

AO 3012-1 Valuation of Personal Property and Non-Residential Real Property Collateral — Motions to Determine Secured Status and Limit Secured Claims

(a) *Motions.* All pleadings requesting that the court determine under 11 U.S.C. § 506(a) the amount of a claim secured by a lien on the debtor's personal property or non-residential real property and bifurcate the secured claim into secured and unsecured portions as permitted by 11 U.S.C. § 1322(b)(2) or 11 U.S.C. § 1123(b)(5) shall be filed as a motion, and not as an objection to claim. The motion shall be titled "Motion to Determine Secured Status and Limit Secured Claim." The motion shall contain a specific allegation stating the basis for the value of the personal property or non-residential real property asserted in the motion, and shall have attached to it a copy of the relevant document(s) supporting that value. Before filing the motion, the movant shall ensure that the claim being modified is listed on Schedule D as filed with the petition or as subsequently amended.

(b) *Exclusions.* Motions to determine secured status and limited secured claims may address only valuation and the extent to which a claim is secured. Such motions shall not request approval of plan payment terms, e.g., interest rate and amount of monthly payments, nor shall such motions request the modification of any other rights of the holder of the secured claim, e.g., escrow for real estate taxes or insurance. Those modification requests shall be made in the plan.

(c) *Service.* The movant shall serve the motion in accordance with Bankruptcy Rule 7004, made applicable by Bankruptcy Rule 9014(b), particularly Bankruptcy Rule 7004(h), which requires service on an insured depository institution be made by certified mail addressed to an officer of the institution.

(d) *Filing Motion in CM/ECF.* Such motions shall be filed in CM/ECF under the Avoid Lien event under Motions/Applications and shall follow the prompts related to motions filed under 11 U.S.C. § 506(a) and not those for motions filed under 11 U.S.C. § 522(f).

(e) *Contingent Hearings.* Such motions shall be scheduled for hearing by contacting the courtroom deputy of the judge assigned to the case in chief pursuant to the requirements of *LBR 7101(b)* and not by using the hearing date for a motion to avoid lien under 11 U.S.C. § 522(f) posted on the court's web site. Hearings on motions to determine secured status and limit secured claims shall be noticed as contingent hearings using *LBF 3012-1D*, and the court may enter an order granting such motions without a hearing if:

(1) a motion to determine secured status and limit secured claim is filed that meets all of the requirements of the Bankruptcy Code and complies with all provisions of the *LBRs*, and

(2) no objection to the motion to determine secured status and limit secured claim has been filed.

(f) *Proposed Orders.* Such motions shall be accompanied by a proposed order in the form of *LBF 3012-1C*.

Cross-References:

- *LBR 3012-1 (Valuation of Collateral – Motions to Determine Secured Status and Void Wholly Unsecured Liens)*
- *LBF 3012-1C (Order Granting Motion to Determine Secured Status and Limited Secured Claim)*
- *LBF 3012-1D (Notice of Contingent Hearing on Motion to Determine Secured Status and Limit Secured Claim)*
- *LBF 3015-1A (Chapter 13 Plan)*

UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEW HAMPSHIRE

In re:

Debtor

Bk. No. _____ - _____ - _____
Chapter _____

**ORDER GRANTING MOTION TO DETERMINE SECURED STATUS
AND LIMIT SECURED CLAIM**

Having considered the Motion to Determine Secured Status and Limit Secured Claim of [name of lienholder here] filed by [name of moving party here], the motion is hereby granted. The creditor's claim is deemed secured to the extent of [insert amount of the claim that is supported by value of the collateral] and unsecured to the extent of [insert amount of the claim that is not support by value of the collateral].

ENTERED at Concord, New Hampshire.

Date: _____

Bankruptcy Judge

[Note: Leave the date line and signature line blank for completion by the court.]

UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEW HAMPSHIRE

In re:

Debtor

Bk. No. _____ - _____ - _____
Chapter _____

**NOTICE OF CONTINGENT HEARING ON
MOTION TO DETERMINE SECURED STATUS AND LIMIT SECURED CLAIM**

The above-cited motion to determine secured status and limit secured claim is scheduled for a hearing before the United States Bankruptcy Court, Courtroom [insert correct courtroom location], Warren B. Rudman U.S. Courthouse, 55 Pleasant Street, Concord, New Hampshire, on [insert date and time of hearing here].

YOUR RIGHTS MAY BE AFFECTED. You should read the attached motion carefully and discuss it with your attorney. If you do not have an attorney, you may wish to consult one.

If you have no objection to the motion, no action is required by you. If you do object to the motion, or if you wish to be heard on any matter regarding the motion, you must file a written objection with the Clerk, United States Bankruptcy Court, Warren B. Rudman U.S. Courthouse, 55 Pleasant Street, Room 200, Concord, NH 03301 on or before [insert hearing date minus seven (7) days].

A copy of your objection or statement must be mailed or delivered to the undersigned debtor or debtor's attorney at the address set forth below, the chapter 11 or 13 trustee, the United States Trustee, and a certificate of such action must be filed with the clerk. If you file an objection or statement, you must also appear at the hearing on the date and time set forth above.

If no objections are filed by [insert hearing date minus seven (7) days], the court may enter an order granting the motion determine secured status and limit secured claim without a hearing.

Date: _____

Signature

Print Name

Address

Tel. No.