

## **RULE 3015-1. CHAPTER 13 PLANS**

(a) **Mandatory Form Plan.** All plans shall conform to Local Bankruptcy Form 13-4. All appropriate blanks on the form shall be completed. The debtor and the debtor's attorney (if represented by counsel) shall sign and date where indicated.

(b) **Nonstandard Plan Provisions.** Any nonstandard provisions included in Section X of the plan which modify any of the provisions contained in Sections I through IX shall begin by specifically referencing the section(s) modified, such as "Section IV.A.3 is modified as follows... ."

(c) **Notice of the Plan.**

(1) If the plan is filed at the same time as the petition, the clerk of court shall mail a copy of the plan to all creditors.

(2) If the plan is filed after the petition, the debtor shall serve copies of the plan on all creditors not less than 14 days prior to the originally scheduled meeting of creditors. Nothing in this subsection excuses compliance with Fed. R. Bankr. P. 3015(b).

(d) **Objections to Confirmation.** The original plan is treated as a motion; an objection to confirmation is treated as a response. If an objection to confirmation is filed and served on the debtor's counsel, the debtor, the trustee, and any other party requesting notice at least 14 days prior to the hearing on plan confirmation the following provisions shall apply.

(1) *Mandatory Reply.* The debtor shall file a reply to the objection to confirmation no later than 7 days prior to the hearing on plan confirmation. (Note: Local Bankruptcy Rule 9013-1(d)(8) governs the timing of a reply, if any, in all chapter 13 proceedings except plan confirmations subject to this subsection). The filing of an amended plan shall not be considered a reply.

(2) *Default.* If the debtor does not file and serve a reply to the objection to confirmation in accordance with subsection (d)(1), the court may enter an order sustaining the objection to confirmation and denying confirmation of the plan prior to the time set for the confirmation hearing, upon the objecting party's uploading of an order accompanied by proof of service and a declaration of no reply stating the date of service of the objection to confirmation and that no reply was timely received. The uploaded order sustaining an objection to and denying confirmation of the plan shall:

(A) Require that a feasible amended plan be filed no later than 14 days from the date of entry of the order and that the debtor note said amended plan for hearing, with the requisite notice required by Fed. R. Bankr. P. 2002(b) on the next available chapter 13 motion calendar;

(B) Include the following term:

"The failure to file a feasible amended plan and note it for hearing in accordance with the terms of this Order authorizes the trustee or objecting party to submit an order dismissing this case without further notice."

and;

(C) Require the party uploading the order to serve the order entered by the Court on the debtor's counsel, the debtor, the trustee, and any other party requesting notice.

(e) **Deviation from Means Test.** If the debtor asserts that the debtor is unable to pay the projected disposable income figure that results from the means test, the debtor shall:

(1) provide the trustee with evidence of the change in circumstances;

(2) include in Section IV.E of the plan the minimum amount the debtor shall pay to allowed nonpriority unsecured claims; and

(3) include the following statement in Section X of the plan:

“The debtor is unable to pay all or part of the debtor’s \$ \_\_\_\_\_ projected disposable income (the monthly disposable income shown on line 45 of Official Form B 122C-2 multiplied by the sixty month applicable commitment period), and instead proposes to pay to allowed nonpriority unsecured claims at least the amount listed in Section IV.E.”

**(f) Request for Valuation of Security and Modification of Secured Claim in a Plan under 11 U.S.C. § 506.** If the debtor seeks to modify a secured claim under 11 U.S.C. § 506 in a plan, the debtor shall:

(1) complete Section IV.C. of the plan and include both "See X" on the line titled "Collateral" before describing the collateral and the proposed monthly payment on the line titled “Monthly Payment” (if the plan completely strips the lien, the monthly payment will be \$0);

(2) include the following language in Section X of the plan:

" \_\_\_\_\_[creditor] holds a security interest or lien against \_\_\_\_\_[collateral]. The value of the collateral is \$ \_\_\_\_\_. The claims of other creditors holding higher priority security interests or liens against the collateral total \$ \_\_\_\_\_. Accordingly, the amount of \_\_\_\_\_[creditor's] secured claim is \$ \_\_\_\_\_[collateral value minus total amount of higher priority secured claims]. The balance of \_\_\_\_\_[creditor's] claim is an unsecured claim. The monthly payment on the secured claim under the plan is \$ \_\_\_\_\_.

The final avoidance and/or determination of the secured status of a creditor’s lien in this plan is contingent upon the debtor’s completion of the plan. If this case is converted to another chapter of the Bankruptcy Code or if this case is dismissed, the relevant provisions of 11 U.S.C. §§ 348 and 349 control the validity of the lien avoidance and/or determination."

(3) file, with the plan, evidence (e.g. a declaration) supporting the debtor's factual assertions regarding the value of the collateral and the amount of the relevant liens;

(4) serve the plan on the holder of the claim in the manner provided for service of a summons and complaint by Federal Rule of Bankruptcy Procedure 7004; and

(5) file, with the plan, a proof of service showing compliance with subsection (f)(4).

**(g) Request to Avoid a Judicial Lien or Security Interest in a Plan under 11 U.S.C. § 522(f).** If the debtor seeks to modify a judicial lien or security interest using 11 U.S.C. § 522(f) in a plan, the debtor shall:

(1) complete Section IV.C. of the plan and include both "See X" in the line titled "Collateral" before describing the collateral and the proposed monthly payment on the line titled “Monthly Payment” (if the plan completely avoids the lien, the monthly payment will be \$0);

(2) include the following language in Section X of the plan:

" \_\_\_\_\_[creditor] holds a judicial lien or security interest avoidable under 11 U.S.C. § 522(f) against \_\_\_\_\_[collateral]. The value of the collateral is \$ \_\_\_\_\_. The claims of other creditors holding higher priority security interests or liens against the collateral total \$ \_\_\_\_\_. The Debtor is entitled to an exemption under 11 U.S.C. § 522(b) of \$ \_\_\_\_\_. Accordingly, the amount of \_\_\_\_\_[creditor's] secured claim is \$ \_\_\_\_\_[collateral value minus total amount of higher priority secured claims minus the Debtor’s exemption]. The balance of \_\_\_\_\_[creditor's] claim is an unsecured claim. The monthly payment on the secured claim under the plan is \$ \_\_\_\_\_."

(3) file, with the plan, evidence (e.g. a declaration) supporting the debtor's factual assertions regarding the value of the collateral, the amount of the debtor's exemption and the amount of relevant liens;

(4) serve the plan on the holder of the claim in the manner provided for service of a summons and complaint by Federal Rule of Bankruptcy Procedure 7004; and

(5) file, with the plan, a proof of service showing compliance with subsection (g)(4).

**(h) Chapter 13 Information Sheet.** At the time the petition is filed, the debtor shall submit to the trustee a complete Chapter 13 Information Sheet (Local Bankruptcy Form 13-2).

**(i) Plan Modification.** A debtor seeking post-confirmation plan modification shall file an amended plan, a motion requesting approval of the amended plan, and a declaration of the debtor explaining the need for the modification. Contemporaneously with filing the motion and declaration, the debtor shall file supplemental Schedules I and J and provide the trustee copies of all payment advices or other evidence of proof of income received within the last 30 days. A proposed order approving the amended plan shall be attached to the motion as a separate document and shall substantially comply with Local Bankruptcy Form 13-6.

**(j) Direct Plan Payments.** Unless the court orders otherwise after the debtor justifies an exception, all payments to creditors, including pre-confirmation adequate protection payments made pursuant to 11 U.S.C. § 1326(a)(1)(C), shall be disbursed by the trustee, provided, however, that the debtor may make direct payments on the following obligations: domestic support obligation payments made by an assignment from a debtor's wages, leases of real and personal property, and deeds of trust/mortgages that are in a current status as of the date of the petition. The trustee shall commence pre-confirmation adequate protection payments on claims secured by personal property provided in Section IV.C.3. of the plan after the creditor files a proof of claim.

**(k) Domestic Support Obligations.** The trustee shall commence payment on filed claims for current domestic support obligations as soon as unencumbered funds become available, unless otherwise directed by the terms of the proposed plan.

**(l) Domestic Support Certification.** Within 30 days of completion of all plan payments, debtors must file certifications stating either (1) that they are not liable for any domestic support obligation; or (2) that all domestic support obligations payable by them that became due on or before the date of the certification (including amounts due before the petition was filed, but only to the extent provided for by the plan) under any judicial or administrative order, or by statute, have been paid. Failure to file the certification will result in the case being closed without a discharge.

## RULE 3015-1. CHAPTER 13 PLANS

(a) ~~(a)~~ **Chapter 13 Mandatory Form Plan.** All ~~chapter 13~~ plans ~~(original and amended)~~ shall conform to Local Bankruptcy Form 13-4. All appropriate blanks on the form shall be completed ~~including any additional provisions which shall be set forth where indicated in the form plan. The last four digits of the debtor's social security number shall be provided where indicated and, if the plan provides for or affects traffic or criminal fines, forfeitures, or sanctions, the debtor's date of birth.~~ The debtor and the debtor's attorney (if represented by counsel) shall sign and date where indicated.

(b) ~~Other Chapter 13~~ **Nonstandard Plan Provisions.** Any ~~additional case-specific~~ **nonstandard** provisions included in Section ~~XIX~~ of the ~~form plan (Local Bankruptcy Form 13-4)~~ plan which modify any of the provisions contained in Sections I through ~~XIX~~ shall begin by specifically referencing the section(s) modified, such as "Section IV.A.3 is modified as follows..."

### (c) Notice of the Plan.

(1) ~~(1)~~ If the plan is filed at the same time as the petition, the clerk of court shall mail a copy of the plan to all creditors.

(2) If the plan is filed after the petition, the debtor shall serve copies of the plan ~~to~~ on all creditors not less than 14 days prior to the originally scheduled meeting of creditors. Nothing in this subsection excuses compliance with Fed. R. Bankr. P. 3015(b).

(d) **Objections to Confirmation.** The ~~debtor's proposed chapter 13~~ **original** plan is treated as a motion; an objection to confirmation is treated as a response. If an objection to confirmation is filed and served on the debtor's counsel, the debtor, the trustee, and any other party requesting notice at least 14 days prior to the hearing on plan confirmation the following provisions shall apply.

(1) *Mandatory Reply.* The debtor shall file a reply to the objection to confirmation no later than 7 days prior to the hearing on plan confirmation. (Note: Local Bankruptcy Rule 9013-1(d)(~~68~~) governs the timing of a reply, if any, in all chapter 13 proceedings except plan ~~confirmation~~ **confirmations subject to this subsection**). The filing of an amended plan shall not be considered a reply.

(2) ~~(2)~~ *Default.* If the debtor does not file and serve a reply to the objection to confirmation in accordance with ~~subsection (d)(1) above,~~ the court may enter an order sustaining the objection to confirmation and denying confirmation of the ~~proposed chapter 13~~ plan prior to the time set for the confirmation hearing, upon the objecting party's uploading of an order accompanied by proof of service and a declaration of no reply stating the date of service of the objection to confirmation and that no reply was timely received. The uploaded order sustaining an objection to and denying confirmation of ~~a proposed chapter 13~~ **the** plan shall:

(A) Require that a feasible amended plan be filed no later than 14 days from the date of entry of the order and that the debtor note said amended plan for hearing, with the requisite notice required by Fed. R. Bankr. P. 2002(b) on the next available chapter 13 motion calendar;

(B) Include the following ~~statement~~ **term**:

**NOTICE:** "The failure to file a feasible, amended, ~~chapter 13~~ plan and ~~notice~~ it for hearing in accordance with the terms of this Order ~~may result in~~ **authorizes** the trustee or objecting party ~~submitting to submit~~ an order dismissing this ~~chapter 13 proceeding~~ **case** without further notice."

and;

(C) ~~Provide that~~ Require the court's party uploading the order denying confirmation and setting the above deadlines be served to serve the order entered by the Court on the debtor's counsel, the debtor, the trustee, and any other party requesting notice.

(e) **Deviation from Means Test.** If the debtor asserts that the debtor is unable to pay the projected disposable income figure that results from the means test, the debtor shall, ~~in addition to filing Official Form B 122C-2;~~

\_\_\_\_\_ (1) provide the ~~chapter 13~~ trustee with evidence of the change in circumstances;

(2) include in Section IV.E. ~~2.b~~ of the plan the minimum amount the debtor shall pay to allowed nonpriority unsecured claims; and

(3) ~~(3)~~ include the following statement in Section ~~X+X~~ of the plan:

"The debtor is unable to pay all or part of the debtor's \$ \_\_\_\_\_ projected disposable income (the monthly disposable income shown on line 45 of Official Form B 122C-2 multiplied by the sixty month applicable commitment period) ~~as documented pursuant to Local Bankruptcy Rule 3015-1(e)~~, and instead proposes to pay to allowed nonpriority unsecured claims at least the amount listed in Section IV.E. ~~2.b.~~"

(f) **Request for Valuation of Security and Modification of Secured Claim in a Plan under 11 U.S.C. § 506.** If the debtor seeks to modify a secured claim under 11 U.S.C. § 506 in a plan, the debtor shall:

\_\_\_\_\_ (1) complete Section IV.C. of the plan and include both "See X" on the line titled "Collateral" before describing the collateral and the proposed monthly payment on the line titled "Monthly Payment" (if the plan completely strips the lien, the monthly payment will be \$0);

(2) include the following language in Section X of the plan:

" \_\_\_\_\_ [creditor] holds a security interest or lien against \_\_\_\_\_ [collateral]. The value of the collateral is \$ \_\_\_\_\_. The claims of other creditors holding higher priority security interests or liens against the collateral total \$ \_\_\_\_\_. Accordingly, the amount of \_\_\_\_\_ [creditor's] secured claim is \$ \_\_\_\_\_ [collateral value minus total amount of higher priority secured claims]. The balance of \_\_\_\_\_ [creditor's] claim is an unsecured claim. The monthly payment on the secured claim under the plan is \$ \_\_\_\_\_.

The final avoidance and/or determination of the secured status of a creditor's lien in this plan is contingent upon the debtor's completion of the plan. If this case is converted to another chapter of the Bankruptcy Code or if this case is dismissed, the relevant provisions of 11 U.S.C. §§ 348 and 349 control the validity of the lien avoidance and/or determination."

\_\_\_\_\_ (3) file, with the plan, evidence (e.g. a declaration) supporting the debtor's factual assertions regarding the value of the collateral and the amount of the relevant liens;

\_\_\_\_\_ (4) serve the plan on the holder of the claim in the manner provided for service of a summons and complaint by Federal Rule of Bankruptcy Procedure 7004; and

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(g) **Request to Avoid a Judicial Lien or Security Interest in a Plan under 11 U.S.C. § 522(f).** If the debtor seeks to modify a judicial lien or security interest using 11 U.S.C. § 522(f) in a plan, the debtor shall:

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(2) include the following language in Section X of the plan:

" [creditor] holds a judicial lien or security interest avoidable under 11 U.S.C. § 522(f) against [collateral]. The value of the collateral is \$ . The claims of other creditors holding higher priority security interests or liens against the collateral total \$ . The Debtor is entitled to an exemption under 11 U.S.C. § 522(b) of \$ . Accordingly, the amount of [creditor's] secured claim is \$ [collateral value minus total amount of higher priority secured claims minus the Debtor's exemption]. The balance of [creditor's] claim is an unsecured claim. The monthly payment on the secured claim under the plan is \$ ."

(3) file, with the plan, evidence (e.g. a declaration) supporting the debtor's factual assertions regarding the value of the collateral, the amount of the debtor's exemption and the amount of relevant liens;

(4) serve the plan on the holder of the claim in the manner provided for service of a summons and complaint by Federal Rule of Bankruptcy Procedure 7004; and

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**(h) Chapter 13 Information Sheet.** At the time the petition is filed, the debtor shall submit to the trustee a complete Chapter 13 Information Sheet (Local Bankruptcy Form 13-2).

~~(g) Domestic Support Obligations. The trustee shall commence payment on filed claims for current domestic support obligations as soon as unencumbered funds become available, unless otherwise directed by the terms of the proposed plan.~~

~~(h) Domestic Support Certification. Within 30 days of completion of all plan payments, debtors must file certifications stating either (1) that they are not liable for any domestic support obligation; or (2) that all domestic support obligations payable by them that became due on or before the date of the certification (including amounts due before the petition was filed, but only to the extent provided for by the plan) under any judicial or administrative order, or by statute, have been paid. Failure to file the certification will result in the case being closed without a discharge.~~

**(i) Plan Modification.** A debtor seeking post-confirmation plan modification shall file an amended plan ~~conforming to Local Bankruptcy Form 13-4, and,~~ a motion requesting approval of the ~~modified~~ amended plan, ~~together with~~ and a declaration of the debtor explaining the need for the modification. Contemporaneously with filing the motion and declaration, the debtor shall file supplemental Schedules I and J and provide the ~~chapter 13~~ trustee copies of all payment advices or other evidence of proof of income received within the last 30 days. ~~A copy of a~~ proposed order approving the ~~modified~~ amended plan shall be attached ~~as an exhibit~~ to the motion as a separate document and ~~the order~~ shall substantially comply with Local Bankruptcy Form 13-6.

**(j) Direct Plan Payments.** Unless the court orders otherwise after the debtor justifies an exception, all payments to creditors, including pre-confirmation adequate protection payments made pursuant to 11 U.S.C. § 1326(a)(1)(C), shall be disbursed by the trustee, provided, however, that the debtor may make direct payments on the following obligations: domestic support obligation payments made by an assignment from a debtor's wages, leases of real and personal property, and deeds of trust/mortgages that are in a current status as of the date of the petition ~~for relief.~~ The trustee shall commence pre-confirmation adequate protection payments on claims secured by personal property provided in Section IV.C.3. of the plan after the creditor files a proof of claim.

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