

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

1 (a) TWENTY-ONE-DAY NOTICES TO PARTIES IN INTEREST.

2 Except as provided in subdivisions (h), (i), (l), (p), and (q) of this rule, the clerk,
3 or some other person as the court may direct, shall give the debtor, the trustee, all
4 creditors and indenture trustees at least 21 days' notice by mail of:

5 * * * * *

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

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

10 (9) the time fixed for filing objections to confirmation of a chapter
11 13 plan.

12 (b) TWENTY-EIGHT-DAY NOTICES TO PARTIES IN INTEREST.

13 Except as provided in subdivision (l) of this rule, the clerk, or some other person
14 as the court may direct, shall give the debtor, the trustee, all creditors and
15 indenture trustees not less than 28 days' notice by mail of the time fixed

16 (1) for filing objections and the hearing to consider approval of a
17 disclosure statement or, under §1125(f), to make a final determination whether the
18 plan provides adequate information so that a separate disclosure statement is not
19 necessary; ~~and~~

20 (2) for filing objections and the hearing to consider confirmation of

21 a chapter 9, or chapter 11, or chapter 13 plan; and

22 (3) for the hearing to consider confirmation of a chapter 13 plan.

23 * * * * *

24 (q) NOTICE OF PETITION FOR RECOGNITION OF FOREIGN
25 PROCEEDING AND OF COURT'S INTENTION TO COMMUNICATE WITH
26 FOREIGN COURTS AND FOREIGN REPRESENTATIVES.

27 (1) *Notice of Petition for Recognition.* After the filing of a petition
28 for recognition of a foreign proceeding, the court shall promptly schedule and
29 hold a hearing on the petition. The clerk, or some other person as the court may
30 direct, shall forthwith give the debtor, all persons or bodies authorized to
31 administer foreign proceedings of the debtor, all entities against whom
32 provisional relief is being sought under §1519 of the Code, all parties to litigation
33 pending in the United States in which the debtor is a party at the time of the filing
34 of the petition, and such other entities as the court may direct, at least 21 days'
35 notice by mail of the hearing ~~on the petition for recognition of a foreign~~
36 ~~proceeding.~~ The notice shall state whether the petition seeks recognition as a
37 foreign main proceeding or foreign nonmain proceeding and shall include the
38 petition and any other document the court may require. If the court consolidates
39 the hearing on the petition with the hearing on a request for provisional relief, the
40 court may set a shorter notice period, with notice to the entities listed in this
41 subdivision.

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.

Subdivision (q) is amended to clarify the procedures for giving notice in cross-border proceedings. The amended rule provides, in keeping with Code § 1517(c), for the court to schedule a hearing to be held promptly on the petition for recognition of a foreign proceeding. The amended rule contemplates that a hearing on a request for provisional relief may sometimes overlap substantially with the merits of the petition for recognition. In that case, the court may choose to consolidate the hearing on the request for provisional relief with the hearing on the petition for recognition, see Rules 1018 and 7065, and accordingly shorten the usual 21-day notice period.

Rule 3002. Filing Proof of Claim or Interest

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

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

8 (c) TIME FOR FILING. In a voluntary chapter 7 ~~liquidation~~ case, chapter
9 12 ~~family farmer's debt adjustment~~ case, or chapter 13 ~~individual's debt~~
10 ~~adjustment~~ case, a proof of claim is timely filed if it is filed not later than ~~90~~ 60
11 days after the order for relief or the date of the order of conversion to a case under
12 chapter 12 or chapter 13. In an involuntary chapter 7 case, a proof of claim is
13 timely filed if it is filed not later than 90 days after the order for relief is entered.
14 ~~the first date set for the meeting of creditors called under § 341(a) of the Code But~~
15 in all these cases, the following exceptions apply:

16 * * * * *

17 (6) ~~If notice of the time to file a proof of claim has been mailed to~~
18 ~~a creditor at a foreign address, o~~n motion filed by ~~the~~ a creditor before or after
19 the expiration of the time to file a proof of claim, the court may extend the time
20 by not more than 60 days from the date of the order granting the motion. The

21 motion may be granted if the court finds that the notice was insufficient under the
22 circumstances to give the creditor a reasonable time to file a proof of claim

23 (A) the notice was insufficient under the circumstances to
24 give the creditor a reasonable time to file a proof of claim because the debtor
25 failed to timely file the list of creditors' names and addresses required by Rule
26 1007(a); or

27 (B) the notice was insufficient under the circumstances to
28 give the creditor a reasonable time to file a proof of claim, and the notice was
29 mailed to the creditor at a foreign address.

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

32 (A) the proof of claim, together with the attachments
33 required by Rule 3001(c)(2)(C), is filed not later than 60 days after the order for
34 relief is entered; and

35 (B) any attachments required by Rule 3001(c)(1) and (d)
36 are filed as a supplement to the holder's claim not later than 120 days after the
37 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 60 days after the petition date. If a case is converted to chapter 12 or chapter 13, the 60-day time for filing runs from the order of conversion. 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 60 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.

Rule 3007. Objections to Claims

1 (a) ~~OBJECTIONS TO CLAIMS~~ TIME AND MANNER OF
2 SERVICE. An objection to the allowance of a claim and a notice of
3 objection that substantially conforms to the appropriate Official Form shall
4 ~~be in writing and filed; and served at least 30 days before any scheduled~~
5 hearing on the objection or any deadline for the claimant to request a
6 hearing. A copy of the objection with notice of the hearing thereon shall be
7 ~~mailed or otherwise delivered to the claimant, the debtor or debtor in~~
8 ~~possession, and the trustee at least 30 days prior to the hearing. The~~
9 objection and notice shall be served as follows:

10 (1) on the claimant by first-class mail to the person most
11 recently designated on the claimant's original or amended proof of claim as
12 the person to receive notices, at the address so indicated; and

13 (A) if the objection is to a claim of the United States, or
14 any of its officers or agencies, in the manner provided for service of a
15 summons and complaint by Rule 7004(b)(4) or (5); or

16 (B) if the objection is to a claim of an insured depository
17 institution, in the manner provided by Rule 7004(h); and

18 (2) on the debtor or debtor in possession and on the trustee by
19 first-class mail or other permitted means.

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

Rule 3012. Valuation of Security Determining the Amount of Secured and Priority Claims

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

5 (a) DETERMINATION OF AMOUNT OF CLAIM. On request by a
6 party in interest and after notice—to the holder of the claim and any other entity
7 the court designates—and a hearing, the court may determine

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

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

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

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

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

1 (a) FILING OF CHAPTER 12 PLAN. The debtor may file a chapter 12
2 plan with the petition. If a plan is not filed with the petition, it shall be filed
3 within the time prescribed by § 1221 of the Code.

4 (b) FILING OF CHAPTER 13 PLAN. The debtor may file a chapter 13
5 plan with the petition. If a plan is not filed with the petition, it shall be filed
6 within 14 days thereafter, and such time may not be further extended except for
7 cause shown and on notice as the court may direct. If a case is converted to
8 chapter 13, a plan shall be filed within 14 days thereafter, and such time may not
9 be further extended except for cause shown and on notice as the court may direct.

10 (c) ~~DATING~~. ~~Every proposed plan and any modification thereof shall be~~
11 ~~dated.~~ FORM OF CHAPTER 13 PLAN. If there is an Official Form for a plan
12 filed in a chapter 13 case, that form must be used. Provisions not otherwise
13 included in the Official Form or deviating from it are effective only if they are
14 included in a section of the Official Form designated for nonstandard provisions
15 and are also identified in accordance with any other requirements of the Official
16 Form.

17 (d) ~~NOTICE AND COPIES~~. If the plan ~~The plan or a summary of the plan~~
18 ~~shall be~~ is not included with the each notice of the hearing on confirmation mailed
19 pursuant to Rule 2002, the debtor shall serve the plan on the trustee and all
20 creditors when it is filed with the court. If required by the court, the debtor shall

21 ~~furnish a sufficient number of copies to enable the clerk to include a copy of the~~
22 ~~plan with the notice of the hearing.~~

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

26 (f) OBJECTION TO CONFIRMATION; DETERMINATION OF GOOD
27 FAITH IN THE ABSENCE OF AN OBJECTION. An objection to confirmation
28 of a plan shall be filed and served on the debtor, the trustee, and any other entity
29 designated by the court, and shall be transmitted to the United States trustee,
30 ~~before confirmation of the plan~~ at least seven days before the date set for the
31 hearing on confirmation. An objection to confirmation is governed by Rule 9014.
32 If no objection is timely filed, the court may determine that the plan has been
33 proposed in good faith and not by any means forbidden by law without receiving
34 evidence on such issues.

35 (g) EFFECT OF CONFIRMATION. In a chapter 12 or chapter 13 case,
36 any determination made in accordance with Rule 3012 of the amount of a secured
37 claim under § 506(a) of the Code is binding on its holder, even if the holder files a
38 contrary proof of claim under Rule 3002 or the debtor schedules that claim under
39 § 521(a) of the Code, and regardless of whether an objection to the claim has been
40 filed under Rule 3007.

41 ~~(g)~~ (h) MODIFICATION OF PLAN AFTER CONFIRMATION. A
42 request to modify a plan pursuant to § 1229 or § 1329 of the Code shall identify
43 the proponent and shall be filed together with the proposed modification. The

44 clerk, or some other person as the court may direct, shall give the debtor, the
45 trustee, and all creditors not less than 21 days notice by mail of the time fixed for
46 filing objections and, if an objection is filed, the hearing to consider the proposed
47 modification, unless the court orders otherwise with respect to creditors who are
48 not affected by the proposed modification. A copy of the notice shall be
49 transmitted to the United States trustee. A copy of the proposed modification, or a
50 summary thereof, shall be included with the notice. ~~If required by the court, the~~
51 ~~proponent shall furnish a sufficient number of copies of the proposed~~
52 ~~modification, or a summary thereof, to enable the clerk to include a copy with~~
53 ~~each notice.~~ If a copy is not included with the notice and the proposed
54 modification is sought by the debtor, a copy shall be served on the trustee and all
55 creditors in the manner provided for service of the plan by subdivision (d) of this
56 rule. Any objection to the proposed modification shall be filed and served on the
57 debtor, the trustee, and any other entity designated by the court, and shall be
58 transmitted to the United States trustee. An objection to a proposed modification
59 is 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. The amended rule also provides that nonstandard provisions in a chapter 13 plan must be set out in the section of the Official Form specifically designated for such provisions and identified in the manner required by the Official Form.

Subdivision (d) is amended to ensure that the trustee and creditors are served with the plan in advance of 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. The seven-day notice period may be altered in a particular case by the court under Rule 9006.

Subdivision (g) is amended to provide 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 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 (h) was formerly subdivision (g). It is redesignated and amended to clarify that service of a proposed plan modification must be made in accordance with subdivision (d) of this rule. 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.

Rule 4003. Exemptions

* * * * *

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

Other changes to this rule are stylistic.

Rule 9009. Forms

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

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

11 (2) delete space not needed for responses; or

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

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

17 (c) CONSTRUCTION. The forms shall be construed to be consistent with
18 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 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.