

Central District of California
United States Bankruptcy Court

**Summary and Redline of Local Bankruptcy Rules Revisions
Effective December 1, 2017**

LBR 1017-2(f): retention of jurisdiction. Notwithstanding dismissal of a bankruptcy case, bankruptcy courts typically address various post-dismissal issues, such as whether to impose sanctions for conduct during the case, whether to bar the debtor from being a debtor in future cases, and whether to grant retroactive relief from the automatic stay for the period during which the debtor was in bankruptcy. *See, e.g., In re Aheong*, 276 B.R. 233 (9th Cir. BAP 2003). The reported decisions are not entirely clear about when it is necessary to reserve jurisdiction, so this proposed local rule makes the reservation of jurisdiction explicit.

LBR 3020-1: chapter 11 plan confirmation and post-confirmation requirements. This rule specifies (1) the required contents of post-confirmation status reports and (2) a required provision in the confirmation order regarding what happens if the reorganization fails and the case is subsequently converted to a chapter 7 liquidation.

LBR 3015-1: comprehensive update. The National rules addressing chapter 13 were updated, effective 12/1/17, which necessitated a comprehensive update to LBR 3015-1. In addition, the proposed revisions would encourage uniformity and clarity in local chapter 13 practice (based on collaborative work with a bar advisory group that includes counsel for debtors, creditors, and chapter 13 trustees).

LBR 7064-1: seizure of persons and property. Currently this local rule requires certain types of evictions to be conducted by a state or local law enforcement officer. In practice, however, the U.S. Marshal handles all evictions. The proposed revision reflects this practice, and includes mandatory language for all writs of possession per the Marshal Service's request (*e.g.*, specific authorization to use force if necessary – subject, as always, to instructions for each individual case).

LBR 7067-1: registry funds. Last year the Administrative Office of U.S. Courts (the “AO”) revised their procedures for holding registry funds. We addressed this in 2016, on an interim basis, by amending General Order 13-01 to incorporate by reference the AO's revised procedures. Now the proposed local rule will (1) use terminology that is consistent with the AO's revised procedures and (2) direct parties to follow amended General Order 13-01 and use new mandatory local form F 7067-1.1.ORDER.REGISTRY.FUND.

LBR 9011-1: signatures. The proposed revisions will, in most instances, require “wet ink” signatures, retained by counsel and scanned into PDF format for filing, instead of typed signatures (“/s/”) accompanied by an Electronic Filing Declaration (“EFD”). The main reasons for the proposed change are that (1) the EFD appears to have outlived its usefulness – it seems to have been adopted when it was difficult to scan signatures and insert them into PDF documents, but the technology has improved since then, and (2) although the EFD was intended to promote honesty, it has sometimes been used for the opposite purpose – several bankruptcy judges have caught attorneys re-using EFDs for multiple documents.

Technical corrections, e.g.:

* LBR 1002-1(f): deleted, superseded by revised LBR 9011-1

* LBR 7055-1(b): amended to reflect statutory renumbering of Servicemembers Civil Relief Act

LBR 1002-1. PETITION AND CASE COMMENCEMENT DOCUMENTS – GENERAL

- ~~(f) **Electronic Filing Declaration.** Documents that require a signature of an individual debtor, or authorized person when the debtor is a corporation, partnership or other association, must be signed by that individual or authorized person or accompanied by an electronic filing declaration using the court approved form.~~
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LBR 1017-2. DISMISSAL OF CASE OR SUSPENSION OF PROCEEDINGS

- (f) **Retention of Jurisdiction.** Notwithstanding any dismissal, the court retains jurisdiction regarding all issues involving sanctions, any bar against being a debtor in bankruptcy, all issues arising under 11 U.S.C. §§ 105, 107, 109(g), 110, 303, 329, 330, 349, 362, and 364, and to any additional extent permissible under applicable law.
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LBR 3020-1. CHAPTER 11 PLAN CONFIRMATION AND POSTCONFIRMATION REQUIREMENTS

- (a) **Payment of Special Charges.** The proposed plan confirmation order must be accompanied by proof of payment of any and all special charges due to the clerk's office. The amount of the charges to be paid may be obtained from the courtroom deputy of the judge hearing the case.
- (b) **Postconfirmation Requirements.** Unless otherwise provided in the plan, every order confirming a chapter 11 plan must contain the following language:

~~“If the above-referenced case is converted to one under chapter 7, the property of the reorganized debtor, or of any liquidation or litigation trust, or of any other successor to the estate under the plan, that has not been distributed under the plan shall be vested in the chapter 7 estate, except for property that would have been excluded from the estate if this case had always been one under chapter 7.~~

Within 120 days of the entry of this order, _____ shall file a status report explaining what progress has been made toward consummation of the confirmed plan of reorganization. The initial report shall be served on the United States trustee, the 20 largest unsecured creditors, and those parties who have requested special notice. Further reports shall be filed every ____ days thereafter and served on the same entities, unless otherwise ordered by the court. [Optional depending on practices of particular judge: A postconfirmation status conference will be held on _____, 20__ at __.m. in Courtroom _____.]”

The status report ~~shall~~**must** include at least the following information:

- (1) A schedule listing for each debt and each class of claims: the total amount required to be paid under the plan; the amount required to be paid as of the date of the report; the amount actually paid as of the date of the report; and the deficiency, if any, in required payments;
- (2) A schedule of any and all postconfirmation tax liabilities that have accrued or come due and a detailed explanation of payments thereon;
- (3) ~~Debtor's~~ Projections as to ~~its~~ the reorganized debtor's, postconfirmation trustee's, or other responsible party's continuing ability to comply with the terms of the plan;
- (4) An estimate of the date for plan consummation and application for final decree; and
- (5) Any other pertinent information needed to explain the progress toward completion of the confirmed plan.

Reporting entities whose equity securities are registered under Section 12(b) of the Securities Exchange Act of 1934 may provide information from their latest 10Q or 10K filing with the S.E.C., if it is responsive to the requirements of this subsection.

~~Unless otherwise provided in the plan, if the above-referenced case is converted to one under chapter 7, the property of the reorganized debtor shall be revested in the chapter 7 estate, except that, in individual cases, the postpetition income from personal services and proceeds thereof, and postconfirmation gifts or inheritances pursuant to 11 U.S.C. §§ 541(a)(5)(A), 541(a)(6), 1115(a) or 1115(b), shall not automatically revest in the chapter 7 estate.~~

- (c) **Effect of Failure to File Postconfirmation Reports.** The failure to file timely the required reports is cause for dismissal or conversion to a case under chapter 7 pursuant to 11 U.S.C. § 1112(b).
- (d) **Effect of Conversion to Chapter 7.** Regardless of whether the order confirming the plan complies with paragraph “(b)” above, and unless otherwise provided in the plan, if the case is converted to one under chapter 7, the property of the reorganized debtor, or of any liquidation or litigation trust, or of any other successor to the estate under the plan, that has not been distributed under the plan shall be vested in the chapter 7 estate, except for property that would have been excluded from the estate if this case had always been one under chapter 7.

LBR 7055-1. DEFAULT

(b) Motion for Default Judgment.

- (1) Form of Motion. A motion for default judgment must state:

- (A) The identity of the party against whom default was entered and the date of entry of default;
 - (B) Whether the defaulting party is an infant or incompetent person and, if so, whether that person is represented by a general guardian, committee, conservator, or other representative;
 - (C) Whether the individual defendant in default is currently on active duty in the armed forces of the United States, based upon an appropriate declaration in compliance with the Servicemembers Civil Relief Act (~~Pub. L. 108-189~~) (50 U.S.C. ~~code App. §§ 501-594~~ §§ 3901-4043).
 - (D) When the individual defendant is the debtor, the party seeking the default may rely upon the debtor's sworn statements contained in a statement of financial affairs, by following the appropriate procedure for requesting judicial notice of that document pursuant to F.R.Evid. 201; and
 - (E) That notice of the motion has been served on the defaulting party, if required by F.R.Civ.P. 55(b)(2).
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LBR 7064-1. SEIZURE OF PERSONS AND PROPERTY

- (a) **Issuance of Writ.** A writ or other process issued for the seizure of persons or property pursuant to F.R.Civ.P. 64, 69, or 70 must be issued, attested, signed, and sealed as required for writs issued out of this court.
- (b) **Writ or Other Process of Seizure.** A writ or other process for seizure in a civil action must be directed to, executed, and returned by the United States Marshal, a state or local law enforcement officer authorized by state law, or a private person specially appointed by the court for that purpose pursuant to an application and order.
- (c) **Process Requiring Entry Upon Premises.**
 - (1) An order of court requiring entry upon private premises without notice must be executed by the United States Marshal, a state or local law enforcement officer authorized by state law, or a private person specially appointed by the court for that purpose pursuant to an order obtained upon application filed pursuant to LBR 9013-1(q). The application must be supported by evidence supporting all facts asserted in the application.
 - (2) If a writ or other process is to be executed by a private person, the private person must be accompanied by a United States Marshal or a state or local law enforcement officer present at the premises during the execution of the order.
- (d) **Eviction.** Any eviction to be made pursuant to a writ of, **or order for**, possession issued by the court ~~pursuant to 11 U.S.C. § 365(d)(4)~~ must be effected by ~~a state or local law~~

~~enforcement officer authorized by state law to execute such writs issued under state law~~
the United States Marshals Service, unless otherwise ordered by the court.

- (e) **Form of Writ or Order.** Any writ of, or order for, possession to be effected by the United States Marshals Service must include the following language:

“Upon execution and entry of this Writ or Order, the United States Marshals Service [and any other executing officer authorized by the court] (collectively, the “U.S. Marshal”) is immediately directed to assist [the party enforcing the writ or order] to enforce the underlying order awarding possession.

[The party enforcing the writ or order] and/or [his/her/its] authorized agent(s) will act as substitute custodian of any and all items of personal property seized pursuant to this Writ or Order and the U.S. Marshal shall have no liability arising from any acts, incidents, or occurrences in connection with the seizure of the personal property located at the subject real property arising in the ordinary authorized scope of duties of the U.S. Marshal (which acts do not include acts arising from negligent or intentional tortious conduct), including any third party claims and the U.S. Marshal shall be discharged of his or her duties and responsibilities for safekeeping of the seized goods.

The U.S. Marshal accomplishing such eviction or seizure shall use whatever reasonable force necessary to break open and enter the subject real property regardless of whether the premises or location is locked or unlocked, occupied or unoccupied and to inspect the contents of any room, closet, cabinet, vehicle, container, desk or documents.

Anyone interfering with the execution of this Writ or Order is subject to arrest by law enforcement officials.”

LBR 7067-1. REGISTRY FUND

- (a) **Deposit of Registry Funds.**

- (1) **General.** Funds must not be sent to the court or the clerk for deposit into the court’s registry without a court order.
- (2) **Form of Order.** A party seeking authorization to deposit funds into the court’s registry must prepare ~~an order that meets the requirements of LBR 9004-1 and states (A) the exact amount to be deposited; (B) that the funds are to be deposited into an interest bearing account; and (C) that the funds will remain on deposit until further order of the court. The order must also contain the following provision:~~ and lodge with the court a proposed order using mandatory court form F 7067-1.1.ORDER.REGISTRY.FUND.

~~“IT IS ORDERED that the clerk is directed to deduct from the income earned on the investment a fee, not exceeding that authorized by the Judicial Conference of the United States and set by the Director of the Administrative Office, whenever~~

~~such income becomes available for deduction in the investment so held and without further order of the court.”~~

~~(3) Tender of Funds. The funds must be submitted to the clerk by check or money order made payable to “U. S. Bankruptcy Court” in the exact amount specified in the court order.~~

(b) Notice to Clerk.

(1) Whenever the court orders that money deposited ~~int~~with the court must be deposited by the clerk in an interest bearing account, the party ~~seeking the order making the deposit or transferring funds to the court’s registry~~ must ~~forthwith~~ personally serve a copy of ~~such the entered~~ order upon the clerk or chief deputy clerk along with the deposit.

(2) The failure of the party ~~seeking an order of making the deposit to an interest bearing account or transferring funds to serve the clerk or chief deputy with a copy of the order~~ comply with section (b)(1) above releases the clerk from liability for loss of interest upon the money subject to the order of deposit.

~~(c) Authorized Depositories. Unless otherwise ordered by the court, the clerk must deposit money pursuant to an order of deposit in any institution that the United States trustee has authorized for deposit of funds administered by debtors in possession or appointed trustees, subject to the same terms and conditions as for such funds. The clerk may also invest such money in United States Treasury bills.~~

~~(d)(c) Timing of Deposit. The clerk must deposit the money pursuant to an order of deposit as soon as practicable following service of a copy of the order by the party ~~authorized to making the deposit or transferring~~ funds.~~

~~(e)(d) Fees Charged on Registry Funds. All funds deposited ~~on or after December 1, 1990~~ and invested as registry funds will be assessed ~~a charge~~fees in accordance with section III of amended General Order 13-01, available at www.cacb.uscourts.gov. ~~of 10% of the income earned. Fees may be deducted periodically without further order and will be subject to any subsequent exceptions or adjustments by directive of the Administrative Office of the United States Courts.~~~~

~~(f)(e) Disbursements of Registry Funds.~~

(1) General. The clerk will disburse funds on deposit in the registry of the court only pursuant to a court order.

(2) Form of Order. The disbursement order must ~~contain a provision relieving the clerk from liability for loss of interest, if any, for early withdrawal of the funds. The order must state the name and taxpayer identification number for each party who is to receive funds and the amount or percentage of the principal each is to receive. The order must also state the percentage of the interest each party is to receive.~~ be prepared and lodged with the court using mandatory court form F 7067-

1.1.ORDER.REGISTRY.FUND. Funds will be disbursed only after the time for appeal of any related judgment or order has expired, or upon approval by the court of a written stipulation by all parties.

LBR 9011-1. SIGNATURES

(a) Holographic Signatures.

Except as provided below, every signature on a filed document must be handwritten in ink (holographic). If the document is filed electronically then the filer must scan the signature page and insert it into the electronic (.pdf) version of the document filed with the court. Nothing in this local rule precludes the filing of a signature page that has been transmitted to the filer by facsimile or .pdf, provided that the filer promptly obtains the document bearing the signer's original holographic signature and complies with LBR 9011-1(d) below. Under no circumstances may a reproduction of the same holographic signature be used on multiple pages or in multiple documents. Each page that bears the signature of a person must actually have been signed by the person whose signature appears on such page.

(b) Electronic Signatures.

A holographic signature is not required only in the following circumstances:

- (1) Filer.** The signature of an electronic filer of a document (Filer) need not be a holographic signature if the Filer complies with the court's procedures for electronic filing. The electronic filing or lodging of a document by a Filer through the CM/ECF, ePOC, LOU or other system, constitutes a signature on that document by such Filer and shall subject the Filer to the same consequences as if the Filer had signed such document by hand, including sanctions under FRBP 9011 and liability for perjury. When a password is required to electronically file or lodge a document, the Filer whose password is used to effectuate such filing shall be deemed to be a Filer of the document. If required by the Court Manual, an electronically-filed document shall include in the signature block an "/s/" followed by the name of the Filer; provided, however, that failure to do so will not invalidate the signature deemed made by the Filer.
- (2) Employee of Filer.** The signature of an employee of a court-authorized Filer, or an employee of the same law firm or other organization as the court-authorized Filer, on a proof of service or certificate of service need not be a holographic signature. The employee may sign a proof of service or certificate of service by typing an "/s/" followed by the employee's name on the signature line where such signature is required. The employee placing such "/s/" signature on the proof of service or certificate of service, and the Filer whose password is used to file such document, will be subject to the same consequences as if the employee had

actually signed the document and the Filer had filed the document, including sanctions under FRBP 9011 and penalties for perjury.

(c) **Powers of Attorney Etc. Distinguished.**

Nothing in this rule should be interpreted to prevent Filers from signing for non-Filers in the same manner that they could sign any paper document, such as “[non-Filer] by [Filer], per power of attorney,” or “[Filer] as authorized agent for [non-Filer]” or the like, if permitted by applicable law.

(d) **Retention of Original Signatures for Five Years.**

Whenever a holographic signature is required, the Filer must maintain the executed original of any filed document for a period of five years after the closing of the case or adversary proceeding in which the document is filed, and must make the executed original available for review upon request of the court or other parties.

LBR 3015-1. PROCEDURES REGARDING CHAPTER 13 CASES**(a) Applicability.**

- (1) 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 ~~thethese~~ provisions ~~hereof~~.
- (2) To the extent that this rule conflicts with any other provisions of the Local Bankruptcy Rules, the provisions of this rule prevail. In all other respects, the Local Bankruptcy Rules apply in all chapter 13 cases.

(b) Filing and Service of Petitions, Plans, Proofs of Claim, and Other Forms.

- (1) Filing of Petition and Case Commencement Documents; Effect of Not Filing Timely. An original of the petition, schedules and all other documents required to initiate the case must be filed with the court in accordance with procedures found in the [Court Manual](#).

Except as provided by FRBP 1019(1)(A), if the chapter 13 schedules, plan, and all other required documents are not filed with the petition, the clerk will issue a notice advising the debtor that, if the missing documents are not filed within 14 days from the date of the filing of the petition, the court may dismiss the case, unless the court grants a motion to extend time filed within the 14 days.

- (2) Time Extension. A motion for extension of time must comply with LBR 1007-1(b).
- (3) Notice and Service of Chapter 13 Plan and Notice of the Hearing on Confirmation. The debtor must serve a notice of the hearing on confirmation of debtor's chapter 13 plan, along with a copy of the chapter 13 plan, on all creditors and the chapter 13 trustee at least 28 days before the date first set for the § 341(a) meeting of creditors, using the court-mandated [F 3015-1.01.CHAPTER13.PLAN](#) form. A proof of service must be filed with the court and served on the chapter 13 trustee at least 14 days prior to the date first set for the meeting of creditors.
- (4) Forms. The chapter 13 petition, schedules, statement of financial affairs, and proofs of claim must be prepared on the appropriate Official Forms, as required by FRBP 1007(b)(1). All other chapter 13 documents filed by the debtor must be filed using applicable court-approved forms, if any, or be prepared in the same format.
- (5) Proof of Claim. Each proof of claim must be filed in accordance with FRBP 3002 and must be served on the debtor's attorney ~~or, the debtor, if not represented by counsel,~~ and on the chapter 13 trustee. Each proof of claim must include a proof of service.
- (6) Domestic Support Obligations. In all cases in which there is a domestic support obligation, regardless of the entity holding such claim, the debtor must provide to the chapter 13 trustee ~~within 14 days of the filing of the petition~~ prior to or at the meeting

of creditors the name, current address, and current telephone number of the holder of the claim along with any applicable case number and account number. Throughout the duration of the case, the debtor must inform the chapter 13 trustee of any new or changed information regarding this requirement. Should a domestic support obligation arise after the filing of the petition, the debtor must provide the required information to the chapter 13 trustee as soon as practicable but no later than ~~1428~~ days after the duty arises to pay the domestic support obligation.

- (7) Deadline to File Pleadings to Avoid Liens under 11 U.S.C. §§ 506(a) and 522(f). Unless otherwise ordered by the court, the debtor shall file any document to value collateral pursuant to 11 U.S.C. § 506(a) and/or any document to avoid a judgment lien pursuant to 11 U.S.C. § 522(f) within 28 days of commencement of the case.

(c) **Meeting of Creditors – § 341(a).**

- (1) Notice and Service. The Clerk's Notice of the § 341(a) meeting of creditors and initial confirmation hearing date will be served on all creditors by the court at least 28 days before the date first set for the § 341(a) meeting of creditors.
- (2) Attendance Requirement. The debtor and debtor's attorney (if any) must attend the § 341(a) meeting of creditors. If the case is a joint case, both debtors must appear.
- (3) Evidence of Income. The debtor must provide evidence of current income (pay stubs, tax returns, or other equivalent documentation) to the chapter 13 trustee at least 7 days before the § 341(a) meeting of creditors. If income from third party contributors will be used to fund the plan, the debtor must also provide evidence (declarations and pay stubs or other appropriate evidence) of the commitment and ~~ability of the third party to make payments~~ the contributor's proof of income for a full month.
- ~~(4) Required Reports in a Business Case.~~ (4) Required Reports when the Debtor is Self-Employed and has No Employees. If the debtor is self-employed but has no employees, the debtor must submit to the chapter 13 trustee at least 7 days before the § 341(a) meeting of creditors, the following:
- (A) Projection of average monthly income and expenses for the next 12 months;
 - (B) Bank statements for the 6 months prior to the filing of the case for all bank accounts;
 - (C) Tax returns for at least 2 years or since the start of the business, whichever period is shorter; and
 - (D) Such other reasonable evidence requested by the chapter 13 trustee.
- (5) Required Reports when a Debtor is Self-Employed and Has Employees. If the debtor is operating a business or is otherwise self-employed, the debtor must submit

to the chapter 13 trustee, at least 7 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 furnishings 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, and thereafter, on a monthly basis until the plan is confirmed, dismissed or converted;~~
- (E) Tax returns for at least 53 years or since the start of the business, whichever period is shorter; and
- (F) Such other **reasonable** evidence requested by the chapter 13 trustee, including bank statements, canceled checks, contracts, or other information relevant to the debtor's ability to fund the proposed plan.

~~(5) **Other Required Documents.** The debtor must submit to the chapter 13 trustee, at least 7 days before the § 341(a) meeting of creditors, the Declaration re Payment of Domestic Support Obligation (Preconfirmation), the Declaration re Tax Returns (Preconfirmation), and any other required documents.~~

(6) **Failure to Comply.** If the debtor fails to comply with any of the requirements of **this** subsection (c) of this rule, such failure may result in:

- (A) Disgorgement of attorneys' fees if the failure is attributed to the debtor's attorney;
- (B) Continuance of the § 341(a) meeting or confirmation hearing; and/or
- (C) Dismissal of the case either (i) without prejudice or (ii) with a 180-day bar to being a "debtor" in accordance with 11 U.S.C. § 109(g), if the court finds willful failure of the debtor to abide by orders of the court or to appear before the court in proper prosecution of the case.

(d) **Confirmation Hearing.** The debtor's attorney or the debtor, if not represented by counsel, must 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 of creditors 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 debtor's attorney (if any) 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 debtor's attorney (if any), 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, consult the chapter 13 trustee's website, or refer to the court's website as it may pertain to the requirements of an individual judge.~~

(1) Date of Confirmation Hearing. Unless otherwise ordered by the court, a confirmation hearing will be held no earlier than 20 days after the commencement of the § 341(a) meeting of creditors.

(2) Preparation of Order Confirming Plan.

(A) Lodgement of Order. Unless otherwise ordered by the court, the chapter 13 trustee will prepare on the mandatory form and lodge a proposed Order Confirming Plan ("Order"). ~~The Order will state the amount~~) using procedures established by the Clerk's Office that will docket and serve the Notice of Lodgment and a copy of the lodged order to all CM/ECF users registered to receive notices on the case. In the case of a self-represented debtor who does not automatically receive service of the Notice of Lodgment and a copy of the ~~debtor's attorney's fees and costs allowed~~ lodged order, the trustee must serve such debtor by first class mail.

(B) Opportunity to Object. Within 7 days of the Notice of Lodgment, any party may file an objection to the proposed Order, attaching an alternative proposed Order at the objector's discretion. The objecting party shall set a hearing on the objection on not less than 7 and no more than 28 days' notice on a regular chapter 13 miscellaneous motion calendar.

(C) Entry of Order if No Objection. If no objection is filed within 7 days, the proposed Order will then be reviewed and approved or modified by the court. ~~If a Rights and Responsibilities Agreement has been signed by the attorney and debtor, filed, and served on the chapter 13 trustee, the order will provide for the amount set forth in that agreement, unless~~ and entered on the docket.

(D) Hearing on Objection and Entry of Order. At the noticed hearing, the court

~~orders otherwise shall rule on the objection and the form of Order, after which an Order will be entered at the court's direction.~~

(E) Service of Entered Order. The Order will be served by the court on the debtor and the debtor's attorney.

(e) **Personal Property, including Vehicles.**

(1) Postpetition Payments. The plan may provide that postpetition contractual payments on leases of personal property and claims secured by personal property, including vehicles, will be made directly to the creditor. All such direct payments must be made as they come due postpetition. If there are arrearages or the plan changes the amount of payment, duration, or interest rate for any reason, including the fact that a portion of the claim is deemed unsecured, then all payments so provided in the plan must be paid through the chapter 13 trustee. If the plan provides for postpetition contractual payments to be made through the chapter 13 trustee, the debtor must pay the lease and adequate protection payments required by 11 U.S.C. §§ 1326(a)(1)(B) and 1326(a)(1)(C) through the chapter 13 trustee.

(2) Property Surrendered in Confirmed Plan. When the confirmed plan provides for the surrender or abandonment of property, the trustee is relieved from making any payments on the creditor's related secured claim, without prejudice to the creditor's right to file an amended unsecured claim for a deficiency, when appropriate. ~~The stay is terminated as to the surrendered collateral upon entry of the order confirming the plan.~~

(3) Evidence of Payment.

(A) Filing and Service of Declaration At least 14 days prior to the dates set forth below in subparagraph (e)(3)(B), the debtor must file and serve on the chapter- 13 trustee and all secured creditors to whom the debtor is required to make payments under this subsection a declaration on court-mandated form [F-3015-1.4.DEC.PRECONF.PYMTS](#), evidencing that the debtor has made all of the payments required by subsection (e)(1) of this rule. Unless otherwise ordered by the court, copies of all money orders, cashier's checks or other instruments used to make the payments need not be attached to the form. The first form, and each updated form, must reflect, cumulatively, all payments made between the date of the petition and the date of the form.

(B) Events Requiring Evidence of Payment. The events requiring evidence of payment are:

(i) the date scheduled for each § 341(a) meeting of creditors; and

(ii) the date scheduled for each hearing to consider confirmation of a chapter 13 plan in the case.

(C) Bring Declarations to All § 341(a) Meetings of Creditors and Hearings on Plan Confirmation. The debtor must bring a copy of an executed form [F 3015-1.4.DEC.PRECONF.PYMTS](#), together with a proof of service reflecting service establishing compliance with subparagraph (e)(3)(B).

(f) **Domestic Support Obligations.** The plan may provide for current payments of domestic support obligations directly to the creditor. ~~Arrearages~~**The plan may provide for payment of a domestic support obligation arrearage and any such arrearage must be paid through the chapter 13 trustee unless specific cause is shown, supported by appropriate declaration or other admissible evidence.**

(g) **Objections to Plan.**

(1) Filing and Service. Objections, if any, to the confirmation of the plan must be in writing, supported by appropriate declarations or other admissible evidence, filed with the court, and served on debtor's attorney, the debtor (if not represented by counsel), and the chapter 13 trustee not less than ~~714~~ days before the ~~§ 341(a) meeting of creditors~~ date set for the confirmation hearing.

(2) Form of Objection and Caption.

~~(A)~~ Written. A written objection must 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.

~~(B)~~ Oral. ~~Notwithstanding subsection (g)(1), an oral objection may be made on the record at the § 341(a) meeting of creditors by any party in interest.~~

(3) Failure to Object or to Prosecute Objection. The failure ~~either~~ to file a written objection on a timely basis ~~or to appear at the § 341(a) meeting of creditors to prosecute the objection~~ may be deemed a waiver of the objection.

~~(4)~~ Attendance. ~~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.~~ (4) Attendance. If the objecting creditor does not appear at the confirmation hearing, the court may overrule the objection.

(h) **Material Amendments to Plan Prior to the Confirmation Hearing.**

(1) Filing and Service. Failure to comply with these requirements may result in continuance of the confirmation hearing or dismissal of the case.

(A) Amendments Not Treating Claims Adversely. If a debtor wishes the court to confirm a plan other than the plan originally filed with the court and files the amended plan, the amended plan must be filed and served on the chapter 13 trustee at least 7 days before the confirmation hearing.

(B) Amendments Treating Claims Adversely. If the amended plan will adversely affect any creditor (for example, if it treats any creditor's claim less favorably than the previously filed plan), the amended plan must be filed and served on all affected creditors and the chapter 13 trustee at least 28 days before the confirmation hearing.

(2) Caption of Amended Plan. The caption of an amended plan must identify that it is an amended plan (e.g., "First Amended Plan," "Second Amended Plan,") and must state the date, time, and place of the confirmation hearing at which the debtor will seek confirmation.

(3) Effects of Amended Plan on Plan Payments. If the debtor ~~has filed~~ files an amended plan ~~prior to confirmation~~, the debtor must tender plan payments ~~that which~~ come due after the filing date of the amended plan ~~is filed must be made~~ in the amount ~~stated set forth in the amended plan, which may be higher or lower than the amount stated in the original plan. Where successive. The amended plans are filed, any plan shall also take into account all prior plan payments tendered to the chapter 13 trustee and shall state the amount of each prior payment that comes due must be made in and the amount stated in the most recently filed amended plan month to which that prior payment is attributed to.~~

~~(i)~~ Non-Material (4) Amendments to Plan at the Confirmation Hearing. If a debtor wishes the court to confirm a plan other than the plan originally filed with the court, and the proposed amendments are not contained in the original plan or a timely filed amended plan, the amendment may be made by oral motion at the confirmation hearing if the amendment to a plan does not adversely ~~or materially~~ affect creditors. The proponent of the amendment should give the chapter 13 trustee an opportunity to review the proposed amendment prior to the confirmation hearing.

(i) INTENTIONALLY LEFT BLANK.

(j) Payment on Proofs of Claim Subject to Objections to Claims.

~~(1) Filing and Service. An objection to claim must: (A) be filed with the court and served, subject to subsection (x) of this rule, on the chapter 13 trustee and affected creditor; (B) identify the claim by both the claim number on the court's docket and the claim number on the chapter 13 trustee's docket; (C) give notice of the date, time, and courtroom of hearing on the face of the objection; and (D) comply with LBR 3007-1.~~

~~(2) Payments on Claim. Pending resolution, the chapter 13 trustee will make payments on only the uncontroverted portion of the claim subject to ~~an~~the objection to claim, until such time as the court orders otherwise.~~

(k) **Plan Payments to Chapter 13 Trustee.**

(1) **Plan Payment Procedure.**

- (A) Plan payments are 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 is due 30 days from the date of conversion. However, if the plan payment due date falls on the 29th, 30th, or 31st of the month, then the plan payment is due on the 1st of the following month. Unless otherwise instructed by the assigned chapter 13 trustee, all plan payments that accrue before the § 341(a) meeting of creditors must be tendered, in the form described in subsection (k)(3) of this rule, to the chapter 13 trustee or the trustee's representative at the § 341(a) meeting of creditors.
- (B) All plan payments that accrue after the § 341(a) meeting of creditors but prior to confirmation must be tendered on a timely basis to the chapter 13 trustee, as instructed by the chapter 13 trustee at the § 341(a) meeting of creditors.
- (C) All plan payments that accrue after confirmation of the plan must be sent to the address provided by the chapter 13 trustee.
- (D) To the extent the debtor has made plan payments under an original or modified plan prior to confirmation that differ from payments required by the confirmed plan, the confirmation order must account for plan payments made through the date of confirmation and adjust the on-going plan payments accordingly so that the debtor will complete payment of all plan amounts within the term of the confirmed plan.

(2) **Adequate Protection Payments.** The debtor cannot reduce the amount of the plan payments to the chapter 13 trustee under 11 U.S.C. §§ 1326(a)(1)(B) or 1326(a)(1)(C) without an order of the court.

- (A) Pending confirmation of the plan, the chapter 13 trustee will promptly ~~transmit~~ disburse payments received from the debtor as proposed in the debtor's chapter 13 plan to a creditor holding an allowed claim secured by personal property where such security interest is attributable to the purchase of such property.
- (B) The chapter 13 trustee may assess an administrative fee for effecting the payments required in subsection (k)(2)(A) of this rule and may collect such fee at the time of making the payment. The allowed expense fee must be no more than the percentage fee established by the Attorney General pursuant to 28 U.S.C. § 586(e)(1)(B) in effect at the time of the disbursement.
- (C) Should the case be dismissed or converted prior to or at the hearing on confirmation of the plan, any portion of the balance on hand which has been tendered to the chapter 13 trustee for adequate protection must be disbursed to

the creditor to whom those adequate protection payments are owed as soon as practicable.

- (3) Form of Payment. Unless and until a payroll deduction order is effective, all plan payments must be **paid electronically**, in the form of cashier's check, certified funds, money order made payable to the "Chapter 13 Trustee," or other means approved by the chapter 13 trustee in advance, and tendered by the debtor as instructed by the chapter 13 trustee. The court may require plan payments through a payroll deduction order. If a payroll deduction order is not authorized in the confirmation order, whenever a plan payment is more than 21 days late, the chapter 13 trustee may file and serve a motion requesting the court to issue such an order. The entered order must be served upon the debtor's employer, the debtor, and the debtor's attorney (if any).
- (4) Dismissal or Conversion for Non-Payment. If the debtor fails to make a plan payment, 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 an order of the court, or to appear before the court in proper prosecution of the case, the court may impose a 180-day bar to being a "debtor" in accordance with 11 U.S.C. § 109(g).

~~(l) Chapter 13 Trustee's Fees. The minimum trustee's fee for a chapter 13 in which a plan is not confirmed is \$100. The minimum trustee's fee in a case where the plan is confirmed is \$200.~~

~~(l) INTENTIONALLY LEFT BLANK.~~

(m) Payments on Mortgages or Trust Deeds.

- (1) Scope of Rule. The term "Real Property" as used in this subsection includes both (A) commercial and residential real property and undeveloped land owned by the debtor; and (B) 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.
- (2) Postpetition Payment Procedure. Except for plans in which the debtor elects to make postpetition mortgage payments through the plan, until a plan is confirmed, a debtor must pay in a timely manner directly to each secured creditor all payments that fall due postpetition on debt secured by Real Property, as defined above, and must provide evidence of such payments on court-mandated form ~~F-3015-1.4.DEC.PRECONF.PYMTSF~~ 3015-1.4.DEC.PRECONF.PYMTS in the manner set forth below.
- ~~(3) Payment Through Plan. The plan may provide that postpetition mortgage payments will be made directly to the creditor. All such direct payments must be made as they come due postpetition. If there are arrearages or the plan changes the amount of payment, duration, or interest rate for any reason, including the fact that a portion of the claim is deemed unsecured, then all payments so provided in the plan must be paid through the chapter 13 trustee. If the debtor elects to pay postpetition mortgage~~

payments through the ~~plan~~ chapter 13 trustee, then the amount of ~~this~~ the mortgage payment must be included in each monthly plan payment tendered ~~both preconfirmation and postconfirmation~~ to the chapter 13 trustee for the term of the plan.

- (43) 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 subsection is the last day that the payment may be made without a late charge or penalty. The due date of the Filing Month Payment will 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 subsection.
- (4) Real Property Surrendered in Confirmed Plan. When the confirmed plan provides for the surrender of real property, the trustee is relieved from making any payments on the creditor’s related secured claim, without prejudice to the creditor’s right to file an amended unsecured claim for a deficiency, when appropriate. The stay is terminated as to the surrendered collateral upon entry of the order confirming the plan.
- (5) Form of Payment. The payments required by subsection (m)(2) of this rule must be in the form of money order, cashier’s check, wire transfer (including direct payments over the Internet or by automatic withdrawals from the debtor’s checking account), certified funds, or other instruments used to make the payments and must indicate on each item the debtor’s name, the bankruptcy case number, and the appropriate loan number or credit account number.
- (6) Evidence of Payment
- (A) Filing and Service of Declaration. At least 14 days prior to the dates set forth below in subparagraph (m)(6)(B), the debtor must 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 subsection a declaration on court-mandated form ~~F—3015-1.4.DEC.PRECONF.PYMTSF~~ 3015-1.4.DEC.PRECONF.PYMTS, evidencing that the debtor has made all of the payments required by subsection (m)(2) or (3) of this rule. Unless otherwise ordered by the court, copies of all money orders, cashier’s checks, wire transfers (including direct payments over the Internet or by automatic withdrawals from the debtor’s checking account), certified funds, or other instruments used to make the payments need not be attached to the form. The first form, and each updated form must reflect, cumulatively, all payments made between the date of the petition and the date of the form. If the debtor owns more than one parcel of Real Property, the debtor must prepare and submit a separate form ~~F—3015-1.4.DEC.PRECONF.PYMTSF~~ 3015-1.4.DEC.PRECONF.PYMTS for each parcel of Real Property.

(B) Events Requiring Evidence of Payment. The events requiring evidence of payment are:

- (i) the date scheduled for each § 341(a) meeting of creditors; and
- (ii) the date scheduled for each hearing to consider confirmation of a chapter 13 plan in the case.

(C) Bring Declaration to All § 341(a) Meetings of Creditors and Hearings on Plan Confirmation. The debtor must bring a copy of an executed form ~~F 3015-1.4.DEC.PRECONF.PYMTSF~~ 3015-1.4.DEC.PRECONF.PYMTS, together with a proof of service reflecting service in accordance with this subsection, to all dates set forth above in subparagraph (m)(6)(B).

(7) Failure to Make Postpetition Payments. Failure to make all of the payments required by subsection (m)(2) or (3) of this rule in a timely manner will generally result in dismissal of the case. In determining whether a debtor has complied with this subsection 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. ~~The failure to submit form F 3015-1.4.DEC.PRECONF.PYMTS~~ The failure to submit form F 3015-1.4.DEC.PRECONF.PYMTS 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 to being a debtor~~ pursuant to 11 U.S.C. § 109(g).

(n) Modification of Confirmed Plan or Suspension of Plan Payments. After a chapter 13 plan has been confirmed, its terms can be modified only by court order: ~~upon a motion to modify the plan or a stipulation between the debtor and the chapter 13 trustee.~~ A motion to modify a confirmed plan or to suspend plan payments must be made in accordance with subsections (w) and (x) of this rule and must be filed using court-mandated forms.

(o) Tax Returns. For each year a case is pending after the confirmation of a plan, the debtor must provide to the chapter 13 trustee within 14 days after the return is filed with the appropriate tax agencies a copy of: (1) the debtor's federal and state tax returns; (2) any request for extension of the deadline for filing a return; and (3) the debtor's forms W-2 and 1099. ~~The debtor must timely file with the appropriate tax authority all tax returns that come due after commencement of the case.~~

(p) Sale or Refinance of Real Property. A sale or refinancing of the debtor's principal residence or other real property must be approved by the court. A motion to approve a sale or refinance of real property may be made by noticed motion in accordance with subsections (w) and (x) of this rule.

(q) **Dismissal or Conversion of Case.**(1) **Debtor Seeks Dismissal.**

- (A) **Case Has Not Been Previously Converted.** If the case has not been converted from another chapter, a debtor may seek dismissal of the case by filing with the clerk of the bankruptcy court a request for voluntary dismissal pursuant to 11 U.S.C. § 1307(b) and may be ruled on without a hearing pursuant to LBR 9013-1(q). The proof of service must evidence that the request for dismissal was served upon the chapter 13 trustee and the United States trustee.
- (B) **Case Has Been Previously Converted.** If the case has been converted from another chapter, a debtor must file and serve a motion in accordance with LBR 9013-1 (d) or (o) and LBR 1017-2(e). Notice must be given to the chapter 13 trustee, any former trustee, all creditors, and any other party in interest entitled to notice under FRBP 2002.
- (C) **Mandatory Disclosure.** Whether dismissal is sought by request or motion, a debtor must disclose under penalty of perjury 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.

(2) **Debtor Seeks Conversion.**

- (A) **Debtor Seeks First Time Conversion of Chapter 13 to Chapter 7.** Pursuant to 11 U.S.C. § 1307(a), FRBP 1017 and LBR 1017-1(a)(1), the conversion of a chapter 13 case to a case under chapter 7 (for the first time) will be effective upon:
- (i) The filing by the debtor with the clerk of the bankruptcy court of a notice of conversion using court-mandated form ~~F—3015-1.21.NOTICE.CONVERT.CH13F~~ 3015-1.21.NOTICE.CONVERT.CH13 and a proof of service evidencing that the notice of conversion was served upon the chapter 13 trustee and the United States trustee; and
- (ii) Payment of any fee required by 28 U.S.C. § 1930(b).
- (B) **Debtor Seeks Subsequent Conversion of Chapter 13 to Chapter 7.** If the case has previously been converted from another chapter, a debtor must file and serve a motion in accordance with LBR 9013-1(d) or (o). Notice must be given to the chapter 13 trustee, any former trustee, and all creditors.
- (C) **Debtor Seeks Conversion of Chapter 13 to Chapter 11.** A motion by the debtor to convert a chapter 13 case to a case under chapter 11 must be filed, served

and set for hearing in accordance with LBR 9013-1(d). Notice must be provided to the chapter 13 trustee and all creditors.

- (3) Interested Party Seeks Dismissal or Conversion of Chapter 13 to Chapter 7, 11, or 12. A motion by any other party in interest to either dismiss a chapter 13 case, or alternatively, to convert a chapter 13 case to a case under chapter 7, 11, or 12, must be noticed for hearing by the moving party pursuant to LBR 9013-1(d). This notice must be given to the debtor, debtor's attorney (if any), all creditors, the chapter 13 trustee, any former trustee, and the United States trustee.
- (4) Lodging and Service of Order. When an order is required, the moving party must prepare and lodge the proposed order of dismissal or conversion in accordance with LBR 9021-1 and the ~~Court Manual~~Court Manual. The Clerk will prepare a separate notice of dismissal or conversion.
- (5) Distributions ~~Before~~ Notice to the Chapter 13 Trustee. 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 will not be surcharged to the chapter 13 trustee.
- (6) Distributions ~~After~~ Notice to Chapter 13 Trustee. Unless the court orders otherwise, and subject to the provisions below regarding contested distributions, the following procedures implement the requirement that the chapter 13 trustee return to the debtor (i) any postpetition earnings and (ii) any other property that is no longer property of the estate and that is vested in the debtor, after deduction for any unpaid administrative expense and certain other claims, under 11 U.S.C. §§ 348(f), 349(b), 1326(a)(2), and FRBP 1019(5) or (6).
 - (A) 14 Day Holding Period. The chapter 13 trustee must hold any remaining property until at least 14 days have passed after entry of the order dismissing or converting the case. Within 14 days of dismissal or conversion any person or entity asserting an administrative expense under 11 U.S.C. § 503 (including, without limitation, a claim for professional fees), or a claim under §1326(a)(2) and (3), must file an application, motion or other written request for payment thereof, set it for hearing if required, serve it pursuant to the applicable rules, and, if the document is not filed electronically, deliver it to the chapter 13 trustee so that it is received before the end of such 14-day period. If the claimant fails to do all of these things timely (the "Claim Prerequisites"), then the chapter 13 trustee may treat such request as having been filed after the 14 day deadline and of no force of effect, absent a court order to the contrary. After the deduction of any applicable chapter 13 trustee fees, the chapter 13 trustee must make distributions as follows:
 - (i) Distributions to Administrative Claimants. First, pro rata distributions to the holders of administrative expenses under 11 U.S.C. § 503(b) as to which (1) the Claim Prerequisites have been satisfied timely and (2) as to which the court has entered an order approving payment.

- (I) Administrative expenses to which subparagraph (6)(A)(i) is applicable include without limitation: (a) any unpaid attorney's fee or expense asserted under a Rights and Responsibilities Agreement signed by the debtor's attorney and the debtor or an FRBP 2016(b) statement, (b) any supplemental fee or expense under 11 U.S.C. § 330, (c) any administrative expenses scheduled under FRBP 1019(5)(B) or (C), and (d) any other administrative expense.
 - (II) Unless a different deadline has been established in connection with a scheduled hearing, any application, motion or other request for payment of an administrative expense under 11 U.S.C. § 503(b) must advise parties in interest that any objection to the allowance and payment of such expense must be filed and served no later than 14 days following service of such application or request, or such objection must be deemed waived. Any objection must be served on the applicant, the chapter 13 trustee and the debtor. If the objection is not filed electronically, it must be served so that it is received by these parties within such 14-day period. If an objection is timely filed, the applicant must schedule a hearing with the court and serve notice of such hearing on interested parties.
- (ii) Distributions to Certain Creditors. Second, after any distributions to the holders of administrative expenses as provided above, pro rata distributions on the allowed claims of any persons who have filed an application for payment of amounts due and owing pursuant to 11 U.S.C. § 1326(a)(2) and (3) that satisfies the above Claim Prerequisites.
 - (iii) Distributions to the Debtor.
 - (I) Postpetition Earnings. After the foregoing distributions, the chapter 13 trustee must distribute any remaining postpetition earnings to the debtor, or to the chapter 11 trustee if the chapter 13 trustee has been served with an order or notice of appointment of a chapter 11 trustee.
 - (II) Other Property. If the chapter 13 trustee holds any property known to the chapter 13 trustee to come from a source other than postpetition earnings, such as proceeds from the sale of property, and that property is not automatically vested in any entity (e.g., under 11 U.S.C. § 349(b)(3)), then the chapter 13 trustee must treat such property as a contested distribution pending an order, on an application by a party in interest, authorizing a proposed distribution to the debtor or other persons pursuant to 11 U.S.C. § 348(f)(1) (for conversion) or 11 U.S.C. § 349(b) (for dismissal) and 11 U.S.C. § 1326(a)(2).

- (B) Contested Distributions. Notwithstanding the foregoing, if an application, motion request or objection regarding distribution is pending, or if the chapter 13 trustee files an application for instructions from the court for direction concerning the distribution of funds, then the chapter 13 trustee must reserve sufficient funds to pay the maximum requested amounts, pending resolution by order or by consent of the affected persons.

(r) **Motions Regarding Stay of 11 U.S.C. § 362.**

- (1) Required Format and Information. A motion regarding the stay of 11 U.S.C. § 362 must comply with LBR 4001-1.
- (2) Motions Regarding Default in Payment.
- (A) Preconfirmation Default. A motion for relief from the automatic 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 14 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 the automatic 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 14 days after payment is due.
- (3) ~~(3)~~ Stipulations Regarding the Stay of 11 U.S.C. § 362. A stipulation for relief from the automatic stay or to modify the automatic stay, or to impose or continue the stay, does not require the consent or signature of the chapter 13 trustee ~~but~~ **unless the provisions of the stipulation require the trustee to continue payment, discontinue payment, or perform other actions. Such stipulations must be approved by a court order that** must be prepared and lodged in accordance with LBR 4001-1(b)(2)(B).
- (4) Payments after Relief from Automatic Stay. If an order is entered granting relief from the automatic stay, 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 the automatic stay must 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.
- (5) No Surcharge of Chapter 13 Trustee. The chapter 13 trustee will not be surcharged for any distribution of funds in the ordinary course of business prior to receiving written notice that the automatic stay is not in effect or a claim should not be paid.

(s) **Postconfirmation Adequate Protection Orders.**

- (1) Filing and Service. After ~~confirmation of an order confirming~~ a plan is entered, if the debtor ~~and a secured creditor propose~~ proposes to modify the payments by the chapter 13 trustee to the secured creditor by way of an adequate protection/relief from the automatic stay agreement, the debtor ~~or creditor~~ must file and serve a motion for an order approving the modification of the plan by ~~said~~the agreement pursuant to subsections (w) and (x) of this rule.
- (2) Payments Pending Plan Modification. Notwithstanding court approval of an adequate protection/relief from the automatic stay agreement, the trustee will continue to make payments and otherwise perform the trustee's duties in accordance with the plan as confirmed unless: (A) the debtor receives a separate court order approving a modification to the plan; or (B) the adequate protection/relief from the automatic stay agreement specifically modifies the treatment of the claim under the confirmed plan.

(t) **Discharge Procedures.**

- (1) General. When the chapter 13 trustee has completed payments under the plan and all other plan provisions have been consummated, the clerk will send to the debtor and the debtor's attorney (if any), a Notice of Requirement to File a Debtor's Certification of Compliance Under 11 U.S.C. § 1328 and Application for Entry of Discharge. Before any discharge may be entered, the debtor must comply with the requirements of the Certification of Compliance and file the certification with the court.
- (2) Instructional Course on Personal Financial Management. Debtor must also file a certification that an instructional course concerning personal financial management, as required by 11 U.S.C. § 1328(g)(1), has been completed or that completion of such course is not required under 11 U.S.C. § 1328(g)(2).
- (3) Case Closure without Discharge. If the certifications required by this subsection have not been filed within 60 days of the notice provided under subsection (t)(1) of this rule, then the case may be closed without an entry of discharge.

(u) **Attorney Representation.**

- (1) Scope of Employment. LBR 2090-1(a) 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, other than adversary proceedings, subject to the provisions of a "Rights and Responsibilities Agreement Between Chapter 13 Debtors and Their Attorneys," into which the debtor and the attorney have entered and that complies with these rules.

- (2) Debtor Unavailable or Unopposed to Request, Application, or Motion Scheduled for Hearing. If an attorney for a debtor is unable to contact the debtor in connection with a request, application or motion (*e.g.*, a motion for relief from the automatic stay) that is scheduled for a hearing, the attorney may file and serve a statement informing the court of this fact. If a debtor does not oppose the request, application or motion, the attorney may file a statement so informing the court and need not appear at the hearing.
- (3) Change of Address. An attorney representing a chapter 13 debtor must provide written notice to the chapter 13 trustee and to the court of any change to the attorney's address during the pendency of the case as required by LBR 2091-1(f).

(v) Attorneys' Fees.

- (1) Rights and Responsibilities Agreement. The use of court-approved form ~~F-3015-1.7.RARAF~~ 3015-1.7.RARA, Rights and Responsibilities Agreement Between Chapter 13 Debtors and Their Attorneys ("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 chapter 13 trustee, the fees and included costs (excluding the petition filing fee) 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") adopted by the court. The RARA may be used only once in any chapter 13 case.
- (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 debtor and debtor's attorney, 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 subsection (v)(1) of this rule 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. Counsel may apply for additional fees if and when justified by the facts of the case.

An application for additional fees and costs must be made by noticed motion subject to subsections (w) and (x) of this rule. The application must be supported by evidence of the nature, necessity, and reasonableness of the additional services rendered and expenses incurred, and in accordance with ~~Court Manual~~ Court Manual Section 2.9. 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 applicant must 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: (A) the attorneys' fees provided for in the RARA may be reduced; and (B) 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 the debtor's 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 LBR 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~~At any time, when a RARA has not been entered into, or has been withdrawn with the written consent of the client(s), or when the attorney is seeking supplemental fees beyond the services in boldface that are "Included Costs" under the RARA, 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 must file and serve an application for fees in accordance with 11 U.S.C. §§ 330 and 331, FRBP 2016 and 2002, and LBR 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. Upon notice and opportunity for hearing, the court may review any attorney's fee agreement or payment, in accordance with 11 U.S.C. § 329 and FRBP 2017.

(w) **Motions and Applications Filed on Notice of Opportunity to Request a Hearing.**

- (1) Motions and Applications. The following motions and applications may be made on notice of opportunity to request a hearing pursuant to LBR 9013-1(o):
 - (A) Chapter 13 trustee's motion to modify a confirmed plan or dismiss a case;
 - (B) Motion to modify a confirmed plan or to suspend or extend plan payments, subject to subsections (n) and (x) of this rule, provided that 21 ~~days~~days' notice of the motion is given in accordance with FRBP 3015(g);

- (C) Motion for approval of sale or refinancing of debtor's residence, subject to subsection (p) of this rule, 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
 - (D) Application for supplemental attorney's fees, subject to subsections (u), (v) and (x) of this rule.
- (2) No Response Filed. If no response has been timely filed and served with respect to a motion or application listed in subsection (w)(1) of this rule, or the chapter 13 trustee's only response is to take no position, the provisions of LBR 9013-1(o)(3) must be complied with, subject to the following modifications:
- (A) Motion to Modify a Confirmed Plan or to Suspend or Extend Plan Payments. The declaration must also attest that the chapter 13 trustee did not timely file and serve a response to the motion, and the declaration must be served on the chapter 13 trustee.
 - (B) Application for Supplemental Fees. The declaration must attest that the chapter 13 trustee did not timely file and serve a response to the application, or took no position, and the declaration must be served on the chapter 13 trustee.
- (3) Response Filed. If a response is filed with respect to any motion or application listed in subsection (w)(1) of this rule, the provisions of LBR 9013-1(o)(4) must be complied with, subject to the following modifications:
- (A) Trustee's Motion to Dismiss a Case; Trustee's Motion to Modify a Confirmed Plan. The person or entity who timely files and serves a response to a trustee's motion to dismiss a case, or a trustee's motion to modify a confirmed plan, must, prior to filing and serving the response, obtain a hearing date from the court (or use the court's self-calendaring system) and the hearing date, time and location must be indicated on the caption page of the response. The hearing date must be the court's next available chapter 13 calendar that provides the chapter 13 trustee with at least 7 days of notice, but the hearing date must not be more than 30 days after the response is filed. The court may grant the motion without a hearing if the hearing is not set timely.
 - (B) Debtor's Motion to Modify a Confirmed Plan or Suspend or Extend Plan Payments, or Application for Supplemental Fees. If the chapter 13 trustee timely files and serves any comments regarding the motion or application, the debtor must promptly lodge a proposed order, and, when serving a judge's copy of the notice of lodgment, include a copy of the motion/application and the trustee's comments.
- (x) Service of Motions and Applications. All motions and applications must be served, subject to the electronic service provisions of LBR 9036-1, on the chapter 13 trustee,

debtor (and debtor's attorney, if any), and all creditors, with the following exceptions:

- (1) A chapter 13 trustee's motion to dismiss a case need be served only on the debtor, debtor's attorney (if any), any prior chapter 7 trustee, and that trustee's attorney (if any);
- (2) An objection to a claim must be served on the chapter 13 trustee, the claimant, and the claimant's attorney (if any). If the claimant is the United States or an officer or agency of the United States, the objection must be served as provided in FRBP 7004(b)(4) and (5) and LBR 2002-2;
- (3) A motion for modification, suspension, or extension of the due date of plan payments must be filed using court-mandated forms and must be served on the chapter 13 trustee, but need not be served on creditors if: (A) the proposed modification does not have an adverse effect on the rights of creditors; or (B) the proposed suspension or extension, combined with any prior approved suspensions or extensions, does not exceed 90 days of suspended payments or 90 days of extensions to the plan's term. Any other motion for modification, suspension, or extension must be served on all creditors pursuant to LBR 9013-1(o) in addition to being served on the chapter 13 trustee;
- (4) A motion regarding the stay of 11 U.S.C. § 362, which is subject to the notice and service requirements of LBR 4001-1; and
- (5) An application 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 need be served only on the chapter 13 trustee and the debtor.