

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

In Re:

\* **ADMINISTRATIVE**  
\* **ORDER NO. 10-02**

**MOTIONS TO AVOID LIENS &  
AMENDED PLEADINGS**

\*  
\* **Local Bankruptcy Rule Amendments**

\* \* \* \* \*

In the matter of In re Williams, 277 BR 78 (Bankr. Md. 2002) this court held that a co-owner of the property is a necessary or indispensable party, and the failure to name the co-owner in the motion and serve her was a basis for vacating a order stripping off a lien. In order to promote consistency and fairness in the bankruptcy practice in the District of Maryland, the principles of this ruling should be followed for similar circumstances.

Additionally, the ability for the expeditious review of court directed amended pleadings would be greatly enhanced by the delineation of the specific changes proposed as is the practice before the U. S. District Court for the District of Maryland.

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, effective immediately, the amendments to the local bankruptcy rules attached to this order will apply for all proceedings pending in this Court insofar as is just and practicable, and shall govern all proceedings in bankruptcy cases thereafter commenced in this Court.

**SO ORDERED.**

  
\_\_\_\_\_  
Duncan W. Keir, Chief Judge

  
\_\_\_\_\_  
Dated

**RULE 3012-1**

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

(a) Form. A motion to avoid a lien on a Chapter 13 debtor's principal residence under 11 U.S.C. § 506 may name only one creditor as a respondent. A separate motion is required for each creditor whose lien is sought to be avoided. *The name, address and nature of ownership (e.g. tenancy in common, tenancy by the entirety) of any non-debtor owner of property must also be included.*

(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 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 individual who signed a proof of claim filed by respondent), together with a hearing notice conforming to Local Bankruptcy Form G.

(c) Filing of Proof of Service. Movant must file with the motion a certificate of service of the motion to avoid lien and the notice of hearing. The certificate must comply with Local Bankruptcy Rule 9013-4.

(d) Response to Motion to Avoid Lien. If no response to the motion to avoid lien is filed within thirty (30) days after the date of the service (plus any additional time required by Federal Bankruptcy Rules 9006(a) and (f)), the court may rule on the motion as unopposed. The Court Hearing Scheduler (CHS) Program on the court's website and CM/ECF filing screen for this type of motion will compute the date that an objection is due.

(e) Proposed Order. Movant shall file with the motion a proposed order conforming to Local Bankruptcy Form H. If granted, avoidance of the lien shall occur at such time as debtor completes performance of debtor's confirmed Chapter 13 plan and receives a discharge under 11 U.S.C. § 1328(a).

**RULE 3012-2**

**VALUATION OF COLLATERAL AND AVOIDANCE OF  
NONRESIDENTIAL LIENS - CHAPTER 13 ONLY**

(a) Form. A motion under 11 U.S.C. § 506 in a Chapter 13 case to value collateral or to avoid a security interest in personal property or in real property that is not a debtor's principal residence may name only one creditor as a respondent. A separate motion is required for each creditor whose lien is sought to be avoided. *The name, address and nature of ownership (e.g. tenancy in common, tenancy by the entirety) of any non-debtor owner of property must also be included.*

(b) 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 individual who signed a proof of claim filed by respondent), together with a hearing notice conforming to Local Bankruptcy Form K.

(c) Filing of Proof of Service. Movant must file with the motion a certificate of service of the motion to avoid lien and the notice of hearing. The certificate must comply with Local Bankruptcy Rule 9013-4.

(d) Responses to Motion to Avoid Lien. If no response to the motion to avoid lien is filed within thirty (30) days after the date of the service (plus any additional time required by Federal Bankruptcy Rules 9006(a) and (f)), the court may rule on the motion as unopposed. The Court Hearing Scheduler (CHS) Program on the court's website and CM/ECF filing screen for this type of motion will compute the date that an objection is due.

(e) Proposed Order. Movant shall file with the motion a proposed order conforming to Local Bankruptcy Form L. If granted, avoidance of the security interest shall occur when debtor completes performance of debtor's confirmed Chapter 13 plan and receives a discharge under 11 U.S.C. § 1328(a).

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

(a)    Form. A motion to avoid a lien under 11 U.S.C. § 522(f) may name only one creditor as a respondent. A separate motion is required for each creditor whose lien is sought to be avoided. *The name, address and nature of ownership (e.g. tenancy in common, tenancy by the entirety) of any non-debtor owner of property must also be included.*

(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 individual who signed the proof of claim filed by respondent) together with a hearing notice conforming to Local Bankruptcy Form C.

(c)    Filing of Proof of Service. Movant must file with the motion a certificate of service of the motion to avoid lien and the notice of hearing. The certificate must comply with Local Bankruptcy Rule 9013-4.

(d)    Responses to Motions to Avoid Lien. The notice must include a statement of deadline for the filing of any opposition. The deadline date shall be no less than twenty-eight (28) days after service of the motion (plus any additional time required by Federal Bankruptcy Rules 9006(a) and (f)). The Court Hearing Scheduler (CHS) Program on the court's website and CM/ECF filing screen for this type of motion will compute the date that an objection is due. If no response to the motion to avoid lien is filed within twenty-eight (28) days after the date of the service (plus any additional time provided by Federal Bankruptcy Rules 9006(a) and (f)), the court may rule on the motion as unopposed.

*(New Rule)*

**RULE 7015-1            AMENDED AND SUPPLEMENTAL PLEADINGS**

*Unless otherwise ordered by the court, the party filing an amended pleading shall file and serve (1) a clean copy of the amended pleading and (2) a copy of the amended pleading in which stricken material has been lined through or enclosed in brackets and new material has been underlined or set forth in bold faced type.*