AMENDMENTS TO BANKRUPTCY RULES

Effective August 1, 1976

The following amendments to the Bankruptcy Rules were prescribed by the Supreme Court of the United States on April 26, 1976, pursuant to 28 U. S. C. § 2075, and were reported to Congress by THE CHIEF JUSTICE on the same date. For the letter of transmittal, see *ante,* p. 1004. The Judicial Conference report referred to in that letter is not reproduced herein. These amendments became effective on August 1, 1976, as provided in paragraph 1 of the Court's order, *post,* p. 1127.

For earlier publication of Bankruptcy Rules and Forms, see, *e. g.,* 421 U. S. 1019.

AUTHENTICATED
U.S. GOVERNMENT
INFORMATION
GPO

SUPREME COURT OF THE UNITED STATES

MONDAY, APRIL 26, 1976

ORDERED:

1. That Rules 112, 121, 205, 306, 404, 704, 712, 755, 801, 805, 914, 917 and Official Forms No. 6 and No. 26 implementing Chapters I–VII of the Bankruptcy Act [see *infra,* pp. 1129–1143], Rules 11–24, 11–61, and 11–62 implementing Chapter XI of the Bankruptcy Act [see *infra,* pp. 1145–1146], and Rules 13–203, 13–204, 13–206, 13–207, 13–302, 13–303, 13–304, 13–305, 13–307, 13–701, 13–901 and Official Forms No. 13–5 and No. 13–7 implementing Chapter XIII of the Bankruptcy Act as annexed hereto [see *infra,* pp. 1147–1156], are amended effective August 1, 1976.

2. That the aforementioned amendments shall be applicable to proceedings then pending except to the extent that in the opinion of the court their application in a particular proceeding then pending would not be feasible or would work injustice, in which event the former procedure applies.

3. That Rule 744.1 of the General Rules of Bankruptcy Procedure is hereby abrogated as no longer necessary.

4. That THE CHIEF JUSTICE be, and he hereby is, authorized to transmit the aforementioned amendments to rules and forms implementing Chapters I–VII, XI, and XIII of the Bankruptcy Act to the Congress in accordance with the provisions of Title 28, United States Code, Section 2075.

AUTHENTICATED
U.S. GOVERNMENT
INFORMATION
GPO

AMENDMENTS TO THE BANKRUPTCY RULES AND OFFICIAL BANKRUPTCY FORMS UNDER CHAPTERS I–VII OF THE BANKRUPTCY ACT

Rule 112. Responsive pleading or motion.

The alleged bankrupt in an involuntary petition, or, in the case of a petition against a partnership under subdivision (b) or (c) of Rule 105, any general partner (or alleged general partner) who is not a petitioner, may contest the petition. Rule 12 of the Federal Rules of Civil Procedure applies to the making of a defense or objection to the petition, except that an answer or a motion permitted under Rule 12 (b), (e), or (f) of the Federal Rules of Civil Procedure shall be served and filed within 20 days after the issuance of the summons, but if service is made by publication upon an alleged bankrupt or partner not an inhabitant of nor found within the state in which the district court is held, the court shall prescribe the time for such service and filing of the response. The service of a motion permitted under Rule 12 of the Federal Rules of Civil Procedure shall have the effect prescribed by Rule 712 (a) on the time allowed for serving an answer to the petition, but any motion or answer served on the petitioner must be filed with the court no later than the last day allowed for service of the motion or the answer, as the case may be. The answer to a petition may include the statement of a claim against a petitioning creditor only for the purpose of defeating the petition. No other responsive pleadings shall be allowed, except that the court may order a reply to an answer and prescribe the time for it to be served and filed.

Rule 121. Applicability of rules in Part VII.

Except as otherwise provided in Part I of these rules and unless the court otherwise directs, the following rules

AUTHENTICATED
U.S. GOVERNMENT
INFORMATION
GPO

in Part VII apply in all proceedings relating to a contested petition and in all proceedings to vacate an adjudication: Rules 705, 708–710, 715, 716, 724–726, 728–737, 752, 756, and 762. The court may direct that one or more of the other rules in Part VII shall also apply in such a proceeding. For the purposes of this rule a reference in the rules in Part VII to adversary proceedings shall be read as a reference to proceedings relating to a contested petition or proceedings to vacate an adjudication, and a reference in the Federal Rules of Civil Procedure to the complaint shall be read as a reference to the petition.

Rule 205. Examination.

(*d*) *Scope of examination.*—The examination under subdivisions (a) and (b) of this rule may relate only to the acts, conduct, or property of the bankrupt, or to any matter which may affect the administration of the bankrupt's estate, or to his right to discharge. The examination of a spouse under subdivisions (a) and (b) of this rule shall be subject to the provisos of § 21a of the Act.

Rule 306. Objections to and allowance of claims for purpose of distribution; valuation of security.

(*c*) *Objection to allowance.*—An objection to the allowance of a claim for the purpose of distribution shall be in writing. A copy of the objection and at least 10 days' notice or, if the claim is for taxes, at least 30 days' notice of a hearing thereon shall be mailed or delivered to the claimant. If an objection to a claim is joined with a demand for relief of the kind specified in Rule 701, the proceeding thereby becomes an adversary proceeding.

Rule 404. Grant or denial of discharge.

(*h*) *Notice of discharge.*—Within 45 days after an order of discharge of an individual bankrupt becomes final, the court shall mail a copy of such order to the persons specified in subdivision (b) of this rule.

Rule 704. Process; service of summons, complaint, and notice of trial or pre-trial conference.

(*a*) *Summons and notice of trial or pre-trial conference: Issuance and form; service with complaint.*—Upon the commencement of an adversary proceeding the bankruptcy judge shall set a date either for trial or for a pre-trial conference and shall forthwith issue a summons and notice of trial or pre-trial conference. The summons and notice shall conform substantially to Official Form No. 26 and shall be served together with the complaint on the defendant in one of the modes authorized by this rule.

(*b*) *Personal service.*—Service of the summons, complaint, and notice of trial or pre-trial conference may be made as provided in Rule 4 (d) of the Federal Rules of Civil Procedure for the service of process. Personal service may be made by any person not less than 18 years of age who is not a party.

(*c*) *Service by mail.*—Service of summons, complaint, and notice of trial or pre-trial conference may also be made within the United States by first-class mail postage prepaid as follows:

(1) Upon an individual other than an infant or incompetent, by mailing a copy of the summons, complaint, and notice to his dwelling house or usual place of abode or to the place where he regularly conducts his business or profession.

(2) Upon an infant or an incompetent person, by mailing a copy of the summons, complaint, and notice to the person upon whom process is prescribed to be served by the law of the state in which service is made when an action is brought against such defendant in the courts of general jurisdiction of that state. The summons, complaint, and notice in such case shall be addressed to the person required to be served at his dwelling house or usual place of abode or at the place where he regularly conducts his business or profession.

(3) Upon a domestic or foreign corporation or upon a partnership or other unincorporated association, by mailing a copy of the summons, complaint, and notice directed 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 and, if the agent is one authorized by statute to receive service and the statute so requires, by also mailing a copy to the defendant.

(4) Upon the United States, by mailing a copy of the summons, complaint, and notice to the United States attorney for the district in which the action is brought and also to the Attorney General of the United States at Washington, District of Columbia, and in any action attacking the validity of an order of an officer or an agency of the United States not made a party, by also mailing a copy of the summons, complaint, and notice to such officer or agency.

(5) Upon any officer or agency of the United States, by mailing a copy of the summons, complaint, and notice to the United States as prescribed in paragraph (4) of this subdivision and also to the officer or agency. If the agency is a corporation, the mailing shall be as prescribed in paragraph (3) of this subdivision of this rule.

(6) Upon a state or municipal corporation or other governmental organization thereof subject to suit, by mailing a copy of the summons, complaint, and notice to the person or office upon whom process is prescribed to be served by the law of the state in which service is made when an action is brought against such a defendant in the courts of general jurisdiction of that state, or in the absence of the designation of any such person or office by state law, then to the chief executive officer thereof.

(7) Upon a defendant of any class referred to in paragraph (1) or (3) of this subdivision of this rule, it is also sufficient if a copy of the summons, complaint, and

notice is mailed to the person upon whom service is prescribed to be served by any statute of the United States or by the law of the state in which service is made when an action is brought against such defendant in the courts of general jurisdiction of that state.

(8) Upon any defendant, it is also sufficient if a copy of the summons, complaint, and notice is mailed to an agent of such defendant authorized by appointment or by law to receive service of process, at his dwelling house or usual place of abode or at the place where he regularly carries on his business or profession and, if the authorization so requires, by mailing also a copy of the summons, complaint, and notice to the defendant as provided in this subdivision.

(9) Upon the bankrupt, after a petition has been filed by him or served upon him and until the case is dismissed or closed, by mailing copies of the summons, complaint, and notice to the bankrupt at the address shown in the petition or statement of affairs filed by him or to such other address as he may designate in a writing filed with the court and, if he is represented by an attorney, to the attorney at his post-office address.

(*d*) *Service pursuant to court order.*

(*1*) *Service in accordance with Federal Rule of Civil Procedure 4 (e).*—If a party cannot be served as provided in subdivision (b), (c), or (i) of this rule, the court may order the summons, complaint, and notice of trial or pre-trial conference to be served as provided in Rule 4 (e) of the Federal Rules of Civil Procedure for service of summons, notice, or order in lieu of summons.

(*2*) *Service by publication.*—If a party to an adversary proceeding to determine or protect rights in property in the custody of the court cannot be served as provided in subdivision (b), (c), or (i) of this rule, the court may order the summons, complaint, and notice of trial or pre-trial conference to be served by mailing copies thereof to the party's last known address, if any,

and by at least one publication in such manner and form as the court may direct.

(*e*) *Time of service.*—Service under subdivision (b) shall be made within 10 days after the issuance of the summons. If service is made under subdivision (c), the summons, complaint, and notice of trial or pre-trial conference shall be deposited in the mail within 10 days after the issuance of the summons. Service under subdivision (d) or (i) shall be made within the time fixed by the court. If a summons is not timely served in accordance with the foregoing provisions, another summons shall be issued and served and a new date set for trial.

(*f*) *Territorial limits of effective service.*

(1) The summons, together with the complaint and notice of trial or pre-trial conference, and all other process except a subpoena may be served anywhere within the United States. "United States," as used in this subdivision, includes the Commonwealth of Puerto Rico and the territories and possessions to which the Act is or may hereafter be applicable.

(2) The summons, together with the complaint and notice of trial or pre-trial conference, and all other process except a subpoena may be served as provided in subdivision (b) or (d) in a foreign country (A) on the bankrupt, any person required to perform the duties of a bankrupt, any general partner of an adjudicated partnership, or any attorney who is a party to a transaction subject to examination under Rule 220, or (B) on any party to an adversary proceeding to determine or protect rights in property in the custody of the court, or (C) on any person whenever such service is authorized by a federal or state law referred to in Rule 4 (d)(7) or Rule 4 (e) of the Federal Rules of Civil Procedure.

(3) A subpoena may be served within the territorial limits provided in Rule 45 of the Federal Rules of Civil Procedure.

(*g*) *Proof of service.*—Service of process under the foregoing provisions of this rule shall be proved as provided in Rule 4 (g) of the Federal Rules of Civil Procedure. When service is made by mail, the proof shall include a certification of the mailing by the person who made the service. Failure to make proof of service does not affect the validity of the service.

(*h*) *Effect of errors; amendment.*—Service of process under this rule shall be effective notwithstanding an error in the papers served or the manner or proof of service if no material prejudice resulted therefrom to the substantial rights of the party against whom the process issued. Amendment of process or proof of service thereof may be allowed as provided in Rule 4 (h) of the Federal Rules of Civil Procedure.

(*i*) *Alternative provisions for service in a foreign country.*—If service of the summons, complaint, and notice of trial or pre-trial conference or of any process is authorized to be effected upon a party in a foreign country, it may also be made and proved as provided in subdivision (i) of Rule 4 of the Federal Rules of Civil Procedure.

Rule 712. Defenses and objections.

(*a*) *When presented.*—If a complaint is duly served upon him, a defendant shall serve his answer within 30 days after the issuance of the summons, except when a different time is prescribed by the court. The court shall prescribe the time for service of the answer when service of a complaint is made by publication or upon a party in a foreign country. A party served with a pleading stating a cross-claim against him shall serve an answer thereto within 10 days after the service upon him. The plaintiff shall serve his reply to a counterclaim in the answer within 10 days after service of the answer or, if a reply is ordered by the court, within 10 days after service of the order, unless the order otherwise directs. The

United States or an officer or agency thereof shall serve an answer to a complaint within 35 days after the issuance of the summons, and shall serve an answer to a cross-claim, or a reply to a counterclaim, within 35 days after service upon the United States attorney of the pleading in which the claim is asserted. The service of a motion permitted under this rule alters these periods of time as follows, unless a different time is fixed by order of the court: (1) if the court denies the motion or postpones its disposition until the trial on the merits, the responsive pleading shall be served within 5 days after notice of the court's action; (2) if the court grants a motion for a more definite statement, the responsive pleading shall be served within 5 days after the service of a more definite statement.

Rule 744.1. Determination of foreign law.

[Abrogated]

Rule 755. Default.

(*a*) *Entry and service of copy of judgment.*—When a judgment is sought against a party in adversary proceedings and such party has, without sufficient excuse, (1) failed to plead or otherwise defend or, (2) having filed a pleading or motion, is not ready to proceed with trial on the day set therefor in accordance with these rules, the court upon request therefor shall enter a judgment by default, except as provided hereinafter. If, in order to enable the court to enter judgment or to carry it into effect, it is necessary to take an account or to determine the amount of damages or to establish the truth of any averment by evidence or to make an investigation of any other matter, the court may conduct such hearings as it deems necessary and proper. No judgment by default shall be entered against an infant or incompetent person unless represented in the proceeding by a general guardian, committee, conservator, or other such representative who has appeared therein. Immediately on

the entry of judgment by default the court shall serve a copy of the judgment by mail in the manner provided by Rule 705 on the party against whom the judgment is entered. The service of such copy shall be noted in the court's docket. Lack of service of the copy does not affect the time to appeal or relieve or authorize the court to relieve a party for failure to appeal within the time allowed, except as permitted by Rule 802.

Rule 801. Manner of taking appeal; voluntary dismissal.

(*a*) *Manner of taking appeal.*—An appeal from a judgment or order of a referee to a district court shall be taken by filing a notice of appeal with the referee within the time allowed by Rule 802. Failure of an appellant to take any step other than that specified in the first sentence does not affect the validity of the appeal, but is ground only for such action as the district court deems appropriate, which may include dismissal of appeal. The notice of appeal shall conform substantially to Official Form No. 28, shall contain the names of all parties to the judgment or order appealed from and the names and addresses of their respective attorneys, and shall be accompanied by the fee fixed by the Judicial Conference of the United States pursuant to § 40c of the Act. Each appellant shall file a sufficient number of copies of the notice of appeal to enable the referee to comply promptly with Rule 804.

(*b*) *Voluntary dismissal.*—If an appeal has not been docketed, the appeal may be dismissed by the referee upon the filing with him of a stipulation for dismissal signed by all the parties, or upon motion and notice by the appellant. If the parties to an appeal shall sign and file with the clerk of the district court an agreement that the appeal be dismissed, specifying the terms as to payment of costs, and shall pay whatever fees are due, the clerk shall enter the case dismissed, but no mandate or other process shall issue without an order of the court.

An appeal may also be dismissed upon motion of the appellant upon terms agreed upon by the parties or fixed by the court.

Rule 805. Stay pending appeal.

A motion for a stay of the judgment or order of a referee, for approval of a supersedeas bond, or for other relief pending appeal must ordinarily be made in the first instance to the referee. Notwithstanding Rule 762 but subject to the power of the district court reserved hereinafter, the referee may suspend or order the continuation of proceedings or make any other appropriate order during the pendency of an appeal upon such terms as will protect the rights of all parties in interest. A motion for such relief, or for modification or termination of relief granted by the referee, may be made to the district court, but the motion shall show why the relief, modification, or termination was not obtained from the referee. The district court may condition the relief it grants under this rule upon the filing of a bond or other appropriate security with the referee. A trustee or receiver may be required to give a supersedeas bond or other appropriate security in order to obtain a stay when taking an appeal. Unless an order approving a sale of property or issuance of a certificate of indebtedness is stayed pending appeal, the sale to a good faith purchaser or the issuance of a certificate to a good faith holder shall not be affected by the reversal or modification of such order on appeal, whether or not the purchaser or holder knows of the pendency of the appeal.

Rule 914. Procedure in contested matters not otherwise provided for.

In a contested matter in a bankruptcy case not otherwise governed by these rules, relief shall be requested by motion, and reasonable notice and opportunity for hearing shall be afforded the party against whom relief is sought. No responsive pleading is required under this

rule unless the court orders an answer to a motion. The motion shall be served in the manner provided for service of a summons, complaint, and notice by Rule 704. In all contested matters, unless the court otherwise directs, the following rules shall also apply: 721, 725, 726, 728–737, 741, 742, 752, 754–756, 762, 764, 769, and 771. The court may at any stage in a particular matter direct that one or more of the other rules in Part VII shall apply. A person who desires to perpetuate his own testimony or that of another person regarding any matter that may be cognizable and relevant in a contested matter in a pending bankruptcy case may proceed in the same manner as provided in Rule 727 for the taking of a deposition before an adversary proceeding. For the purposes of this rule a reference in the rules in Part VII to adversary proceedings shall be read as a reference to contested matters. Notice of an order or direction under this rule shall be given when necessary or appropriate to assure to the parties affected a reasonable opportunity to comply with the procedures made applicable by the order.

Rule 917. Evidence.

The Federal Rules of Evidence and Rules 43, 44, and 44.1 of the Federal Rules of Civil Procedure apply in bankruptcy cases subject to specific provisions in these rules governing matters of evidence.

FORM No. 6

SCHEDULES

[*Caption, other than designation, as in Form No. 1*]

SCHEDULE A.—STATEMENT OF ALL DEBTS OF BANKRUPT

Schedules A–1, A–2, and A–3 must include all the claims against the bankrupt or his property as of the date of the filing of the petition by or against him.

Schedule A–1.—Creditors having priority

Nature of claim	Name of creditor and complete mailing address including zip code [if unknown, so state]	Specify when claim was incurred and the consideration therefor; when claim is contingent, unliquidated, disputed, or subject to set-off, evidenced by a judgment, negotiable instrument, or other writing, or incurred as partner or joint contractor, so indicate; specify name of any partner or joint contractor on any debt	Amount of claim

AUTHENTICATED
U.S. GOVERNMENT
INFORMATION
GPO

Schedule A–2.—Creditors holding security

Name of creditor and complete mailing address including zip code [if unknown so state]	Description of security and date when obtained by creditor	Specify when claim was incurred and the consideration therefor; when claim is contingent, unliquidated, disputed, subject to setoff, evidenced by a judgment, negotiable instrument, or other writing, or incurred as partner or joint contractor, so indicate; specify name of any partner or joint contractor on any debt	Market value	Amount of claim without deduction of value of security

Schedule A–3.—Creditors having unsecured claims without priority

Name of creditor [including last known holder of any negotiable instrument] and complete mailing address including zip code [if unknown, so state]	Specify when claim was incurred and the consideration therefor; when claim is contingent, unliquidated, disputed, subject to setoff, evidenced by a judgment, negotiable instrument, or other writing, or incurred as partner or joint contractor, so indicate; specify name of any partner or joint contractor on any debt	Amount of claim

FORM NO. 26

SUMMONS AND NOTICE OF TRIAL OF ADVERSARY PROCEEDINGS OR OF PRE-TRIAL CONFERENCE

[*Caption, other than designation, as in Form No. 25*]

SUMMONS AND NOTICE OF TRIAL OR PRE-TRIAL CONFERENCE

To the above-named defendant:

You are hereby summoned and required to serve upon ...., plaintiff's attorney, whose address is ....., a motion or an answer[1] to the complaint which is herewith served upon you, on or before ....., and to file the motion or answer with this court not later than the second business day thereafter. If you fail to do so, judgment by default will be taken against you for the relief demanded in the complaint.

You are hereby notified that trial of the proceeding commenced by this complaint [*or that a pre-trial conference with respect to this complaint*] has been set for ....., at ..... o'clock .... m., in .....

....., *Bankruptcy Judge.*

By: .....

Address: ....., ...

Date of issuance: .....

[1] If you make a motion, as you may in accordance with Bankruptcy Rule 712, that rule governs the time within which your answer must be served.

AMENDMENTS TO THE CHAPTER XI RULES

Rule 11–24. Notices to parties in interest and the United States.

(*b*) *Other notices to parties in interest.*—Except as provided in subdivision (f) of this rule, the court shall give notice by mail to the trustee or receiver, the debtor, and all creditors, including secured creditors, of (1) dismissal of the case pursuant to Rule 11–42; (2) the time allowed for filing a complaint to determine the dischargeability of a debt pursuant to § 17c (2) of the Act as provided in Rule 11–48; and (3) entry of an order confirming a plan pursuant to Rule 11–38.

Rule 11–61. Adversary proceedings.

(*b*) *References in Bankruptcy Rules.*—As applied in Chapter XI cases, the reference in Bankruptcy Rule 725 to Rule 221 (b) shall be read as a reference to Rule 11–18 (g), and the reference in Bankruptcy Rule 741 to "a complaint objecting to the bankrupt's discharge" shall be read to include also a reference to "a complaint objecting to the confirmation of a plan on the ground that the debtor has committed any act or failed to perform any duty which would be a bar to the discharge of a bankrupt."

Rule 11–62. Appeal to district court.

Part VIII of the Bankruptcy Rules applies in Chapter XI cases, except that Rule 802 (c) thereof shall read as follows:

"(*c*) *Extension of time for appeal.*—The referee may extend the time for filing the notice of appeal by any party for a period not to exceed 20 days from the expiration of the time otherwise prescribed by this rule. A request to extend the time for filing a notice of appeal

AUTHENTICATED
U.S. GOVERNMENT
INFORMATION
GPO

must be made before such time has expired, except that a request made after the expiration of such time may be granted upon a showing of excusable neglect if the judgment or order does not authorize the sale of any property or the issuance of any certificate of indebtedness, or is not a judgment or order under Rule 11–38 confirming a plan, or is not a judgment or order under Rule 11–42 dismissing a Chapter XI case, or converting a Chapter XI case to bankruptcy."

Rule 13–203. Notices to creditors and the United States.

(*b*) *Other notices to all creditors.*—Except as provided in subdivision (e) of this rule, the court shall give notice by mail to all creditors, including creditors secured by estates in real property or chattels real, of (1) the dismissal of the case pursuant to Rule 13–112 or 13–215; (2) the time fixed, if any, for filing rejections of a modification of a plan pursuant to Rule 13–212; (3) the time fixed, if any, for filing a complaint objecting to the debtor's discharge pursuant to Rule 13–404 (b)(1); (4) the order of discharge as provided in Rule 13–404 (e); (5) the waiver, denial, or revocation of a discharge as provided in Rule 13–406; and (6) the time allowed for filing a complaint to determine the dischargeability of a debt pursuant to § 17c (2) of the Act as provided in Rule 13–407 (a)(2).

Rule 13–204. Meetings of creditors.

(*a*) *First meeting.*

(*1*) *Date and place.*—Promptly after the filing of a plan the court shall call a first meeting of creditors, but if there is an application or motion to dismiss or to convert to bankruptcy under Rule 13–112, or an appeal from or a motion to vacate an order entered under that rule, the court may delay fixing a date for such meeting. A copy or a summary of the last filed plan and a form of proof of claim containing provision for acceptance or rejection of the plan shall accompany the notice of the meeting. The notice shall state that any secured claim not filed before the conclusion of the first meeting of creditors or within such extended time as the court may fix will not be treated as a secured claim for purposes of

AUTHENTICATED
U.S. GOVERNMENT
INFORMATION
GPO

voting and distribution and that any creditor filing a claim who has not filed a written acceptance or rejection of the plan pursuant to Rule 13–202 prior to the conclusion of the first meeting of creditors shall be deemed to have accepted the plan. The meeting may be held at a regular place for holding court or at any other place within the district more convenient for the parties in interest.

Rule 13–206. Examination.

(*d*) *Scope of examination.*—The examination under subdivisions (a) and (b) of this rule may relate only to the acts, conduct, or property of the debtor, or to any matter which may affect the administration of the debtor's estate, or to his right to discharge. The examination of a spouse under subdivisions (a) and (b) of this rule shall be subject to the provisos of § 21a of the Act.

Rule 13–207. Employment and compensation and reimbursement of attorneys and accountants governed by Bankruptcy Rules.

The employment of attorneys and accountants for the trustee and the authorization of the trustee to act as an attorney or accountant for the estate shall be governed by Bankruptcy Rule 215. The compensation and reimbursement of expenses of such an attorney or accountant for an estate and the compensation and reimbursement of the debtor's attorney shall be governed by Bankruptcy Rule 219, but the reference in Bankruptcy Rule 219 (d) to Rule 220 shall be read as a reference to Rule 13–210.

Rule 13–302. Filing proof of claim.

(*e*) *Time for filing.*

(*1*) *Secured claims.*—A secured claim, whether or not listed in the Chapter XIII Statement, must be filed before the conclusion of the first meeting of creditors in the Chapter XIII case unless the court, on application before the expiration of that time and for cause shown, shall grant a reasonable, fixed extension of time. Any claim

not properly filed by the creditor within such time shall not be treated as a secured claim for purposes of voting and distribution in the Chapter XIII case. Notwithstanding the foregoing, the court may permit the later filing of a secured claim for the purpose of distribution by the debtor, the trustee, or a codebtor.

Rule 13–303. Filing of claims by debtor or trustee.

If a creditor fails to file his claim before the conclusion of the first meeting of creditors in the Chapter XIII case, the debtor or the trustee may execute and file a proof of such claim as an unsecured claim on Official Form No. 13–10 in the name of the creditor. Such claim shall be treated as a filed claim only for purposes of allowance and distribution. The court shall forthwith mail notice of such filing to the creditor and to the debtor if the claim is filed by the trustee, or to the trustee if the claim is filed by the debtor. The creditor may nonetheless file a proof of claim pursuant to Rule 13–302, which proof when filed shall supersede the proof filed by the debtor or trustee.

Rule 13–304. Claim by codebtor.

A person who is or may be liable with the debtor, or who has secured a creditor of the debtor, may, if the creditor fails to file his claim before the conclusion of the first meeting of creditors, file a proof of such claim as an unsecured claim pursuant to Rule 13–302 in the name of the creditor, if known, or if unknown, in his own name. No distribution shall be made on the claim except on satisfactory proof that the original debt will be diminished by the amount of the distribution. The creditor may nonetheless file a proof of claim pursuant to Rule 13–302, which proof when filed shall supersede the proof of claim filed pursuant to the first sentence of this rule.

Rule 13–305. Post-petition claims.

Notwithstanding Rule 13–302 (e), the court may at

any time while a case is pending permit the filing of a proof of claim for the following:

(1) Claims for taxes owing to the United States, or to any state, or any subdivision thereof, at the time of the filing of the petition under Rule 13–103 or 13–104 which had not been assessed prior to date of confirmation of the plan, but which are assessed within one year after the date of the filing of such petition;

(2) Claims for taxes owing to the United States, or to any state, or any subdivision thereof, after the filing of the petition under Rule 13–103 or 13–104 and which are assessed while the case is pending;

(3) On such terms as the court may prescribe, claims incurred by the debtor after the filing of a petition under Rule 13–103 or 13–104 for property or services needed to assure proper performance under the plan by the debtor, provided that, when feasible, prior court approval of the incurring of the claim has been obtained; and

(4) Within such time as the court may direct, claims arising from the rejection of executory contracts of the debtor.

Notice of the filing of a claim under this rule shall be given to the debtor and the trustee.

Rule 13–307. Objections to and allowance of claims; valuation of security.

(*c*) *Objection to allowance.*—An objection to the allowance of a claim shall be in writing. A copy of the objection and at least 10 days' notice or, if the claim is for taxes, at least 30 days' notice of a hearing thereon shall be mailed or delivered to the claimant, the trustee, and the debtor. If an objection to a claim is joined with a demand for relief of the kind specified in Rule 13–701, the proceeding thereby becomes an adversary proceeding.

Rule 13–701. Adversary proceedings.

(*b*) *References in Bankruptcy Rules.*—As applied in Chapter XIII cases, the reference in Bankruptcy Rule

704 (f)(2) to Rule 220 shall be read as a reference to Rule 13–210, the reference in Bankruptcy Rule 725 to Rule 221 (b) shall be read as a reference to Rule 13–211 (b), and the reference in Bankruptcy Rule 741 to "a complaint objecting to the bankrupt's discharge" shall be read to include also a reference to "a complaint objecting to the confirmation of a plan on the ground that the debtor has committed any act or failed to perform any duty which would be a bar to the discharge of a bankrupt."

Rule 13–901. General provisions.

Part IX of the Bankruptcy Rules applies in Chapter XIII cases except that:

(1) The reference in Bankruptcy Rule 901 (7) to Rule 102 shall be read as a reference to Rule 13–102.

(2) The references in Bankruptcy Rule 906 (b) to Rules 107 (b)(2) and 302 (e) shall be read as references to Rules 13–106 (b)(2) and 13–302 (e).

(3) The references in Bankruptcy Rule 906 (c) to Rules 203 (a), 302 (e), 404 (a), and 409 (a)(2) shall be read as references to Rules 13–203 (a), 13–302 (e), 13–404 (b)(1), and 13–407 (a)(2).

(4) The exception in Bankruptcy Rule 910 (c) for "the execution and filing of a proof of claim" shall be read to include also "the execution and filing of an acceptance or rejection of a plan" and the references to Official Forms No. 13 and 14 shall be read as a single reference to Official Form 13–8.

(5) The reference in Bankruptcy Rule 913 (b) to "a dischargeable debt" shall be read as a reference to "a debt which is or will be provided for by the plan."

(6) The reference in Bankruptcy Rule 919 (a) to "notice to the creditors as provided in Rule 203 (a) and to such other persons as the court may designate" shall be read as a reference to "such notice to such persons as the court may designate."

(7) The reference in Bankruptcy Rule 922 (b) to Rule 102 shall be read as a reference to Rule 13–102.

(8) The reference in Bankruptcy Rule 924 to "the time allowed by § 15 of the Act for the filing of a complaint to revoke a discharge" shall be read to include also a reference to "the time allowed by § 671 of the Act for the filing of a complaint to revoke the confirmation of a plan."

FORM NO. 13–5

CHAPTER XIII STATEMENT

11. *Debts.* (To be answered for each spouse whether single or joint petition is filed.)

a. *Secured Debts.* List all debts which are or may be secured by real or personal property. (Indicate in sixth column, if debt payable in installments, the amount of each installment, the installment period (monthly, weekly, or other) and number of installments in arrears, if any. Indicate in last column whether husband or wife solely liable, or whether you are jointly liable.)

Creditor's name and complete mailing address including zip code [if unknown, so state]	Consideration or basis for debt	Amount claimed by creditor	If disputed, amount admitted by debtor	Description of collateral [include year and make of automobile]	Installment amount, period, and number of installments in arrears	Husband or wife solely liable, or jointly liable
.....	.....	.....	.....	.....	.....	.....
.....	.....	.....	.....	.....	.....	.....
.....	.....	.....	.....	.....	.....	.....
.....	.....	.....	.....	.....	.....	.....
.....	.....	.....	.....	.....	.....	.....
.....	.....	.....	.....	.....	.....	.....

b. *Unsecured Debts.* List all other debts, liquidated and unliquidated, including taxes, attorneys' fees and tort claims.

Creditor's name and complete mailing address including zip code [if unknown, so state]	Consideration or basis for debt	Amount claimed by creditor	If disputed, amount admitted by debtor	Husband or wife solely liable, or jointly liable
.....	.....	.....	.....	.....
.....	.....	.....	.....	.....
.....	.....	.....	.....	.....
.....	.....	.....	.....	.....
.....	.....	.....	.....	.....
.....	.....	.....	.....	.....
.....	.....	.....	.....	.....
.....	.....	.....	.....	.....
.....	.....	.....	.....	.....

FORM NO. 13–7

ORDER FOR FIRST MEETING OF CREDITORS AND RELATED ORDERS, COMBINED WITH NOTICE THEREOF AND OF AUTOMATIC STAY

[*Caption, other than designation, as in Form No. 13–1*]

ORDER FOR FIRST MEETING OF CREDITORS AND RELATED ORDERS, COMBINED WITH NOTICE THEREOF AND OF AUTOMATIC STAY

To the debtor, his creditors, and other parties in interest:

..... of *....., having filed a petition on ..... stating that he desires to effect a plan under Chapter XIII of the Bankruptcy Act, it is ordered, and notice is hereby given, that:

1. The first meeting of creditors shall be held at ...., on ....., at .... o'clock ... m.

2. The debtor shall appear in person before the court at that time and place for the purpose of being examined.

3. The hearing on confirmation of the plan shall be held at the first meeting [*or* at ....., on ..... at ..... o'clock ... m. *or* at a date to be later fixed at the first meeting].

You are further notified that:

The meeting may be continued or adjourned from time to time by order made in open court, without further written notice to creditors.

Creditors may file written objections to confirmation at any time prior to confirmation.

Creditors holding secured claims must, unless an extension of time is granted, file their claims before the conclusion of the first meeting of creditors and all such creditors who fail to do so will not be treated as secured creditors for purposes of voting and distribution in the Chapter XIII case. At the meeting unsecured creditors may also file their claims, and all creditors may examine the debtor as permitted by the court, and transact such other business as may properly come before the meeting. In order to have his claim allowed for the purpose of voting and distribution, a creditor must file a claim, whether or not he is included in the list of creditors filed by the debtor. Where the Chapter XIII petition is filed in a pending bankruptcy case, claims filed in the bankruptcy case must be

---

**State post-office address.*

timely amended pursuant to Rule 13–302 (f). Claims which are not filed within 6 months after the date above set for the first meeting of creditors will not be allowed except as otherwise provided by law.

Any creditor filing a claim who has not filed a written acceptance or rejection of the plan pursuant to Rule 13–202 prior to the conclusion of the first meeting of creditors, in his proof of claim or otherwise, will be deemed to have accepted the plan.

The filing of the petition by the debtor above named operates as a stay of the commencement or continuation of any action against the debtor, of the enforcement of any judgment against him, of any act or the commencement or continuation of any court proceeding to enforce any lien on the property of the debtor, and of any court proceeding for the purpose of rehabilitation of the debtor or the liquidation of his estate, as provided by Rule 13–401.

A claim and an acceptance or rejection of the plan may be filed in the office of the undersigned bankruptcy judge on an official form prescribed in a proof of claim.

Dated: .....

.....,
Bankruptcy Judge.