

QUICK REFERENCE GUIDE TO 2017 CHANGES TO THE FEDERAL RULES OF BANKRUPTCY PROCEDURE AFFECTING CHAPTER 13 CASES

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This Quick Reference Guide is a summary of certain changes to the Federal Rules of Bankruptcy Procedure to be effective December 1, 2017. It is based on my present interpretation of the proposed Rules. I might be wrong; I might change my mind. Therefore, read the Rules and Official Comments; conduct your own research; and formulate your own conclusions. Do not rely solely on this guide.

<u>What:</u>	<u>Where:</u>	<u>How:</u>	<u>When:</u>	<u>Service:</u>	<u>Comments:</u>
Proof of claim by secured creditor or unsecured creditor, other than governmental units and other existing exceptions	Rule 3002(a) and (c)	Proof of claim	In a chapter 13 case, 70 days after: <ul style="list-style-type: none"> • Petition date (order for relief); or • Date of the order of conversion to chapter 13. <p>No change in bar date for governmental units.</p>		Creditor, including a secured creditor, must file proof of claim to have an allowed claim. Bar date applies to secured creditors. “A lien that secures a claim against the debtor is not void due only to the failure of any entity to file a proof of claim.”
Proof of claim by holder of a claim that is secured by a security interest in the debtor’s principal residence	Rule 3002(c)(7)	Proof of claim & attachments	In a chapter 13 case, <ul style="list-style-type: none"> • 70 days after order for relief to file proof of claim and attachments required under Rule 3001(c)(2)(C); and • 120 days after order for relief to file attachments required by Rule 3001(c)(1) and (d) as a supplement to claim. 		The Rule 3001(c)(2)(C) attachment is Mortgage Proof of Claim Attachment Form B410A and an escrow statement if applicable. Rule 3001(c)(1) requires a copy of the “writing” on which the claim is based. Rule 3001(d) requires proof of perfection.

<u>What:</u>	<u>Where:</u>	<u>How:</u>	<u>When:</u>	<u>Service:</u>	<u>Comments:</u>
Proof of claim by creditor with insufficient notice of deadline for filing claims	Rule 3002(c)(6)	Motion to extend time for filing proof of claim, which must be granted before claim is filed.	Motion may be filed before or after bar date. Claim must be filed within 60 days after order is entered granting motion for extension of time to file claim.	Serve motion per Rule 7004 via Rule 9014.	Extension allowed if notice was insufficient to give creditor time to file claim: <ul style="list-style-type: none"> • “because the debtor failed to timely file the list of creditors’ names and addresses required by Rule 1007(a)”; • notice was mailed to creditor at foreign address.
Objection to claim	Rule 3007(a)	<ul style="list-style-type: none"> • Objection; and • a Notice of Objection (Official Form) 	Serve at least 30 days before: <ul style="list-style-type: none"> • any scheduled hearing on the objection, or • any deadline for claimant to request hearing 	<ul style="list-style-type: none"> • Serve claimant by first-class mail to notice address in POC; and • If claimant is U.S. or U.S. officer or agency, serve per 7004(b)(4) or (5); • If claimant is insured depository institution, serve per 7004(h); and • Serve debtor, trustee, (and if applicable a codebtor who filed claim under Rule 3005) by first class mail “or other permitted means.” 	<p>For service on U.S., mail copy to:</p> <ul style="list-style-type: none"> • civil process clerk at U.S. Attorney for district; • U.S. Attorney General at Washington DC; • Affected agency or officer; and • If agency is a corporation, to the attention of an officer or agent authorized to accept service of process. <p>For service on insured depository institution: send by certified mail addressed to an officer (with exceptions).</p>

<u>What:</u>	<u>Where:</u>	<u>How:</u>	<u>When:</u>	<u>Service:</u>	<u>Comments:</u>
Determining amount of secured claim under § 506(a) – claims of nongovernmental units	Rule 3012(a) and (b)	<ul style="list-style-type: none"> • Motion; • Objection to claim; or • In plan. <p>But not by adversary proceeding (Rule 7001(2)).</p>	<p>If by motion, give at least 7 days' notice per Rule 9006(d) or notice required by local rules.</p> <p>If by objection to claim, give 30 days' notice per Rule 3007.</p> <p>If in plan, creditor gets 21 days' notice of deadline to object to confirmation and 28 days' notice of confirmation hearing per Rule 2002.</p>	<ul style="list-style-type: none"> • If by motion, serve per Rule 7004 via Rule 9014. • If by objection to claim, serve per Rule 3007 (see above). • If by plan, serve holder of claim and any other entity the court designates, per Rule 7004 via Rule 3012(b). 	<p>Upon confirmation, "any determination in the plan made under Rule 3012 about the amount of a secured claim is binding on the holder of the claim"</p> <p>Notice requirements for plans amended before confirmation – determined by local rules.</p>
Determining amount of secured claim under 506(a) – claims of governmental units	Rule 3012(a) and (c)	<ul style="list-style-type: none"> • Motion; or • Objection to claim. 	<p>File after:</p> <ul style="list-style-type: none"> • Governmental unit files claim or • Time for filing claim under Rule 3002(c)(1) has expired. <p>If by motion, give at least 7 days' notice per Rule 9006(d) or notice required by local rules.</p> <p>If by objection to claim, give 30 days' notice per Rule 3007.</p>	<ul style="list-style-type: none"> • If by motion, serve per Rule 7004 via Rule 9014. • If by objection to claim, serve per Rule 3007 (see above). 	<p>Claims bar date in Rule 3002(c)(1) for governmental units is not changed.</p> <p>Amount of secured claim of governmental units cannot be determined in the plan.</p> <p>If governmental unit does not timely file claim under Rule 3002(c)(1) and debtor files claim under Rule 3004, does debtor also have to file motion or objection to its own claim to determine secured amount?</p>

<u>What:</u>	<u>Where:</u>	<u>How:</u>	<u>When:</u>	<u>Service:</u>	<u>Comments:</u>
Determining amount of any claim entitled to priority	Rule 3012(a) and (b)	<ul style="list-style-type: none"> • Motion; or • Objection to claim. 	<ul style="list-style-type: none"> • File motion after a claim is filed; or • File a claim objection (presumably after claim is filed). <p>If by motion, give at least 7 days' notice per Rule 9006(d) or notice required by local rules.</p> <p>If by objection to claim, give 30 days' notice per Rule 3007.</p>	<ul style="list-style-type: none"> • If by motion, serve per Rule 7004 via Rule 9014. • If by objection to claim, serve per Rule 3007 (discussed above). 	Amount of claim entitled to priority cannot be determined in the plan.
Objection to confirmation	Rule 3015(f)	Objection	File objection at least 7 days before the date set for hearing on confirmation unless court orders otherwise.	Serve per Rule 7004 via Rule 9014.	<p>Creditors are to get:</p> <ul style="list-style-type: none"> • 21 days' notice of the deadline for filing objections to confirmation (Rule 2002(a)(9)); and • 28 days' notice of the confirmation hearing (Rule 2002(b)(3)). <p>Notice requirements for plans amended before confirmation – determined by local rules.</p>

<u>What:</u>	<u>Where:</u>	<u>How:</u>	<u>When:</u>	<u>Service:</u>	<u>Comments:</u>
Avoid a lien or other transfer of exempt property under § 522(f)	Rule 4003(d)	<ul style="list-style-type: none"> • Motion; or • In plan. <p>But not by adversary proceeding (Rule 7001(2)) (no change).</p>	<p>If by motion, give at least 7 days' notice per Rule 9006(d) or notice required by local rules.</p> <p>If in plan, creditor gets 21 days' notice of deadline to object to confirmation and 28 days' notice of confirmation hearing per Rule 2002.</p>	<ul style="list-style-type: none"> • If by motion, serve per Rule 7004 via 9014. • If in plan, serve affected creditor per Rule 7004 via Rule 4003(d). 	
Request for order declaring lien satisfied	Rule 5009(d)	Debtor may request by motion an order declaring that "secured claim has been satisfied and the lien has been released under the terms of a confirmed plan."	Likely file motion at time a case is being closed, but rule does not prohibit request at another time.	Service on claim holder per Rule 7004.	New.
Alteration of Official Forms	Rule 9009(a)	Eff. 12/1/17, the Official Forms shall be used "without alteration, except as otherwise provided in these rules, in a particular Official Form, or in the national instructions for a particular Official Form. Official Forms <u>may be modified to permit minor changes not affecting wording or the order of presenting information . . .</u> "			Before 12/1/17, Official Forms shall be used "with alterations as may be appropriate."

Claims: New Bar Dates and Other Requirements

BY BEVERLY BURDEN ON SEPTEMBER 24TH 2017

By Beverly M. Burden, Chapter 13 Trustee (Lexington, KY) and Lawrence R. Ahern III, Brown & Ahern (Nashville, TN)

A new deadline for filing non-governmental claims in chapter 13 cases will become earlier in cases filed on and after December 1, 2017.¹ In addition, secured creditors will be required to file claims, and a new two-stage bar date will apply to secured claims.

New Basic Bar Date

Chapter 13 creditors² other than governmental units will have only 70 days from the date of the order for relief in which to file claims (not 90 days from the date of the first scheduled 341 meeting).² The filing of the petition constitutes an order for relief, as does a conversion. The rule clarifies that the claims deadline runs from the date of the petition if the case was filed under chapter 13 or the date of conversion if the case is later converted to one under chapter 13.

New Requirement for Secured Creditors to File Claims

Secured creditors will be required to file a proof of claim in order for the claim to be allowed.⁴ This explicit requirement makes clear that the bar date applies to secured claims. Thus, secured creditors (other than governmental units) will have 70 days from the date of the order for relief in which to file a proof of claim. If a secured creditor does not timely file a claim, it will not have an allowed claim in the case, but its lien is not void due only to its failure to file a claim.⁵

Two New Bar Dates for Secured Creditors

If the creditor's claim is secured by a security interest in the debtor's principal residence the creditor will have a two-stage deadline. The creditor must file the proof of claim, along with the mortgage attachment and escrow statement, within 70 days after the date of the order for relief, and must file a copy of the note and mortgage as a supplement to the claim within 120 days after the order for relief.⁶ The claim is timely filed only if both deadlines are met.

No New Bar Date for Governmental Units

The claims deadline for governmental units is unchanged. Most claims filed by governmental units must be filed within 180 days after the date of the order for relief.⁷

Extensions for Certain Creditors Without Notice

Certain creditors without notice may request an extension of time for filing a claim, but the circumstances in which such an extension may be granted are quite limited. The motion need not be filed before the bar date, but the court may extend the deadline only if (1) it finds notice to have been insufficient to give the creditor a reasonable time to file a claim because the debtor failed to timely file the list of creditors' names and addresses required by Rule 1007(a), or (2) the notice was insufficient and was mailed to the creditor at a foreign address.⁸ If the court grants the creditor's motion, the deadline may be extended "by not more than 60 days from the date of the order granting the motion."

The rule does not address the more common situation in which a particular creditor with a domestic address was not scheduled or otherwise was not given sufficient notice. The implication is that those creditors' late claims will, if objected to, continue to be disallowed as untimely.⁹

Other Exceptions Unchanged

Other existing exceptions for infants or incompetents, claims arising from certain postpetition judgments, and claims arising from the rejection of an executory contract survive the amendment of the rules.¹⁰

Consequences of Untimely Filed Claims

Under the amended rules, there can no longer be doubt that the bar date applies to require filing of secured claims, but what are the consequences? In most jurisdictions, an untimely filed unsecured claim, if objected to, is disallowed under 11 U.S.C. § 502(b)(9). Before this year, some courts have held that secured creditors are not subject to the bar date, because they were not required by the Rules to file a proof of claim, while other courts have applied the bar date and disallowed late-filed secured claims.¹¹ If a late claim is disallowed and cannot be paid through the chapter 13 plan, the debtor's fresh start may be thwarted by the survival of the lien, especially if the claim is over-secured. However, the creditor may be out of luck, especially if its claim is underwater.

Debtor's counsel may consider trying to find middle ground in the terms of the plan.¹² To avoid uncertainty and risks, if a debtor wants a secured claim paid through the plan, debtors' attorneys should also consider filing claims on behalf of secured creditors. If a creditor does not timely file a proof of claim, the debtor may file a claim on behalf of the creditor within 30 days after the expiration of the creditor's deadline.¹³

"Blacklined" Rule 3002, Showing 2017 Deletions and Additions

Rule 3002. Filing Proof of Claim or Interest

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

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

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

3002(a)

chapter is entered. The first date set for the meeting of creditors called under § 341(a) of the Code, except as follows: But in all these cases, the following exceptions apply:

(6) If notice of the time to file a proof of claim has been mailed to a creditor at a foreign address, on motion filed by the creditor before or after the expiration of the time to file a proof of claim, the court may extend the time by not more than 60 days from the date of the order granting the motion. The motion may be granted if the court finds that the notice was insufficient under the circumstances to give the creditor a reasonable time to file a proof of claim:

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

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

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

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

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

[1] The amendments take effect on December 1, 2017, and the Supreme Court's adopting order states that they "shall govern in all proceedings in bankruptcy cases thereafter commenced and, insofar as just and practicable, all proceedings then pending." Retroactive application of these new bar dates, however, seems unlikely to be either just or practicable.

[2] The new bar dates apply also in voluntary chapter 7 cases and chapter 12 cases, but are not discussed here. A "blacklined" version of amended Rule 3002 is appended to this article for clarity.

[3] Fed. R. Bankr. P. 3002(c) (amended, eff. Dec. 1, 2017).

[4] Fed. R. Bankr. P. 3002(a) (amended, eff. Dec. 1, 2017).

[5] Fed. R. Bankr. P. 3002(a) (amended, eff. Dec. 1, 2017); see also 11 U.S.C. § 506(d)(2).

[6] Fed. R. Bankr. P. 3002(c)(7) (new, eff. Dec. 1, 2017). This requirement that secured creditors file claims applies in all cases, except as provided in Rules 1019 (3), 3003, 3004, and 3005. The mortgage attachment and escrow statement are required in all cases in which the debtor is an individual by existing Rule 3001(c)(2)(C). The note or other writing on which a secured claim is based also continues to be required in individual cases, as does evidence of perfection, by existing Rule 3001(c)(1) & (d).

[7] Fed. R. Bankr. P. 3002(c)(1).

[8] Fed. R. Bankr. P. 3002(c)(6) (amended, eff. Dec. 1, 2017). The "foreign address" exception already exists in Rule 3002(c)(6).

[9] The claim is disallowed under 11 U.S.C. § 502(b)(9), but may be excepted from discharge pursuant to 11 U.S.C. §§ 523(a)(3) and 1328(a)(2).

[10] Fed. R. Bankr. P. 3002(c)(2) through (c)(4).

[11] See, e.g., *In re Pajian*, 785 F.3d 1161 (7th Cir. 2015) (holding mortgage lender's claim was barred from inclusion in confirmed Chapter 13 plan, where lender filed its claim after 90-day deadline in former Rule 3002(c), because deadline applied to secured and unsecured creditors wishing to receive distributions in bankruptcy proceedings, but noting that secured creditor's lien was largely unaffected by Chapter 13 discharge, regardless of whether creditor filed proof of claim).

[12] In *In re Hrubec*, 544 B.R. 397 (N.D. Ill. 2016), the court distinguished *Pajian*, holding that, when a Chapter 13 debtor voluntarily proposed a plan that included payments to a secured creditor and that creditor did not object to its treatment, there was no need for the creditor to file a proof of claim and the plan was confirmable. New Rule 3002 seems to follow the approach in *Pajian* but the continued vitality of the *Hrubec* rule is unclear.

[13] Fed. R. Bankr. P. 3004 (unchanged). Rule 3004 also allows the trustee to file claims on behalf of creditors, which is a practice in a few jurisdictions.



Beverly M. Burden, Lexington, Kentucky, has served as the Chapter 13 Trustee for the Eastern District of Kentucky since 1999. From 1987 to 1999, she served as Law Clerk to Bankruptcy Judge Joe Lee. Prior to her tenure with the Bankruptcy Court, she was an Assistant Attorney General for the Commonwealth of Kentucky, where she concentrated on consumer fraud litigation. She earned her J.D. degree from the University of Kentucky College of Law in 1983 and holds a B.B.A. degree in Accounting. Ms. Burden has served on the faculty of the annual meeting of the National Conference of Bankruptcy Judges, the annual convention of the National Association of Chapter Thirteen Trustees, the Midwest Regional Bankruptcy Seminar, the Judge Joe Lee Biennial Bankruptcy Institute, and numerous other regional and local CLE programs. She was the 1997 recipient of the Kentucky Bar Association's Justice Thomas B. Spain Award For Outstanding Service in Continuing Legal Education.



Larry Ahem is a partner in Brown & Ahem and is Adjunct Professor of Law at Vanderbilt University (teaching Secured Transactions) and St. John's University (Bankruptcy Procedure). He is a Fellow of both the American College of Bankruptcy and the American College of Mortgage Attorneys and a Director of the Association of Insolvency and Restructuring Advisors. A Rule 31 Certified Mediator in Tennessee, he also holds national certification as a Business Bankruptcy Specialist by the American Board of Certification. Larry practiced bankruptcy and commercial law after his 1972 graduation from Vanderbilt, until 2013, when he limited his practice to mediation and other alternate dispute resolution, consulting engagements by legal and financial professionals on legal issues involving bankruptcy, real estate and commercial law, expert testimony, writing, teaching and

speaking. In addition to his current teaching positions, he serves on the Advisory Board of the St. John's Law School Bankruptcy LL.M. program and in 2002 was Visiting Professor at Cumberland School of Law (Secured Transactions and Banking). He also chaired both the American Board of Certification and the Tennessee Commission on CLE & Specialization and continues to serve the ABC as Director Emeritus. Larry's other professional affiliations include the American Bankruptcy Institute (former Director) and the Mid-South Commercial Law Institute (former Director and President). He is author or co-author of 19 books and articles on bankruptcy and commercial law, with other articles pending, and he is a frequent speaker and writer.

[CLAIMS: DEC 2017 RULE CHANGES, JUST ADDED. MEMBER. THE TOOLBOX](#)

3 comments to Claims: New Bar Dates and Other Requirements



mmccormick

[SEPTEMBER 25, 2017 AT 1:18 PM - REPLY](#)

Excellent article



James Davis

[SEPTEMBER 25, 2017 AT 2:35 PM - REPLY](#)

Any thought on why the new exception for creditors without notice does not extend to the more common situation you mentioned (the debtor omitting a creditor from the schedules)? I agree with your take that—read literally—the new exception only applies when the lack of notice is due to the debtor's failure to timely file the list of creditors, but I don't see the reason for making a distinction between those two situations.



Kevin Anderson

[SEPTEMBER 28, 2017 AT 6:06 PM - REPLY](#)

Thanks for your very helpful summary of the rule changes.

[Undisclosed Assets, Voluntary Dismissal, And Section 349 – Oh, What A Tangled Web We Weave](#)

[Critical Case Comment »](#)

Part II - Objections to Claims

BY BEVERLY BURDEN ON OCTOBER 15TH, 2017

By Beverly M. Burden, Chapter 13 Trustee (Lexington, KY) and Lawrence R. Ahern III, Brown & Ahern (Nashville, TN)

[Click here for Part I](#)

Summary

Rule 3007 has been overhauled to specify the manner of service of an objection to a proof of claim; to require service according to Rule 7004 only on certain claimants; to permit the objecting party to give claimants notice and an opportunity for a hearing; and to mandate service of a prescribed official notice form along with the objection.

Manner of Service of All Claim Objections

Until December 1, 2017, Rule 3007(a) requires that a copy of the objection with a notice of the hearing be mailed or otherwise delivered to the claimant at least 30 days before the hearing.¹ In some jurisdictions, objections to claims have been considered to be contested matters necessitating service in accordance with Rule 7004.² Even where service by first class mail is deemed acceptable, the rule has not identified the address to which an objection should be mailed, leaving doubt as to whether service is adequate if the objection is mailed to the creditor's address listed in the debtor's schedules, the payment address on the proof of claim, or some other address.

Amended Rule 3007 provides a measure of clarity and efficiency in the claims objection process. Simply put, an objection to a claim must be mailed to the person and address listed on the proof of claim in the section labeled "Where should notices to the creditor be sent?" See the illustration below. If the proof of claim is amended, service must be sent to the person and address designated on the most recent amended proof of claim.

Trustees and debtors' attorneys will need to institute procedures for updating their records to include notice addresses listed on proofs of claims, at least as to creditors whose claims are subject to objection.

Additional Service Pursuant to Rule 7004 on Some Claimants

Additional service in accordance with Rule 7004 is required only with respect to objections to claims of two types of creditors: (1) insured depository institutions; and (2) the United States or its officers or agencies.

If the objection is to a claim of an insured depository institution, the objection must also be served in the manner provided for service of a summons and complaint by Rule 7004(h), which generally requires service by certified mail addressed to an officer of the institution designated by the institution.³

An objection to a claim of the United States, or of an officer or agency of the United States, must also be served in accordance with Rule 7004(b)(4) or (b)(5). Service under those paragraphs is effectuated by mailing the objection addressed to:

- The civil process clerk at the office of the United States attorney for the district in which the objection is filed;
- The Attorney General of the United States at Washington, D.C.;
- The officer or agency which filed the claim; and
- If the agency is a corporation, to the attention of an officer, a managing or general agent, or to any other agent authorized by appointment or by law to receive service of process pursuant to Rule 7004(b)(3).

Opportunity for Hearing on Objection

Rule 3007 is amended to clarify that an actual hearing need not be scheduled or conducted on every objection to claim. The amended rule permits the practice of requiring the claimant to respond to the objection and request a hearing, but the Rules Committee offers this caveat: "[W]hile 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."⁴

Form of Notice

As amended, Rule 3007 requires service of a notice substantially conforming to [Official Form 420B](#) along with the objection. The notice form is intended to provide plain English explanations to parties regarding what they must do to respond to the objection to claim.

Although a Notice of Objection to Claim has been an Official Form since at least 1997, no rule has strictly mandated its use, and substantial alterations to the language of the notice form have been accepted. However, a seemingly unrelated amendment to Rule 9009(a) will require greater conformity to the official form.

Under Rule 9009(a) in its pre-2017 iteration, an Official Form "shall be observed and used with alterations as may be appropriate." As amended, Official Forms "shall be used without alteration, except as provided in these rules, in a particular Official Form, or in the national instructions for a particular Official Form. Official Forms may be modified to permit minor changes not affecting wording or the order of presenting information. . . ."⁵

A generic notice of hearing in legalese likely will not substantially conform to the official notice form, and a claim objection without the language of the official notice form will not be served in compliance with the amended rules. Trustees and debtors' attorneys are advised to revise their forms accordingly and adopt the language of Official Form 420B, Notice of Objection to Claim.⁶ The only alterations to the form should be with respect to whether a hearing will be held or whether the claimant must respond to the objection and request a hearing.

Click [here](#) for larger PDF of Proof Claim form



Official Form 410

Proof of Claim 321-10

Read the instructions before filling out this form. This form is for mailing a claim for payment to a bankruptcy court. Do not use this form to file a claim for payment of an administrative expense claim or a claim for payment of a debt secured by a lien on real property.

Section 1: Identify the Claim

1. Name of Debtor (Print Debtor's full name as it appears on the court's list of debtors.)

2. Case No. (Print the case number assigned to this case by the court.)

3. Chapter of Bankruptcy (Print the chapter of the bankruptcy case.)

4. Name of Creditor (Print the name of the creditor to whom you are making a claim.)

5. Address of Creditor (Print the address of the creditor to whom you are making a claim.)

6. Amount of Claim (Print the amount of your claim.)

7. Description of Claim (Print a brief description of your claim.)

8. Date of Filing (Print the date you are filing this claim.)

9. Signature of Debtor (Print the name of the debtor.)

10. Signature of Creditor (Print the name of the creditor.)

11. Where should notices and payments to the creditor be sent? (Print the name, address, and contact information of the creditor.)

12. Where should notices to the creditor be sent? (Print the name, address, and contact information of the creditor.)

"Blacklined" Rule 3002, Showing 2017 Deletions and Additions

Rule 3007. Objections to Claims

(a) Objections to Claims Time and Manner of Service.

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

(2) Manner of Service.

(A) The objection and notice shall be served on a claimant by first-class mail to the person most recently designated on the claimant's original or amended proof of claim as the person to receive notices, at the address so indicated; and

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

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

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

[1] Of course, the effect of this rule is to require that hearings on objections be scheduled at least 30 days after the objection. This time may be reduced in the court's discretion. Rule 9006(c)(1).

[2] "The contested matter initiated by an objection to a claim is governed by rule 9014. . . ." Committee Note to Fed. R. Bankr. P. 3007 (1983). There has been a split of authority over whether an objection is to be served under the rules applicable to contested matters, see Ahern & MacLean, West's Bankruptcy Procedure Manual § 3007:4 (Thomson Reuters 2017), and the drafters of the 2017 amendments intended to resolve this conflict: "Subdivision (e) 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." Committee Note to Fed. R. Bankr. P. 3007 (2017).

[3] The Bankruptcy Reform Act of 1994 added paragraph (h) to Bankruptcy Rule 7004, congressionally mandating the manner of service on insured depository institutions in bankruptcy cases. Pub.L. 103-394, Title I, § 114 (October 22, 1994).

[4] Committee Note to Fed. R. Bankr. P. 3007 (amended, eff. Dec. 1, 2017). Apparently, the bankruptcy judge has an affirmative duty to scrutinize the objection and determine that it contains a valid basis for the relief requested on its face.

[5] Fed. R. Bankr. P. 9009(a) (amended, eff. Dec. 1, 2017) (emphasis added). Note that this injunction against alteration of official forms is not limited to the new official objection to claims. Practitioners should be wary of unintended consequences of this change, which will be the subject of a future comment.

[6] Whether the Notice of Objection will need to be filed as a separate ECF event or can be attached to or incorporated in the actual objection will be determined locally.



Beverly M. Burden, Lexington, Kentucky, has served as the Chapter 13 Trustee for the Eastern District of Kentucky since 1999. From 1987 to 1999, she served as Law Clerk to Bankruptcy Judge Joe Lee. Prior to her tenure with the Bankruptcy Court, she was an Assistant Attorney General for the Commonwealth of Kentucky, where she concentrated on consumer fraud litigation. She earned her J.D. degree from the University of Kentucky College of Law in 1983 and holds a B.B.A. degree in Accounting. Ms. Burden has served on the faculty of the annual meeting of the National Conference of Bankruptcy Judges, the annual convention of the National Association of Chapter Thirteen Trustees, the Midwest Regional Bankruptcy Seminar, the Judge Joe Lee Biennial Bankruptcy Institute, and numerous other regional and local CLE programs. She was the 1997 recipient of the Kentucky Bar Association's Justice Thomas B. Spain Award For Outstanding Service in Continuing Legal Education.



Larry Ahern is a partner in Brown & Ahern and is Adjunct Professor of Law at Vanderbilt University (teaching Secured Transactions) and St. John's University (Bankruptcy Procedure). He is a Fellow of both the American College of Bankruptcy and the American College of Mortgage Attorneys and a Director of the Association of Insolvency and Restructuring Advisors. A Rule 31 Certified Mediator in Tennessee, he also holds national certification as a Business Bankruptcy Specialist by the American Board of Certification. Larry practiced bankruptcy and commercial law after his 1972 graduation from Vanderbilt, until 2013, when he limited his practice to mediation and other alternate dispute resolution, consulting engagements by legal and financial professionals on legal issues involving bankruptcy, real estate and commercial law, expert testimony, writing, teaching and speaking. In addition to his current teaching positions, he serves on the Advisory Board of the St. John's Law School Bankruptcy LL.M. program and in 2002 was Visiting Professor at Cumberland School of Law (Secured Transactions and Banking). He also chaired both the American Board of Certification and the

Tennessee Commission on CLE & Specialization and continues to serve the ABC as Director Emeritus. Larry's other professional affiliations include the American Bankruptcy Institute (former Director) and the Mid-South Commercial Law Institute (former Director and President). He is author or co-author of 19 books and articles on bankruptcy and commercial law, with other articles pending, and he is a frequent speaker and writer.

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