

PROPOSED AMENDMENTS TO THE FEDERAL
RULES OF BANKRUPTCY PROCEDURE,
FEDERAL RULES OF CIVIL PROCEDURE &
FEDERAL RULES OF EVIDENCE*

Effective December 1, 2017

Redlined versions extracted from the Proposed Amendments
approved by the Judicial Conference of the United States at its
September 2016 and March 2017 sessions.

* *New material is underlined; matter to be omitted is lined through.*

PROPOSED AMENDMENTS TO THE FEDERAL RULES OF BANKRUPTCY PROCEDURE*

1 Rule 1001. Scope of Rules and Forms; Short Title

2 The Bankruptcy Rules and Forms govern procedure
3 in cases under title 11 of the United States Code. The rules
4 shall be cited as the Federal Rules of Bankruptcy Procedure
5 and the forms as the Official Bankruptcy Forms. These
6 rules shall be construed, administered, and employed by the
7 court and the parties to secure the just, speedy, and
8 inexpensive determination of every case and proceeding.

Committee Note

The last sentence of the rule is amended to incorporate the changes to Rule 1 F.R.Civ.P. made in 1993 and 2015.

The word “administered” is added to recognize the affirmative duty of the court to exercise the authority conferred by these rules to ensure that bankruptcy cases and the proceedings within them are resolved not only fairly, but also without undue cost or delay. As officers of the court, attorneys share this responsibility with the judge to whom the case is assigned.

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The addition of the phrase “employed by the court and the parties” emphasizes that parties share in the duty of using the rules to secure the just, speedy, and inexpensive determination of every case and proceeding. Achievement of this goal depends upon cooperative and proportional use of procedure by lawyers and parties.

This amendment does not create a new or independent source of sanctions. Nor does it abridge the scope of any other of these rules.

1 **Rule 1006. Filing Fee**

2 * * * * *

3 (b) PAYMENT OF FILING FEE IN
4 INSTALLMENTS.

5 (1) *Application to Pay Filing Fee in*
6 *Installments.* A voluntary petition by an individual
7 shall be accepted for filing, regardless of whether any
8 portion of the filing fee is paid, if accompanied by the
9 debtor's signed application, prepared as prescribed by
10 the appropriate Official Form, stating that the debtor
11 is unable to pay the filing fee except in installments.

12 * * * * *

Committee Note

Subdivision (b)(1) is amended to clarify that an individual debtor's voluntary petition, accompanied by an application to pay the filing fee in installments, must be accepted for filing, even if the court requires the initial installment to be paid at the time the petition is filed and the debtor fails to make that payment. Because the debtor's bankruptcy case is commenced upon the filing of the petition, dismissal of the case due to the debtor's failure to

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make the initial or a subsequent installment payment is governed by Rule 1017(b)(1).

1 **Rule 1015. Consolidation or Joint Administration of**
2 **Cases Pending in Same Court**

3 * * * * *

4 (b) CASES INVOLVING TWO OR MORE
5 RELATED DEBTORS. If a joint petition or two or more
6 petitions are pending in the same court by or against (1) a
7 ~~husband and wife~~spouses, or (2) a partnership and one or
8 more of its general partners, or (3) two or more general
9 partners, or (4) a debtor and an affiliate, the court may
10 order a joint administration of the estates. Prior to entering
11 an order the court shall give consideration to protecting
12 creditors of different estates against potential conflicts of
13 interest. An order directing joint administration of
14 individual cases of a ~~husband and wife~~spouses shall, if one
15 spouse has elected the exemptions under § 522(b)(2) of the
16 Code and the other has elected the exemptions under
17 § 522(b)(3), fix a reasonable time within which either may
18 amend the election so that both shall have elected the same

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19 exemptions. The order shall notify the debtors that unless
20 they elect the same exemptions within the time fixed by the
21 court, they will be deemed to have elected the exemptions
22 provided by § 522(b)(2).

23 * * * * *

Committee Note

Subdivision (b) is amended to replace “a husband and wife” with “spouses” in light of the Supreme Court’s decision in *Obergefell v. Hodges*, 135 S. Ct. 2584 (2015).

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1 **Rule 2002. Notices to Creditors, Equity Security**
2 **Holders, Administrators in Foreign**
3 **Proceedings, Persons Against Whom**
4 **Provisional Relief is Sought in Ancillary**
5 **and Other Cross-Border Cases, United**
6 **States, and United States Trustee**

7 (a) TWENTY-ONE-DAY NOTICES TO PARTIES
8 IN INTEREST. Except as provided in subdivisions (h), (i),
9 (l), (p), and (q) of this rule, the clerk, or some other person
10 as the court may direct, shall give the debtor, the trustee, all
11 creditors and indenture trustees at least 21 days' notice by
12 mail of:

13 * * * * *

14 (7) the time fixed for filing proofs of claims
15 pursuant to Rule 3003(c);~~and~~

* New material is underlined; matter to be omitted is lined through.

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16 (8) the time fixed for filing objections and the
17 hearing to consider confirmation of a chapter 12 plan;
18 and

19 (9) the time fixed for filing objections to
20 confirmation of a chapter 13 plan.

21 (b) TWENTY-EIGHT-DAY NOTICES TO
22 PARTIES IN INTEREST. Except as provided in
23 subdivision (l) of this rule, the clerk, or some other person
24 as the court may direct, shall give the debtor, the trustee, all
25 creditors and indenture trustees not less than 28 days'
26 notice by mail of the time fixed (1) for filing objections and
27 the hearing to consider approval of a disclosure statement
28 or, under § 1125(f), to make a final determination whether
29 the plan provides adequate information so that a separate
30 disclosure statement is not necessary; ~~and~~ (2) for filing
31 objections and the hearing to consider confirmation of a

32 chapter 9, or chapter 11, or chapter 13 plan; and (3) for the
33 hearing to consider confirmation of a chapter 13 plan.

34 * * * * *

Committee Note

Subdivisions (a) and (b) are amended and reorganized to alter the provisions governing notice under this rule in chapter 13 cases. Subdivision (a)(9) is added to require at least 21 days' notice of the time for filing objections to confirmation of a chapter 13 plan. Subdivision (b)(3) is added to provide separately for 28 days' notice of the date of the confirmation hearing in a chapter 13 case. These amendments conform to amended Rule 3015, which governs the time for presenting objections to confirmation of a chapter 13 plan. Other changes are stylistic.

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

2 (a) NECESSITY FOR FILING. ~~An~~A secured
3 creditor, unsecured creditor, or an equity security holder
4 must file a proof of claim or interest for the claim or
5 interest to be allowed, except as provided in Rules 1019(3),
6 3003, 3004, and 3005. A lien that secures a claim against
7 the debtor is not void due only to the failure of any entity to
8 file a proof of claim.

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

11 (c) TIME FOR FILING. In a voluntary chapter
12 ~~7 liquidation~~case, chapter 12 ~~family farmer's debt~~
13 ~~adjustment~~case, or chapter 13 ~~individual's debt~~
14 ~~adjustment~~case, a proof of claim is timely filed if it is filed
15 not later than ~~90~~70 days after the order for relief under that
16 chapter or the date of the order of conversion to a case
17 under chapter 12 or chapter 13. In an involuntary chapter 7

18 case, a proof of claim is timely filed if it is filed not later
19 than 90 days after the order for relief under that chapter is
20 entered, the first date set for the meeting of creditors called
21 under § 341(a) of the Code, except as follows: But in all
22 these cases, the following exceptions apply:

23 * * * * *

24 (6) ~~If notice of the time to file a proof of claim~~
25 ~~has been mailed to a creditor at a foreign address, o~~On
26 ~~motion filed by the~~a creditor before or after the
27 expiration of the time to file a proof of claim, the
28 court may extend the time by not more than 60
29 days from the date of the order granting the motion.
30 The motion may be granted if the court finds that ~~the~~
31 ~~notice was insufficient under the circumstances to~~
32 ~~give the creditor a reasonable time to file a proof of~~
33 ~~claim.;~~

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34 (A) the notice was insufficient under the
35 circumstances to give the creditor a reasonable
36 time to file a proof of claim because the debtor
37 failed to timely file the list of creditors' names
38 and addresses required by Rule 1007(a); or

39 (B) the notice was insufficient under the
40 circumstances to give the creditor a reasonable
41 time to file a proof of claim, and the notice was
42 mailed to the creditor at a foreign address.

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

46 (A) the proof of claim, together with the
47 attachments required by Rule 3001(c)(2)(C), is
48 filed not later than 70 days after the order for
49 relief is entered; and

50 (B) any attachments required by
51 Rule 3001(c)(1) and (d) are filed as a supplement
52 to the holder's claim not later than 120 days after
53 the order for relief is entered.

Committee Note

Subdivision (a) is amended to clarify that a creditor, including a secured creditor, must file a proof of claim in order to have an allowed claim. The amendment also clarifies, in accordance with § 506(d), that the failure of a secured creditor to file a proof of claim does not render the creditor's lien void. The inclusion of language from § 506(d) is not intended to effect any change of law with respect to claims subject to setoff under § 553. The amendment preserves the existing exceptions to this rule under Rules 1019(3), 3003, 3004, and 3005. Under Rule 1019(3), a creditor does not need to file another proof of claim after conversion of a case to chapter 7. Rule 3003 governs the filing of a proof of claim in chapter 9 and chapter 11 cases. Rules 3004 and 3005 govern the filing of a proof of claim by the debtor, trustee, or another entity if a creditor does not do so in a timely manner.

Subdivision (c) is amended to alter the calculation of the bar date for proofs of claim in chapter 7, chapter 12, and chapter 13 cases. The amendment changes the time for filing a proof of claim in a voluntary chapter 7 case, a chapter 12 case, or a chapter 13 case from 90 days after the § 341 meeting of creditors to 70 days after the petition date.

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If a case is converted to chapter 12 or chapter 13, the 70-day time for filing runs from the order of conversion. If a case is converted to chapter 7, Rule 1019(2) provides that a new time period for filing a claim commences under Rule 3002. In an involuntary chapter 7 case, a 90-day time for filing applies and runs from the entry of the order for relief.

Subdivision (c)(6) is amended to expand the exception to the bar date for cases in which a creditor received insufficient notice of the time to file a proof of claim. The amendment provides that the court may extend the time to file a proof of claim if the debtor fails to file a timely list of names and addresses of creditors as required by Rule 1007(a). The amendment also clarifies that if a court grants a creditor's motion under this rule to extend the time to file a proof of claim, the extension runs from the date of the court's decision on the motion.

Subdivision (c)(7) is added to provide a two-stage deadline for filing mortgage proofs of claim secured by an interest in the debtor's principal residence. Those proofs of claim must be filed with the appropriate Official Form mortgage attachment within 70 days of the order for relief. The claim will be timely if any additional documents evidencing the claim, as required by Rule 3001(c)(1) and (d), are filed within 120 days of the order for relief. The order for relief is the commencement of the case upon filing a petition, except in an involuntary case. See § 301 and § 303(h). The confirmation of a plan within the 120-day period set forth in subdivision (c)(7)(B) does not prohibit an objection to any proof of claim.

1 **Rule 3007. Objections to Claims**

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

4 (1) Time of Service. An objection to the
5 allowance of a claim and a notice of objection that
6 substantially conforms to the appropriate Official
7 Form shall be in writing and filed, and served at least
8 30 days before any scheduled hearing on the objection
9 or any deadline for the claimant to request a
10 hearing. ~~A copy of the objection with notice of the~~
11 ~~hearing thereon shall be mailed or otherwise delivered~~
12 ~~to the claimant, the debtor or debtor in possession, and~~
13 ~~the trustee at least 30 days prior to the hearing.~~

14 (2) Manner of Service.

15 (A) The objection and notice shall be
16 served on a claimant by first-class mail to the
17 person most recently designated on the

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18 claimant's original or amended proof of claim as
19 the person to receive notices, at the address so
20 indicated; and

21 (i) if the objection is to a claim of
22 the United States, or any of its officers or
23 agencies, in the manner provided for
24 service of a summons and complaint by
25 Rule 7004(b)(4) or (5); or

26 (ii) if the objection is to a claim of an
27 insured depository institution, in the
28 manner provided by Rule 7004(h).

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

34 * * * * *

Committee Note

Subdivision (a) is amended to specify the manner in which an objection to a claim and notice of the objection must be served. It clarifies that Rule 7004 does not apply to the service of most claim objections. Instead, a claimant must be served by first-class mail addressed to the person whom the claimant most recently designated on its proof of claim to receive notices, at the address so indicated. If, however, the claimant is the United States, an officer or agency of the United States, or an insured depository institution, service must also be made according to the method prescribed by the appropriate provision of Rule 7004. The service methods for the depository institutions are statutorily mandated, and the size and dispersal of the decision-making and litigation authority of the federal government necessitate service on the appropriate United States attorney's office and the Attorney General, as well as the person designated on the proof of claim.

As amended, subdivision (a) no longer requires that a hearing be scheduled or held on every objection. The rule requires the objecting party to provide notice and an opportunity for a hearing on the objection, but, by deleting from the subdivision references to "the hearing," it permits local practices that require a claimant to timely request a hearing or file a response in order to obtain a hearing. The official notice form served with a copy of the objection will inform the claimant of any actions it must take. However, while a local rule may require the claimant to respond to the objection to a proof of claim, the court will still need to

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determine if the claim is valid, even if the claimant does not file a response to a claim objection or request a hearing.

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

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

8 (a) DETERMINATION OF AMOUNT OF CLAIM.

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

12 (1) the amount of a secured claim under
13 § 506(a) of the Code; or

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

16 (b) REQUEST FOR DETERMINATION; HOW
17 MADE. Except as provided in subdivision (c), a request to

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18 determine the amount of a secured claim may be made by
19 motion, in a claim objection, or in a plan filed in a
20 chapter 12 or chapter 13 case. When the request is made in
21 a chapter 12 or chapter 13 plan, the plan shall be served on
22 the holder of the claim and any other entity the court
23 designates in the manner provided for service of a
24 summons and complaint by Rule 7004. A request to
25 determine the amount of a claim entitled to priority may be
26 made only by motion after a claim is filed or in a claim
27 objection.

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

Committee Note

This rule is amended and reorganized.

Subdivision (a) provides, in keeping with the former version of this rule, that a party in interest may seek a determination of the amount of a secured claim. The amended rule provides that the amount of a claim entitled to priority may also be determined by the court.

Subdivision (b) is added to provide that a request to determine the amount of a secured claim may be made in a chapter 12 or chapter 13 plan, as well as by a motion or a claim objection. When the request is made in a plan, the plan must be served on the holder of the claim and any other entities the court designates according to Rule 7004. Secured claims of governmental units are not included in this subdivision and are governed by subdivision (c). The amount of a claim entitled to priority may be determined through a motion or a claim objection.

Subdivision (c) clarifies that a determination under this rule with respect to a secured claim of a governmental unit may be made only by motion or in a claim objection, but not until the governmental unit has filed a proof of claim or its time for filing a proof of claim has expired.

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

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

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

19 (c) ~~DATING.~~ ~~Every proposed plan and any~~
20 ~~modification thereof shall be dated.~~ FORM OF CHAPTER
21 13 PLAN. If there is an Official Form for a plan filed in a
22 chapter 13 case, that form must be used unless a Local
23 Form has been adopted in compliance with Rule 3015.1.
24 With either the Official Form or a Local Form, a
25 nonstandard provision is effective only if it is included in a
26 section of the form designated for nonstandard provisions
27 and is also identified in accordance with any other
28 requirements of the form. As used in this rule and the
29 Official Form or a Local Form, “nonstandard provision”
30 means a provision not otherwise included in the Official or
31 Local Form or deviating from it.

32 (d) ~~NOTICE AND COPIES.~~ If the plan ~~The plan or~~
33 ~~a summary of the plan shall be~~ is not included with the each
34 notice of the hearing on confirmation
35 mailed under ~~pursuant to~~ Rule 2002, the debtor shall serve

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36 the plan on the trustee and all creditors when it is filed with
37 the court. ~~If required by the court, the debtor shall furnish a~~
38 ~~sufficient number of copies to enable the clerk to include a~~
39 ~~copy of the plan with the notice of the hearing.~~

40 (e) TRANSMISSION TO UNITED STATES
41 TRUSTEE. The clerk shall forthwith transmit to the
42 United States trustee a copy of the plan and any
43 modification thereof filed under ~~pursuant to~~ subdivision (a)
44 or (b) of this rule.

45 (f) OBJECTION TO CONFIRMATION;
46 DETERMINATION OF GOOD FAITH IN THE
47 ABSENCE OF AN OBJECTION. An objection to
48 confirmation of a plan shall be filed and served on the
49 debtor, the trustee, and any other entity designated by the
50 court, and shall be transmitted to the United States
51 trustee, ~~before confirmation of the plan~~ at least seven days
52 before the date set for the hearing on confirmation, unless

53 the court orders otherwise. An objection to confirmation is
54 governed by Rule 9014. If no objection is timely filed, the
55 court may determine that the plan has been proposed in
56 good faith and not by any means forbidden by law without
57 receiving evidence on such issues.

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

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

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

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69 ~~(g)~~(h) MODIFICATION OF PLAN AFTER
70 CONFIRMATION. A request to modify a plan pursuant
71 ~~to~~ under § 1229 or § 1329 of the Code shall identify the
72 proponent and shall be filed together with the proposed
73 modification. The clerk, or some other person as the court
74 may direct, shall give the debtor, the trustee, and all
75 creditors not less than 21 days' notice by mail of the time
76 fixed for filing objections and, if an objection is filed, the
77 hearing to consider the proposed modification, unless the
78 court orders otherwise with respect to creditors who are not
79 affected by the proposed modification. A copy of the
80 notice shall be transmitted to the United States trustee. A
81 copy of the proposed modification, or a summary thereof,
82 shall be included with the notice. ~~If required by the court,~~
83 ~~the proponent shall furnish a sufficient number of copies of~~
84 ~~the proposed modification, or a summary thereof, to enable~~
85 ~~the clerk to include a copy with each notice.~~ Any objection

86 to the proposed modification shall be filed and served on
87 the debtor, the trustee, and any other entity designated by
88 the court, and shall be transmitted to the United States
89 trustee. An objection to a proposed modification is
90 governed by Rule 9014.

Committee Note

This rule is amended and reorganized.

Subdivision (c) is amended to require use of an Official Form if one is adopted for chapter 13 plans unless a Local Form has been adopted consistent with Rule 3015.1. Subdivision (c) also provides that nonstandard provisions in a chapter 13 plan must be set out in the section of the Official or Local Form specifically designated for such provisions and must be identified in the manner required by the Official or Local Form.

Subdivision (d) is amended to ensure that the trustee and creditors are served with the plan before confirmation. Service may be made either at the time the plan is filed or with the notice under Rule 2002 of the hearing to consider confirmation of the plan.

Subdivision (f) is amended to require service of an objection to confirmation at least seven days before the hearing to consider confirmation of a plan, unless the court orders otherwise.

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Subdivision (g) is amended to set out two effects of confirmation. Subdivision (g)(1) provides that the amount of a secured claim under § 506(a) may be determined through a chapter 12 or chapter 13 plan in accordance with Rule 3012. That determination, unlike the amount of any current installment payments or arrearages, controls over a contrary proof of claim, without the need for a claim objection under Rule 3007, and over the schedule submitted by the debtor under § 521(a). The amount of a secured claim of a governmental unit, however, may not be determined through a chapter 12 or chapter 13 plan under Rule 3012. Subdivision (g)(2) provides for termination of the automatic stay under §§ 362, 1201, and 1301 as requested in the plan.

Subdivision (h) was formerly subdivision (g). It is redesignated and is amended to reflect that often the party proposing a plan modification is responsible for serving the proposed modification on other parties. The option to serve a summary of the proposed modification has been retained. Unless required by another rule, service under this subdivision does not need to be made in the manner provided for service of a summons and complaint by Rule 7004.

1 **Rule 3015.1. Requirements for a Local Form for Plans**
2 **Filed in a Chapter 13 Case**

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

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

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

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

14 (1) contain any nonstandard provision;

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

17 (3) avoid a security interest or lien;

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18 (d) the Local Form contains separate paragraphs

19 for:

20 (1) curing any default and maintaining

21 payments on a claim secured by the debtor's principal

22 residence;

23 (2) paying a domestic-support obligation;

24 (3) paying a claim described in the final

25 paragraph of § 1325(a) of the Bankruptcy Code; and

26 (4) surrendering property that secures a claim

27 with a request that the stay under §§ 362(a) and

28 1301(a) be terminated as to the surrendered collateral;

29 and

30 (e) the Local Form contains a final paragraph for:

31 (1) the placement of nonstandard provisions, as

32 defined in Rule 3015(c), along with a statement that

33 any nonstandard provision placed elsewhere in the

34 plan is void; and

35 (2) certification by the debtor’s attorney or by
36 an unrepresented debtor that the plan contains no
37 nonstandard provision other than those set out in the
38 final paragraph.

Committee Note

This rule is new. It sets out features required for all Local Forms for plans in chapter 13 cases. If a Local Form does not comply with this rule, it may not be used in lieu of the Official Chapter 13 Plan Form. See Rule 3015(c).

Under the rule only one Local Form may be adopted in a district. The rule does not specify the method of adoption, but it does require that adoption of a Local Form be preceded by a public notice and comment period.

To promote consistency among Local Forms and clarity of content of chapter 13 plans, the rule prescribes several formatting and disclosure requirements. Paragraphs in such a form must be numbered and labeled in bold type, and the form must contain separate paragraphs for the cure and maintenance of home mortgages, payment of domestic support obligations, treatment of secured claims covered by the “hanging paragraph” of § 1325(a), and surrender of property securing a claim. Whether those portions of the Local Form are used in a given chapter 13 case will depend on the debtor’s individual circumstances.

The rule requires that a Local Form begin with a paragraph for the debtor to call attention to the fact that the

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plan contains a nonstandard provision; limits the amount of a secured claim based on a valuation of the collateral, as authorized by Rule 3012(b); or avoids a lien, as authorized by Rule 4003(d).

The last paragraph of a Local Form must be for the inclusion of any nonstandard provisions, as defined by Rule 3015(c), and must include a statement that nonstandard provisions placed elsewhere in the plan are void. This part gives the debtor the opportunity to propose provisions that are not otherwise in, or that deviate from, the Local Form. The form must also require a certification by the debtor's attorney or unrepresented debtor that there are no nonstandard provisions other than those placed in the final paragraph.

1 **Rule 4003. Exemptions**

2 * * * * *

3 (d) AVOIDANCE BY DEBTOR OF TRANSFERS
4 OF EXEMPT PROPERTY. A proceeding under §
5 522(f) by the debtor to avoid a lien or other transfer of
6 property exempt under ~~§ 522(f) of the Code~~ shall be
7 commenced by motion in the manner provided by~~in~~
8 ~~accordance with Rule 9014,~~ or by serving a chapter 12 or
9 chapter 13 plan on the affected creditors in the manner
10 provided by Rule 7004 for service of a summons and
11 complaint. Notwithstanding the provisions of subdivision
12 (b), a creditor may object to a ~~motion filed~~request under §
13 522(f) by challenging the validity of the exemption asserted
14 to be impaired by the lien.

Committee Note

Subdivision (d) is amended to provide that a request under § 522(f) to avoid a lien or other transfer of exempt property may be made by motion or by a chapter 12 or chapter 13 plan. A plan that proposes lien avoidance in accordance with this rule must be served as provided under Rule 7004 for service of a summons and complaint. Lien avoidance not governed by this rule requires an adversary proceeding.

1 **Rule 5009. Closing Chapter 7—Liquidation, Chapter**
2 **12—Family Farmer’s Debt Adjustment,**
3 **Chapter 13—Individual’s Debt Adjustment,**
4 **and Chapter 15—Ancillary and Cross-**
5 **Border Cases; Order Declaring Lien**
6 **Satisfied**

7 (a) CLOSING OF CASES UNDER CHAPTERS 7,
8 12, AND 13. If in a chapter 7, chapter 12, or chapter 13
9 case the trustee has filed a final report and final account
10 and has certified that the estate has been fully administered,
11 and if within 30 days no objection has been filed by the
12 United States trustee or a party in interest, there shall be a
13 presumption that the estate has been fully administered.

14 * * * * *

15 (d) ORDER DECLARING LIEN SATISFIED. In a
16 chapter 12 or chapter 13 case, if a claim that was secured
17 by property of the estate is subject to a lien under
18 applicable nonbankruptcy law, the debtor may request entry
19 of an order declaring that the secured claim has been

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20 satisfied and the lien has been released under the terms of a
21 confirmed plan. The request shall be made by motion and
22 shall be served on the holder of the claim and any other
23 entity the court designates in the manner provided by
24 Rule 7004 for service of a summons and complaint.

Committee Note

Subdivision (d) is added to provide a procedure by which a debtor in a chapter 12 or chapter 13 case may request an order declaring a secured claim satisfied and a lien released under the terms of a confirmed plan. A debtor may need documentation for title purposes of the elimination of a second mortgage or other lien that was secured by property of the estate. Although requests for such orders are likely to be made at the time the case is being closed, the rule does not prohibit a request at another time if the lien has been released and any other requirements for entry of the order have been met.

Other changes to this rule are stylistic.

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

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

4 * * * * *

5 (2) a proceeding to determine the validity,
6 priority, or extent of a lien or other interest in
7 property, ~~other than~~ but not a proceeding under
8 Rule 3012 or Rule 4003(d);

9 * * * * *

Committee Note

Subdivision (2) is amended to provide that the determination of the amount of a secured claim under Rule 3012, like a proceeding by the debtor to avoid a lien on or other transfer of exempt property under Rule 4003(d), does not require an adversary proceeding. The determination of the amount of a secured claim may be sought by motion or through a chapter 12 or chapter 13 plan in accordance with Rule 3012. An adversary proceeding continues to be required for lien avoidance not governed by Rule 4003(d).

1 **Rule 9009. Forms**

2 (a) OFFICIAL FORMS. Except as otherwise
3 provided in Rule 3016(d), the The Official Forms
4 prescribed by the Judicial Conference of the United States
5 shall be ~~observed and used with alterations as may be~~
6 appropriate without alteration, except as otherwise
7 provided in these rules, in a particular Official Form, or in
8 the national instructions for a particular Official
9 Form. Forms may be combined and their contents
10 rearranged to permit economies in their use. Official Forms
11 may be modified to permit minor changes not affecting
12 wording or the order of presenting information, including
13 changes that:

- 14 (1) expand the prescribed areas for responses in
15 order to permit complete responses;
16 (2) delete space not needed for responses; or

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

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

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

Committee Note

This rule is amended and reorganized into separate subdivisions.

Subdivision (a) addresses permissible modifications to Official Forms. It requires that an Official Form be used without alteration, except when another rule, the Official Form itself, or the national instructions applicable to an Official Form permit alteration. The former language generally permitting alterations has been deleted, but the rule preserves the ability to make minor modifications to an Official Form that do not affect the wording or the order in which information is presented on a form. Permissible changes include those that merely expand or delete the

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space for responses as appropriate or delete inapplicable items so long as the filer indicates that no response is intended. For example, when more space will be necessary to completely answer a question on an Official Form without an attachment, the answer space may be expanded. Similarly, varying the width or orientation of columnar data on a form for clarity of presentation would be a permissible minor change. On the other hand, many Official Forms indicate on their face that certain changes are not appropriate. Any changes that contravene the directions on an Official Form would be prohibited by this rule.

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

**PROPOSED AMENDMENT TO THE
FEDERAL RULES OF CIVIL PROCEDURE***

1 **Rule 4. Summons**

2 * * * * *

3 **(m) Time Limit for Service.** If a defendant is not served
4 within 90 days after the complaint is filed, the court—on
5 motion or on its own after notice to the plaintiff—must
6 dismiss the action without prejudice against that defendant
7 or order that service be made within a specified time. But
8 if the plaintiff shows good cause for the failure, the court
9 must extend the time for service for an appropriate period.
10 This subdivision (m) does not apply to service in a foreign
11 country under Rule 4(f), 4(h)(2), or 4(j)(1), or to service of a
12 notice under Rule 71.1(d)(3)(A).

13 * * * * *

* New material is underlined.

Committee Note

This is a technical amendment that integrates the intended effect of the amendments adopted in 2015 and 2016.

**PROPOSED AMENDMENTS TO THE
FEDERAL RULES OF EVIDENCE***

1 **Rule 803. Exceptions to the Rule Against Hearsay—**
2 **Regardless of Whether the Declarant Is**
3 **Available as a Witness**

4 The following are not excluded by the rule against
5 hearsay, regardless of whether the declarant is available as
6 a witness:

7 * * * * *

8 (16) *Statements in Ancient Documents.* A
9 statement in a document ~~that is at least 20 years~~
10 ~~old~~that was prepared before January 1, 1998,
11 and whose authenticity is established.

12 * * * * *

Committee Note

The ancient documents exception to the rule against hearsay has been limited to statements in documents prepared before January 1, 1998. The Committee has

* New material is underlined; matter to be omitted is lined through.

determined that the ancient documents exception should be limited due to the risk that it will be used as a vehicle to admit vast amounts of unreliable electronically stored information (ESI). Given the exponential development and growth of electronic information since 1998, the hearsay exception for ancient documents has now become a possible open door for large amounts of unreliable ESI, as no showing of reliability needs to be made to qualify under the exception.

The Committee is aware that in certain cases—such as cases involving latent diseases and environmental damage—parties must rely on hardcopy documents from the past. The ancient documents exception remains available for such cases for documents prepared before 1998. Going forward, it is anticipated that any need to admit old hardcopy documents produced after January 1, 1998 will decrease, because reliable ESI is likely to be available and can be offered under a reliability-based hearsay exception. Rule 803(6) may be used for many of these ESI documents, especially given its flexible standards on which witnesses might be qualified to provide an adequate foundation. And Rule 807 can be used to admit old documents upon a showing of reliability—which will often (though not always) be found by circumstances such as that the document was prepared with no litigation motive in mind, close in time to the relevant events. The limitation of the ancient documents exception is not intended to raise an inference that 20-year-old documents are, as a class, unreliable, or that they should somehow not qualify for admissibility under Rule 807. Finally, many old documents can be admitted for the non-hearsay purpose of proving notice, or as party-opponent statements.

The limitation of the ancient documents hearsay exception is not intended to have any effect on authentication of ancient documents. The possibility of authenticating an old document under Rule 901(b)(8)—or under any ground available for any other document—remains unchanged.

The Committee carefully considered, but ultimately rejected, an amendment that would preserve the ancient documents exception for hardcopy evidence only. A party will often offer hardcopy that is derived from ESI. Moreover, a good deal of old information in hardcopy has been digitized or will be so in the future. Thus, the line between ESI and hardcopy was determined to be one that could not be drawn usefully.

The Committee understands that the choice of a cut-off date has a degree of arbitrariness. But January 1, 1998 is a rational date for treating concerns about old and unreliable ESI. And the date is no more arbitrary than the 20-year cutoff date in the original rule. *See* Committee Note to Rule 901(b)(8) (“Any time period selected is bound to be arbitrary.”).

Under the amendment, a document is “prepared” when the statement proffered was recorded in that document. For example, if a hardcopy document is prepared in 1995, and a party seeks to admit a scanned copy of that document, the date of preparation is 1995 even though the scan was made long after that—the subsequent scan does not alter the document. The relevant point is the date on which the information is recorded, not when the information is prepared for trial. However, if the content of

the document is *itself* altered after the cut-off date, then the hearsay exception will not apply to statements that were added in the alteration.

1 **Rule 902. Evidence That Is Self-Authenticating**

2 The following items of evidence are self-
3 authenticating; they require no extrinsic evidence of
4 authenticity in order to be admitted:

5 * * * * *

6 **(13) Certified Records Generated by an Electronic**

7 **Process or System.** A record generated by an
8 electronic process or system that produces an
9 accurate result, as shown by a certification of a
10 qualified person that complies with the
11 certification requirements of Rule 902(11) or
12 (12). The proponent must also meet the notice
13 requirements of Rule 902(11).

Committee Note

Paragraph (13). The amendment sets forth a procedure by which parties can authenticate certain electronic evidence other than through the testimony of a foundation witness. As with the provisions on business records in Rules 902(11) and (12), the Committee has

found that the expense and inconvenience of producing a witness to authenticate an item of electronic evidence is often unnecessary. It is often the case that a party goes to the expense of producing an authentication witness, and then the adversary either stipulates authenticity before the witness is called or fails to challenge the authentication testimony once it is presented. The amendment provides a procedure under which the parties can determine in advance of trial whether a real challenge to authenticity will be made, and can then plan accordingly.

Nothing in the amendment is intended to limit a party from establishing authenticity of electronic evidence on any ground provided in these Rules, including through judicial notice where appropriate.

A proponent establishing authenticity under this Rule must present a certification containing information that would be sufficient to establish authenticity were that information provided by a witness at trial. If the certification provides information that would be insufficient to authenticate the record if the certifying person testified, then authenticity is not established under this Rule. The Rule specifically allows the authenticity foundation that satisfies Rule 901(b)(9) to be established by a certification rather than the testimony of a live witness.

The reference to the “certification requirements of Rule 902(11) or (12)” is only to the procedural requirements for a valid certification. There is no intent to require, or permit, a certification under this Rule to prove the requirements of Rule 803(6). Rule 902(13) is solely

limited to authentication, and any attempt to satisfy a hearsay exception must be made independently.

A certification under this Rule can establish only that the proffered item has satisfied the admissibility requirements for authenticity. The opponent remains free to object to admissibility of the proffered item on other grounds—including hearsay, relevance, or in criminal cases the right to confrontation. For example, assume that a plaintiff in a defamation case offers what purports to be a printout of a webpage on which a defamatory statement was made. Plaintiff offers a certification under this Rule in which a qualified person describes the process by which the webpage was retrieved. Even if that certification sufficiently establishes that the webpage is authentic, defendant remains free to object that the statement on the webpage was not placed there by defendant. Similarly, a certification authenticating a computer output, such as a spreadsheet, does not preclude an objection that the information produced is unreliable—the authentication establishes only that the output came from the computer.

A challenge to the authenticity of electronic evidence may require technical information about the system or process at issue, including possibly retaining a forensic technical expert; such factors will affect whether the opponent has a fair opportunity to challenge the evidence given the notice provided.

The reference to Rule 902(12) is intended to cover certifications that are made in a foreign country.

1 **Rule 902. Evidence That Is Self-Authenticating**

2 The following items of evidence are self-
3 authenticating; they require no extrinsic evidence of
4 authenticity in order to be admitted:

5 * * * * *

6 **(14) Certified Data Copied from an Electronic**
7 **Device, Storage Medium, or File.** Data copied
8 from an electronic device, storage medium, or
9 file, if authenticated by a process of digital
10 identification, as shown by a certification of a
11 qualified person that complies with the
12 certification requirements of Rule 902(11) or
13 (12). The proponent also must meet the notice
14 requirements of Rule 902(11).

Committee Note

Paragraph (14). The amendment sets forth a procedure by which parties can authenticate data copied from an electronic device, storage medium, or an electronic

file, other than through the testimony of a foundation witness. As with the provisions on business records in Rules 902(11) and (12), the Committee has found that the expense and inconvenience of producing an authenticating witness for this evidence is often unnecessary. It is often the case that a party goes to the expense of producing an authentication witness, and then the adversary either stipulates authenticity before the witness is called or fails to challenge the authentication testimony once it is presented. The amendment provides a procedure in which the parties can determine in advance of trial whether a real challenge to authenticity will be made, and can then plan accordingly.

Today, data copied from electronic devices, storage media, and electronic files are ordinarily authenticated by “hash value.” A hash value is a number that is often represented as a sequence of characters and is produced by an algorithm based upon the digital contents of a drive, medium, or file. If the hash values for the original and copy are different, then the copy is not identical to the original. If the hash values for the original and copy are the same, it is highly improbable that the original and copy are not identical. Thus, identical hash values for the original and copy reliably attest to the fact that they are exact duplicates. This amendment allows self-authentication by a certification of a qualified person that she checked the hash value of the proffered item and that it was identical to the original. The rule is flexible enough to allow certifications through processes other than comparison of hash value, including by other reliable means of identification provided by future technology.

Nothing in the amendment is intended to limit a party from establishing authenticity of electronic evidence on any ground provided in these Rules, including through judicial notice where appropriate.

A proponent establishing authenticity under this Rule must present a certification containing information that would be sufficient to establish authenticity were that information provided by a witness at trial. If the certification provides information that would be insufficient to authenticate the record if the certifying person testified, then authenticity is not established under this Rule.

The reference to the “certification requirements of Rule 902(11) or (12)” is only to the procedural requirements for a valid certification. There is no intent to require, or permit, a certification under this Rule to prove the requirements of Rule 803(6). Rule 902(14) is solely limited to authentication, and any attempt to satisfy a hearsay exception must be made independently.

A certification under this Rule can only establish that the proffered item is authentic. The opponent remains free to object to admissibility of the proffered item on other grounds—including hearsay, relevance, or in criminal cases the right to confrontation. For example, in a criminal case in which data copied from a hard drive is proffered, the defendant can still challenge hearsay found in the hard drive, and can still challenge whether the information on the hard drive was placed there by the defendant.

A challenge to the authenticity of electronic evidence may require technical information about the system or

process at issue, including possibly retaining a forensic technical expert; such factors will affect whether the opponent has a fair opportunity to challenge the evidence given the notice provided.

The reference to Rule 902(12) is intended to cover certifications that are made in a foreign country.