

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF FLORIDA**
www.flsb.uscourts.gov

In re:

Administrative Order 10-1

**Modification of Local Forms Referencing
Valuation of Collateral in Chapter 13 Cases
and Corresponding Amendment to Local
Rule 3015-3(A)**

On December 1, 2009, the court entered Administrative Order 09-6 adopting amended local rules. In conjunction with the amended local rules, on recommendation of the chapter 13 trustees, the court revised its local form relating to valuation of collateral in chapter 13 cases and implemented a new Local Form "Order Granting Motion to Value and Determining Secured Status of Lien on Real Property." Minor changes were also made to the Local Form "Chapter 13 Plan" and to Local Rule 3015-3, to cross reference the revised and new local forms. These changes resulted in some confusion among chapter 13 practitioners because they make it appear that only liens on real property, as opposed to personal property, may be addressed in the local form chapter 13 plan and under Local Rule 3015-3. Additionally, the text of the revised local forms implies that the forms may only be used if the real property is the debtor's principal residence. Accordingly, it is **ORDERED** that:

1. Local Rule 3015-3(A) is amended as follows:

(A) Valuation of Collateral Securing Claims.

- (1) Valuation of Collateral.** A chapter 13 debtor seeking to value collateral securing a claim in a chapter 13 plan pursuant to 11 U.S.C. §506(a) and Bankruptcy Rule 3012, must file a motion requesting such relief. If the collateral consists of real property, the debtor shall file the Local Form "Motion to Value and Determine Secured Status of Lien on Real Property". If the collateral consists of personal property, the debtor shall file the Local Form "Motion to Value and Determine Secured Status of Lien on Personal Property." The movant shall schedule the motion for hearing in accordance with this court's self-calendaring guidelines, allowing for at least 21 days service of the motion and notice of hearing. The debtor must serve the motion, notice of hearing and the chapter 13 plan on the affected creditor in accordance with Bankruptcy Rule 7004.
- (2) Objections to Debtor's Declared Valuation.** Any oral or written objections to the valuation of collateral contained in a chapter 13 plan and in a motion to value collateral must be raised at or before the date of the hearing on the motion to value collateral. If no oral or written objections to the proposed valuation are raised at or before the hearing on the

motion to value collateral, the valuation specified in the plan will be binding upon the affected secured creditor, and the debtor shall submit a proposed order. If the collateral consists of real property, the debtor shall submit a proposed order consistent with the Local Form "Order Granting Motion to Value and Determine Secured Status of Lien on Real Property Held By _____." If the collateral consists of personal property, the debtor shall submit a proposed order consistent with the Local Form "Order Granting Motion to Value and Determine Secured Status of Lien on Personal Property Held By _____."

(3) Hearing on Objections to Valuation. Oral or written objections to the debtor's proposed valuation pursuant to 11 U.S.C. §506(a), shall be heard at the evidentiary hearing set on the motion to value collateral. The debtor shall submit a proposed order. If the collateral consists of real property, the debtor shall submit a proposed order consistent with the Local Form "Order Granting Motion to Value and Determine Secured Status of Lien on Real Property Held By _____." If the collateral consists of personal property, the debtor shall submit a proposed order consistent with the Local Form "Order Granting Motion to Value and Determine Secured Status of Lien on Personal Property Held By _____."

2. The Local Form "Chapter 13 Plan" has been revised to eliminate reference to a local form motion to value collateral.
3. The clerk is directed to provide notice of entry of this order and to publish the following new and amended local forms:

"Motion to Value and Determine Secured Status of Lien on Real Property,"

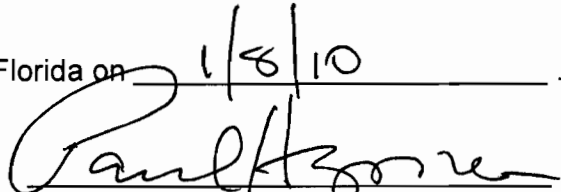
"Order Granting Motion to Value and Determine Secured Status of Lien on Real Property Held By _____,"

"Motion to Value and Determine Secured Status of Lien on Personal Property,"

"Order Granting Motion to Value and Determine Secured Status of Lien on Personal Property Held By _____,"

"Chapter 13 Plan"

ORDERED in the Southern District of Florida on

1/8/10

Paul G. Hyman, Chief Judge
United States Bankruptcy Court

- c: All SD Bankruptcy Judges
Clerk of Court, U.S. Bankruptcy Court
Office of the U.S. Trustee
Chapter 13 Trustees