



UNITED STATES BANKRUPTCY COURT
Middle District of Pennsylvania

Honorable Robert N. Opel II, Chief Judge | Terrence S. Miller, Clerk

**2017 AMENDMENTS TO THE
FEDERAL RULES OF
BANKRUPTCY PROCEDURE**

Which rules are being amended?

| | | | |
|------|------|------|------|
| 1001 | 1006 | 1015 | 2002 |
| 3002 | 3007 | 3012 | 3015 |
| 4003 | 5009 | 7001 | 9009 |

New rule:

3015.1



Effective Date Of New Rules



Administrative Issues – Rule 1001

- The Fed. R. Bankr. P. counterpart to Fed. R. Civ. P. 1
- Adds the word “administered” to recognize the affirmative duty of the court to exercise the authority given by the rules to ensure bankruptcy cases and proceedings are resolved fairly and without undue cost or delay.
- Emphasizes that the “court and the parties” share the duty of using the rules to secure the just, speedy, and inexpensive determination of every case and proceeding.
- Does not create a new or independent source of sanctions.
- Does not abridge the scope of any other rules.

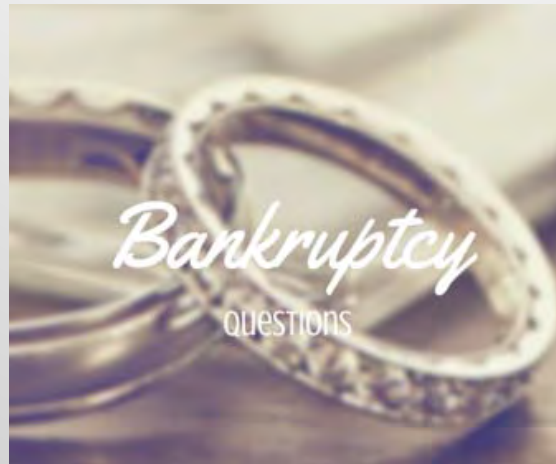


FILING FEES – RULE 1006(b)

The court must accept a petition accompanied by an application to pay in installments even if the court requires payment of the initial installment at the time of filing.



CONSOLIDATION OR JOINT ADMINISTRATION – RULE 1015(B)



Substitutes the word “spouse”
for the phrase “husband and wife.”

NOTICE PROVISIONS – RULE 2002

- 2002(a)(9) – 21 days notice of time for filing objections to confirmation of a Chapter 13 plan.
- 2002(b)(3) – 28 day notice of date of confirmation hearing in a Chapter 13 case.



FILING PROOFS OF CLAIM – RULE 3002

3002(a)



Secured creditor must file proof of claim to have an allowed claim.

3002(c) : Bar Dates

- Voluntary Chapter 7s, Chapter 12s, and Chapter 13s
→ 70 days after the order for relief.
- Cases converted to Chapter 12 or 13 → 70 days from order of conversion.
- Cases converted to Chapter 7 → new time period begins to run.
- Involuntary Chapter 7 → 90 days from entry of order for relief.



FILING PROOFS OF CLAIM – RULE 3002

3002(c)(6) Exceptions



Creditor may move for extension based on insufficient notice due to:

- debtor's failure to file a timely list of names and addresses of creditors under Rule 1007(a); or
- notice was mailed to the creditor at a foreign address.

Maximum 60 day extension calculates from date of the order granting the motion.

FILING PROOFS OF CLAIM – RULE 3002

Mortgages



Two-stage deadline:

- Claim and attachments required by 3001(c)(2)(C) within 70 days of order for relief.
- Attachments required by 3001(c)(1) and 3001(d) filed as a supplement within 120 days of order for relief.

OBJECTIONS TO CLAIMS – RULE 3007



- Specifies the manner in which an objection to a claim and notice of the objection must be served (most claims need not be served under Rule 7004).
- Claimant must be served by first-class mail addressed to person claimant most recently designated on its proof of claim to receive notices.
- Objection to claim by United States must be served under Rule 7004.
- Objection to claim of an insured depository institute must be served under Rule 7004(h).
- Objection and notice of hearing must be served via first-class main on the debtor, debtor in possession, trustee and, if applicable, entity filing proof of claim.
- Hearing not required under federal rule.**

DETERMINING THE AMOUNT OF SECURED AND PRIORITY CLAIMS – RULE 3012

- 3012(a) : Specifically permits the court to determine the amount of a (1) secured claim; and/or (2) priority claim.
- 3012(b) : Request to determine amount of secured claim may be made in a Ch. 12 or 13 plan, by motion, or by claim objections.
 - If within a plan, plan must be served on claim holder under Rule 7004.
 - Request to determine amount of priority claim may be made only by motion after the claim is filed or in a claim objection.
- 3012(c): Request to determine amount of government's secured claim must be by motion or in a claim objection after the government files a proof of claim or after the time for filing a claim expires.

NEW CHAPTER 13 PLAN FORM – RULE 3015

- Requires use of official form unless a local plan has been adopted consistent with new Rule 3015.1.
- 3015(d) – must serve plan on creditors and trustee before confirmation.
 - Service may be made: (1) at time plan is filed; or (2) with notice of the hearing under Rule 2002 of plan confirmation.
- 3015(f) – must serve objection to confirmation at least seven days before the confirmation hearing.
- 3015(g) – Two effects of confirmation:
 - (g)(1) : amount of secured claim may be determined through the plan and any such determination controls over a contrary proof of claim and without the need for a claim objection, and over the debtor’s schedule (exception: governmental secured claims).
 - (g)(2) : addresses termination of the stay per the plan.



NEW RULE 3015.1 – LOCAL CHAPTER 13 FORM

- A Judicial District may adopt a single local form that conforms to requirements set out in the rule.
- Local form must begin with a paragraph calling attention to the fact that the plan contains a nonstandard provision, limits the amount of a secured claim based on valuation of the collateral, or avoids a lien.
- 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.
- Last paragraph must include any nonstandard provisions, and must include a statement that nonstandard provisions placed elsewhere in the plan are void.
- Debtor’s attorney or unrepresented debtor must certify that there are no nonstandard provisions other than those placed in the final paragraph.

EXEMPTIONS - RULE 4003(d)



- 4003(d) : a request to avoid a lien or other transfer of exempt property may be made by motion or by a Chapter 12 or 13 plan.
- A plan that proposes lien avoidance must be served as provided under Rule 7004 for service of a summons and complaint.
- Lien avoidance not covered by this rule require an adversary proceeding.

CLOSING CHAPTER 7, 12, 13 and 15 CASES; ORDER DECLARING LIEN SATISFIED - RULE 5009



- Chapter 12 or 13 debtor may request an order declaring a secured claim satisfied and the lien released under the terms of a confirmed plan.
- Helps a debtor who may need documentation for title purposes of the elimination of a second mortgage or other lien that was secured by property of the estate.

SCOPE OF RULES OF PART VII – RULE 7001

- No adversary proceeding necessary for determination of the amount of a secured claim under Rule 3012.
- 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).

MODIFYING OFFICIAL FORMS – RULE 9009

- Rule 9009(a) : official form must be used without alteration, except when another rule, the official form, or the national instructions permit alteration.
- Permissible changes include expanding or deleting space for responses as appropriate or deleting inapplicable items as long as the filer indicates that no response is needed. Varying the width or orientation of columnar data on a form for clarity would also be a minor permissible change.

LOONEY TUNES



"That's all Folks!"