

NEW CHAPTER 13 PLAN FORM

Effective December 1, 2017

For the United States Bankruptcy Court, Eastern District of Oklahoma

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*Chapter 13 Trustee, for the
Eastern District of Oklahoma*

2017 BANKRUPTCY RULE RULES, LOCAL RULES AND FORM CHANGES

Effective December 1, 2017

United States Bankruptcy Court, Eastern District of Oklahoma

Debra Anderson
*Chief Deputy, U.S. Bankruptcy
Court Eastern Oklahoma*

Amendments to the Federal Rules

On September 12, 2017, the Judicial Conference approved several amendments to the Bankruptcy Rules and Official Forms that will go into effect on December 1, 2017, including Forms 101, 309F, 309G, 309H, 309I, 425A, 425B, 425C, and 426. And a (Chapter 13 Plan) which are scheduled to take effect on December 1, 2017.

The following is a summary of the proposed changes to the Rules, Local Rules and Local Forms.

Disclaimer: This information 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.

Bankruptcy and Local Rule Changes

The following Bankruptcy and Local Rules are scheduled to change on December 1, 2017.

- 1007-1
- 2002
- 3002
- 3007
- 3012
- 3015
- 4001-1
- 4003
- 5003-1
- 5009
- 7001
- 7016-1
- 9009
- 9017-1

Notes on each proposed change are further detailed on the following pages:

Local Rule 1007. List Schedules and Statements

- Subdivision (d) of this rule is amended to add a new local form for a Motion to waive requirement for credit counseling and financial management.

Bankruptcy Rule 2002. Time for filing objection to confirmation of a chapter 13 plan

- This rule is amended to state the time for filing an objection to confirmation of a chapter 13 plan - 21 days notice and 28 days notice must be given of the confirmation hearing.
- **Local Rule 3015-2** - Each time a plan is amended the filer should submit New Local Form 3015-1(B), mark amended and submit **New Local Form 420C-1 Notice of Confirmation hearing**.
- The plan proponent must give 21 days notice for objections and 28 days notice of the new confirmation hearing. Any pending plan, objections thereto and hearing will be stricken.

Bankruptcy Rule and Local Rule 3002. Filing Proof of Claim

- Time for filing Proof of Claims – In a chapter 12 and 13 - 70 days from Order for relief or conversion.
- In a Chapter 7 No asset - 90 days from the Notice of Assets.
- A Proof of Claim secured by a security interest in debtor's principal residence - 70 days after the order for relief.
- Additional documents evidencing the claim required by Rule 3001(c)(1) and (d) - 120 days from order for relief by supplementing the claim by filing an Amended Claim with Attachment A.
- Chapter 7 involuntary - 90 days from the Order for relief.

Bankruptcy and Local Rule 3007. Claims - Objections

- An Objection to Claim must be accompanied by New Local Form 420B-2 Notice of Objection to Claim - 30 days notice must be given for the hearing.
- If the objection is to a Claim of the United States or any US agency notice must be made pursuant to Rule 7004(b) the same as a complaint and summons.
- If the objection is to a claim of an insured depository institution service should be made pursuant to Rule 7004(h).
- In each instance, the filer shall file a Certificate of Service stating and showing proof of the manner of service.
- If no response is filed by the Claimant, the Court will make the determination if the claim is valid without further hearing.

Rule 3012. Valuation of Collateral

- A Request to Determine Secured Claim may be made by Motion, claim objection or in a Chapter 12 or 13 plan but must comply with Rule 3012(b) and (c) and be served on the holder of the claim pursuant to 7004(b) in the manner provided for a summons and complaint.
- The Debtor shall file a Certificate of Service stating the manner service and proof service was made.
- A claim entitled to priority or governmental units may be made only by Motion and after a claim is filed or a claim objection.
- Governmental units are not included and must be made by motion or claim objection and only after a governmental unit has filed a claim or the time has expired. The amount of a claim entitled to priority must be through a motion or claim objection.

Bankruptcy and Local Rule 3015. Chapter 12 and 13 Plan

- 3015 - Allows the Court to adopt a Local Plan Form. New Local Form 3015-1(B). When the plan is filed the same day as the petition with a matrix the court will mail the plan to the creditors listed. Otherwise, the debtor shall serve the plan on all creditors and file a Certificate of Service. **REMINDER:** if the **Plan includes Requests that require service to the creditor pursuant to 7004(b) the Debtor shall serve** and file a Certificate of Service stating the manner served.
- 3015(f) - Objections to Confirmation must be filed and notice given to plan proponent at least **7 days prior to the hearing**.
- 3015-(g)(2) - A request in the plan to terminate the stay imposed by 362(a), 1201(a) or 1301(a) is granted upon confirmation.

Local Rule 3015-2. Amended Chapter 12 and 13 Plans

- Amended Chapter 13 Plans shall be filed on Local Form 3015-1(B). The Amended Plan must be marked “Amended.” The Amended Plan will supersede all prior plans.
- Each Amended Plan must be accompanied by new **Local Form 420C-1 Notice of Confirmation Hearing and Notice of Objection Deadline** and be mailed to all parties listed on the official mailing matrix with 28 days notice of the confirmation hearing.

Local Rule 3015-4. Modification of the Chapter 12 or 13 Plan

- **Modifications** made after confirmation shall be filed by a Motion to Modify, a Modified Plan on New Local Form 3015-1(B) (for Chapter 13 cases) and a **new Local Form 420(C) Notice of Confirmation hearing**.
- The Modified Plan must be marked “Modified”, and must be accompanied by a Motion and a Notice of Confirmation hearing **each** time a Modified Plan is filed. The filer must give 21 days notice for objection and 28 days notice of the confirmation hearing to all creditors each time a Modified Plan is filed.

Local Rule 4001-1. Automatic Stay

- The Local Rule was modified to correct a scrivener's error of the waiver of the stay from 10 to 14 days.

Bankruptcy Rule and Local Rule 4003. Lien Avoidance

- A request under Sec 522(f) to avoid a lien or other transfer of exempt property may be made by motion or in a Chapter 13 & 12 Plan and must be served as provided under Rule 7004 for service of a summons and complaint.
- Judicial Liens may not be avoided through a chapter 13 plan but must be avoided by separate motion. See 11 U.S.C. § 522(f)(1)(A).
- A Certificate of Service must be filed stating the manner of service and proof service was made.
- A debtor in a Chapter 12 or 13 may request an entry of an order declaring a secured claim satisfied and a lien released under the terms of a confirmed plan. The request shall be made by motion and shall be served on the holder of the claim in the manner provided by rule 7004 for service of a summons and a complaint. The debtor shall file a Certificate of Service stating the manner of service.

Local Rule 5003-1. Clerk - General

- Amended to add that Exhibits “admitted” will be disposed after appeal time.

Rule 5009. Closing Chapter 12, Chapter 13 and Chapter 15 Cases; Order Declaring Lien Satisfied

- Subdivision (d) was added to provide a procedure by which a debtor in a Chapter 12 or 13 case may request an order declaring a secured claim satisfied and a lien released under the terms of a confirmed plan.

Rule 7001. Adversary Proceedings

- Subdivision (2) was 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.
- An adversary proceeding continues to be required for lien avoidance not covered by Rule 4003(d).

Rule 7004. Process; Service of Summons, Complaint

- Rule 7004 (a) is amended to update the cross-reference to Civil Rule 4

Rule 8011. Filing and Service; Signature

- Amended to conform to the amendments to Fed. R. App. P. 25 on electronic filing, signature, service, and proof of service.

Local Rule 7016. Pretrial Procedures Adversary Proceedings

- Revisions were made to clarify that **preliminary** Witness and Exhibit lists are to be exchanged with counsel 14 days after the Scheduling Conference.
- **Final** Witness and Exhibit lists and all Exhibits are to be exchanged 14 days prior to the pretrial conference.
- Seven days prior to the pretrial conference counsel shall submit a **pretrial order** in compliance with Local Form 9072-1(C). Witness and Exhibit Lists must be attached.
- Seven days prior to the trial counsel shall provide two sets of **exhibits to the Judge**.
- During the trial, counsel should submit copies of **exhibits to the Court Recording Deputy** after they are admitted into evidence. Counsel should ensure that the record is complete before the conclusion of the trial.

Rule 9009. Forms

- Amended to allow permissible modification to Official Forms

Local Rule 9017. Witness and Exhibits Evidentiary Hearings

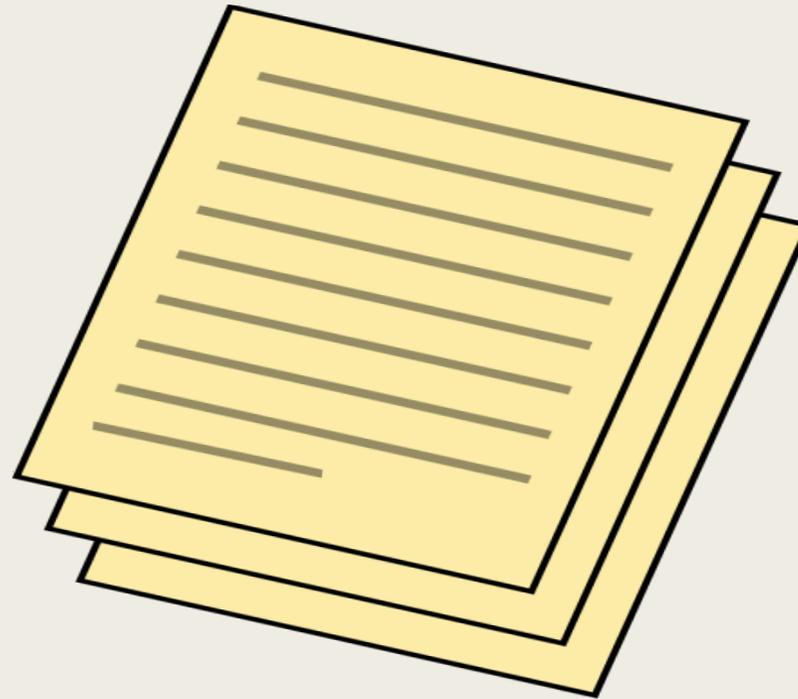
- Revised to clarify that 7 days prior to an evidentiary hearing counsel shall exchange and file **Witness and Exhibit lists**.
- Seven days prior to an evidentiary hearing counsel shall submit 2 sets of **exhibits to the Judge**.
- Counsel shall present copies of the **exhibits to the Court Recording Deputy** upon admission at the hearing. Counsel shall ensure the record is complete before the conclusion of the hearing.

Local Rule 9072-1. Orders

- Revised to add that **pretrial orders** shall contain the information on and substantially **conform** to revised Local Form 9072-1(C) including Local Forms 9017-1 and 9017-2 for Witness and Exhibit lists.

Forms Changes

Eight Official Forms are being slightly modified for use after December 1, 2017.



Official Form Changes

- **Form 101 Voluntary Petition for Individuals** - Part 2 Line 11 is amended to accurately reflect the requirement of Sec. 362(l) of the Bankruptcy Code. All debtors against whom an eviction judgment has been entered with respect to their residence must fill out Official Form 101A whether or not they desire to remain in their residence.
- **Form 309(F) Notice of Chapter 11 Bankruptcy Case (Corp)** - is amended at lines 8 and 11 regarding the deadline to a dischargeability proceeding
- **Form 309(G) Notice of Chapter 12 bankruptcy Case (Ind), Form 309(H) Notice of Chapter 12 Bankruptcy Case (Corp) and Form 309(I) Notice of Chapter 13 Bankruptcy Case** - are amended at line 9 to remove reference to plan summaries.

Official Form Changes

- **Form 425(A)) Plan of Reorganization for Small Business Under Chapter 11** replaces Form 25(A).
- **Form 425(B)) Disclosure Statement for Small Business Case Under Chapter 11** replaces Form 25(B).
- **Form 425(C) Monthly Operating Report for Small Business Under Chapter 11** replaces Form 25(C).

Local Forms Changes

Twenty-Five Local Forms are being slightly modified, New, or Abrogated for use after December 1, 2017.



Local Form Changes

- MODIFIED LOCAL FORM 420A Adversary Proceedings Notice of Motion Notice of Deadline to file Objection Notice of Hearing
- MODIFIED LOCAL FORM 420A Motions to Withdraw the Reference Notice of Motion Notice of Deadline to File Objection
- MODIFIED LOCAL FORM 420A Notice of Motion Notice of Deadline to file Objection Notice of Hearing
- MODIFIED LOCAL FORM 420A Notice of Motion Notice of Deadline to file Objection Notice of Telephonic Hearing
- **NEW** LOCAL FORM 420B-1 Notice of Objection to Claim of Exemption Notice of Deadline to File Response Notice of Hearing
- **NEW** LOCAL FORM 420B-2 Notice of Objection to Claim Notice of Deadline to File Response Notice of Hearing

Local Form Changes

- ▶ LOCAL FORM 420C Notice of Motion Notice of Deadline Notice of Hearing
- ▶ MODIFIED LOCAL FORM 420C Notice of Motion Notice of Deadline Notice of Hearing Adversary Proceeding
- ▶ **NEW** LOCAL FORM 420C-1 Notice of Amended Plan Notice of Confirmation Hearing
- ▶ **NEW** LOCAL FORM 420C-2 Notice of Motion to Modify/Modified Plan Notice of Confirmation Hearing
- ▶ MODIFIED LOCAL FORM 420D Notice of Hearing and Fixing Time for Filing Complaint Hardship Discharge
- ▶ MODIFIED LOCAL FORM 420E Notice of Application for Compensation Notice of deadline Notice of Hearing
- ▶ MODIFIED LOCAL FORM 420G Notice of Motion to Extend Stay Notice of deadline Notice of Evidentiary Hearing

Local Form Changes

- **NEW** LOCAL FORM 1007-1C(2)(d) Motion for Waiver of Credit Counseling Financial Management
- **NEW** LOCAL FORM 1009-1E Verification to Official Creditor's List
- MODIFIED LOCAL FORM 3015-2A Pre-Confirmation Certification for Chapter 13
- **NEW** LOCAL FORM 3015-1B Chapter 13 Plan (Original/Amended/Modified) (**Abrogated** Summary)
- **ABROGATED** LOCAL FORM 3015-3A Amended Chapter 13 Plan and Summary Notice of Incorporation Withdrawal of Prior Plan
- **ABROGATED** LOCAL FORM 3015-4A Modified Chapter 13 Plan
- MODIFIED LOCAL FORM 3015-4B Motion to Modify Plan

Local Form Changes

- MODIFIED LOCAL FORM 4003-2 Motion to Avoid Lien
- **NEW** LOCAL FORM 7001-1B Instructions Governing Adversary Proceedings
- **NEW** LOCAL FORM 9014-1E Instructions Governing Evidentiary Hearing Procedure in Contested Matters
- **NEW** LOCAL FORM 9017-1 & 2 Witness and Exhibit List Forms for Adversary and Bankruptcy
- MODIFIED LOCAL FORM 9072-1C Pre-Trial Order

That's it for now!

For more information, and a complete copy of the new Bankruptcy Rules, Local Rules, Official Forms and Local Forms, please visit the US Courts website at and the court's local website at:

- <http://www.uscourts.gov/rules-policies/pending-rules-and-forms-amendments>
- <http://www.uscourts.gov/rules-policies/pending-rules-and-forms-amendments/pending-changes-bankruptcy-forms>
- <http://www.okeb.uscourts.gov/news/notice-proposed-amendments-local-rules>
- <http://www.okeb.uscourts.gov/news/thirty-day-notice-and-public-comment-period-concerning-chapter-13-plan-form>

Please direct any procedural questions to the Clerk's Office at:
918-549-7200