

RULE 3012-1

**AVOIDANCE OF LIEN ON PRINCIPAL
RESIDENCE UNDER 11 U.S.C. § 506 - CHAPTER
13 ONLY**

(a) Form. A motion to avoid a lien on a Chapter 13 debtor's principal residence under 11 U.S.C. § 506 may name only one creditor as a respondent. A separate motion is required for each creditor whose lien is sought to be avoided.

(b) Service of Motion and Notice of Hearing.

(1) The Clerk will maintain a list of dates available for hearings on motions to avoid lien for each judge of the court. The list will be posted on the court's website.

(2) Movant must select a hearing date from the list for the judge to whom the case is assigned that is more than forty-nine (49) days after the date of service.

(3) Movant must serve a copy of the motion to avoid lien on the respondent in the manner required by Federal Bankruptcy Rules 9014 and 7004(b) and Local Bankruptcy Rule 3007-1(a) (that requires service upon the individual who signed a proof of claim filed by respondent), together with a hearing notice conforming to Local Bankruptcy Form G.

(c) Filing of Proof of Service. Movant must file with the motion a certificate of service of the motion to avoid lien and the notice of hearing. The certificate must comply with Local Bankruptcy Rule 9013-4.

(d) Response to Motion to Avoid Lien. If no response to the motion to avoid lien is filed within thirty (30) days after the date of the service (plus any additional time required by Federal Bankruptcy Rules 9006(a) and (f)), the court may rule on the motion as unopposed. The Court Hearing Scheduler (CHS) Program on the court's website and CM/ECF filing screen for this type of motion will compute the date that an objection is due.

(e) Proposed Order. Movant shall file with the motion a proposed order conforming to Local Bankruptcy Form H. If granted, avoidance of the lien shall occur at such time as debtor

completes performance of debtor's confirmed Chapter 13 plan and receives a discharge under 11 U.S.C. § 1328(a).