

LOCAL RULE 4003-2: LIEN AVOIDANCE

- (a) **Applicability.** This local rule applies to cases under chapters 7, 11, and 12 of the Bankruptcy Code.
- (b) **Filing Requirements.** In a chapter 7, 11, or 12 case, a debtor seeking to avoid a lien pursuant to 11 U.S.C. § 522(f) shall use the passive notice procedure prescribed by SC LBR 9013-4 and must file with the Court simultaneously:
- (1) A passive notice (See Exhibit B to SC LBR 9013-4);
 - (2) The lien avoidance motion (See attached Exhibits A, C, and E); and
 - (3) A proposed order (See attached Exhibits B, D, and F).
- The above documents must substantially conform to the attached Exhibits in all material respects or the motion may not be considered or may be denied.
- (c) **Filing of Motions Following Closure of Case.** Unless otherwise ordered, following discharge and the closure of a case, a lien may be avoided pursuant to 11 U.S.C. § 522(f) and amended schedules may be filed in relation thereto without reopening the case pursuant to 11 U.S.C. § 350.

Notes:

(2008) Portions of former SC LBR 4003-1 were incorporated into this rule pursuant to Fed. R. Bankr. P. 9029(a) and the Judicial Conference's prescribed numbering conventions. Former paragraphs (b)(3), (d), and (e) were deleted as unnecessary. Former paragraph (f) was deleted as unnecessary based upon the incorporation of the Interim Bankruptcy Rules into the Federal Rules of Bankruptcy Procedure.

(2011) Exhibits A, B, C, D, and E were amended to clarify that a debtor does not have to claim an exemption to avoid a lien.