

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF MARYLAND**

In Re: * **ADMINISTRATIVE**
* **ORDER NO. 13-04**
REVISING LOCAL *
BANKRUPTCY RULES AND FORMS *
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ORDER REVISING LOCAL BANKRUPTCY RULES AND FORMS

WHEREAS, the Court has determined that it is necessary to make minor revisions to the Local Bankruptcy Rules (LBR) and Forms of this Court for clarity purposes as reflected in the attached. A summary of the changes follows:

- a. LBR 1006-1 is amended to clarify that the Clerk does not approve applications and to conform the payment schedule to standard court practice. A new section is added to specify that an overpayment of \$25.00 or less will not be refunded due to the cost involved;
- b. LBRs 3007-1, 3012-1(c)(3), 3012-2(c)(3), 3015-3(b), and 4003-2(b)(3) are revised to clarify that service must be made on the claimant at the name and address where notices should be sent as shown or listed on the proof of claim;
- c. A new rule concerning electronic service is adopted as LBR 7005-1. The filing of discovery materials rule is renumbered as LBR 7026-2 from LBR 7005-1 but is otherwise unchanged;
- d. LBR 7005-2 was previously LBR 9013-4 and section (a) is amended to include a motion;
- e. LBR 9010-3(a) is revised to permit federal government attorneys to appear as counsel for purposes related to their employment without being a member of the Bar of the District Court;
- f. LBR 9013-1 is revised to include a section concerning contested matters;
- g. LBR 9013-4 is revised to state that LBR 7005-2 applies to motions and contested matters;
- h. Local Bankruptcy Form H and Local Bankruptcy Form L are modified to include decretal paragraphs regarding a proof of claim; and

NOW, THEREFORE, **IT IS ORDERED** that:

Pursuant to 28 U.S.C. section 2071, Rule 83 of the Federal Rules of Civil Procedure and Rule 9029 of the Federal Rules of Bankruptcy Procedure, the revisions are adopted by the Judges of this Court to be effective September 1, 2013. The amendments shall be effective as to all proceedings pending in this Court on that date insofar as is just and practicable, and shall govern all proceedings in bankruptcy cases thereafter commenced in this Court.

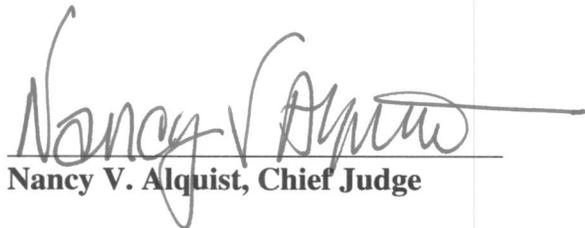

Nancy V. Alquist, Chief Judge

Dated: August 7, 2013

The note on Local Bankruptcy Form L is amended as follows:

“NOTE: Local Bankruptcy Rule 3012-2 requires a motion to *value collateral and avoid a lien on a Chapter 13 debtor’s property that is not debtor’s principal residence to be filed with a proposed order conforming to this Local Bankruptcy Form L. The movant may revise the form to make the grammar appropriate for joint cases.*”

IT IS SO ORDERED.


Nancy V. Alquist, Chief Judge

Dated: March 24, 2014

RULE 1006-1 FILING FEES - INSTALLMENT PAYMENTS

(b) Payment of Fees in Installments. ~~The Clerk may approve for~~ *Unless cause is shown or appears of record, the court will approve* an application by an individual to pay the filing and administrative fees in installments that proposes a payment plan with minimum payments in accordance with the following schedule:

	<i>At Filing or Within 14 Days of Order</i>	Within 30 Days After Filing	Within 60 Days After Filing	Within 90 Days After Filing
Chapter 7	25%	25%	25%	25%
Chapter 11	50%	50%	--	--
Chapter 12	25%	25%	25%	25%
Chapter 13	25%	25%	25%	25%

(c) Overpayment of Fees. *Any overpayment of fees of \$25.00 or less will not be refunded.*

RULE 3007-1 CLAIMS - OBJECTIONS

In addition to the service required by Federal Bankruptcy Rules 9014 and 7004(b), a party objecting to a proof of claim must serve a copy of the objection and any supporting memorandum and affidavit on the claimant at the *name and address where notices should be sent as* ~~(and in care of the individual)~~ shown on the proof of claim and must certify that service to the court. The objection must conspicuously state that:

RULE 3012-1 AVOIDANCE OF LIEN ON PRINCIPAL RESIDENCE UNDER 11 U.S.C. § 506 - CHAPTER 13 ONLY

(c) Service of Motion and Notice of Hearing.

(1) The Clerk will maintain a list of dates available for hearings on motions to avoid lien for each judge of the court. The list will be posted on the court's website.

(2) Movant must select a hearing date from the list for the judge to whom the case is assigned that is more than forty-nine (49) days after the date of service.

(3) Movant must serve a copy of the motion to avoid lien on the respondent and any non-debtor owner in the manner required by Federal Bankruptcy Rules 9014 and 7004(b) and Local Bankruptcy Rule 3007-1(a) (that requires service upon the *claimant at the name and address where notices should be sent as listed on the proof of claim* ~~individual who signed a proof of claim filed by respondent~~), together with a hearing notice conforming to Local Bankruptcy Form G.

RULE 3012-2 VALUATION OF COLLATERAL AND AVOIDANCE OF NONRESIDENTIAL LIENS - CHAPTER 13 ONLY

(c) Service of Motion and Notice of Hearing.

(1) The Clerk will maintain a list of dates available for hearings on motions under subsection (a) for each judge of the court. The list will be posted on the court's website.

(2) Movant must select a hearing date from the list for the judge to whom the case is assigned that is more than forty-nine (49) days after the date of service.

(3) Movant must serve a copy of the motion to avoid lien on the respondent and any non-debtor owner in the manner required by Federal Bankruptcy Rules 9014 and 7004(b) and Local Bankruptcy Rule 3007-1(a) (that requires service upon the *claimant at the name and address where notices should be sent as listed on the proof of claim individual who signed a proof of claim filed by respondent*), together with a hearing notice conforming to Local Bankruptcy Form K.

**RULE 3015-3 PRE-CONFIRMATION ADEQUATE PROTECTION AND
PERSONAL PROPERTY LEASE PAYMENTS**

(b) No later than fourteen (14) days prior to the date of a confirmation hearing, debtor shall serve on the trustee and file with the court an affidavit stating all §1326(a)(1) pre-confirmation payments made by the debtor. The affidavit must state the details set forth in paragraph (a) above. A copy of the affidavit must be served on the creditors so paid in the manner provided for service of a summons and complaint by Federal Bankruptcy Rule 7004 and if a proof of claim has been filed, in care of the *claimant at the name and address where notices should be sent as shown* ~~person signing the proof of claim at the address indicated~~ on the proof of claim.

RULE 4003-2 LIEN AVOIDANCE UNDER 11 U.S.C. § 522(f)

(b) Service of Motion and Notice of Hearing.

(1) The Clerk will maintain a list of dates available for hearings on motions to avoid lien for each judge of the court. The list will be posted in the public area of each division and on the court's website.

(2) Movant must select a hearing date from the list for the judge to whom the case is assigned that is more than forty-nine (49) days after the date of service.

(3) Movant must serve a copy of the motion to avoid lien on the respondent and any non-debtor owner in the manner required by Federal Bankruptcy Rules 9014 and 7004(b) and Local Bankruptcy Rule 3007-1(a) (that requires service upon the *claimant at the name and address where notices should be sent as listed on the proof of claim individual who signed the proof of claim filed by respondent*) together with a hearing notice conforming to Local Bankruptcy Form C.

RULE 7005-1 ~~FILING OF DISCOVERY MATERIAL~~ ELECTRONIC SERVICE

~~Unless otherwise ordered by the court, a party may not file with the court either written discovery requests, responses to discovery or depositions (other than as exhibits to motions). A party propounding written discovery or taking a deposition or providing a discovery response must file a notice stating: (a) the type of discovery or response served; (b) the date and type of service; and (c) the person(s) served. Parties must retain the original copies of the discovery materials and make them available for inspection by any other party. Pursuant to Federal Bankruptcy Rules 5005(a)(2) and 7005, service pursuant to the ECF Guidelines also constitutes valid service.~~

~~RULE 9013-4~~ RULE 7005-2 CERTIFICATE OF SERVICE

(a) Any required certificate of service for a pleading, *motion*, notice, objection or other paper must be in compliance with Federal Rule of Civil Procedure 5 and applicable

provisions of the Federal Bankruptcy Rules. Pursuant to Federal Bankruptcy Rules 5005(a)(2) and 7005, service pursuant to the ECF Guidelines also constitutes valid service.

(b) The certificate shall be placed at the end of the item served and endorsed by an attorney of record, the attorney's authorized agent, or by a party if not represented by an attorney.

(c) The certificate must state:

- (1) the date and method of service;
- (2) the names and addresses of the persons served; and
- (3) if persons are served in a representative capacity, the parties whom they represent.

~~Rule 7005-1~~ RULE 7026-2 **FILING OF DISCOVERY MATERIAL**

Unless otherwise ordered by the court, a party may not file with the court either written discovery requests, responses to discovery or depositions (other than as exhibits to motions). A party propounding written discovery or taking a deposition or providing a discovery response must file a notice stating: (a) the type of discovery or response served; (b) the date and type of service; and (c) the person(s) served. Parties must retain the original copies of the discovery materials and make them available for inspection by any other party.

RULE 9010-3 **ATTORNEYS - WHO MAY APPEAR AS COUNSEL**

(a) Generally. Except as otherwise provided in this Rule and 28 U.S.C. § 515 *or employed as a federal government attorney for purposes related to his or her employment*, only members of the Bar of the District Court may appear as counsel.

RULE 9013-1 MOTIONS PRACTICE

(a) Requirement of Written Motion. All motions must be in writing and filed with the court, unless made during a hearing or trial.

(b) Procedure for Motions Other Than Motions for Relief from Stay and Motions to Avoid Lien.

(1) All motions must state with particularity the grounds therefor and the relief or order sought. Supplementing Local Bankruptcy Rule 9013-3 as to moving parties, responding parties must file with the court, at the time of filing a response, a proposed order stating the requested disposition.

(2) Parties may file with or append to their motion and memorandum, or to their responsive pleading and opposing memorandum, supporting affidavits or documents establishing the elements of entitlement to the relief sought or any defense.

(3) Any responsive pleading and memorandum in opposition to a motion must be filed within fourteen (14) days from the date of service of said motion.

(4) Except as otherwise provided in the Bankruptcy Code, the Federal Bankruptcy Rules, these Rules or by the court, a motion can be decided on the pleadings and memoranda filed.

(c) Contested Matters. *In addition to the application of the Part VII Rules listed in Federal Rule of Bankruptcy Procedure 9014(c), Rule 7010(a) shall apply to contested matters.*

RULE 9013-4 CERTIFICATE OF SERVICE

~~(a) Any required certificate of service for a pleading, notice, objection or other paper must be in compliance with Federal Rule of Civil Procedure 5 and applicable provisions of the Federal Bankruptcy Rules. Pursuant to Federal Bankruptcy Rules 5005(a)(2) and 7005, service pursuant to the ECF Guidelines also constitutes valid service.~~

~~(b) The certificate shall be placed at the end of the item served and endorsed by an attorney of record, the attorney's authorized agent, or by a party if not represented by an attorney.~~

~~(c) The certificate must state:~~

~~(1) the date and method of service;~~

~~(2) the names and addresses of the persons served; and~~

~~(3) if persons are served in a representative capacity, the parties whom they~~

~~represent.~~ *Local Bankruptcy Rule 7005-2 applies to motions under Federal Bankruptcy Rule 9013 and contested matters under Federal Bankruptcy Rule 9014.*

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF MARYLAND
at _____**

In re:

_____,

Debtor

* * * * *

_____,

Movant

vs.

_____,

Respondent

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*
*
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Case No. _____
Chapter 13

**ORDER GRANTING MOTION TO AVOID LIEN
ON THE DEBTOR'S PRINCIPAL RESIDENCE**

Having considered the Debtor's Motion to Avoid Lien, and any response filed thereto, and it appearing that proper notice has been given, pursuant to 11 U.S.C. § 506 and for the reasons set forth in the cases of Johnson vs. Asset Management Group, LLC, 226 B.R. 364 (D. Md. 1998), and First Mariner Bank v. Johnson, 411 B.R. 221 (D. Md. 2009), it is by the United States Bankruptcy Court for the District of Maryland,

ORDERED, that the claim of the Respondent be and hereby is deemed wholly unsecured; and it is further,

ORDERED, that at such time as a discharge Order is entered pursuant to 11 U.S.C. § 1328(a) in this case, the lien held in favor of the Respondent on the Debtor's real property described as: _____, is avoided; and it is further,

ORDERED, that if the Respondent has filed a proof of claim, the claim of the Respondent be and hereby is allowed as a general unsecured claim for purposes of distributions under the Debtor's plan; and it is further,

ORDERED, that if the Respondent has not filed a proof of claim, the claim of the Respondent be and hereby is allowed as a general unsecured claim for purpose of distributions under the Debtor's plan if a proof of claim is filed on or before the later of (i) the claims bar date previously fixed by this court, or (ii) twenty-eight (28) days after entry of this order; and it is further,

ORDERED, that allowance of the claim of the Respondent as an unsecured claim pursuant to this order is without prejudice to objection to such claim on other grounds.

cc: Trustee
Debtor
Debtor's attorney
Respondent
U.S. Trustee

– END OF ORDER –

NOTE: Local Bankruptcy Rule 3012-1 requires a motion to avoid a lien on a Chapter 13 debtor's principal residence to be filed with a proposed order conforming to this Local Bankruptcy Form H. The movant may revise the form to make the grammar appropriate for joint cases.

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF MARYLAND
at _____**

In re:

*

_____,

*

Case No. _____
Chapter 13

Debtor

*

* * * * *

_____,

*

Movant

*

vs.

*

_____,

*

Respondent

*

**ORDER GRANTING MOTION TO VALUE COLLATERAL
AND TO AVOID SECURITY INTEREST**

Having considered the Debtor's motion, and any response filed thereto, and it appearing that proper notice has been given, pursuant to 11 U.S.C. § 506, it is by the United States Bankruptcy Court for the District of Maryland,

ORDERED, that value of the collateral securing the Respondent's claim is \$_____; and it is further,

ORDERED, that at such time as a discharge Order is entered pursuant to 11 U.S.C. § 1328(a) in this case, the lien held in favor of the Respondent on the Debtor's interest in the property described as: _____, is avoided to the extent of the Respondent's unsecured claim; and it is further,

ORDERED, that if the Respondent has filed a proof of claim, the claim of the Respondent be and hereby is allowed for purposes of distributions under the Debtor's plan as a secured claim in an amount not to exceed the value of the Respondent's collateral and as a general unsecured claim for the balance; and it is further,

ORDERED, that if the Respondent has not filed a proof of claim, the claim of the Respondent be and hereby is allowed for purposes of distributions under the Debtor's plan as a secured claim in an amount not to exceed the value of the Respondent's collateral and as a general unsecured claim for the balance if a proof of claim is filed on or before the later of (i) the claims bar date previously fixed by this court, or (ii) twenty-eight (28) days after entry of this order; and it is further,

ORDERED, that allowance of the claim of the Respondent pursuant to this order is without prejudice to objection to such claim on other grounds.

cc: Trustee
Debtor
Debtor's attorney
Respondent
U.S. Trustee

– END OF ORDER –

NOTE: Local Bankruptcy Rule 3012-2 requires a motion to avoid a lien on a Chapter 13 debtor's principal residence to be filed with a proposed order conforming to this Local Bankruptcy Form L. The movant may revise the form to make the grammar appropriate for joint cases.