

(b) ORDER DECLARING LIEN SATISFIED. In a chapter 12 or chapter 13 case, if a claim is subject to a lien under applicable nonbankruptcy law, and the debtor contends that (1) any portion of the claim that is an allowed secured claim has been fully paid, and (2) any other portion of the claim has been discharged, the debtor may request entry of an order determining that the lien has been satisfied. The request shall be made by motion and shall be served on the holder of the claim and any other entity designated by the court in the manner provided by Rule 7004 for service of a summons and complaint. An order entered under this subdivision shall be effective as a release of the lien.

#### 7. Rule 7001

Rule 7001 lists a number of matters that are required to be conducted by adversary proceeding. Included in this list, in Rule 7001(2) are certain proceedings “to determine the validity, priority, or extent of a lien or other interest in property.” This item would be amended to clarify that confirmation of a chapter 12 or chapter 13 plan, rather than an adversary proceeding, may determine secured and priority status under Rule 3012, as well as § 522(f) lien avoidance under Rule 4003(d). The Committee Note would point out that lien avoidance not governed by Rule 4003(d) would continue to require an adversary proceeding.

The Committee Note would also point out that the amendments to Rules 3012, 4003, and 7001 resolve a conflict in the reported decisions as to the proper procedure for eliminating, through a chapter 12 or 13 plan, a second mortgage unsupported by any equity in the debtor’s home. *See In re Bennett*, 466 B.R. 422 (Bankr. S.D. Ohio 2012) (collecting conflicting authorities). The amendments make clear that an adversary proceeding is not required and that the second mortgage may be eliminated through a chapter 12 or 13 plan.

The amendment to Rule 7001 is as follows:

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

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

\* \* \*

(2) a proceeding to determine the validity, priority, or extent of a lien or other interest in property, not including a proceeding under Rule 3012 or Rule 4003(d);

**8. Rule 9009**

The final amendment is to Rule 9009, which governs forms generally. The amendment would address two concerns involving the current provision that official forms may be “used with alterations as may be appropriate” and with “their contents rearranged.” To make all of the forms—and particularly the chapter 13 plan form—consistent in use, these provisions would be eliminated, and the only modifications allowed would be in the omission of form provisions and responses that, by the terms of the form, are inapplicable. The proposed amended language is as follows:

**Rule 9009. Forms**

Except as otherwise provided in Rule 3016(d), the Official Forms prescribed by the Judicial Conference of the United States shall be observed and accepted for filing. If a form indicates that answers to particular questions are not required by the person completing the form, those questions need not be reproduced in the document filed with the court. Specific questions and instructions may not be changed, except that on the schedules the debtor may omit spaces for responses once the debtor has either indicated that the debtor has nothing to report for the category or has scheduled all information pertinent to the category. The Director of the Administrative Office of the United States Courts may issue additional forms for use under the Code. The forms shall be construed to be consistent with these rules and the Code.

Appendix: Redlined version, showing language modifying existing rules

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

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

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

(c) TIME FOR FILING. In a voluntary chapter 7 ~~liquidation~~ case, chapter 12 ~~family farmer's debt adjustment~~ case, or chapter 13 ~~individual's debt adjustment~~ case, a proof of claim is timely filed if it is filed not later than ~~90~~ 60 days after the date of the filing of the petition, and in an involuntary chapter 7 case, a proof of claim is timely filed if it is filed not later than 90 days after the entry of the order for relief, ~~the date first set for the meeting of creditors under § 341(a) of the Code~~ except as follows:

\* \* \*

(6) If the debtor fails to include a creditor on the list required by Rule 1007(a)(1), filed with the petition, or if ~~H~~ notice of the time to file a proof of claim has been mailed to a creditor at a foreign address, on motion filed by the creditor before or after the expiration of the time, the court may extend the time by not more than 60 days from the date of the court's determination if the court finds that the notice was insufficient under the circumstances to give the creditor a reasonable time to file a proof of claim.

1 **Rule 3007. Objections to Claims**

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3 (a) OBJECTIONS TO CLAIMS. An objection to the allowance of a claim shall  
4 be in writing and filed. Except to the extent that a determination of the allowance  
5 of a claim is made under Rule 3012 in connection with plan confirmation in a  
6 chapter 12 or 13 case, a copy of the objection with notice of the hearing thereon  
7 shall be mailed or otherwise delivered to the claimant, the debtor or debtor in  
8 possession and the trustee at least 30 days prior to the hearing.

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

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

6 On request of a party in interest and after notice—to the holder of the  
7 claim and any other entity designated by the court—and a hearing, the court may  
8 determine

- 9 (a) the amount of an allowed secured claim under § 506(a) of the Code,
- 10 (b) the amount necessary to cure any default as of the date of the petition,
- 11 or
- 12 (c) the amount of a claim entitled to priority under § 507 of the Code.

13 The request may be made by motion, in a plan filed in a chapter 12 or 13  
14 case, or in a claim objection. The request shall be served on the holder of the  
15 claim and any other entity designated by the court in the manner provided for  
16 service of a summons and complaint by Rule 7004. Determinations under this  
17 rule may be made with respect to a claim of a governmental unit only after a proof  
18 of claim has been filed by the governmental unit or after the time for filing a proof  
19 of claim under Rule 3002(c)(1) has expired

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

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

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

13 (c) ~~DATING. Every proposed plan and any modification thereof shall be dated.~~  
14 FORM OF CHAPTER 13 PLAN. The plan filed in a chapter 13 case shall be  
15 prepared as prescribed by the appropriate Official Form. Provisions not otherwise  
16 included in the Official Form or deviating from provisions of the Official Form  
17 shall not be effective unless they are included in a section of the Official Form  
18 that is designated for non-standard provisions and are also identified in  
19 accordance with any other requirements of the Official Form.

20 (d) ~~NOTICE AND COPIES. If the plan~~ ~~The plan or a summary of the plan shall~~  
21 ~~be~~ is not included with the ~~each~~ notice of the hearing on confirmation mailed  
22 pursuant to Rule 2002, the debtor shall serve the plan on the trustee and all  
23 creditors when it is filed with the court. ~~If required by the court, the debtor shall~~  
24 ~~furnish a sufficient number of copies to enable the clerk to include a copy of the~~  
25 ~~plan with the notice of the hearing.~~

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

29 (f) OBJECTION TO CONFIRMATION; DETERMINATION OF GOOD FAITH  
30 IN THE ABSENCE OF AN OBJECTION. An objection to confirmation of a plan  
31 shall be filed and served on the debtor, the trustee, and any other entity designated

32 by the court, and shall be transmitted to the United States trustee, ~~before~~  
33 ~~confirmation of the plan~~ at least seven days before the hearing on confirmation,  
34 unless otherwise ordered by the court. An objection to confirmation is governed  
35 by Rule 9014. If no objection is timely filed, the court may determine that the  
36 plan has been proposed in good faith and not by any means forbidden by law  
37 without receiving evidence on such issues.

38 (g) EFFECT OF CONFIRMATION. Any determination made under Rule 3012  
39 of the validity, amount and treatment of a claim filed in a chapter 12 or 13 case  
40 shall be binding on the holder of the claim notwithstanding any contrary proof of  
41 claim filed by the holder in accordance with Rule 3001 or any scheduling of that  
42 claim by the debtor pursuant to § 521(a) of the Code, whether or not any objection  
43 has been filed to the claim under Rule 3007.

44 ~~(g)~~ (h) MODIFICATION OF PLAN AFTER CONFIRMATION. A request to  
45 modify a plan pursuant to § 1229 or § 1329 of the Code shall identify the  
46 proponent and shall be filed together with the proposed modification. The clerk,  
47 or some other person as the court may direct, shall give the debtor, the trustee, and  
48 all creditors not less than 21 days' notice by mail of the time fixed for filing  
49 objections and, if an objection is filed, the hearing to consider the proposed  
50 modification, unless the court orders otherwise with respect to creditors who are  
51 not affected by the proposed modification. A copy of the notice shall be  
52 transmitted to the United States trustee. A copy of the proposed modification, or a  
53 summary thereof, shall be included with the notice. ~~If required by the court, the~~  
54 ~~proponent shall furnish a sufficient number of copies of the proposed~~  
55 ~~modification, or a summary thereof, to enable the clerk to include a copy with~~  
56 ~~each notice.~~ If a copy is not included with the notice and the proposed  
57 modification is sought by the debtor, a copy shall be served on the trustee and all  
58 creditors in the manner provided for service of the plan by subdivision (d) of this  
59 rule. Any objection to the proposed modification shall be filed and served on the  
60 debtor, the trustee, and any other entity designated by the court, and shall be  
61 transmitted to the United States trustee. An objection to a proposed modification  
62 is governed by Rule 9014.