

BANKRUPTCY RULE CHANGES

EFFECTIVE DECEMBER 1, 2017

A number of bankruptcy rule amendments took effect on Dec. 1, 2017. These rule amendments are designed to work in tandem with a national chapter 13 plan form which also took effective Dec. 1, 2017. Alabama Southern issued its amended plan in compliance with Dec. 1, 2017 rule change to Rule 3015.1 on June 1, 2017. Besides the changes to the Chapter 13 Plan there are other applications far beyond the world of chapter 13 cases. For example, amended Rule 3002 establishes a new deadline for filing proofs of claim in cases filed under chapters 7, 12, and 13. And amended Rule 3007 details how objections to claims are to be served, including in cases filed under chapter 11.

The amendments that took effect on Dec. 1, 2017, will apply to Bankruptcy Rules 1001, 1006, 1015, 2002, 3002, 3007, 3012, 3015, 4003, 5009, 7001, and 9009. There is also a new Bankruptcy Rule 3015.1 to address the requirements for local chapter 13 plan forms, should a district elect not to use the Official Chapter 13 Plan Form.

Summary of Changes by Individual Rule

Rule 1001. Rule 1001 is amended to incorporate the changes to Rule 1 of the Federal Rules of Civil Procedure made in 1993 and 2015.

Rule 1006. Rule 1006 is amended to clarify that an individual debtor's voluntary petition, accompanied by an application to pay the filing fee in installments, must be accepted for filing, even if the court requires the initial installment to be paid at the time the petition is filed and the debtor fails to make that payment. Under Rule 1017(b)(1), any dismissal for nonpayment of an installment first requires a "hearing on notice to the debtor and the trustee." **Note:** *The Chapter 13 Trustee along with the Chief Judge informed practitioners at the last Bankruptcy Round Table, held on Dec. 6, 2017, that in the near future the filing fees for chapter 13 cases will be paid through the plan. When this happens a General Order will be issued by the court requiring the payment of all filing fee to be paid through the chapter 13 plan, making the amendment to Rule 1006 moot for this court.*

Rule 1015. Rule 1015 is amended to substitute the word "spouses" for "husband and wife" in order to include joint bankruptcy cases of same-sex couples, even though section 522(b) of the Bankruptcy Code still uses the phrase "husband and wife" when describing exemptions claimed by joint debtors.

Rule 2002. Rule 2002 is amended to provide for at least 21 days' notice of the time for filing objections to confirmation of a chapter 13 plan and at least 28 days' notice of the date of the confirmation hearing in a chapter 13 case. Note: This change basically requires that objections to the plan should be filed with the court no later than noon 7 days prior to the confirmation hearing. **Note:** *Currently, ALSB holds its confirmation hearings on the same day as the 341 meeting of creditors. The judges of ALSB along with the Chapter 13 Trustee are currently working on bifurcating the meeting of creditors and confirmation hearing from being held on the same. When this happens notice will be given via [Grancius \(formerly GovDelivery\)](#). If you have not already signed up for notice you*

should do so immediately. The Grancius email notification system is how the court relays information to practitioners.

Rule 3002. Rule 3002 is amended to clarify that even a secured creditor must file a proof of claim in order to have an allowed claim.

Rule 3002 is also amended to alter the calculation of the bar date for proofs of claim in chapter 7, chapter 9, and chapter 13 cases to 70 days after the petition date. There is also a two-stage deadline for filing mortgage proofs of claim secured by an interest in the debtor's principal residence. The claim will be timely if the additional documents evidencing the claim, such as the note and mortgage, are filed within 120 days of the order for relief. **Note:** *The bar date after the conversion from Chapter 7 to Chapter 13 will require new statement and schedules and a new 341 meeting of creditors which will set the claims bar date for 90 days from the Notice of Conversion. The Chapter 7 Trustee will issue a Notice of Assets which will include the claims bar date when a case is converted from a Chapter 13 to Chapter 7. Joint cases that are bifurcated will keep the original bar date issued when the first meeting of creditors date was issued. A joint case where one debtor is dismissed and new statement and schedules are due will keep the original bar date issued when the first meeting of creditors date was issued.*

Rule 3007. Rule 3007 is amended to clarify the manner in which an objection to a claim and notice of the objection must be served. This rule applies to all claim objections, across all chapters. In general, a claimant must be served by first-class mail at the address that the claimant designated on its proof of claim to receive notices. The only exceptions are for the United States, an officer or agency of the United States, or an insured depository institution, which must also be served in the manner prescribed by Rule 7004. That means following Rule 7004(b)(4) and (5) when objecting to claims of the United States or an officer or agency of the United States, and following the certified mail requirement of Rule 7004(h) a debtor in a chapter 12 or chapter 13 case may request an order declaring a secured claim satisfied and a lien released under the terms of a confirmed plan, typically at the time the case is being closed. **Note:** *This court is not requiring the filing of the certified mail green receipt, but strongly encourages practitioners to file the receipt under the Certificate of Service event.*

Rule 7001. Rule 7001 is amended to clarify that an adversary proceeding is not required to determine the amount of a secured claim under Rule 3012 or to avoid a lien or other transfer of exempt property under Rule 4003(d).

Rule 9009. Rule 9009 is amended to limit permissible modifications to Official Forms. Permissible changes include those that merely expand or delete the space for responses, or where the Federal Rules of Bankruptcy Procedure, a particular Official Form, or the national instructions for a particular Official Form expressly permit such modifications.

Local Change to LBF283 Form

Information on the change to the LBF293 form was originally sent to everyone on 11/2/2017. In case you missed the originally BLAST:

The judges have slightly revised the language in the discharge eligibility portion of local form LBF283 to conform with their rulings that the time period for eligibility is measured from filing to filing. The revised form has been posted on the court website under "local forms." The revised form can be used now and will be mandatory starting January 1, 2018.

Chapter 13 Plans

Alabama Southern Bankruptcy Court

The Main Takeaway

The main takeaway for bankruptcy practitioners is that, the Chapter 13 Plan for ALSB is in compliance with the F.R.B.P. The Alabama Southern Bankruptcy Court (ALSB) began using the new required Chapter 13 Plan on June 1, 2017. The plan does not allow for the filing of motion to avoid a judicial lien under § 522(f), nor a (ii) a motion to avoid a lien and reclassify the related claim. Unlike the national plan, the approved ALSB revised Chapter 13 plan does not allow for certain motions to be filed in the plan. A practitioner may file a motion at any time they deem necessary.

There is change in the claims bar date.

For ALSB there is change in the number of days prior to the confirmation hearing by which objections will be heard. Currently ALSB holds its confirmation hearings on the same day as the 341 meeting of creditors (change is coming).

The court cannot require an initial amount to be paid with the Application to Pay Filing Fees in Installments. Currently, filing fees are paid to the court (change is coming)

Bankruptcy practitioners are encouraged to read the text of the amended rules as well as the helpful advisory committee notes associated with these rules and not rely solely on this brief summary of changes effective December 1, 2017