

LOCAL BANKRUPTCY RULE 3015-1

PROCEDURES REGARDING CHAPTER 13 CASES

(a) APPLICABILITY

Except as provided herein, this Rule relates to chapter 13 cases in all divisions of the bankruptcy court and supersedes any previous orders in conflict with the provisions hereof. The definitions set forth in the Local Bankruptcy Rules effective July 1, 1998, and any amendments thereafter, apply to all terms used in this Rule. To the extent that this Rule conflicts with any other provisions of the Local Bankruptcy Rules, the provisions of this Rule shall prevail. In all other respects, the Local Bankruptcy Rules shall apply in all chapter 13 cases.

(b) FILING AND SERVICE OF PETITIONS, PLANS, PROOFS OF CLAIM AND OTHER FORMS

- (1) Filing of Petition. As required by Local Bankruptcy Rule 1002-1(e), an original and 4 copies of the petition, plan, schedules and statement of financial affairs shall be filed with the court, along with 2 copies of a master mailing list.

If the chapter 13 schedules, statement and plan are not filed with the petition, the clerk shall thereupon issue an order notifying the debtor that, if the plan, schedules and statement are not filed within 15 days, the case shall be dismissed at that time with a 180-day bar to refiling, unless the court grants a motion to extend time filed within said 15 days.

- (2) Time Extension. A motion for extension of time must be accompanied by a declaration showing specific cause for an extension of time, the amount of additional time requested, the date the petition was filed, and a proof of service evidencing that the motion and declaration were served on the chapter 13 trustee. The court may consider the motion without a hearing. If any schedule, the statement or the plan is not filed within the initial 15 days or within such additional time as the court may allow in response to a timely motion for extension of time, the court shall dismiss the case with a 180-day bar to refiling.

- (3) Notice Service. The debtor or debtor's attorney shall serve a notice of the plan confirmation hearing, along with a copy of the chapter 13 plan, on all creditors and the chapter 13 trustee at least 33 days before the date first set for the § 341(a) meeting of creditors. A proof of service shall be filed with the court and served on the chapter 13 trustee at least 10 days prior to the date first set for the meeting of creditors.
- (4) Forms. The chapter 13 petition, schedules and statement of financial affairs and proofs of claim must be prepared as prescribed by the appropriate official form, as required by F.R.B.P. 1007(b)(1). All other chapter 13 papers filed by the debtor or debtor's attorney must be submitted on applicable Central District court-approved forms, or be prepared in the same format. These forms include, but are not limited to the following:
- Chapter 13 Plan
 - Notice of § 341(a) Meeting and Hearing on Confirmation of Chapter 13 Plan with Copy of Chapter 13 Plan
 - Order Confirming Plan
 - Memorandum of Receipts and Disbursements
 - Statement of Attorney Pursuant to F.R.B.P. 2016(b) and Order Thereon
 - Motion to Modify/Suspend Plan Payments, Trustee's Comments and Order Thereon
 - Debtor's Application for Voluntary Dismissal of Chapter 13 with Proof of Service and Order Thereon
 - Debtor's Conversion of Chapter 13 Case to Chapter 7 and Proof of Service

If the debtor does not use a court-approved form, the debtor or debtor's attorney shall include a statement under penalty of perjury that the document contains all of the language of the approved form, or that specifies each respect in which it differs (apart from filling in blanks). No chapter 13 papers shall be served on the United States trustee, except as provided in sections (j) and (q) herein and when the United States trustee serves as a chapter 13 trustee. The court-approved forms can be obtained from the clerk's office or downloaded from the court's web site <www.cacb.uscourts.gov>.

- (5) Proof of Claim. Each proof of claim shall be in conformity with F.R.B.P 3002 and shall be served on the debtor's attorney, or on the debtor if the debtor is not represented by counsel, and on the chapter 13 trustee. Each proof of claim shall include a proof of service.

(c) **MEETING OF CREDITORS - § 341(a)**

- (1) Notice Service. Notice of the § 341(a) meeting of creditors and initial confirmation hearing date along with a proof of claim form shall be served on all creditors by the court at least 33 days before the date first set for the § 341(a) meeting of creditors.
- (2) Evidence of Income. The debtor shall provide evidence of current income (pay stubs, tax return or other equivalent documentation) to the chapter 13 trustee at least 8 days before the § 341(a) meeting of creditors. If income from third party contributors will be used to fund the plan, the debtor shall also provide evidence (declarations and pay stubs or other appropriate evidence) of the commitment and ability of the third party to make payments. Failure to provide this evidence timely may result in dismissal of the case, including but not limited to dismissal with a 180-day bar to refiling pursuant to 11 U.S.C. § 109(g) if the court finds willful failure to comply with an order of the court.
- (3) Attendance Requirement. The debtor and debtor's attorney shall attend the § 341(a) meeting of creditors. Unless otherwise ordered by the court, if the debtor does not appear, the case will be dismissed without further notice, and the court may impose a 180-day bar against refiling pursuant to 11 U.S.C. § 109(g) without further notice. If the case is a joint case, both debtors shall appear. If the debtor(s) fails to comply with this provision, the trustee shall prepare and lodge an order of dismissal with the court.
- (4) Required Reports. If the debtor is operating a business, the debtor shall submit to the chapter 13 trustee, at least 8 days before the § 341(a) meeting of creditors, the following reports required to investigate the acts, conduct, assets, liabilities, and financial condition of the debtor, the operation of the debtor's business, and the feasibility of such business:
 - (A) Projection of average monthly income and expenses for the next 12 months;
 - (B) Evidence of appropriate business insurance;
 - (C) Inventory of goods as well as a list of business furniture and equipment as of the date of the filing of the petition;
 - (D) Monthly income and expense statements for at least the 6 months preceding the date of the filing of the petition, or for such shorter time if the business has been in operation for less than the requisite 6 months, signed by the debtor under penalty of perjury, including a statement regarding incurred and unpaid expenses;

- (E) Tax returns for at least 5 years or since the start of the business, whichever period is shorter; and
- (F) The trustee may request additional evidence, including but not limited to bank statements, canceled checks, contracts, or any other evidence to support the ability to fund the proposed plan.

If the chapter 13 trustee desires the foregoing information to be presented in a particular format, such format shall be made readily available to the public.

Failure to submit timely reports required above may result in dismissal of the case, with or without a 180-day bar to refile pursuant to 11 U.S.C. § 109(g), if the court finds willful failure to comply with an order of the court.

(d) CONFIRMATION HEARING

The debtor's attorney or the debtor, if not represented by counsel, shall appear at the confirmation hearing unless specifically excused by court order or by the trustee prior to the confirmation hearing in conformance with procedures of the judge to whom the case is assigned.

- (1) Varied Calendaring and Appearance Procedures. The judges of this district do not have a uniform policy governing calendaring and appearance at a confirmation hearing. Some judges allow confirmation to take place as early as the date of the § 341(a) meeting and without court appearance by any party if there are no timely objections to confirmation or all such objections have been resolved. Some judges require a hearing on all plan confirmations but excuse appearances by the debtor and his or her attorney if there are no timely objections to confirmation or all such objections have been resolved. Some judges require a hearing on all plan confirmations and appearance by the debtor and his or her attorney, regardless of whether there are unresolved objections to confirmation.

Because of this variance in procedure, parties in interest are advised to contact the chapter 13 trustee assigned to the case.

- (2) Trustee Prepares Order Confirming Plan. Unless otherwise ordered by the court, the trustee shall prepare and file the Order Confirming Plan ("Order"). The Order will state the amount of the debtor's attorney's fees and costs allowed by the court. An application for approval of fees may be combined with the F.R.B.P. Rule 2016(b) statement. Counsel may apply for additional fees if and when justified by the facts of the case.

(e) VEHICLES

The plan may provide that postpetition contractual payments on vehicles shall be made directly to the creditor. All such direct payments shall be made as they come due postpetition. The plan shall provide that arrearages will be paid through the chapter 13 trustee. If the plan changes the amount of payment or duration due to the fact that any portion of the claim is deemed unsecured, then all payments so provided must be paid through the chapter 13 trustee.

(f) SPOUSAL AND CHILD SUPPORT

The plan may provide for current payments of spousal and child support directly to the creditor. Arrearages shall be paid through the chapter 13 trustee unless specific cause is shown and supported by declaration.

(g) OBJECTIONS TO PLANS

Objections, if any, to the confirmation of the plan shall be in writing, supported by appropriate declarations or other admissible evidence, filed with the court and served on debtor's attorney, the debtor and the chapter 13 trustee not less than 8 days before the § 341(a) meeting of creditors. As required by Local Bankruptcy Rule 1002-1(d)(8)(E), any written objection shall state in the caption the date, time, and place of the § 341(a) meeting of creditors, and the date, time, and place of the confirmation hearing. However, the chapter 13 trustee may accept an oral objection to confirmation of the plan if said objection is made at the § 341(a) meeting of creditors. Failure to file either a written objection on a timely basis or to appear at the § 341(a) meeting to present the basis for the objection will be deemed a waiver of the objection.

Any creditor who objects to confirmation of the plan should attend both the § 341(a) meeting of creditors and the confirmation hearing if the objection is not resolved. If the objecting creditor does not appear at the confirmation hearing, the court may overrule the objection.

(h) AMENDMENTS TO PLANS PRIOR TO CONFIRMATION

(1) Filing and Service. If a debtor wishes the court to confirm a plan other than the plan originally filed with the court, an amended plan must be received by the chapter 13 trustee and filed with the court at least 8 days before the confirmation hearing. If the amended plan will adversely affect any creditors (for example, if it treats any creditor's claim less favorably than the previously filed plan), the amended plan must also be served on all such creditors at least 25 days before the confirmation hearing. Failure to comply with these requirements may result in continuance of the confirmation hearing or dismissal of the case.

The caption of all amended plans shall identify the pleading as an amended plan (“First Amended Plan,” “Second Amended Plan,” etc.) and shall state the date, time, and place of the confirmation hearing at which the debtor will seek confirmation.

- (2) Amended Plan Payments. If the debtor has filed an amended plan prior to confirmation, the plan payments that come due after the date the amended plan is filed must be made in the amount stated in the amended plan, which may be higher or lower than the amount stated in the original plan. Where successive amended plans are filed, any plan payment that comes due must be made in the amount stated in the most recently filed amended plan.

(i) AMENDMENTS TO PLANS AT THE CONFIRMATION HEARING

Amendments to a plan which do not adversely affect creditors may be made at the confirmation hearing by interlineation in the confirmation order (prior review by the chapter 13 trustee is preferred).

(j) OBJECTIONS TO CLAIMS

Any objections to claims shall be filed with the court and served on the chapter 13 trustee and affected creditors. Objections to claims shall give notice of the date, time, and courtroom of hearing on the face of the objection and shall comply with Local Bankruptcy Rule 3007-1. Pending resolution, the chapter 13 trustee shall make payments on only the uncontroverted portion of claims subject to an objection, until such time as the court orders otherwise.

(k) PLAN PAYMENTS TO CHAPTER 13 TRUSTEE

- (1) Plan Payment Procedure. Plan payments shall be due on the same day of each month beginning not later than 30 days after the petition is filed. If the case was converted from chapter 7, the first plan payment shall be due 30 days from the date of conversion. All plan payments that accrue before the § 341(a) meeting of creditors shall be tendered, in the form described in subsection (3) below, to the chapter 13 trustee or the trustee’s representative at the § 341(a) meeting of creditors.
- (2) Dismissal or Conversion for Non-Payment. If the debtor fails to make plan payments, the case may be dismissed or converted to a case under chapter 7. If the case is dismissed for willful failure of the debtor to abide by orders of the court, or to appear before the court in proper prosecution of the case, the court will impose a 180-day bar to refile in accordance with 11 U.S.C. § 109(g).

- (3) Form of Payment. Unless and until a payroll deduction order is effective, all plan payments shall be made by the debtor in the form of cashier's check, certified funds, or money order made payable to the "Chapter 13 Trustee" and mailed to the chapter 13 trustee as instructed. The court may require plan payments through a payroll deduction order. If a payroll deduction order is not issued upon confirmation of a plan, the chapter 13 trustee is authorized to issue such an order and to serve it upon the debtor's employer, the debtor and the debtor's counsel whenever a plan payment is more than 20 days late.

(l) TRUSTEE'S FEES

The minimum trustee's fee for a chapter 13 that is not confirmed is \$50. The minimum trustee's fee in a case where the plan is confirmed is \$100.

(m) PAYMENTS ON MORTGAGES OR TRUST DEEDS

- (1) Postpetition Payment Procedure. Until a plan is confirmed, a debtor shall pay in a timely manner directly to his or her secured creditors all payments that fall due postpetition on debt secured by Real Property, as defined below, and shall provide evidence of such payments on Official Form F 3015-1.4 in the manner set forth below.
- (2) Scope of Rule. The term "Real Property" as used in this Rule includes both (i) commercial and residential real property and undeveloped land owned by the debtor and (ii) mobile and manufactured homes owned by the debtor and installed on a permanent foundation or used as a dwelling, but does not include any property that the debtor's filed plan specifically states will be surrendered.
- (3) Determination of Due Date. With the exception of the payment due for the month in which the petition is filed (the "Filing Month Payment"), the due date of a payment for the purpose of this Rule is the last day that the payment may be made without a late charge or penalty. The due date of the Filing Month Payment shall be the date on which such payment first becomes due under the terms of the applicable promissory note. If that date falls on or before the petition date, the Filing Month Payment will be considered prepetition and need not be paid in order to comply with this Rule.
- (4) Form of Payment. The payments required by paragraph (1) above shall be in the form of money order, cashier's check, wire transfer or other certified funds and shall have written on each item the debtor's name, the bankruptcy case number, and the appropriate loan number or credit account number.

- (5) Evidence of Payment. On or before each of the following dates, the debtor shall file with the court and serve on the chapter 13 trustee and all secured creditors to whom the debtor is required to make payments under this Rule a declaration executed under penalty of perjury, on Official Form F 3015-1.4, evidencing that the debtor has made all of the payments required by paragraph (1) above: (i) the date scheduled for each meeting of creditors under Bankruptcy Code § 341(a); and (ii) the date of each hearing to consider confirmation of a plan of reorganization in the case. Copies of all money orders, cashier's checks or other instruments used to make the payments shall be attached to the form. ~~In addition, for each payment made by mail, a certificate of mailing from the United States Post Office must be obtained and attached as an exhibit to the form. For each payment delivered to a secured creditor in any other manner, a statement or receipt from the lender or its representative acknowledging receipt of the payment must be obtained and attached to the form.~~
- (6) Submission of Declarations. The debtor shall bring a copy of an executed Official Form F 3015-1.4, together with a proof of service reflecting service of the form in accordance with this Rule, to the initial § 341(a) meeting of creditors. This Official Form F 3015-1.4 shall reflect all payments made between the date of the petition and the date of the initial § 341(a) meeting of creditors. Thereafter, the debtor shall bring an updated Official Form F 3015-1.4 to each continued § 341(a) meeting of creditors and each confirmation hearing, together with a proof of service reflecting service of the form in accordance with this Rule. Each updated Official Form F 3015-1.4 shall reflect, cumulatively, all payments made between the date of the petition and the date of the form. If the debtor owns more than one piece of Real Property, the debtor shall prepare and submit a separate Official Form F 3015-1.4 for each piece of Real Property.
- (7) Failure to Make Postpetition Payments. Failure to make all of the payments required by paragraph (1) of this Rule in a timely manner will generally result in dismissal of the case, and the court may impose a 180-day bar against refiling pursuant to 11 U.S.C. § 109(g) without further notice. In determining whether a debtor has complied with this Rule at a confirmation hearing, the court will disregard payments as to which a late penalty has not yet accrued or which are due on the date of the confirmation hearing. Failure to submit Form 3015-1.4 at each § 341(a) meeting of creditors and each confirmation hearing, with all required attachments, may result in dismissal of the case, and the court may impose a 180-day bar against refiling pursuant to 11 U.S.C. § 109(g) without further notice.

(n) MODIFICATION OF PLANS OR SUSPENSION OF PLAN PAYMENTS

Plan payments may be modified or suspended upon approval of the court. A motion to modify the plan or to suspend plan payments shall be made in accordance with sections (v) and (w) and must be submitted on court-approved form(s).

(o) TAX RETURNS

Each year a case is pending after the confirmation of a plan, the debtor shall provide: (1) a copy of his or her federal tax return, (2) any request for extension of the deadline for filing a return and (3) forms W-2 and 1099 to the chapter 13 trustee within 10 days after the return is filed with the Internal Revenue Service.

(p) SALE OR REFINANCING OF PROPERTY

Any sale or refinancing of the debtor's principal residence or other real property must be approved by the court. A motion for such approval may be made in accordance with section (v) herein. All such motions shall be submitted to the trustee for the trustee's comments before filing with the court.

(q) MOTIONS FOR DISMISSAL OR CONVERSION

(1) Non-Converted Case Dismissal. If the case has not been converted from another chapter, the debtor may seek dismissal of the case by filing a request to dismiss. If the case has been converted from another chapter, dismissal must be sought by motion. For all such requests or motions, notice shall be given to all creditors and the chapter 13 trustee. In addition, the request or motion shall disclose by a statement under penalty of perjury whether the debtor or the debtor's spouse has had any other bankruptcy cases pending within the previous 6 years, whether the present case has been converted from another chapter of the Bankruptcy Code, and whether any motion for relief from, annulment of, or conditioning of the automatic stay has been filed against the debtor in the present case. The motion shall comply with Local Bankruptcy Rule 9013-1(b).

(2) Debtor Conversion of Chapter 13 to Chapter 7. Pursuant to F.R.B.P. 1017, the conversion of a chapter 13 case to a case under chapter 7 shall be effective upon:

(A) The filing by the debtor with the clerk of the bankruptcy court of both a notice of conversion pursuant to 11 U.S.C. § 1307(a) and a proof of service evidencing that the notice of conversion was served upon the chapter 13 trustee, the United States trustee, and all creditors; and

- (B) Payment of any fee required by 28 U.S.C. § 1930(b).

Any distributions of estate funds made by the chapter 13 trustee in the ordinary course of business for the benefit of the debtor's estate prior to receipt of notice of dismissal or conversion shall not be surcharged to the chapter 13 trustee.

- (3) Debtor Conversion of Chapter 13 to Chapter 11. A motion by the debtor to convert a chapter 13 case to a case under chapter 11 shall be noticed for hearing.
- (4) Interested Party Conversion of Chapter 13 to Chapter 7, 11, or 12. A motion by any other party in interest to convert a chapter 13 case to a case under chapter 7, 11, or 12 shall be noticed for hearing by the moving party. This notice shall be given to the debtor, debtor's attorney, all creditors, the chapter 13 trustee, and the United States trustee.
- (5) Service of Order. When an order is required, the moving party shall transmit an original and one copy of the proposed order of dismissal or conversion to the court for entry and service on the chapter 13 trustee. Additional copies of the order plus notice of entry for all contesting parties must accompany the proposed order if notice of entry is required by F.R.B.P. 9022.

(r) MOTIONS FOR RELIEF FROM STAY

- (1) Required Format and Information. Motions for relief from the automatic stay shall conform with the Local Bankruptcy Rules forms and shall comply with Local Bankruptcy Rule 9013-1.
- (2) Default Motions.
- (A) Preconfirmation Default. A motion for relief from stay based solely upon a preconfirmation payment default is premature until a late charge has accrued under the contract on the postpetition obligation that the creditor seeks to enforce. If no late charge is provided, the motion may be brought 10 days after the postpetition payment is due. A motion for relief from stay based on other grounds may be brought at any time.
- (B) Postconfirmation Default. A motion for relief from stay based solely on postconfirmation payment default is premature until a late charge has accrued under the contract on the obligation that the creditor seeks to enforce. If no late charge is provided, the motion may be brought 10 days after payment is due.

- (3) Stipulations. A stipulation for relief from stay or to modify the stay does not require the consent or signature of the chapter 13 trustee.
- (4) Payments After Relief From Stay. If an order for relief from stay is granted, unless otherwise specified in the order, the chapter 13 trustee is relieved from making any further payments to the secured creditor that obtained such relief. The secured portion of that creditor's claim is deemed withdrawn upon entry of the order for relief, without prejudice to filing an amended unsecured claim for a deficiency when appropriate. The secured creditor that obtains relief from stay shall return to the chapter 13 trustee any payments the creditor receives from the chapter 13 trustee after entry of the order unless the stipulation or order provides otherwise.
- (45) Shortened Notice Hearing. A hearing on a motion for relief from stay on shortened notice, pursuant to Local Bankruptcy Rule 9075-1(b), may be sought for cause.

(s) POSTCONFIRMATION ADEQUATE PROTECTION ORDERS

After confirmation of a plan, if the debtor and a secured creditor propose to modify the payments by the chapter 13 trustee to the secured creditor by way of an adequate protection/relief from stay agreement, the debtor or creditor shall file and serve a motion for an order approving the modification of the plan by said agreement pursuant to sections (v) and (w).

Notwithstanding court approval of an adequate protection/relief from stay agreement, the trustee shall continue to make payments and otherwise perform his or her duties in accordance with the plan as confirmed unless: (1) the debtor receives a separate court order approving a modification to the plan, or (2) the adequate protection/relief from stay agreement specifically modifies the treatment of the claim under the confirmed plan.

(t) ATTORNEY REPRESENTATION

- (1) Scope of Employment. Local Bankruptcy Rule 2090-1 is modified in chapter 13 cases as follows: Any attorney who is retained to represent a debtor in a chapter 13 case is responsible for representing the debtor on all matters arising in the case, including relief from automatic stay, objections to claims, and adversary proceedings, until otherwise ordered by the court.
- (2) Debtor Unavailable or Unopposed to Hearing. If an attorney for a debtor is unable to contact the debtor in connection with a proceeding (e.g., a motion for relief from stay), the attorney may file and serve a statement informing the court of this fact.

If a debtor does not oppose a proceeding, the attorney may file a statement so informing the court and need not appear at the hearing.

(u) ATTORNEY FEES

- (1) Rights and Responsibilities Agreement. The court has adopted Official Form F 3015-1.7 entitled “Rights and Responsibilities Agreement Between Chapter 13 Debtors and Their Attorneys” (RARA). The use of the RARA in any case is optional. However, if the debtor’s attorney elects to proceed under the RARA, the RARA form is mandatory. If the RARA form is signed by the attorney and the debtor, filed, and served on the responsible chapter 13 trustee in any case, the fees outlined therein may be approved without further detailed fee application or hearing, subject to the terms of both the RARA and the Guidelines for Allowance of Attorneys’ Fees in Chapter 13 Cases (Guidelines) attached hereto as Appendix IV. The maximum fee allowable under the RARA and the Guidelines is:

\$3,000 in a case in which the debtor is self-employed; or

\$2,500 in all other cases.

- (2) Duties of Debtors and their Attorneys if the RARA is Signed, Filed, and Served. The RARA sets forth the duties and obligations that must be performed by the debtors and their counsel, both before and after the case is filed and before and after confirmation of a plan, if the parties elect to use the RARA. The RARA also specifies the fees that the attorney will charge and the procedures for seeking and objecting to payment of fees. An attorney who elects to use the RARA may not charge more than the maximum fees outlined in paragraph (1) above for performing services described in bold face type in the RARA. If the attorney performs tasks on behalf of the debtor not set forth in bold face, the attorney may apply to the court for additional fees and costs, but such applications will be reviewed by both the chapter 13 trustee and the court.

Unless sought by noticed motion pursuant to Local Bankruptcy Rule 9013-1, applications for additional fees and costs shall be submitted to the chapter 13 trustee for comment before being filed with the court, and shall be supported by evidence of the nature, necessity, and reasonableness of the additional services rendered and expenses incurred. When additional fees are sought, the court may, in its discretion, require additional supporting information or require a hearing, even though no opposition is filed. In such application, the attorney shall disclose to the court any fees paid or costs reimbursed by the debtor and the source of those payments.

If the parties elect to utilize the RARA, the lists of duties and obligations set forth in the RARA may not be modified by the parties. Other portions of the RARA may be modified in the following respects only: (1) the attorneys' fees provided for in the RARA may be reduced; (2) the agreement may be supplemented to include any additional agreements that may exist between the parties concerning the fees and expenses that the attorney will charge for performing services required by the RARA that are not in bold face type.

- (3) Debtor's Signature. The debtor's signature on the RARA certifies that the debtor has read, understands and agrees to the best of his or her ability to carry out the terms of the RARA, and has received a signed copy of the RARA.
- (4) Attorney's Signature. The attorney's signature on the RARA certifies that before the case was filed the attorney personally met with, counseled, and explained to the debtor all matters set forth in the RARA and verified the number and status of any prior bankruptcy case(s) filed by the debtor or any related entity, as set forth in Local Bankruptcy Rule 1015-2. The RARA does not constitute the written fee agreement contemplated by the California Business and Professions Code.
- (5) An Attorney May Elect to be Paid Other than Pursuant to the RARA and the Guidelines. At any time, whether or not a RARA is on file in any case, the debtor's attorney may elect to seek an allowance of fees and costs other than pursuant to the RARA and the Guidelines. In that event, the attorney shall file and serve an application for fees in accordance with 11 U.S.C. §§ 330 and 331, Rules 2016 and 2002 of the F.R.B.P. and Local Bankruptcy Rules 2016-1 and 3015-1, as well as the "Guide to Applications for Professional Compensation" issued by the United States Trustee for the Central District of California.
- (6) Court Review of any Attorney's Fee. On its own motion or the motion of any party in interest, the court may order a hearing to review any attorney's fee agreement or payment, in accordance with 11 U.S.C. § 329 and Rule 2017 of the F.R.B.P.

(v) MOTIONS AND APPLICATIONS WITHOUT HEARING

In addition to the motions and applications specified in Local Bankruptcy Rule 9013-1(g), the following motions may be made on notice without a hearing pursuant to the requirements of that Rule:

- (1) Applications for additional attorney's fees [subject to sections (u) and (w) herein];
- (2) Motion for suspension of plan payments [subject to section (w)];

- (3) Motions by the debtor or the trustee to modify a confirmed plan;
- (4) Motions for approval of sale or refinancing of debtor's residence, if the entire equity therein is exempt from the claims of creditors; provided, however, notice is not required if the sale or refinance will pay off the plan and the plan allows 100% to the unsecured claims; and
- (5) Trustee's motion to dismiss or modify the plan. Notwithstanding Local Bankruptcy Rule 9013-1(g), a party who responds to a trustee's motion to dismiss or a trustee's motion to modify the plan must obtain a hearing date from the court and give notice thereof with the response.

(w) SERVICE OF MOTIONS AND APPLICATIONS

All motions and applications must be served on the chapter 13 trustee, debtor, debtor's attorney and all creditors, with the following exceptions:

- (1) Motions for relief from the automatic stay (*See notice requirements in Local Bankruptcy Rule 9013-1(a)(5).*);
- (2) ~~An A~~ applications by debtor's counsel for additional fees and costs not exceeding \$1,000 over and above the limits set forth in the RARA and Guidelines ~~(the \$1,000 to include amounts approved in all prior applications for additional fees and costs by the debtor's attorney)~~ need to be served only on the chapter 13 trustee and the debtor. All applications for additional fees and costs shall be submitted to the chapter 13 trustee for comment before ~~filing being filed~~ with the court. ~~(See F.R.B.P. 2002(a) regarding notice of hearings on applications requesting additional fees greater than \$1,000 on a cumulative basis);~~
- (3) All motions for modification or suspension of plan payments must be submitted to the chapter 13 trustee for comment prior to filing but need not be served on creditors if (i) the proposed modification does not have an adverse effect on the rights of creditors, or (ii) the proposed suspension, combined with any prior approved suspensions, does not exceed 90 days. All other motions for modification or suspension must be served on all creditors pursuant to Local Bankruptcy Rule 9013-1(g), in addition to being submitted to the chapter 13 trustee for comment;
- (4) An objection to a claim need only be served on the chapter 13 trustee, the claimant and the claimant's attorney. Service on the claimant if the claimant is the United States or an agency of the United States shall be as provided in F.R.B.P. 7004(b)(4) and (5); and

- (5) A trustee's motion to dismiss need be served only on the debtor and debtor's attorney.
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Court's Comment

2003 Revision

Paragraph (r)(4) Payments After Relief From Stay. This paragraph was deleted in the 2002 revision and added back in this revision. Former paragraph (r)(4) Shortened Notice became (r)(5).

Paragraph (m)(5) Evidence of Payment. This paragraph was revised to eliminate the requirement that proof of payment to a secured lender in the form of a certificate of mailing from the United States Post Office, other statement, or receipt be attached as an exhibit to form F 3015-1.4.

Paragraph (w)(2) was revised to clarify the procedure for approval of additional fees and costs in an amount not exceeding \$1,000.00 over the limits set forth in the *Rights And Responsibilities Agreement (RARA)* and *Guidelines*.

2002 Revision

In addition to significant renumbering, this Rule has been revised (i) to reflect that chapter 13 debtors are now required to make postpetition, preconfirmation mortgage payments directly to mortgage holders rather than to the chapter 13 trustee, (ii) to delete the 6 Month Rule, and (iii) to discuss the procedures to be followed by the parties if they choose to use the Rights and Responsibilities Agreement, Official Form 3015-1.7.

2001 Revision

Paragraph (v)(3) - amount changed from \$500 to \$1,000 to conform with F.R.B.P. 2002(a)(6) effective December 1, 2000.

2000 Revision

Title changed from CHAPTER 13 PLAN to PROCEDURES REGARDING CHAPTER 13 CASES. Former Appendix I was rewritten and became LBR 3015-1, PROCEDURES REGARDING CHAPTER 13 CASES.