



UNITED STATES BANKRUPTCY COURT
DISTRICT OF HAWAII

MICHAEL B. DOWLING
Clerk of Court

1132 Bishop Street, Suite 250L
Honolulu, HI 96813

AMY YOUNG
Chief Deputy Clerk

September 21, 2006

MEMORANDUM

TO: Bankruptcy Practitioners

SUBJECT: Upcoming Modification of Chapter 13 Procedures

Please take notice that certain Chapter 13 procedures are in the process of being modified to comply with statistical reporting requirements mandated by the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005 ("BAPCPA"). That statute created a new section 28 U.S.C. § 159, which requires, effective October 17, 2006, the Clerk's office to track various filings, including motions to value collateral and motions to avoid liens in Chapter 13 cases.

In order to meet the new statutory duties, such motions (and other filing events) will be given codes to allow automatic transmission of the information. However, this process requires that each motion of these types be a separate docket entry. This means that we must change the court's current procedure of attaching the 1-page motion to value collateral or motion to avoid lien to the plan.

The Chapter 13 procedures will be modified to require that such motions be filed separately. The plan will still need to make reference to any valuation of collateral or avoidance of a lien but without appending the full-page motion. Ultimately, this change in procedure should mean less rather than more work for the debtor or debtor's attorney because each motion now includes the required notice that has always been required to be sent to the subject creditor. Instead of attaching the 1-page motion to the plan and filing and serving on the creditor a separate Notice of Motion Related to Plan, the debtor will file and serve a 2-page motion and notice on the creditor.

The new forms also have the advantage of wider use. Previously, the forms contained no formal caption and were intended for use solely as plan attachments. Now with proper captions, the form motions may be used in Chapter 7 cases as well.

Draft versions of the forms are attached. If you wish to make any comments or suggestions, please do so as soon as possible by email to mbd@hib.uscourts.gov.

/s/ Michael B. Dowling
Clerk

NOTICE IS HEREBY GIVEN that this motion filed by the Debtor(s) concerns your interest in the above-described property. If the proposed valuation is related to a Chapter 13 plan, a copy of the plan should have been sent to you separately.

Your rights may be affected. You should read the motion and any related documents carefully and discuss them with your attorney, if you have one in this bankruptcy case. (If you do not have an attorney, you may wish to consult one.) If you do not want the court to approve the proposed treatment of your claim, or if you want the court to consider your views on the motion, then:

Chapter 13 case: If this motion is related to a proposed Chapter 13 plan, you or your attorney must file an "Objection to Chapter 13 Plan / Related Motion" not later than 20 days after the date of the notice of the conclusion of the meeting of creditors or 20 days after service of this motion and notice, whichever is later. The objection to the motion will be considered at the hearing on plan confirmation.

Case under other chapter: If this motion is not related to a Chapter 13 plan, you or your attorney must file an "Objection and Request for Hearing" not later than 20 days after the date the motion was filed.

Any objection or other response must be filed with the court at the address below. If you mail your response to the court for filing, you must mail it early enough so the court will receive it on or before the deadline stated above.

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If you or your attorney do not file a timely objection, the court may decide that you do not oppose the relief being sought in the motion and may enter an order granting the relief requested by the Debtor(s). The determination made in such an order will supersede any valuation stated in a proof of claim that you have filed or will file.

ADDITIONAL NOTICE FOR MOTION RELATED TO CHAPTER 13 PLAN

If this box and one below are checked, provision(s) in the proposed Chapter 13 plan may arguably be contrary to the Bankruptcy Code, as amended October 17, 2005. If so, the court may grant the motion to value collateral and confirm the plan only if you accept the treatment of your claim under the plan. If you do not want to accept the plan, you must file a timely objection to this motion and the plan. If you do not file a timely objection, you will have accepted the plan. If the court enters a confirmation order, the plan's provisions will be binding on you and the Debtor(s).

The plan provides for less than full payment of a debt that (1) is secured by a purchase money security interest in the motor vehicle described above and (2) was incurred within 910 days preceding the date of the filing of the bankruptcy petition.

The plan provides for less than full payment of a debt that (1) is secured by a purchase money security interest in the property described above and (2) was incurred within 1 year preceding the date of the filing of the bankruptcy petition.

The plan provides that you will NOT retain your lien in the property described above until paid in full under nonbankruptcy law or until a discharge is issued to the Debtor(s).

Date: _____

/s/ _____
Debtor / Joint Debtor / Attorney

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF HAWAII**

Debtor:	Case No.
Joint Debtor:	Chapter
	Related Docket No.

ORDER ON MOTION TO VALUE COLLATERAL

The court having reviewed the motion and any supporting documents, and, in the event a hearing was held, for the reasons stated in open court pursuant to Rule 7052 of the Federal Rules of Bankruptcy Procedure,

IT IS HEREBY ORDERED that the motion to value collateral is granted as indicated below. The claim of the subject creditor is a secured claim in the amount stated in Line 4. The claim is an unsecured claim to the extent that the claim exceeds the secured amount. This determination of the value of the subject collateral does not prejudice the right of the debtor or trustee to otherwise object to the claim.

1. Subject Creditor:	
2. Collateral:	
3. Valuation:	\$
4. Amount of Subject Creditor's Secured Claim:	\$

If this valuation is made in a Chapter 13 case, the amount of the secured claim is governed by 11 U.S.C. § 348(f) in the event of conversion to a case under another chapter, and by 11 U.S.C. § 349(b) in the event of dismissal.

Additional provisions (if any):

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Your rights may be affected. You should read the motion and any related documents carefully and discuss them with your attorney, if you have one in this bankruptcy case. (If you do not have an attorney, you may wish to consult one.) If you do not want the court to approve the proposed treatment of your claim, or if you want the court to consider your views on the motion, then:

Chapter 13 case: If this motion is related to a proposed Chapter 13 plan, you or your attorney must file an “Objection to Chapter 13 Plan / Related Motion” not later than 20 days after the date of the notice of the conclusion of the meeting of creditors or 20 days after service of this motion and notice, whichever is later. The objection to the motion will be considered at the hearing on plan confirmation.

Case under other chapter: If this motion is not related to a Chapter 13 plan, you or your attorney must file an “Objection and Request for Hearing” not later than 20 days after the date the motion was filed.

Any objection or other response must be filed with the court at the address below. If you mail your response to the court for filing, you must mail it early enough so the court will receive it on or before the deadline stated above.

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If you or your attorney do not file a timely objection, the court may decide that you do not oppose the relief being sought in the motion and may enter an order granting the relief requested by the Debtor(s). The determination made in such an order will supersede any security interest stated in a proof of claim that you have filed or will file.

DRAFT

Date: _____

/s/ _____
Debtor / Joint Debtor / Attorney

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF HAWAII**

Debtor:	Case No.
Joint Debtor:	Chapter
	Related Docket No.

ORDER ON MOTION TO AVOID LIEN

The court having reviewed the motion and any supporting documents, and, in the event a hearing was held, for the reasons stated in open court pursuant to Rule 7052 of the Federal Rules of Bankruptcy Procedure,

IT IS HEREBY ORDERED that the motion to avoid lien is granted as indicated below. The judicial or nonpossessory, non-purchase money lien that impairs the debtor's exemption in the property listed below is extinguished, subject to reinstatement upon dismissal of the case. The claim of the subject creditor is a secured claim in the amount stated in Line 3. The claim is an unsecured claim to the extent that the claim exceeds the secured amount. This determination of the secured amount of the claim does not prejudice the right of the debtor or trustee to otherwise object to the claim.

1. Subject Creditor:	
2. Exempt Property:	
3. Amount of Subject Creditor's Secured Interest in Property (\$0.00 if avoided in entirety):	\$

Additional provisions (if any):

DRAFT