

**AMENDMENTS TO LOCAL RULES 2004-1, 2004-2, 2016-1, 3012-1 AND 7041-1
AND LOCAL FORM 2016-1, AND NEW LOCAL FORM 3012-1
EFFECTIVE MARCH 1, 2017***

*Except as noted below, the following local rule and form amendments are effective March 1, 2017 and will govern in all bankruptcy cases commenced on or after the March 1, 2017 effective date.

IMPORTANT NOTE: The amendments to Local Rule 3012-1 and new Local Form 3012-1(b) will govern in all proceedings in **bankruptcy cases commenced on or after April 1, 2013, which was the effective date of the original version of Local Rule 3012-1.**

Rule 2004-1. Examinations

(a) ~~[ABROGATED] ORDER FOR EXAMINATION. A party seeking to examine the debtor or other entity under Federal Rule of Bankruptcy Procedure 2004 (link is external) shall file with the court and serve on the United States Trustee an application for an order directing such examination. Before issuing the order, the court may direct that further notice be given or that a hearing be held. The court may issue any appropriate order directing whether and the manner in which the examination shall be conducted.~~

(b) ~~[ABROGATED] NOTICE OF EXAMINATION. If the application is granted, the party requesting the examination shall serve on the entity to be examined a notice of examination which shall identify the entity to be examined and the time and place for taking the examination. If a subpoena duces tecum is to be served on the person to be examined, the designation of the materials to be produced as set forth in the subpoena shall be attached to or included in the notice. Upon objection and for cause shown, the court may issue any appropriate order regarding the conduct of the examination.~~

Rule 2004-2. Special Relief with Respect to Debtor

~~[ABROGATED] A request under Federal Rule of Bankruptcy Procedure 2004(d) (link is external) or 2005 (link is external) shall be made by motion.~~

Rule 2016-1. Compensation of Professional Persons

...

(d) DEBTORS' ATTORNEYS IN CHAPTER 13 CASES.

(1) Preconfirmation Services.

...

(ii) A debtor's attorney in a chapter 13 case who represents the debtor in a motion **to value claim** for valuation of mortgagee's secured claim brought pursuant to Local Rule 3012-1 may request an order allowing or authorizing payment of compensation by simplified application, and the court may issue the requested order without a hearing, provided that the amount of compensation does not exceed \$4,000 for that motion. The simplified application need not comply with F.R.Bankr. P. 2016 or paragraph (c) of this rule and shall conform substantially to Local Form 2016-1.

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Rule 3012-1. Valuation of Mortgagee's Secured Claim on Principal Residence

(a) **MOTION TO VALUE CLAIM.** A Chapter 13 debtor seeking to modify a claim that is secured only by a security interest in real property that is the debtor's principal residence must provide for that modification in the plan and must bring a motion to determine the value of the secured claim.

(b1) **Content of Motion TO VALUE CLAIM. The motion must state, as of the commencement of the case, except as provided in subsections A and G:**

(4A) **Title.** ~~The title of the motion must include~~ The name of the creditor holding the claim, **determined no more than 30 days before the hearing originally scheduled on the motion, in the title of the motion;**

(2B) **Content of Motion.** ~~The motion must state, as of the commencement of the case:~~ The motion is to determine the secured status of the creditor's claim for the purpose of confirmation of the debtor's plan;

(C) **The appraised value of the property;**

(BD) The debtor's plan proposes to treat the creditor's claim as unsecured in its entirety;

(E) ~~The~~ The address and legal description of the property;

(DF) The balance of the debt ~~secured by~~ **owing to** the creditor's lien ~~against the property;~~ and

(EG) The name of each ~~creditor~~ **entity** holding a lien against the property

and any related lender and servicer, the amount of debt owing with respect to each creditor lien, and the priority of each such lien. Such entities shall be determined no more than 30 days before the hearing originally scheduled on the motion.

(32) ~~Attachments to Motion~~. In addition to the documents required by Local Rule 9013-2(a), the motion must include the following attachments:

(A) ~~A copy~~ **Copies** of the ~~all~~ recorded mortgage **lien** instruments, ~~and a copy of including~~ all recorded assignments and amendments, **evidencing the lien which is the subject of the motion**;

(B) ~~A copy of all other evidence~~ **An abstract or Owners and Encumbrance report, or any supplement, certified no more than 30 days before the hearing originally scheduled on the motion, to verify each entity holding a lien against the property;** ~~to establish that the identified creditor is the current holder of the mortgagee's rights under the mortgage;~~

(C) A copy of the debtor's plan; and

(D) Evidence **An appraisal** of the fair market value of the property as of the commencement of the Chapter 13 case.

(e3) ~~SERVICE OF MOTION TO VALUE CLAIM~~. **Service.**

(4A) The motion must be served in compliance with Fed. R. Bankr. P. 9014(b) on all parties identified in Local Rule 9013-3(a)(1), and all creditors **entities** identified pursuant to ~~in~~ paragraph (e)(2)(ED(a)(1)(G)) of this rule.

(2B) The proof of service ~~shall~~ **must** indicate how the identity and address were determined for the **each** recipient of service ~~on behalf of the creditor whose claim is the subject of the motion.~~

(3C) **Any amended motion must be served on all parties served with the original motion and on any other entity that holds an interest in the property at the time the amended motion is filed.**

(d4) Timing. The hearing on the motion to value claim must be scheduled to be held contemporaneously with the hearing on confirmation of the debtor's plan. The court may schedule an evidentiary hearing.

(e5) Order. The order will determine the secured status of the creditor's claim pursuant to 11 U.S.C. § 506.

~~(fb) FUTURE RELIEF MOTION FOR RELEASE OF LIEN.~~ If the court determines that the creditor's claim is unsecured in its entirety, the debtor may request supplemental relief ~~bring a motion for release of the lien~~ after the debtor's completion of payments under the plan. The request must be made by motion and include a proposed order. The order must provide that: (i) the creditor was properly served and received adequate notice of the motion to value; (ii) the court entered an order on _____, determining that the creditor's claim was wholly unsecured pursuant to 11 U.S.C. § 506 (link is external); (iii) the actual date the debtor completed payments under the plan; (iv) the legal description of the property; (v) the creditor's lien is released from the property effective as of the debtor's completion of payments under the plan; and (vi) fully recite the recording information applicable to the original mortgage and any amendments or assignments related to the creditor's lien.

(1) Content of Motion. The motion must state:

- (A) The date of confirmation of the debtor's chapter 13 plan;
- (B) The legal description of the property;
- (C) The date of the order determining the claim was unsecured;
- (D) The date the debtor completed payments under the plan;

(2) Attachments. In addition to the documents required by Local Rule 9013-2(a), the motion must include the following attachments:

- (A) Copies of all recorded lien instruments, including all recorded assignments and amendments, evidencing the lien which is the subject of the motion;
- (B) An abstract or Owners and Encumbrance report, or any supplement, certified no more than 30 days before the hearing originally scheduled on the motion, to verify each entity holding a lien against the property;
- (C) A copy of the debtor's confirmed plan; and
- (D) A copy of the order determining the claim was unsecured.

(3) Proposed Order. The motion must include a proposed order substantially in the form of Local Form 3012-1(b).

(4) Service. The motion must be served in accordance with paragraph (a)(3) of this rule.

Rule 7041-1. Dismissal of Adversary Proceedings

A complaint objecting to discharge or seeking revocation of discharge, other than one brought by a trustee or the United States Trustee, shall not be dismissed at the plaintiff's instance except by order of the court after hearing on motion made in the adversary proceeding. The plaintiff shall serve the motion on all creditors and other parties in interest. The plaintiff also shall serve and file an affidavit stating ~~that nothing~~ **what, if anything**, has been received by or promised to the plaintiff in consideration of the request for dismissal.

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**UNITED STATES BANKRUPTCY COURT
DISTRICT OF MINNESOTA**

In re:

Case No.

Debtors.

**APPLICATION FOR COMPENSATION AND REIMBURSEMENT OF EXPENSES
BY ATTORNEY FOR DEBTOR(S) IN CHAPTER 13 CASE**

The undersigned applicant, pursuant to Local Rule 2016-1(d), states that:

1. The applicant is the attorney for the Debtor(s).
2. The status of the case is as follows:
 - A plan ~~has been~~ **was** confirmed on **[date]**; or
 - No plan has been confirmed and the case is pending; ~~or.~~
 - ~~No plan has been confirmed and the case has been dismissed.~~

The trustee has funds on hand in the amount of \$ _____.

3. Applicant seeks allowance of fees and reimbursement of expenses as follows:

Fees:

Motion to value	\$ _____
Other pre-confirmation services	\$ _____
Post-confirmation services	\$ _____

Expenses:

Filing Fee	\$ _____
Copies	_____ (#) @ \$_____ = \$ _____
Postage	_____ (#) @ \$_____ = \$ _____
Other (Itemize)	\$ _____
Total Expenses:	\$ _____
Total Fees and Expenses:	\$ _____

(collectively, "Requested Fees and Expenses.") If the requested expenses include costs in addition to the expenses listed above, an itemization is attached to this application.

4. The Requested Fees and Expenses constitute reasonable compensation for actual, necessary services rendered by the Applicant and actual, necessary expenses incurred on behalf of the Debtor(s). The services provided consist of the following:

- Pre-confirmation services,
 - Including a motion to value; or
- Post-confirmation services consisting of the following:
 - Resolving motion(s) for relief from stay
 - Resolving motion(s) for dismissal
 - Filing motion(s) for sale of real estate
 - Filing motion(s) objecting to claim(s)
 - Preparing, serving and filing modified plan(s)
 - Assisting the debtor(s) in complying with § 521(f)(4)
 - Assisting the debtor(s) in responding to requests for information made in connection with an audit conducted pursuant to 28 U.S.C. § 586(f)

5. Regarding the Requested Fees and Expenses, the Debtor(s) has/have paid Applicant the sum of \$ _____ as of _____ [insert date]. The Debtor(s) owe the Applicant the sum of \$ _____ for the unpaid balance.

6. The Applicant has applied for fees and/or expenses in the case as follows:

<u>Date of Application</u>	<u>Amount of Application</u>	<u>Date of Order</u>	<u>Amount Allowed</u>	<u>Paid to Date</u>
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7. The applicant has not shared or agreed to share with any other person, other than with members of the applicant's law firm, any compensation paid or to be paid in this case.

Wherefore, the applicant requests the Court to enter an order ~~as follows:~~

- ~~_____ A. Awarding \$ _____, the unpaid balance stated in paragraph 5 above, for compensation and/or reimbursement; and~~
- ~~_____ B. If no plan is confirmed, authorizing the Chapter 13 trustee to disburse to Applicant from funds on hand, funds in the amount of the fees and expenses allowed hereunder.~~

Dated: _____

/e/
 Atty Name: _____
 Address _____
 Phone, Attorney(s) for Debtor(s): _____

(Do not write above – leave space for recording purposes)

UNITED STATES BANKRUPTCY COURT
DISTRICT OF MINNESOTA

In Re: _____

Debtor(s)

BKY No. _____
Chapter 13 Case

ORDER GRANTING MOTION FOR RELEASE OF LIEN

This matter is before the Court on the motion of _____ for release of lien. This motion was filed on _____.

Appearances, if any, were noted on the record. Based on the record, the Court finds that:

Motion to value claim filed on [date]:

1. The debtor's chapter 13 plan was confirmed on _____. [The last order modifying the debtor's chapter 13 plan was entered on _____.] The chapter 13 plan is hereafter referred to as the "Plan."
2. The Plan addresses treatment of interests in the debtor's property (the "Subject Property"), legally described as follows:

[insert complete legal description]

[If the property is Torrens:] The current Torrens Certificate of Title number is _____.

3. On _____, the Bankruptcy Court entered an order determining that the claim ("Claim") related to the following lien ("Lien") is unsecured:

Date of Lien: _____
Date Lien was recorded: _____
Document number of recorded Lien: _____
Original principal amount secured by Lien: _____
Original borrower: _____
Original lender: _____
Original Lienholder, if not lender
(e.g., MERS): _____

4. The Owners and Encumbrance Report or documents submitted with the debtor's motion to value claim established that _____ was the Claim holder.
5. Each entity identified in the motion to value claim as holding a lien or other interest in the Subject Property was properly served.

Motion for release of lien filed on [date]:

6. The debtor completed all payments under the Plan on _____.
7. The Owners and Encumbrance Report or documents submitted with the debtor's motion for release of lien establish that _____ is the claim holder.
8. Each entity identified in the motion for release of lien as holding a lien or other interest in the Subject Property was properly served.

IT IS ORDERED:

1. The lien held by _____, filed as document number _____ in the official records of the County Recorder's Office or Registrar of Deeds for _____ County, Minnesota, against the Subject Property is released as of _____ [insert date from paragraph 6].
2. [(if applicable) The objection of _____ is overruled.]

BY THE COURT

Dated: _____

United States Bankruptcy Judge