental Unit and Paid Less Than Full Amount) cause more governmental units to file proofs of claim and actively participate in

¹ The Proposed Forms, as of June 15, 2013, are attached hereto as Exhibit 1.

cases?

- E. Treatment of Non-Priority Unsecured Claims (Part 5)
 - 1. Will Section 5.4 (Interest) prompt more creditors to object to plans that do not provide for the payment of interest when it could be required?
- F. Order of Distribution of Trustee Payments (Part 7)
 - 1. How will Section 7.1 (Estimated Amounts and Order of Trustee Payments) be reconciled in jurisdiction with different distribution practices?
 - 2. Will Section 9 be used to address this issue?
- G. Vesting of Property of the Estate (Part 8)
 - 1. How will Section 8.1 (Property of the Estate Shall Revest with the Debtors Upon . . .) be creative used by Debtors (actually, counsel) in jurisdictions where property of the estate vests on confirmation.
- H. Non-Standard Plan Provisions (Part 9)
 - 1. Can Section 9 be used to address concerns with the differences between local practices?

United States Bankruptcy Court for the _____ District of _____

Debtor(s): _____

Case No.: _____

Date: _____

Check if this is an amended plan

Official Form 113

Chapter 13 Plan

12/15

Part 1: Notice to Interested Parties

Check all that apply:

- The plan seeks to limit the amount of a secured claim, as set out in Part 3, Section 3.2, which may result in a partial payment or no payment at all to the secured creditor.
- The plan requests the avoidance of a judicial lien or nonpossessory, nonpurchase-money security interest as set out in Part 3, Section 3.4.
- The plan sets out nonstandard provisions in Part 9.

Important Notice: Your rights may be affected. Your claim may be reduced, modified, or eliminated.

You should read these papers carefully and discuss them 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 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 must file a proof of claim—or one must be filed on your behalf—in order for you to be paid under any plan that may be confirmed.

Part 2: Plan Payments and Length of Plan

2.1 Debtor(s) will pay to the trustee \$ _____ per _____ for _____ months, and
 \$ _____ per _____ for _____ months.

2.2 Payments to the trustee will be made from future earnings 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.

2.3 Additional payments to the trustee will be made as follows:

Check all that apply:

- Debtor(s) will turn over to the trustee:
 - any tax refunds received during the plan term.
 - any tax refunds in excess of \$ _____ received during the plan term.

On or before April 20 of the year following the filing of this case and each year thereafter, Debtor(s) will submit to the trustee a copy of the federal tax return filed for the prior year.

- Other sources of funding, including the sale of property. Describe the source, amount, and date when available:

2.4 The estimated total amount of plan payments is \$ _____.

2.5 The applicable commitment period is: 36 months
 60 months

3.1 Maintenance of payments and cure of any default

None [If "none" is checked, the rest of § 3.1 need not be completed or reproduced]

The debtor(s) will maintain the contractual installment payments and cure any default in payments on the secured claims listed below. The allowed claim for any arrearage amount will be paid under the plan, with interest, if any, at the rate stated. Unless otherwise ordered by the court, (1) the amounts listed on the proof of claim control over any contrary amounts listed below as to the current installment payment and arrearage, and (2) if relief from the automatic stay is ordered as to any item of collateral listed in this paragraph, all payments under this plan as to that collateral will cease and all claims as to 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 payment)	Estimated amount of arrearage	Interest rate on arrearage (if applicable)	Monthly plan payment on arrearage or other payment arrangement	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)				

3.2 Request for valuation of security and claim modification

None [If checked, the rest of § 3.2 need not be completed or reproduced]

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, except for the claims of governmental units. For each non-governmental secured claim as to which a proof of claim has been filed in accordance with Bankruptcy Rule 3002, the debtors state that the value of the secured claim should be as stated below in the column headed "Amount of secured claim." For secured claims of governmental units, unless otherwise ordered by the court, the amounts listed in proofs of claim filed in accordance with Bankruptcy Rule 3002 control over any contrary amounts listed below. For each listed secured claim, the controlling amount of the claim will be paid in full under the plan 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 claim listed on the proof of claim controls over any contrary amounts listed under Part 5 as to the unsecured portion, if any, of the claim.

The holder of any claim listed below as having value in the column headed "Amount of secured claim" will retain the lien until the earlier of:

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

- Debtor(s) will be eligible to receive a discharge in this case.
- Debtor(s) will not be eligible to receive a discharge in this case.

Name of creditor	Estimated amount of creditor's 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

None [If 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. Unless otherwise ordered by the court, the claim amount listed on the proof of claim controls over any contrary amounts listed below. The final column includes only payments disbursed by 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)	

3.4 Lien avoidance

None [If "None" is checked, the rest of Section § 3.4 need not be completed or reproduced]

This paragraph will be effective only if the applicable box on 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). 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. The calculation of the amount of the judicial lien or security interest that is avoided is shown on Exhibit A, which is attached to this plan and incorporated herein by reference. 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).

Name of creditor	Collateral	Amount of secured claim after avoidance	Interest rate (if applicable)	Monthly plan payment (if applicable)	Estimated total amount of secured claim
_____	_____	\$ _____	_____	\$ _____	\$ _____
_____	_____				
_____	_____	\$ _____	_____	\$ _____	\$ _____
_____	_____				

3.5 Surrender of collateral

None [if "None" is checked, the rest of § 3.5 need not be completed or reproduced]

The debtor(s) elect to surrender to the creditors listed below the personal or real property that is collateral for the claim. The debtor(s) consent to termination of the stay under 11 U.S.C. § 362(a) and § 1301 with respect to the collateral upon confirmation of the plan. Any allowed unsecured claim resulting from the disposition of the collateral will be treated in Part 5 below.

Name of creditor	Collateral
_____	_____
_____	_____

4.1 General

All allowed priority claims other than those treated in § 4.5 will be paid in full without interest, unless otherwise stated.

4.2 Trustee's fees

These fees 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 of the debtor(s) is estimated to be \$_____.

4.4 Other priority claims

None [If "None" is checked, the rest of § 4.4 need not be completed or reproduced]

The following are the debtor's estimates of the amount of such claims.

Name of creditor	Basis for priority treatment	Estimated amount of claim to be paid	Interest rate (if applicable)	Estimated total amount of payments
_____	_____	\$ _____	_____	\$ _____
_____	_____	\$ _____	_____	\$ _____

4.5 Domestic support obligations assigned to a governmental unit and paid less than full amount

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 a governmental unit and will be paid less than the full amount of the claim under 11 U.S.C. § 1322(a)(4).

Name of creditor	Amount of claim to be paid	Interest rate (if applicable)	Estimated total amount of payments
_____	\$ _____	_____	\$ _____
_____	\$ _____	_____	\$ _____

5.1 Maintenance of payments and cure of any default

None [If "None" is checked, the rest of § 5.1 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. The allowed claim for the arrearage amount will be paid under the plan.

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)		

5.2 Separately classified nonpriority unsecured claims

None [If "None" is checked, the rest of § 5.2 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 of claim to be paid	Interest rate (if applicable)	Estimated total amount of payments
_____	_____	\$ _____	_____	\$ _____
_____	_____			
_____	_____	\$ _____	_____	\$ _____
_____	_____			

5.3 Nonpriority unsecured claims

Allowed nonpriority unsecured claims that are not separately classified will be paid, pro rata, up to the full amount of the claims, as follows:

Check all that apply:

- the sum of \$ _____, unless a greater amount is required under another checked option;
- _____% of the total amount of these claims;
- 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 \$ _____. Payments on allowed nonpriority unsecured claims will not be less than this amount.

5.4 Interest

Interest on allowed unsecured claims, other than separately classified nonpriority unsecured claims, will (Check the applicable box):

- not be paid.
- be paid at an annual percentage rate of _____ % under 11 U.S.C. § 1325(a)(4), and is estimated to total \$ _____.

Part 6: Executory Contracts and Unexpired Leases

6.1 All executory contracts and unexpired leases are rejected, except those listed below, which are assumed and will be treated as provided for below or under another specified provision of the plan.

None to be assumed [If checked, the rest of § 6.1 need not be completed or reproduced]

The final column includes only payments disbursed by the trustee rather than by the debtor.

Name of creditor	Property description	Treatment (Refer to other plan section if applicable)	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)		

Part 7: Order of Distribution of Trustee Payments

7.1 The trustee will make payments in the estimated amounts shown on Exhibit B, in the following order:

- a. Trustee's fees
- b. Monthly payments on secured claims
- c. _____
- d. _____
- e. _____
- f. _____
- g. _____
- h. _____

Part 8: Vesting of Property of the Estate

8.1 Property of the estate shall revert in the debtor(s) upon

Check the applicable box:

- Plan confirmation
- Closing of case
- Other: _____

Part 9: Nonstandard Plan Provisions

Under Bankruptcy Rule 3015(c), nonstandard provisions are required to be set forth below. These plan provisions will be effective only if the applicable box in Part 1 of this plan is checked.

Part 10: Signatures

The debtor's attorney (or debtor, if not represented by an attorney) certifies that all provisions of this plan are identical to the Official Form 113, except for language contained in Part 9: Nonstandard Plan Provisions.

Debtors
(Sign if not represented by an attorney)

X _____
Signature of debtor

Date _____
MM / DD / YYYY

X _____
Signature of debtor

Date _____
MM / DD / YYYY

Debtors' Attorney

X _____
Signature of debtor's attorney

Date _____
MM / DD / YYYY

Exhibit A Calculation of lien avoidance

A.1 The judicial lien or nonpossessory, nonpurchase-money security interest provided for in Section 3.4 is avoided to the extent listed below: *Do not complete if the plan involves no lien avoidance; if more than one lien is to be avoided, provide the information for each lien.*

Name of creditor	Collateral	Judgment lien information (such as judgment date, date of lien recording, book and page number)	Calculation of lien avoidance
			a. Amount of lien \$ _____
			b. Amount of all other liens \$ _____
			c. Value of claimed exemptions \$ _____
			d. Total: Lines a + b + c = line d \$ _____
			e. Value of debtor's interest in property \$ _____
			f. Subtract line e from line d \$ _____
			Extent of exemption impairment (Check applicable box):
			<input type="checkbox"/> Line f is equal to or greater than line a. The entire lien is avoided.
			<input type="checkbox"/> Line f is less than line a. A portion of the lien is avoided.
			Amount of lien not avoided Subtract line f from line a \$ _____

Exhibit B Estimated amounts of trustee payments

B.1 The trustee will make the following estimated payments on allowed claims in the order set forth in Section 7.1:

a. Current installment and arrearage payments on secured claims (Part 3, Section 3.1 total):	\$ _____
b. Allowed secured claims (Part 3, Section 3.2 total):	\$ _____
c. Secured claims not subject to 11 U.S.C. § 506 (Part 3, Section 3.3 total):	\$ _____
d. Judicial liens or security interests not avoided (Part 3, Section 3.4 total):	\$ _____
e. Administrative and other priority claims (Part 4 total):	\$ _____
f. Current installment payments and arrearage payments on unsecured debts (Part 5, Section 5.1 total):	\$ _____
g. Separately classified unsecured claims (Part 5, Section 5.2 total):	\$ _____
h. Nonpriority unsecured claims (Part 5, Section 5.3 total):	\$ _____
i. Interest on allowed unsecured claims (Part 5, Section 5.4 total):	\$ _____
j. Arrearage payments on executory contracts and unexpired leases (Part 6, Section 6.1 total):	\$ _____
Total of lines a through j	\$ _____

COMMITTEE NOTE

Official Form 113 is new and is the required plan form in all chapter 13 cases. See Bankruptcy Rule 3015. Alterations to the text of the form or the order of its provisions, except as indicated on the form itself, are prohibited. See Bankruptcy Rule 9009. 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.

Part 1. This part is intended to highlight some provisions of the plan for the benefit of interested parties and the court. For that reason, if the plan includes one or more of the provisions listed in this part, the appropriate boxes must be checked. For example, if Part 9 of the plan proposes a provision not included in, or contrary to, the Official Form, then that nonstandard provision will be ineffective if the appropriate check box is not selected.

Part 2. This part states the proposed periodic plan payments, plan length, 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 accordingly, that should be indicated in § 2.1. Section 2.2 provides for the manner in which the debtor will make payments. The debtor may also make payments through a designated third party, such as an electronic funds transfer program.

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

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 which a proof of claim has been filed. 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 nongovernmental 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. Although § 3.2 applies to secured claims for which a proof of claim has been filed in accordance with Bankruptcy Rule 3002, that rule 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 may not be bifurcated into secured and unsecured portions under Code § 506(a), but it allows for an interest rate other than the contract rate to be applied to payments on such a claim.

In § 3.4, the plan may propose to avoid certain judicial liens or security interests encumbering exempt property in accordance with Code § 522(f). A separate exhibit shows 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 consent to 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 claims entitled to priority status. In § 4.4, the plan calls for an estimated amount of each such claim. 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 the plan.

Part 5. This part provides for the treatment of unsecured claims that are not entitled to priority status. In § 5.3, 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 also provide that a defined percentage of the total amount of unsecured claims will be paid.

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.

Part 7. This part provides an order of distribution of payments under the plan. Other than the trustee's fees and monthly payments to secured creditors, the order of distribution is left to be completed by the debtor in keeping with the requirements of the Code. A separate exhibit lists the estimated amounts of these distributions.

Part 8. This part defines when property of the estate will revert in the debtor or debtors. One choice must be selected—upon plan confirmation, upon closing the case, or upon some other specified event. This plan provision is subject to a contrary court order under Code § 1327(b).

Part 9. 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 10. The plan must be signed by the attorney for the debtor or debtors, unless the debtor or debtors are not represented by an attorney, in which case the plan must be signed by the debtor or debtors. The signature in this part is a certification to the court that the plan's provisions are identical to the Official Form, except for any nonstandard provisions contained in Part 9.

SOUTHWEST BANKRUPTCY CONFERENCE 2013

22 ~~insufficient under the circumstances to give the creditor a reasonable time to file a~~
23 ~~proof of claim~~

24 (A) the notice was insufficient under the circumstances to
25 give the creditor a reasonable time to file a proof of claim because the debtor
26 failed to timely file the list of creditors' names and addresses required by Rule
27 1007(a), or

28 (B) the notice was insufficient under the circumstances to
29 give the creditor a reasonable time to file a proof of claim, and notice of the time
30 to file a proof of claim was mailed to the creditor at a foreign address.

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

33 (A) the proof of claim, together with the attachments
34 required by Rule 3001(c)(2)(C), is filed not later than 60 days after the order for
35 relief is entered, and

36 (B) any attachments required by Rule 3001(c)(1) and (d)
37 are filed as a supplement to the holder's claim not later than 120 days after the
38 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 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 days after the petition date. If a case is converted to chapter 12 or chapter 13, the 60-day time for filing runs from the order of conversion. 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 the proof of claim.

Rule 3012. Valuation of Security Determination of the Amount of Secured and Priority Claims

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

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

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

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

11 (b) REQUEST FOR DETERMINATION; HOW MADE. Except as
12 provided in subdivision (c), a request to determine the amount of a secured claim
13 may be made by motion, in a claim objection, or in a plan filed in a chapter 12 or
14 13 case. A request to determine the amount of a claim entitled to priority may be
15 made by motion or in a claim objection. The request shall be served on the holder
16 of the claim and any other entity the court designates in the manner provided for
17 service of a summons and complaint by Rule 7004.

18 (c) CLAIMS OF GOVERNMENTAL UNITS. A request to determine the
19 amount of a secured claim of a governmental unit may be made by motion or in a

20 claim objection after the governmental unit files a proof of claim or after the time
21 for filing one under Rule 3002(c)(1) 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. 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 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.

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

1 (a) FILING OF CHAPTER 12 PLAN. The debtor may file a chapter 12
2 plan with the petition. If a plan is not filed with the petition, it shall be filed
3 within the time prescribed by § 1221 of the Code.

4 (b) FILING OF CHAPTER 13 PLAN. The debtor may file a chapter 13
5 plan with the petition. If a plan is not filed with the petition, it shall be filed
6 within 14 days thereafter, and such time may not be further extended except for
7 cause shown and on notice as the court may direct. If a case is converted to
8 chapter 13, a plan shall be filed within 14 days thereafter, and such time may not
9 be further extended except for cause shown and on notice as the court may direct.

10 (c) ~~DATING. Every proposed plan and any modification thereof shall be~~
11 ~~dated.~~ FORM OF CHAPTER 13 PLAN. The plan filed in a chapter 13 case shall
12 be prepared as prescribed by the appropriate Official Form. Provisions not
13 otherwise included in the Official Form or deviating from the Official Form are
14 effective only if they are included in a section of the Official Form designated for
15 nonstandard provisions and are also identified in accordance with any other
16 requirements of the Official Form.

17 (d) ~~NOTICE AND COPIES. If the plan~~ The plan or a summary of the plan
18 ~~shall be~~ is not included with ~~the~~ each notice of the hearing on confirmation mailed
19 pursuant to Rule 2002, the debtor shall serve the plan on the trustee and all
20 creditors when it is filed with the court. ~~If required by the court, the debtor shall~~

21 ~~furnish a sufficient number of copies to enable the clerk to include a copy of the~~
22 ~~plan with the notice of the hearing.~~

23 (e) TRANSMISSION TO UNITED STATES TRUSTEE. The clerk shall
24 forthwith transmit to the United States trustee a copy of the plan and any
25 modification thereof filed pursuant to subdivision (a) or (b) of this rule.

26 (f) OBJECTION TO CONFIRMATION; DETERMINATION OF GOOD
27 FAITH IN THE ABSENCE OF AN OBJECTION. An objection to confirmation
28 of a plan shall be filed and served on the debtor, the trustee, and any other entity
29 designated by the court, and shall be transmitted to the United States trustee,
30 ~~before confirmation of the plan~~ at least seven days before the hearing on
31 confirmation. An objection to confirmation is governed by Rule 9014. If no
32 objection is timely filed, the court may determine that the plan has been proposed
33 in good faith and not by any means forbidden by law without receiving evidence
34 on such issues.

35 (g) EFFECT OF CONFIRMATION. Any determination made under Rule
36 3012 of the amount of a secured claim under § 506(a) of the Code in a chapter 12
37 or 13 case is binding on the holder of the claim, even if the holder files a contrary
38 proof of claim under Rule 3002 or the debtor schedules that claim under § 521(a)
39 of the Code, and regardless of whether any objection to the claim has been filed
40 under Rule 3007.

41 (g) (h) MODIFICATION OF PLAN AFTER CONFIRMATION. A
42 request to modify a plan pursuant to § 1229 or § 1329 of the Code shall identify
43 the proponent and shall be filed together with the proposed modification. The

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44 clerk, or some other person as the court may direct, shall give the debtor, the
45 trustee, and all creditors not less than 21 days notice by mail of the time fixed for
46 filing objections and, if an objection is filed, the hearing to consider the proposed
47 modification, unless the court orders otherwise with respect to creditors who are
48 not affected by the proposed modification. A copy of the notice shall be
49 transmitted to the United States trustee. A copy of the proposed modification, or a
50 summary thereof, shall be included with the notice. ~~If required by the court, the~~
51 ~~proponent shall furnish a sufficient number of copies of the proposed~~
52 ~~modification, or a summary thereof, to enable the clerk to include a copy with~~
53 ~~each notice.~~ If a copy is not included with the notice and the proposed
54 modification is sought by the debtor, a copy shall be served on the trustee and all
55 creditors in the manner provided for service of the plan by subdivision (d) of this
56 rule. Any objection to the proposed modification shall be filed and served on the
57 debtor, the trustee, and any other entity designated by the court, and shall be
58 transmitted to the United States trustee. An objection to a proposed modification
59 is governed by Rule 9014.

COMMITTEE NOTE

This rule is amended and reorganized.

Subdivision (c) is amended to require use of the Official Form for chapter 13 plans. The amended rule also provides that nonstandard provisions in a chapter 13 plan must be set out in the section of the Official Form specifically designated for such provisions and identified in the manner required by the Official Form.

Subdivision (d) is amended to ensure that the trustee and creditors are served with the plan in advance of 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.

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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. The seven-day notice period may be altered in a particular case by the court under Rule 9006.

Subdivision (g) is amended to provide 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 (h) was formerly subdivision (g). It is redesignated and amended to clarify that service of a proposed plan modification must be made in accordance with subdivision (d) of this rule.

Rule 4003. Exemptions

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(d) AVOIDANCE BY DEBTOR OF TRANSFERS OF EXEMPT PROPERTY. A proceeding by the debtor to avoid a lien or other transfer of property exempt under § 522(f) of the Code shall be commenced by motion in the manner provided for by in accordance with Rule 9014, or by a chapter 12 or 13 plan served in the manner provided by Rule 7004 for service of a summons and complaint. Notwithstanding the provisions of subdivision (b), a creditor may object to a motion or chapter 12 or 13 plan provision filed under § 522(f) by challenging the validity of the exemption asserted 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 (a) OFFICIAL FORMS. Except as otherwise provided in Rule 3016(d);
2 ~~the~~ The Official Forms prescribed by the Judicial Conference of the United States
3 ~~shall be observed and used with alterations as may be appropriate without~~
4 alteration, except as otherwise provided in these rules or in a particular Official
5 Form. Official Forms may be modified

6 (1) to use font faces substantially similar to those prescribed,
7 maintaining the prescribed size and style;

8 (2) to expand the prescribed areas for responses in order to permit
9 complete responses;

0 (3) to delete space not needed for responses;

1 (4) to delete items requiring detail in a question or category if the
2 filer indicates—either by checking “no” or “none” or by stating in words—that
3 there is nothing to report on that question or category; and

4 (5) for court orders in a particular case only, to make any change
5 that does not conflict with an applicable rule or with an Official Form that the
6 order addresses or implements. Forms may be combined and their contents
7 ~~rearranged to permit economies in their use.~~

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

1 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 or the Official Form itself permits alteration. The former language generally permitting alterations has been deleted, but the rule preserves the ability of a filer to modify an Official Form to use a typeface substantially similar to the prescribed size and style, to expand or delete the space for responses as appropriate, and to 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. On the other hand, many Official Forms indicate on their face that certain changes are not appropriate. The Official Form chapter 13 plan, for example, requires that topics be addressed in a particular order, and that nonstandard provisions be addressed in a specified section of the plan. Any changes that contravene the instructions on the Official Form chapter 13 plan would be prohibited by this rule.

The rule permits modification of court orders included in the Official Forms, provided that the modification does not conflict with any applicable rule or Official Form. For example, the court may add an additional provision to the Order Approving Payment of Filing Fee in Installments, which is part of Official Form 3A.

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