

Western District of Virginia
Chapter 13 Training Webinar

Friday, November 17, 2017

The Honorable Rebecca B. Connelly

Chief Judge, U.S. Bankruptcy Court for the Western District of Virginia

The Honorable Paul M. Black

Judge, U.S. Bankruptcy Court for the Western District of Virginia

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PROPOSED CHANGES TO THE FEDERAL BANKRUPTCY RULES AND OFFICIAL FORMS

A. Revisions to Bankruptcy Rules.

1. Rule 2002 Notices:

- a. The Clerk shall provide no less than 28 days' notice of the hearing on confirmation of Chapter 13 plans and no less than 21 days' notice of the time to object to confirmation of the plan.
 - i. Note: Current Rule 2002 directs the Clerk to provide 28 days' notice of hearing on confirmation and 28 days' notice of time for objecting to confirmation of chapter 13 plan.
- b. The current practice of our court conforms to the amended Rule.

2. Rule 3002 Filing Proof of Claim or Interest:

- a. Amended to clarify that all creditors, including secured creditors, shall file a proof of claim to have an allowed claim, although with specified exceptions.
- b. The bar date in voluntary chapter 7, chapter 13 and chapter 12 cases reduced to 70 days after petition date.
- c. The court may extend the time to file a claim up to 60 days based on the court's determination that notice to a particular creditor was insufficient (but only for unlisted creditors or creditors listed at a foreign or nonexistent address).
- d. **Adds a provision that failure to file a proof of claim does not render the creditor's lien void [see 11 U.S.C. § 506(d)].**
- e. Provides for a mechanism to grant an extension of the deadline for a period of up to 60 days from the date of the order.

- f. Allows mortgage creditors secured by the Debtor's primary residence up to 120 days from the order for relief to file the **supplement and attachments** required by Rule 3001(c) and (d).
- g. This provision does not relieve the mortgage creditor from its obligation to file its claim within the above-referenced 70-day time frame.

3. Rule 3007 Objections to Claim:

- a. Under amended Rule 3007(a), service of a claim objection is made on claimants by mailing notice to the person listed on the proof of claim. Service on federal government or an insured depository institution, however, must be additionally made in accordance with Rule 7004. The amended rule clarifies that a hearing is not required to be held as long as the claimant received notice and opportunity for a hearing.
- b. The Rule clarifies that an objection to claim is a separate proceeding from plan confirmation, *except* that a plan may determine the value of a secured claim, except as to a governmental unit.
 - i. NOTE: Service of a plan seeking to determine the allowed amount of a secured or priority claim must be made in accordance with Rule 7004, pursuant to proposed Rule 3012(b).

4. Rule 3012 Determining the Amount of Secured and Priority Claims:

- a. Determination of value of secured claim bifurcated under section 506(a) may be made through a Chapter 13 Plan.
- b. Accordingly, no separate motion is required in order to bifurcate a secured claim under 506(a). The Plan itself may accomplish the bifurcation.
- c. The service of a Plan seeking to determine the allowed amount of a secured claim, including a valuation motion, must be made in accordance with Rule 7004.

- d. Determination of the amount that a claim is entitled to priority (section 507) may be made by motion or in a claim objection, with a delay for claims of a governmental unit.
5. Rule 3015 Filing, Objection to Confirmation, Effect of Confirmation, and Modification of a Plan in a Chapter 12 or a Chapter 13 Case:
 - a. Official Form Chapter 13 Plan is required unless local form complies with Rule 3015.1.
 - b. Objections to confirmation shall be filed no less than 7 days prior to a hearing on confirmation.
 - c. Plans that contain any Rule 3012 determinations or Rule 4003(d) motions shall be served consistent with Rule 7004.
 - d. Plans not included with the notice of hearing on confirmation mailed under Rule 2002 shall be served by the Debtor.
6. Rule 4003(d) Exemptions:
 - a. Proceeding to void a lien pursuant to section 522(f) may be made through a Chapter 13 Plan.
 - i. NOTE: The Official Form Plan provisions disclose values and the elements necessary to meet the statutory requirements of section 522(f).
 - ii. Service on the affected creditor must be made in accordance with Rule 7004.
7. Rule 5009 Closing Chapter 7, Chapter 12, Chapter 13 and Chapter 15 Cases; Order Declaring Lien Satisfied:
 - a. Provides for a new procedure for Debtor to file an action to declare a lien satisfied.
 - b. The revised rule clarifies that the Debtor may seek “an order declaring that the secured claim has been satisfied and the lien has been released under the terms of a confirmed plan.” *The rule provides a mechanism to obtain an order declaring the effects of a confirmed plan.*

c. This provision was added in order to deal with the often-troubling situation wherein a lien has been avoided but the lien remains of record in the state court land records and provides the Debtor with a mechanism to resolve this dilemma.

d. The request shall be by motion, and service of the motion (request) shall be in accordance with Rule 7004.

i. NOTE: this Rule does not mandate the action; it simply permits the option without prejudice to the debtor.

8. Rule 7001 Scope of Rules of Part VII:

a. Amended to clarify that an action to determine the extent, validity and priority of a lien shall not include the actions contemplated under Rule 3012 or 4003(d)

i. NOTE: an action to strip is not required to be by Adversary Proceeding IF it is made in connection with the Official Form Chapter 13 Plan.

9. Rule 9009 Forms:

a. Prohibits deviations from the Official Form unless permitted by the national instructions for the form, the Bankruptcy Rules, or the form itself. "Official Forms may be modified to permit minor changes not affecting wording or the order of presenting information"

Comparison

Official Form Plan and Virginia Form Plan

Rule Changes	Official Form Plan	Virginia Form Plan
<p>New Rule 2002 provides that the Clerk shall provide no less than 28 days' notice of the hearing on confirmation of the plan and no less than 21 days notice of the time to object to confirmation</p>	<p>Official Form Plan does not provide date, time and place for confirmation hearing</p>	<p>VA Form Provides date, time and place for confirmation hearing on page one of plan</p>
	<p>Official Form Plan contains a check box on the first page to indicate whether the plan is "amended" and blank lines to list the sections that have been changed</p>	<p>VA Form provides selection for whether plan is first (original) or modified, as well as text box to state what provision modified or creditors affected if plan is a modified plan</p>
	<p>Official Form plan does not report the total scheduled assets or total scheduled debts</p>	<p>VA Plan reports total scheduled assets, total scheduled debts by classification (non-priority unsecured, priority and secured)</p>
<p>Rule 3015 and 3015.1; Rule 3012</p>	<p>Official Form Plan orders the provisions as follows:</p> <ol style="list-style-type: none"> 1. Payments to trustee [part 2] 2. long term debts to be maintained directly and defaults cured by trustee [part 3.1] 3. secured claims to be paid by trustee and subject to modification [part 	<p>VA Form Order of plan provisions:</p> <ol style="list-style-type: none"> 1. payments to trustee <i>[provided in official form plan part 2]</i> 2. trustee disbursements to priority and administrative claims <i>[provided in official form plan part 4]</i> 3. trustee disbursements to

	<p>3.2]</p> <p>4. secured claims to be paid by trustee not subject to modification (“hanging paragraph” claims) [part 3.3]</p> <p>5. lien avoidance under 522(f) [part 3.4]</p> <p>6. surrender of collateral [part 3.5]</p> <p>7. priority claims and administrative claims [part 4]</p> <p>8. unsecured non-priority claims (including provision for separately classified long term unsecured debts) [part 5]</p> <p>9. unexpired leases and executory contracts [part 6]</p> <p>10. vesting election for property of the estate post confirmation [part 7]</p> <p>11. non-standard or “other” provisions [part 8]</p> <p>12. exhibit: Total Amount of Estimated Trustee Payments (estimated amounts to be received by trustee and disbursed by trustee pursuant to</p>	<p>secured claims: a) provides for valuation under § 506; b) provides for surrender of collateral <i>[provided in official form plan part 3.5]</i>; c) provides for payment of adequate protection required by § 1326<i>[to be addressed by local rule or Director’s form supplement]</i>; d) provides for all disbursements by trustee to secured claims other than long term debts; <i>[provided in official form plan part 3]</i></p> <p>4. trustee disbursements to unsecured creditors <i>[provided in official form part 5]</i></p> <p>5. Long term debts and cure of default <i>[provided in part 3 if secured and 5 if unsecured]</i>; and 1322(c) short term mortgage debts subject to modification <i>[provided in official form part 3]</i></p> <p>6. Unexpired leases and executory contracts <i>[provided in official form plan part 6]</i></p> <p>7. lien avoidance under 522(f) and notice of other lien avoidance</p>
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	<p>proposed terms)</p>	<p>actions <i>[provided in official form parts 3 and 5]</i></p> <p>8. instructions for treatment of claims <i>[official form plan instructions or commentary contained on page one of form or in comments to Rule]</i></p> <p>9. vesting default provision (not election) <i>[official form plan part 7]</i></p> <p>10. instruction regarding approval of incurrence of post-petition indebtedness <i>[no corollary in official form plan]</i></p> <p>11. other “non-standard” provisions <i>[official form part 8]</i></p> <p>12. exhibits: Schedules I and J; Special Notice regarding valuation; Special Notice regarding Adequate Protection [Western District only]; matrix; certificate of service <i>[no corollary in Official Form Plan]</i></p>
	<p>Official Form Plan provides estimates for amounts to cure default long term debt or claims not subject to modification (“hanging paragraph claims”) or governmental unit claims. In other words, the “claim controls” long term arrearages, 910 car claims,</p>	<p>Much the same: Virginia plan provides for estimated amounts but that the trustee is to disburse based on “allowed claims” for priority claims, mortgage arrearages and claims subject to the hanging paragraph. Thus, the “claim controls” all but valuations and amount of pot</p>

	one year claims and tax or other governmental unit claims. For other amounts, the plan controls.	or percentage to unsecured creditors.
	Official Form Plan requires a statement of Chapter 7 liquidation value for non-priority unsecured claims, and requires the plan to pay at least this amount. Official Form Plan permits election (multiple elections permitted) to disburse to unsecured creditors: 1) a defined "pot," or 2) a defined "percentage," or 3) simply pro rata.	VA Plan contains liquidation test analysis and requires disclosure of comparable percentage under proposed plan as compared against a hypothetical chapter 7.
	Official Form Plan language regarding stay relief when the debtor is maintaining payments ["outside plan"] and trustee is curing default: "If relief from the automatic stay is ordered as to any item of collateral listed in this paragraph . . . all payments under this paragraph as to that collateral will cease and all claims as to that collateral will no longer be treated by the plan."	No corollary in Virginia form plan; often provided in orders granting relief from stay.
	Official Form Plan language regarding stay relief for surrendered collateral: "The debtor(s) elect to surrender to each creditor listed below the collateral that secures the creditor's claim. The debtor(s) request that upon	Virginia Form Plan language regarding surrendered collateral: "Real or Personal Property to be Surrendered. Upon confirmation of the Plan, or before, the debtor(s) will surrender his/her/their interest in the collateral securing the claims of the

	confirmation of this plan the stay under 11 U.S.C. § 362(a) be terminated as to the collateral only and that the stay under § 1301 be terminated in all respects. Any allowed unsecured claim resulting from the disposition of the collateral will be treated in Part 5 [<i>unsecured claims</i>] below.”	following creditors in satisfaction of the secured portion of such creditors’ allowed claims. To the extent that the collateral does not satisfy the claim, any timely filed deficiency claim to which the creditor is entitled may be paid as a non-priority unsecured claim. Confirmation of the Plan shall terminate the automatic stay as to the interest of the debtor(s) and the estate in the collateral.”
Rule 3012	Determination of value of secured claim bifurcated under section 506(a) may be made through a chapter 13 plan and no separate motion is needed. Service of the plan must be made in accordance with Rule 7004	Under VA Form plan, determination of value of secured claim bifurcated under section 506(a) may be made through a chapter 13 plan and the motion to value is incorporated into the plan. Service of the plan is pursuant to Rule 2002 and not Rule 7004
Rule 4003(d)	Request to void a lien under section 522(f) may be made through a chapter 13 plan. The Official Form plan provides that the provision to void a lien under 522(f) plan must disclose values and the elements necessary to meet statutory requirements of section 522(f). Any other type of lien avoidance requires adversary proceeding.	Va Form Plan permits in paragraph 7 lien avoidance under 522(f) by disclosing the statutory exemption claimed but not values required under section 522(f). Virginia practice requires separate proceeding for any other type of lien avoidance.
Rule 5009	Debtor may file an action to obtain “an order declaring that the secured	Some attorneys currently do this by separate motion.

	claim has been satisfied and the lien has been released under the terms of the confirmed plan.”	
Rule 7001	An action to determine the extent validity and priority of a lien shall not include the actions contemplated under Rule 3015 [cramdown] or Rule 4003(d) [lien avoidance under 522(f)]	

Fill in this information to identify your case:

Debtor 1 _____
 First Name Middle Name Last Name

Debtor 2 _____
 (Spouse, if filing) First Name Middle Name Last Name

United States Bankruptcy Court for the: _____ District of _____
 (State)

Case number _____
 (If known)

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

Official Form 113
Chapter 13 Plan

12/17

Part 1: Notices

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

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

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

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

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

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

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

Part 2: Plan Payments and Length of Plan

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

\$ _____ per _____ for _____ months

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

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

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

Check all that apply.

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

2.3 Income tax refunds.

Check one.

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

2.4 Additional payments.

Check one.

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

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

Part 3: Treatment of Secured Claims

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

Check one.

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

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

Insert additional claims as needed.

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

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

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

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

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

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

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

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

Insert additional claims as needed.

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

Check one.

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

The claims listed below were either:

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

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

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

Insert additional claims as needed.

3.4 Lien avoidance.

Check one.

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

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

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

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

Insert additional claims as needed.

3.5 Surrender of collateral.

Check one.

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

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

Name of creditor	Collateral
_____	_____
_____	_____

Insert additional claims as needed.

Part 4: Treatment of Fees and Priority Claims

4.1 General

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

4.2 Trustee's fees

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

4.3 Attorney's fees

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

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

Check one.

- None.** If "None" is checked, the rest of § 4.4 need not be completed or reproduced.
- The debtor(s) estimate the total amount of other priority claims to be _____.

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

Check one.

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

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

Insert additional claims as needed.

Part 5: Treatment of Nonpriority Unsecured Claims

5.1 Nonpriority unsecured claims not separately classified.

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

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

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

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

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

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

Insert additional claims as needed.

5.3 Other separately classified nonpriority unsecured claims. Check one.

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

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

Insert additional claims as needed.

Part 6: Executory Contracts and Unexpired Leases

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

- None.** If "None" is checked, the rest of § 6.1 need not be completed or reproduced.
- Assumed items.** Current installment payments will be disbursed either by the trustee or directly by the debtor(s), as specified below, subject to any contrary court order or rule. Arrearage payments will be disbursed by the trustee. The final column includes only payments disbursed by the trustee rather than by the debtor(s).

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

Insert additional contracts or leases as needed.

Part 7: Vesting of Property of the Estate

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

Check the applicable box:

- plan confirmation.
- entry of discharge.
- other: _____.

Part 8: Nonstandard Plan Provisions

8.1 Check "None" or List Nonstandard Plan Provisions

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

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

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

Part 9: Signature(s):

9.1 Signatures of Debtor(s) and Debtor(s)' Attorney

If the Debtor(s) do not have an attorney, the Debtor(s) must sign below; otherwise the Debtor(s) signatures are optional. The attorney for the Debtor(s), if any, must sign below.

x _____
Signature of Debtor 1

x _____
Signature of Debtor 2

Executed on _____
MM / DD / YYYY

Executed on _____
MM / DD / YYYY

x _____
Signature of Attorney for Debtor(s)

Date _____
MM / DD / YYYY

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

Exhibit: Total Amount of Estimated Trustee Payments

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

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

Total of lines a through j

\$ _____

Committee Note

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

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

Part 2. This part states the proposed periodic plan payments, the estimated total plan payments, and sources of funding for the plan. Section 2.1 allows the debtor or debtors to propose periodic payments in other than monthly intervals. For example, if the debtor receives a paycheck every week and wishes to make plan payments from each check, that should be indicated in § 2.1. If the debtor proposes to make payments according to different "steps," the amounts and intervals of those payments should also be indicated in § 2.1. Section 2.2 provides for the manner in which the debtor will make regular payments to the trustee. If the debtor selects the option of making payments pursuant to a payroll deduction order, that selection serves as a request by the debtor for entry of the order. Whether to enter a payroll deduction order is determined by the court. See Code § 1325(c). If the debtor selects the option of making payments other than by direct payments to the trustee or by a payroll deduction order, the alternative method (*e.g.*, a designated third party electronic funds transfer program) must be specified. Section 2.3 provides

for the treatment of any income tax refunds received during the plan term.

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

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

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

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

Section 3.3 deals with secured claims that under the so-called "hanging paragraph" of § 1325(a)(5) may not be bifurcated into secured and unsecured portions under Code § 506(a), but it allows for the proposal of an interest rate other than the contract rate to be applied to payments on such a claim. A contrary claim amount listed on the creditor's timely filed proof of claim, unless contested by

objection or motion, will control over the amount given in the plan. If appropriate, a claim may be treated under § 3.1 instead of § 3.3.

In § 3.4, the plan may propose to avoid certain judicial liens or security interests encumbering exempt property in accordance with Code § 522(f). This section includes space for the calculation of the amount of the judicial lien or security interest that is avoided. A plan proposing avoidance in § 3.4 must be served in the manner provided by Bankruptcy Rule 7004 for service of a summons and complaint. *See* Bankruptcy Rule 4003. Section 3.4 will not be effective unless the appropriate check box in Part 1 is selected.

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

Part 4. This part provides for the treatment of trustee's fees and claims entitled to priority status. Section 4.1 provides that trustee's fees and all allowed priority claims (other than those domestic support obligations treated in § 4.5) will be paid in full. In § 4.2, the plan lists an estimate of the trustee's fees. Although the estimate may indicate whether the plan will be feasible, it does not affect the trustee's entitlement to fees as determined by statute. In § 4.3, the form requests a statement of the balance of attorney's fees owed. Additional details about payments of attorney's fees, including information about their timing and approval, are left to the requirements of local practice. In § 4.4, the plan calls for an estimated amount of other priority claims. A contrary amount listed on the creditor's proof of claim, unless changed by court order in response to an objection or motion, will control over the amount given in § 4.4. In § 4.5, the plan may propose to pay less than the full amount of a domestic support obligation that has been assigned to, or is owed to, a governmental unit, but not less than the amount that claim would have received in a chapter 7 liquidation. *See* §§ 1322(a)(4) and 1325(a)(4) of the Code. This plan provision requires that the plan payments be for a term of 60 months. *See* § 1322(a)(4).

Part 5. This part provides for the treatment of unsecured claims that are not entitled to priority status. In § 5.1, the plan may propose to pay nonpriority unsecured claims in accordance with several options. One or more options may be selected. For example, the plan could propose simply to pay unsecured creditors any funds remaining after disbursements to other creditors, or it could also provide that a defined percentage of the total amount of unsecured claims will be paid. In § 5.2, the plan may propose to cure any arrearages and maintain periodic payments on long-term, nonpriority unsecured debts pursuant to § 1322(b)(5) of the Code. In § 5.3, the plan may provide for the separate classification of nonpriority unsecured claims (such as co-debtor claims) as permitted under Code § 1322(b)(1).

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

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

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

Part 8. This part gives the debtor or debtors the opportunity to propose provisions that are not otherwise in, or that deviate from, 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(c).

Part 9. The plan must be signed by the attorney for the debtor or debtors. If the debtor or debtors are not

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

Amendments to Federal Rules of Bankruptcy Procedure
Effective December 1, 2017, Related to Chapter 13 Practice

N.B.: Strike-through text represents deletions and underlined text represents new additions.

Fed. R. Bankr. P.	Amended Language
2002(a)	<p>(a) TWENTY-ONE-DAY NOTICES TO PARTIES IN INTEREST. Except as provided in subdivisions (h), (i), (l), (p), and (q) of this rule, the clerk, or some other person as the court may direct, shall give the debtor, the trustee, all creditors and indenture trustees at least 21 days' notice by mail of:</p> <p style="text-align: center;">* * * * *</p> <p style="padding-left: 40px;">(7) the time fixed 14 for filing proofs of claims pursuant to Rule 3003(c); and</p> <p style="padding-left: 40px;">(8) the time fixed for filing objections and the hearing to consider confirmation of a chapter 12 plan; <u>and</u></p> <p style="padding-left: 40px;">(9) the time fixed for filing objections to confirmation of a chapter 13 <u>plan.</u></p>
2002(b)	<p>(b) TWENTY-EIGHT-DAY NOTICES TO PARTIES IN INTEREST. Except as provided in subdivision (l) of this rule, the clerk, or some other person as the court may direct, shall give the debtor, the trustee, all creditors and indenture trustees not less than 28 days' notice by mail of the time fixed (1) for filing objections and the hearing to consider approval of a disclosure statement or, under §1125(f), to make a final determination whether the plan provides adequate information so that a separate disclosure statement is not necessary; and (2) for filing objections and the hearing to consider confirmation of a chapter 9; <u>or chapter 11, or chapter 13 plan; and (3) for the hearing to consider confirmation of a chapter 13 plan.</u></p>
3002(a)	<p>(a) NECESSITY FOR FILING. An <u>A</u> secured creditor, 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. <u>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.</u></p>
3002(c)	<p>(c) TIME FOR FILING. In a <u>voluntary</u> chapter 7 <u>liquidation</u> 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 <u>90</u> 90 days after <u>the order for relief under that chapter or the date of the order of conversion to a case under chapter 12, or chapter 13.</u> In an involuntary chapter 7 case, a proof of claim is timely filed if it is filed not later than 90 days after the order for relief under that chapter is entered. the first date set for the meeting of creditors called under § 341(a) of the Code, except as follows: <u>But in all these cases, the following exceptions apply:</u></p> <p style="text-align: center;">* * * * *</p> <p style="padding-left: 40px;">(6) If notice of the time to file a proof of claim has been mailed to a</p>

~~creditor at a foreign address, e~~On motion filed by the creditor before or after the expiration of the time to file a proof of claim, the court may extend the time by not more than 60 days from the date of the order granting the motion. The motion may be granted 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 (A) the notice was insufficient under the circumstances to give the creditor a reasonable time to file a proof of claim because the debtor failed to timely file the list of creditors' names and addresses required by Rule 1007(a); or (B) the notice was insufficient under the circumstances to give the creditor a reasonable time to file a proof of claim, and the notice was mailed to the creditor at a foreign address.

(7) A proof of claim filed by the holder of a claim that is secured by a security interest in the debtor's principal residence is timely filed if: (A) the proof of claim, together with the attachments required by Rule 3001(c)(2)(C), is filed not later than 70 days after the order for relief is entered; and (B) any attachments required by Rule 3001(c)(1) and (d) are filed as a supplement to the holder's claim not later than 120 days after the order for relief is entered.

3007(a)

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

~~(1) *Time of Service.* An objection to the allowance of a claim and a notice of objection that substantially conforms to the appropriate Official Form shall be in writing and filed and served at least 30 days before any scheduled hearing on the objection or any deadline for the claimant to request a hearing. A copy of the objection with notice of the hearing thereon shall be mailed or otherwise delivered to the claimant, the debtor or debtor in possession, and the trustee at least 30 days prior to the hearing.~~

~~(2) *Manner of Service.*~~

~~(A) The objection and notice shall be served on a claimant by first-class mail to the person most recently designated on the claimant's original or amended proof of claim as the person to receive notices, at the address so indicated; and (i) if the objection is to a claim of the United States, or any of its officers or agencies, in the manner provided for service of a summons and complaint by Rule 7004(b)(4) or (5); or (ii) if the objection is to a claim of an insured depository institution, in the manner provided by Rule 7004(h);~~

~~(B) If, as authorized by Rule 3003(b)(1), no proof of claim was filed, the objection and notice shall be served on the creditor by first class mail at the address contained in the schedule of liabilities and, if applicable, in the manner provided in subdivision (a)(2)(A)(i) or (a)(2)(A)(ii).~~

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

3012

~~Valuation of Security~~Determining the Amount of Secured and Priority Claims

~~The court may determine the value of a claim secured by a lien on property in~~

~~which the estate has an interest on motion of any party in interest and after a hearing on notice to the holder of the secured claim and any other entity as the court may direct.~~

(a) DETERMINATION OF AMOUNT OF CLAIM.

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

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

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

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

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

3015(c)

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

3015(d)

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

3015(e)

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

3015(f)

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

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

3015(g)

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

(1) any determination in the plan made under Rule 3012 about the amount of a secured claim is binding on the holder of the claim, even if the holder files a contrary proof of claim or the debtor schedules that claim, and regardless of whether an objection to the claim has been filed; and

(2) any request in the plan to terminate the stay imposed by § 362(a), § 1201(a), or § 1301(a) is granted.

3015(h)

~~(g)~~(h) MODIFICATION OF PLAN AFTER CONFIRMATION. A request to modify a plan ~~pursuant to~~ under § 1229 or § 1329 of the Code shall identify the proponent and shall be filed together with the proposed modification. The clerk, or some other person as the court may direct, shall give the debtor, the trustee, and all creditors not less than 21 days' notice by mail of the time fixed for filing objections and, if an objection is filed, the hearing to consider the proposed modification, unless the court orders otherwise with respect to creditors who are not affected by the proposed modification. A copy of the notice shall be transmitted to the United States trustee. A copy of the proposed modification, or a summary thereof, shall be included with the notice. ~~If required by the court, the proponent shall furnish a sufficient number of copies of the proposed modification, or a summary thereof, to enable the clerk to include a copy with each notice.~~ Any objection to the proposed modification shall be filed and served on the debtor, the trustee, and any other entity designated by the court, and shall be transmitted to the United States trustee. An objection to a proposed modification is governed by Rule 9014.

3015.1

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

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

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

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

(1) contain any nonstandard provision;

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

(3) avoid a security interest or lien;
(d) the Local Form contains separate paragraphs for:
(1) curing any default and maintaining payments on a claim secured by the debtor's principal residence;
(2) paying a domestic-support obligation;
(3) paying a claim described in the final paragraph of § 1325(a) of the Bankruptcy Code; and
(4) surrendering property that secures a claim with a request that the stay be terminated as to the surrendered collateral; and
(e) the Local Form contains a final paragraph for:
(1) the placement of nonstandard provisions, as defined in Rule 3015(c), along with a statement that any nonstandard provision placed elsewhere in the plan is void; and
(2) certification by the debtor's attorney or by an unrepresented debtor that the plan contains no nonstandard provision other than those set out in the final paragraph.

4003(d) (d) AVOIDANCE BY DEBTOR OF TRANSFERS OF EXEMPT PROPERTY. A proceeding under § 522(f) 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 by in accordance with Rule 9014, or by serving a chapter 12 or chapter 13 plan on the affected creditors 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 filed request~~ under § 522(f) by challenging the validity of the exemption asserted to be impaired by the lien.

5009(d) (d) ORDER DECLARING LIEN SATISFIED. In a chapter 12 or chapter 13 case, if a claim that was secured by property of the estate is subject to a lien under applicable nonbankruptcy law, the debtor may request entry of an order declaring that the secured claim has been satisfied and the lien has been released under the terms of a confirmed plan. The request shall be made by motion and shall be served on the holder of the claim and any other entity the court designates in the manner provided by Rule 7004 for service of a summons and complaint.

7001 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, ~~other than~~ but not a proceeding under Rule 3012 or Rule 4003(d);

9009 (a) OFFICIAL FORMS. Except as otherwise provided in Rule 3016(d), theThe Official Forms prescribed by the Judicial Conference of the United States ~~shall be observed and used with alterations as may be~~

appropriate without alteration, except as otherwise provided in these rules, in a particular Official Form, or in the national instructions for a particular Official Form. Forms may be combined and their contents rearranged to permit economies in their use. Official Forms may be modified to permit minor changes not affecting wording or the order of presenting information, including changes that

(1) expand the prescribed areas for responses in order to permit complete responses;

(2) delete space not needed for responses; or

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

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

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

LOCAL RULE 3012-1

Valuation of Securities

~~A. Motion for Valuation: Any party requesting a determination by the Court on the value of a claim secured by a lien on property in which the estate has an interest must file a motion and notice of hearing using the form and format set forth in Form 3012-1A (Motion for Valuation Hearing) and Form 3012-1B (Notice of Valuation Hearing).~~

~~B. Objections: Written objections are to be filed with the Court and copies mailed to counsel for the debtor(s) and to the trustee within thirty (30) days from the date of the Notice of Valuation Hearing. Failure to file timely objections may result in an order being entered approving the Motion for Valuation without further notice or hearing.~~

~~C. Entry of Order: The Trustee shall set forth the Court's ruling(s) on any valuation motions filed in the Order of Confirmation, unless counsel requests entry of a specific order and tenders same to the Court for entry.~~

LOCAL RULE 3015-1

Chapter 13 - Plan

A. Filing of Plan:

1. Requirement: The debtor(s) shall file a Chapter 13 plan not later than fourteen (14) days after the commencement of the Chapter 13 case. The plan shall be accompanied by proof of service.

2. Required Form Plan: ~~Chapter 13 debtors shall use Official Form 113 (Chapter 13 Plan). The Court has supplied a form plan (3015-1B) that is required to be used by Chapter 13 debtors.~~

~~3. Notice to Secured Creditors: The debtor must also properly serve on each creditor whose collateral is to be valued or whose lien is to be partially or entirely avoided the Special Notice to Secured Creditors attached to these local rules as form 3015-1C.~~

43. Extension of Time to File Plan:

(a) General Policy: Motions to extend the time for filing of a Chapter 13 plan must be in writing.

(b) Motion to Extend Time for Filing Plan: A motion to extend time for the filing of a plan shall not be considered by the Court unless the same is filed within fourteen (14) days after the date of commencement of the Chapter 13 case, or the failure to file falls under the provisions of Rule 60 of the Federal Rules of Civil Procedure.

(c) Notice of Extension of Time to File Plan: If the Court grants the debtor's motion to extend time to file a Chapter 13 plan, the debtor(s) shall forthwith notify the trustee and all creditors of the new deadline set for filing the plan and of the new objection period.

B. Distribution of Plan: The debtor(s) shall distribute a copy of the plan to all creditors, the standing trustee, and other interested parties and provide the eCourt with proof of service of the same. If the plan contains (i) a request under 522(f) to avoid a lien or other transfer of property exempt under the Code or (ii) a request to determine the amount of a secured claim, the certificate of service shall certify that the plan was served on the affected creditors in the manner provided by Rule 7004 for service of a summons and complaint.

LOCAL RULE 3015-2

Chapter 13 - Amendments to Plan

A. Pre-Confirmation Amendments:

1. Filed with the Court thirty-five (35) or more days prior to confirmation: If an amended plan is filed with the Court thirty-five (35) days or more prior to the date first set for a confirmation hearing, the debtor shall file with said amended plan proof of service as set forth in section “D” of this rule. The debtor shall also file a copy of the notice served with such plan advising all creditors and other parties in interest of the date for the confirmation hearing upon such plan and that any objection to its confirmation must be filed in writing at least ~~fourteen (14)~~seven (7) days in advance of such hearing in order to be heard.
2. Filed with the Court less than thirty-five (35) days prior to confirmation: If an amended plan is filed with the Court less than thirty-five (35) days prior to the date first set for a confirmation hearing, the debtor(s) is required to file the amended plan with the Court to allow the entry of an order setting a new date for the confirmation hearing. The debtor(s) will then be required to serve a copy of said order, along with the proposed plan as set forth in section “C” of this rule.

B. Post-Confirmation Amendments: If an amended plan is filed after confirmation, the debtor(s) is required to file the amended plan with the Court to allow the entry of an order setting a date for hearing on the proposed modifications. The debtor(s) will then be required to serve a copy of said order, along with the proposed plan, as set forth in section “C” of this rule.

C. Distribution of Amended Plan: The debtor(s) shall serve any amended plan on:

1. the standing trustee, and
2. all creditors and interested parties on the mailing matrix unless otherwise ordered by the Court.

D. Proof of Service: Contemporaneous with the distribution of an amended plan, the debtor(s) shall file a proof of service certification with the Court evidencing service on the standing trustee and all creditors on the debtor’s mailing matrix unless otherwise ordered by the Court. If the plan contains (i) a request under 522(f) to avoid a lien or other transfer of property exempt under the Code or (ii) a request to determine the amount of a secured claim, the certificate of service shall certify that the plan was served on the affected creditors in the manner provided by Rule 7004 for service of a summons and complaint.

LOCAL RULE 3015-3

Chapter 13 Confirmation Requirements

- A. Certification to the Court: Prior to a debtor(s)' confirmation hearing or the entry of an initial confirmation order, all debtor(s) shall sign the "Affidavit of Debtor(s) Requesting Confirmation of Plan" (Form 3015-3A) to certify compliance with this rule and shall file it with the Clerk of Court and shall deliver a copy to the Chapter 13 Trustee.
- ~~B. Video Presentation: The Court has prepared a video presentation and written instructions for review by Chapter 13 debtors. Prior to filing an initial Chapter 13 plan, counsel for the Chapter 13 debtor(s) shall deliver the Court's written instructions to the Chapter 13 debtor(s), review them with the Chapter 13 debtor(s), and provide the Chapter 13 debtor(s) an opportunity to ask questions about the instructions of the Court. All Chapter 13 debtors are encouraged to view the video. However, in the Court's discretion, or upon written request of any party in interest, with good cause shown, the Court may direct a mandatory view of the video by any Chapter 13 debtor.~~

CODIFIES STANDING ORDER #10

LOCAL RULE 3015-4

Chapter 13 - Objections to Confirmation

- A. Deadline for Original Plan and Related Motions: Any objection to confirmation of the original Chapter 13 Plan or any objection to a request made therein, ~~the Motion for Determination of Value, the Motion for Lien Avoidance or the Motion to Assume or Reject an Executory Contract or Unexpired Lease~~, shall be filed not later than seven (7) days prior to the date set for the confirmation hearing. Any extension of the original objection period must be requested by motion.
- B. Deadline for Modified Plans: Any objection to a modified Chapter 13 Plan or any objection to a request made therein shall be filed at least ~~fourteen (14)~~ seven (7) days in advance of the confirmation hearing for such Plan, ~~except that an objection may be filed within twenty-eight (28) days after the date of service of such Plan and accompanying notice, if later.~~
- C. Service of Objection: The objecting party shall file the original objection to confirmation with the Court and serve copies on the standing trustee, the debtor(s), and the debtor's attorney. The objection shall be accompanied by proof of service evidencing compliance with this requirement.

LOCAL RULE 4001-2

Pre-Confirmation Adequate Protection and Lease Payments in Chapter 13 Cases

A. Payments due under personal property leases governed by 11 U.S.C. §1326(a)(1)(b): All such payments shall be made directly by the debtor to the lessor and the debtor shall furnish proof of such payments to the chapter 13 trustee, unless the debtor's plan expressly provides that such pre-confirmation payments will be made to the trustee, in which event the trustee shall pay the lessor, both before and after confirmation, or unless the Court, after motion, notice and opportunity for a hearing, orders otherwise.

B. Pre-confirmation adequate protection payments governed by 11 U.S.C. § 1326(a)(1)(c): If the debtor's proposed plan so provides, pre-confirmation adequate protection payments governed by 11 U.S.C. § 1326(a)(1)(c) shall be made by the debtor to the chapter 13 trustee as part of the total payment to the trustee, who shall disburse the amount provided for by the plan as pre-confirmation adequate protection payments to the secured creditor promptly prior to confirmation. Unless the plan provides otherwise in Part 8 or the Court orders otherwise, the amounts for adequate protection for holders of allowed secured claims secured by purchase money security interest in personal property (see 11 U.S.C. § 1326(a)(1)(c)) shall be the amounts to be disbursed under Parts 3.2 or 3.3 of the plan. In the event the proposed plan ~~makes no provision for the making of such payments or~~ provides that such payments shall be made directly, such payments shall be made by the debtor directly to the creditor(s) entitled to receive them and the debtor shall provide proof and an accounting thereof to the trustee.

CODIFIES STANDING ORDER #9

LOCAL RULE 6004-3

Sale of Property; ~~or~~ Refinancing; Loan Modification; and the ~~e~~ of Property Incurrence of Debt in Amounts Totaling More Than \$15,000 by Chapter 13 Debtor ~~After Confirmation~~

- A. A debtor seeking approval for the sale or refinance of real property or approval of a loan modification agreement ~~following confirmation of a plan that reverts such property in the debtor~~ shall provide the chapter 13 trustee and all creditors and parties in interest at least twenty-one (21) days' notice of the motion seeking such approval unless the notice period has been shortened by the Court for cause shown. The application at a minimum shall attach the proposed sale contract, proposed refinancing agreement, or proposed loan modification agreement.
- B. In addition to setting forth the information required by FRBP 2002(c)(1), the notice of sale or refinancing shall state (i) the total proposed sale price or maximum amount to be secured by the refinancing, as the case may be, and, in the case of a refinancing, the amount of the secured debt to be paid thereby; (ii) the amount of the sale or loan proceeds to be applied to the debtor's obligations under the confirmed plan; (iii) whether such payment will result in full payment of all allowed claims, and (iv) if all allowed claims will not be paid in full, the amount of the sale or loan proceeds that will be paid to the debtor.
- C. If no objection (and, if the motion has not already been set for hearing, a request for hearing) is filed within the objection period, the Court, in its discretion, may enter an order endorsed by the chapter 13 trustee approving the sale or refinance without holding a hearing.
- D. The debtor(s) shall not voluntarily incur additional indebtedness exceeding the cumulative total of \$15,000 principal and interest during the term of this Plan, either unsecured or secured, except upon approval of the Court after notice to the Trustee, any creditor who has filed a request for notice, and other creditors to the extent required by the Local Rules of this Court.

LOCAL RULE 7001-1

Adversary Proceedings - General Requirements for Allowed Paper Filings

- A. Venue: All complaints shall be filed in the divisional office of the Court in which the bankruptcy case is pending.
- B. Representation by Counsel: Any entity, as defined in 11 U.S.C. §101(15), other than an individual a person, must be represented at all times by an attorney who is a member in good standing of the Bar of this Court.
- C. Requirements of Form: All papers offered for filing shall meet the following requirements of form:
1. Legibility: Papers shall be plainly and legibly type-written, printed, or reproduced.
 2. Caption, Official Forms: The caption and form of all pleadings, schedules, and other papers shall be in compliance with the Bankruptcy Rules, Official Forms, and Local Rules. Each paper or set of papers filed shall bear the case number of the case to which it pertains.
 3. Size, Margins, etc.: Papers, including attachments and exhibits, shall be of standard weight and letter (8 ½ by 11 inches) size, photo-reduced if necessary, with a top margin of not less than 1 ½ inches. All multi-page pleadings and documents shall be fastened into sets at the top. All papers presented for filing at the same time shall be arranged in case number order.
 4. Address and, Telephone Number, and Email Address of Attorney: The lower left-hand portion of the signature page of the pleading shall include the name, address, telephone number, and email address, if any, of the attorney or *pro se* party filing the same.
- D. Additional Requirements: Each complaint commencing an adversary proceeding must be accompanied by:
1. Filing Fees: the proper filing fee, as prescribed by the Judicial Conference pursuant to 28 U.S.C. 1930(b).
 2. Original Signature: a properly completed and originally signed Adversary Proceeding Cover Sheet (A.O. Form B-104). (Upon request, this form will be provided by the Clerk's Office.)

**UNITED STATES BANKRUPTCY COURT
FOR THE WESTERN DISTRICT OF VIRGINIA**

IN RE: _____ CHAPTER 13

_____ Debtor
RE: _____ CASE NO.

_____ Creditor

MOTION FOR VALUATION HEARING

Collateral: _____

Total Debt owed to Creditor: \$ _____

Value of Collateral by Debtor \$ _____

Special Provisions of Payment of Debt: _____

— Comes now the debtor(s), by counsel, who asks that a valuation hearing be held to determine the value of the collateral upon which the above named creditor has a lien. The debtor(s) claims the collateral has a fair market value as stated above. If the Court agrees with the debtor(s) that the aforesaid secured fair market value is as shown above then the secured creditor will be paid the fair market value in accordance with the filed Chapter 13 Plan and the remaining debt after the fair market value is deducted will be treated as a general unsecured non-priority debt under the Chapter 13 Plan.

~~— ANY CREDITOR OR PARTY IN INTEREST OBJECTING TO THIS MOTION SHALL FILE WITH THE COURT, THE TRUSTEE AND COUNSEL FOR THE DEBTOR(S) ITS WRITTEN OBJECTION NOT LATER THAN THIRTY (30) DAYS FROM THE DATE BELOW.~~

Date Mailed: _____

By: _____
_____ Counsel

Counsel for Debtor(s)

UNITED STATES BANKRUPTCY COURT
FOR THE WESTERN DISTRICT OF VIRGINIA

IN RE: _____ CHAPTER 13

_____ Debtor
RE: _____ CASE NO.

_____ Creditor

NOTICE OF VALUATION HEARING

_____ The debtor(s) has filed the attached motion asking that a valuation hearing be held to determine the value of the secured collateral of the above-named creditors. The U.S. Bankruptcy Court has set a time period of thirty (30) days from the date below for the above named creditor to object in writing to the valuation of the collateral listed on the attached motion. If the above named creditor files an objection to the valuation within the time period specified in this notice, then the Bankruptcy Court has set the date of _____, 200__ at _____ o'clock in the U.S. Bankruptcy Court, located at _____, _____, Virginia, for the hearing on the said motion.

~~IF THE ABOVE NAMED CREDITOR DOES NOT OBJECT TO THE VALUATION OF THE COLLATERAL WITHIN THE THIRTY(30) DAY TIME PERIOD, AN ORDER APPROVING THE VALUATION WILL BE ENTERED WITHOUT FURTHER NOTICE AND HEARING AND THE ABOVE NAMED CREDITOR WILL BE BARRED FROM OBJECTING TO SUCH VALUATION OF THE COLLATERAL.~~

Date Mailed: _____

_____ By: _____
Counsel for Debtor(s) _____ Counsel

CERTIFICATION

_____ I hereby certify that a true copy of this foregoing Notice of Hearing was mailed by U.S. first class mail, postage prepaid this _____ day of _____, 200__ to the debtor(s), the chapter 13 Trustee, and to the creditor at their address listed above.
