

Federal and Local Bankruptcy Rule and Form Changes

Effective December 1, 2017

United States Bankruptcy Court,
District of Rhode Island



Released November 6, 2017

Pending Amendments to the Federal Bankruptcy Rules

On April 27, 2017, the Supreme Court adopted changes to the Federal Rules of Bankruptcy Procedures which are scheduled to **take effect on December 1, 2017**.

The following is a summary of the proposed changes to the Federal Bankruptcy Rules, Official Forms, as well as recent local rule and form changes, many of which relate to the federal changes.

Disclaimer: This packet is not intended to be all encompassing and should not be considered legal advice. All parties acting before the Court should perform any and all research prior to filing.



The following Federal Bankruptcy Rules are amended as of December 1, 2017

- 1001
- 1006
- 1015
- 2002
- 3002
- 3007
- 3012
- 3015
- 4003
- 5009
- 7001
- 9009
- New Rule 3015.1



In addition, the following Local Rule and Form amendments take effect on 12/1/17

Local Rule 1005-1

Local Rule 2002-1

Local Rule 3002-1

Local Rule 3011-1

Local Rule 3015-1

Local Rule 3015-2

Local Rule 4001-1

Local Rule 5001-2

Local Rule 7016-1

Local Rule 9037-1

Local Rule 9070-1

Local Form 3002-1.1 (new)

Local Form 3011-1.1

Local Form 3011-1.2 (abolished)

Local Form 3011-1.3 (abolished)

Local Form 3015-1.1

Local Form 3015-2.1 (abolished)

Local Form 3015-3.1

Local Form 9014-1.1 (will replace Local Forms 4001-1.2; 7016-1.1 and 9070-1.1)

Appendix VII



Rule 2002: Notices to Creditors, Equity Security Holders, Administrators in Foreign Proceedings ...

Chapter 13 Notice Requirements

- 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.

Local practice: The Court provides notice of the date of the confirmation hearing, as well as the time to file objections to the plan, in the Meeting of Creditors Notice, which is mailed at least 40 days prior to the date of the confirmation hearing.



Rule 3002: Filing Proof of Claim or Interest – **Necessity of Filing Claim**

Subsection (a) Necessity for Filing 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 section is further amended to clarify that the failure of a secured creditor to file a proof of claim does not render the creditor's lien void.



Rule 3002: Filing Proof of Claim or Interest – **Deadline to File Proof of Claim Shortened**

Subsection (c) Time for Filing -

- Shortens the time within which a creditor must file a proof of claim in a chapter 7, 12, or 13 case to **70 days after the order for relief** (typically, the date of the filing of the petition), or 70 days from the date of the order of conversion to chapter 12 or 13.
- Involuntary chapter 7 – the proof of claim bar date is 90 days from the date the order of relief enters.



Rule 3002: Filing Proof of Claim or Interest – **Motions to Extend Time**

Subsection (c)(6) was amended to broaden the circumstances in which creditors may file a motion to extend time to file a proof of claim, specifically where:

- the notice was insufficient because the debtor failed to timely file the list of creditors; or
- the notice was insufficient because it was mailed to a foreign address.

In these instances, a creditor may file a motion to extend time to file the proof of claim (before or after the deadline expires), and the court may extend by not more than 60 days from the date the order granting is entered.



Rule 3002: Filing Proof of Claim or Interest – Additional Time to File Supplemental Documentation for Creditors Holding Mortgage on Debtor's Principal Residence

Subsection (c)(7) provides **an additional 50 days (after the original 70 days)** to file the proof of claim and attachments required by 3001(c)(2)(C), for holders of a claim secured by a security interest in the debtor's principal residence, **to file as a supplement any attachments required by Rule 3001(c)(1) and (d).**



Amended Local Rule 3002-1 and New LF 3002-1.1 **Implements Federal Rule 3002(c)(7) Supplement**

Local Rule 3002-1 has been amended to add a new subsection (d), entitled “Creditor’s Supplement to Previously Filed Proof of Claim” to set forth the procedures in Rhode Island for timely filing any Supplement allowed under FRBP 3002(c)(7) (120 days after order for relief), and also requires the filing of **new Local Form 3002-1.1**, entitled: “Certification of Supplemental Proof of Claim Documents”.

A new filing event in the Court’s electronic case filing system (ECF) will be available to file any Supplemental Documentation under this rule, and the filer shall also attach Local Form 3002-1.1 to the event.

More information on this process will be posted once the event is implemented.



New Local Form 3002-1.1 -- Certification of Supplemental Proof of Claim Documents



FOR THE DISTRICT OF RHODE ISLAND

In re: _____

Debtor(s) _____

BK No. _____

Chapter _____

CERTIFICATION OF SUPPLEMENTAL PROOF OF CLAIM DOCUMENT(S)

I _____, hereby certify under penalty of perjury as follows:

_____ is the holder of a claim that is secured by a security interest in the debtor's principal residence;

A proof of claim was timely filed pursuant to Fed. R. Bankr. P. 3002 (hereinafter "Bankruptcy Rule") together with the attachments required by Bankruptcy Rule 3001(c)(2)(C), which claim number is _____;

The within attachment(s) are required by Bankruptcy Rule 3001(c)(1) and (d) and are being filed pursuant to Bankruptcy Rule 3002(c)(7) as a supplement to the holder's proof of claim.

The within attachment(s) required by Bankruptcy Rule 3001(c)(1) and (d) are being filed no later than 120 days after the order for relief was entered, or within the time allowed by any previously granted extension of time.

Check the appropriate.

I am the creditor.

I am the creditor's authorized agent.

I declare under penalty of perjury that the information provided is true and correct.

Signature _____ Date _____

Print: _____

First Name Middle Name Last Name

Company: _____

Address: _____

Rule 3007: Objection to Claim

Notice and Service

- This bankruptcy rule is modified to require notice of an objection to claim on the claimant at least 30 days before any hearing thereon.
- This Court's Local Rule 3007-1(b) sets forth the required notice language that must be included on all objection to claim pleadings, which satisfies amended FRBP 3007(a).
- Rule 3007 also specifies the manner of service on the claimant:
 - By first class mail to the person listed on the claim under "notices" at the address so indicated;
 - In the manner provided for under FRBP 7004(b)(4) or (5) if the claimant is the United States, or any of its officers or agencies; or
 - In the manner provided under FRBP 7004(h) if the claimant is an insured depository institution.
- Service must also be made by first class mail or other permitted means on the debtor, DIP, trustee and if applicable, the entity filing the POC under FRBP 3005.



Rule 3012 – Determining the Amount of Secured and Priority Claims

How to Raise the Issue?

- This rule is amended to allow the determination of the amount of a secured claim for claimants other than a governmental unit, by any of three methods:
 - By motion
 - In a claim objection
 - In a Chapter 12 or 13 plan
- For a governmental unit, the determination may be made only by motion or in a claim objection.
- For all claimants, a request to determine the priority of a claim may only be made by motion (after the claim is filed) or in a claim objection.



Change to the Objection to Claim Event in ECF in Accordance with Rule 3012

New Event Question

In order to identify whether a request to determine the amount of a security claim or priority of claim is being included in an objection to claim, the event will now include a yes or no question and pull the relevant response language into the docket text:

for Other Reason

Case Flag: DebtEd, MEANSNO, FUNDS, HldEnDis, DISMISSED

Will a request for valuation of security, payment of fully secured claims, and modification of undersecured claims be included with the objection to claim?

Yes
 No

Next Clear



Rule 3015: Filing, Objection to Confirmation,
Effect of Confirmation and Modification of a Plan
in a Chapter 12 or a Chapter 13 Case –
Re: New Chapter 13 Plan Form

- Subsection (c) of this rule was amended to require the use of the new Official Chapter 13 Plan Form *unless* a local form is adopted by the local court consistent with Rule 3015-1.
- RI Local Form 3015-1.1 and Local Rule 3015-1 were both amended to comply with Rules 3015(c) and 3015.1.
- **Use of Local Form 3015-1.1 for original and amended Chapter 13 Plans will be mandatory as of December 1, 2017.**



Local Changes to Implement Federal Rules 3015-1 and 3015.1

Unlike in many other districts, the prior local Chapter 13 plan in RI already contained embedded motions within the plan, and the revised plan continues to do so in its new format, including:

- request for valuation of security, payment of fully secured claims, and modification of undersecured claims;
- request for lien avoidance;
- request that the stay under 11 U.S.C. 362(a) be terminated as to collateral surrendered in the plan; and
- request for assumption of executory contract and/or unexpired leases.



Practitioners are advised to thoroughly review the entire revised Local Chapter 13 Plan

Other Unique Changes in Amended Local Chapter 13 Plan

- Caption to Indicate Type of Plan -- the revised form is to be used for both original and amended Chapter 13 Plans, and when the Amended box is selected, a new box will appear at the top right where details of the amendments must be included.
- Part 1 Notices – this section contains check boxes for the debtor to specify up front whether the plan contains an embedded motion or nonstandard provision, and warns that failure to check the appropriate box voids that provision if included later in the plan.



Practitioners are advised to thoroughly review the entire revised Local Chapter 13 Plan

- **Part 3(A) Cure of Default and Maintenance of Payments.** Provides for curing any default and maintaining payments on a claim secured by the debtor's principal residence.
- **Part 3(B)(2) Secured Claims Excluded from 11 U.S.C. § 506.** The plan separates claims under the "hanging" paragraph of Section 1325(a)(5).
- **Part 3(C) Surrender of Collateral.** Includes as part of the surrender election that the stay under § 362(a) and § 1301 will be terminated as to the collateral.



Practitioners are advised to thoroughly review the entire revised Local Chapter 13 Plan

Three ECF Event Changes related to Chapter 13 Plan:

Initial Chapter 13 Plan; Amended Chapter 13 Plan, Case Upload

These events have been modified to gather information about embedded motions, which will pull through to the docket text.

DebtEd

Select any of the following requests that were NOT included with the previous Chapter 13 Plan and are now being added to the amended plan (Click Next if none of these requests are included with this amendment.) :

- Request for valuation of security, payment of fully secured claims, and modification of undersecured claims [Part 3.2]
- Request for lien avoidance [Part 3.4]
- Request that the stay under 11 U.S.C. 362(a) be terminated as to collateral surrendered in the plan [Part 3.5]
- Request for assumption of executory contracts and/or unexpired leases [Part 6]

Next

Clear



Local Form 3015-3.1

Order Confirming Chapter 13 Plan

- Section 2 is now titled: “Treatment of Secured Claims”, and allows for more detailed information regarding the treatment of liens and mortgages against the Debtor(s) real property.
- Sections (3) and (4) are amended to include the applicable section of the bankruptcy code.
- Section 8 is amended to refer to new LF 3015-1.1, Part 7 for information on when property vests in the debtor.
- Sections 7 and 11 contain stylistic changes.



Rule 3015: Filing, Objection to Confirmation,
Effect of Confirmation and Modification of a Plan
in a Chapter 12 or a Chapter 13 Case –
Re: Objections to Confirmation

- Amended subsection (f) requires that objections to confirmation be filed and served **at least seven days** prior to the date set for confirmation.
- Notice of this deadline will be provided on the Meeting of Creditor Notice.



Rule 3015: Filing, Objection to Confirmation, Effect of Confirmation and Modification of a Plan in a Chapter 12 or a Chapter 13 Case – **Re: Effect of Confirmation**

New subsection (g) provides that upon confirmation:

- **any determination in the plan about the amount of a secured claim is binding on the claim holder**, even if the holder files a contrary proof of claim or the debtor schedules the claim, and regardless of whether an objection to the claim is filed; and
- any request in the plan to terminate the stay under §362(a), §1201(a), or §1301(a) is granted.



Rule 5009: Closing Chapter 7, Chapter 12, Chapter 13, and Chapter 15 cases;
Order Declaring Lien Satisfied

- This amended rule provides a procedure for a Chapter 12 or 13 debtor to request an order declaring a secured claim satisfied and the lien released under the terms of a confirmed plan.
- The request must be made by motion and shall be served on the holder of the claim in the manner provided for under Rule 7004 for service of a summons and complaint.
- New ECF Filing Event: Motion to Determine Lien Satisfied



Rule 7001: Scope of Rules of Part VII

This rule is amended to provide that the determination of a secured claim under Rule 3012 does not require an adversary proceeding.



Federal Bankruptcy Forms Amended as of December 1, 2017

1. 101 - Voluntary Petition for Individuals Filing for Bankruptcy
2. 113 – Chapter 13 Plan (Courts may opt out and RI has its own local form 3015-1)
3. 309F - Notice of Chapter 11 Bankruptcy Case [for Corp. & Part.]
4. 309G -Notice of Chapter 12 Bankruptcy Case [for Indiv. or Jt Debtors]
5. 309H - Notice of Chapter 12 Bankruptcy Case [for Corp. & Part.]
6. 309I - Notice of Chapter 13 Bankruptcy Case [for Indiv. or Jt Debtors]
7. 425A - Plan of Reorganization for Small Business Under Chapter 11
8. 425B - Disclosure Statement for Small Business Under Chapter 11
9. 425C - Monthly Operating Report for Small Business Under Chapt. 11
10. 426 - Periodic Report Regarding Value, Operations, and Profitability of Entities in Which the Debtor's Estate Holds a Substantial or Controlling Interest





1. Form 101 - Voluntary Petition for Individuals Filing for Bankruptcy - The form is amended to more accurately reflect the requirement that debtors with an eviction judgment against them must file Official Form 101A.

2. Form 309F - Notice of Chapter 11 Bankruptcy Case [for Corporations and Partnerships] - The form is amended at lines 8 and 11 to leave to creditors to determine whether §523(c) applies to their claims, in which case they must commence a dischargeability proceeding by the deadline that is stated on the form.





3. Form 309G - Notice of Chapter 12 Bankruptcy Case [for Individual or Joint Debtors]
4. Form 309H - Notice of Chapter 12 Bankruptcy Case [for corporations and partnerships]
5. Form 309I - Notice of Chapter 13 Bankruptcy Case [for Individual or Joint Debtors]

The forms are amended at line 9 to remove references to “plan summaries” which has been deleted from amended Rule 3015(d).





6. Form 425A - Plan of Reorganization for Small Business Under Chapter 11
7. Form 425B - Disclosure Statement for Small Business Under Chapter 11
8. Form 425C - Monthly Operating Report for Small Business Under Chapter 11
9. Form 426 - Periodic Report Regarding Value, Operations, and Profitability of Entities in Which the Debtor's Estate Holds a Substantial or Controlling Interest



The forms are amended as part of the Forms Modernization Project, which includes format and stylistic changes.



10. *New Form 113 – Chapter 13 plan (not being used in Rhode Island)*

Form 113 is required to be used *unless* the district adopts a local form for chapter 13 plans that meets the requirements listed in new Rule 3015-1.

As previously noted, the R.I. Bankruptcy Court recently amended its existing local chapter 13 plan form, **Local Form 3015-1.1, which is to be used instead of Official Form 113.**



In addition to those already reviewed, the below Local Rules and Forms are also amended as of December 1, 2017

Local Rule 1005-1

Local Rule 3011-1 – Unclaimed Funds

Local Form 3011-1.1 – Application for Payment of Unclaimed Funds

Local Rule 4001-1 – Relief from Automatic Stay

Local Rule 5001-2 – Clerk's Office

Local Rule 7016-1 – Pretrial Procedure; Formulating Issues

Local Rule 9037-1 – Privacy Protection

Local Rule 9070-1 – Exhibits

Appendix VII – Ninth Amended Loss Mitigation Program and Procedures

ABOLISHED FORMS:

Local Form 3011-1.2 -- Identification Form for Unclaimed Div., Indiv

Local Form 3011-1.3 -- Identification Form for Unclaimed Div., Bus.

Local Form 3015-2.1 -- Amended Chapter 13 Plan



Local Rule 1005-1:
Filing Papers – Requirements

**Standard Response Time Required on Motion to
Extend Time or Motion to File Out of Time for
Proofs of Claim and Objections to Claim**

- Subsection (d)(2)(J) is amended to require use of the standard response language on any motion to extend time to file a proof of claim or objection to claim.
- Subsection (d)(2)(N) is amended to require use of the standard response language on any motion to file out of time a proof of claim or an objection to claim.



Local Rule LBR 3011-1 and LF 3011-1.1

Application for Payment of Unclaimed Funds

- All unclaimed funds are deposited into the Treasury regardless of the amount.
- The form is renamed, “Application for Payment of Unclaimed Funds”.
- The filer must provide the social security or tax identification number of the claimant using [Form AO 213](#), Vendor Information/TIN Certification.
- Applications seeking unclaimed funds must use amended Local Form 3011-1.1.
- Clerk’s Office Instructions for Filing an Application for Payment of Unclaimed Funds can be found on the Court’s website at www.rib.uscourts.gov/unclaimed-funds-search



Local Rule 5001-2: Clerk's Office
**Emergency Filing by Non-Electronic Users
when Unexpected Court Closure Occurs**

Subsection (c) was added outlining the procedure for non-electronic users to file documents by email in rare instances when the Court may be closed on an otherwise normal business day.



One Local Form, 9014-1.1, to be used for all
Joint Pretrial Statements required under Local
Rules 4001-1, 7016 – 1, 9014-1 and/or 9070-1

Joint Pretrial Statement

- In all cases where a joint pretrial statement is required for an evidentiary hearing, R.I. Local Form 9014-1.1 shall be used and replaces all previous similar forms 4001-1.2, 7016-1.1 and 9070-1.1, which are all abolished.
- This change was made to simplify one form for a Joint Pretrial Statement for use in evidentiary hearings under a number of local rules.



Local Rule 9037-1 Privacy Protection **Redaction Procedures**

The amendments specify the Court's procedures for handling redaction requests for documents containing personal identifiers.

These procedures include:

- restricting public access;
- informing the filer of the requirement to file a motion to redact;
- the method of redaction;
- how large scale (over 10) redactions shall be handled;
- Clerk's office action on motions filed; and
- service requirements



Appendix VII - Ninth Amended Loss Mitigation Program and Procedures

Removal of Request in Chapter 13 Plan

Sections V(A)(1) and VII(B)(1) of the Loss Mitigation Program were amended to delete any reference to a loss mitigation request being made within the Chapter 13 Plan.

This option no longer exists in amended Local Form 3015-1.1 and any request for loss mitigation by the debtor may only be made by filing Form A, Loss Mitigation Notice Request by Debtor, in the bankruptcy case.



For more information, and a complete copy of the:

- Federal Bankruptcy Rules and Forms, please visit the US Courts website at: <http://www.uscourts.gov/rules-policies/pending-rules-and-forms-amendments>

(The Bankruptcy Rules appear in the Amendments Adopted by the Supreme Court section near the bottom of the page, and Bankruptcy Forms are directly above that section).

- Local rule and form changes, please visit our website at www.rib.uscourts.gov under [Rules and Procedures](#) or under the News and Announcements column on the home page.

Please direct any procedural questions to the Clerk's Office at 401-626-3100

