

1
2 UNITED STATES BANKRUPTCY COURT
3 WESTERN DISTRICT OF WASHINGTON
4

5 In re:

6
7 Technical Corrections to the Local
8 Bankruptcy Rules
9

GENERAL ORDER NO. 2010-1

10 WHEREAS by General Order 2009-1, the Court adopted amendments to the Local
11 Bankruptcy Rules for the Western District of Washington; and

12 WHEREAS the Court has determined that certain technical amendments to the Local
13 Bankruptcy Rules are necessary,

14 NOW, THEREFORE, it is hereby ORDERED that Local Bankruptcy Rule 3020-1(a) is
15 amended to require a preconfirmation report be filed by a Chapter 11 plan proponent not less
16 than 3 days prior to the confirmation hearing, as set forth in Exhibit A, attached hereto.

17 IT IS FURTHER ORDERED that the certification in paragraph VI of the Chapter 13
18 Form Plan is amended to reference Form 13-4 instead of Form 13-3, as set forth in Exhibit B,
19 attached hereto.

20 IT IS FURTHER ORDERED that the Chapter 13 Rights and Responsibilities Form 13-5
21 is amended in the introductory paragraph to reflect that the document does not need to be filed
22 on the court's docket, and paragraph 10.d is amended to read "without" argument, as set forth in
23 Exhibit C, attached hereto.

24 IT IS FURTHER ORDERED that Local Bankruptcy Rule 3015-1 is amended to set
25 forth new requirements when seeking post confirmation modification of a Chapter 13 plan, as set
26 forth in Exhibit D.

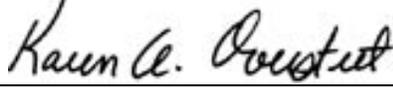
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IT IS FURTHER ORDERED that the amendments to the Local Bankruptcy Rules and
Forms set forth above are effective as of the date of this General Order.

DATED: February 9, 2010

FOR THE COURT:



Honorable Karen A. Overstreet
Chief Judge

Honorable Samuel J. Steiner
Honorable Thomas T. Glover
Honorable Philip H. Brandt
Honorable Paul B. Snyder

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RULE 3020-1. CHAPTER 11 - CONFIRMATION

(a) **Preconfirmation Report.** The plan proponent shall, not less than 73 days prior to the confirmation hearing, file a memorandum containing the proponent's response to any objections, and a statement as to how each requirement of 11 U.S.C. § 1129 is satisfied. The memorandum shall be served on the debtor, any committee appointed pursuant to the Bankruptcy Code or their authorized agents, and any party that has filed an objection to confirmation. If the confirmation hearing is continued, a revised preconfirmation report shall likewise be filed and served not less than 73 days prior to the continued hearing.

(b) **Objections to Confirmation.** Unless otherwise ordered by the court, objections to confirmation of a plan shall be filed and served at least 7 days before the hearing on confirmation of the plan.

Exhibit B to Amended General Order 2010-1

UNITED STATES BANKRUPTCY COURT
WESTERN DISTRICT OF WASHINGTON

In re:	Case No.
Debtor(s).	CHAPTER 13 PLAN __ Original __ Amended Date: _____

I. Introduction:

- A. Debtor is eligible for a discharge under 11 USC § 1328(f) (check one):
 ___ Yes
 ___ No
- B. Means Test Result. Debtor is (check one):
 ___ a below median income debtor
 ___ an above median income debtor with positive monthly disposable income
 ___ an above median income debtor with negative monthly disposable income

II. Plan Payments:

No later than 30 days after the filing of the plan or the order for relief, whichever date is earlier, the debtor will commence making payments to the Trustee as follows:

- A. AMOUNT: \$ _____
- B. FREQUENCY (check one):
 ___ Monthly
 ___ Twice per month
 ___ Every two weeks
 ___ Weekly
- C. TAX REFUNDS: Debtor (check one): ___ COMMITS; ___ DOES NOT COMMIT; all tax refunds to funding the plan. Committed refunds shall be paid in addition to the plan payment stated above. If no selection is made, tax refunds are committed.
- D. PAYMENTS: Plan payments shall be deducted from the debtor's wages unless otherwise agreed to by the Trustee or ordered by the Court.
- E. OTHER: _____

III. Plan Duration:

The intended length of the plan is _____ months, and may be extended up to 60 months after the first payment is due if necessary for completion. The plan's length shall not be less than the debtor's applicable commitment period as defined under 11 U.S.C. §§ 1322(d) and 1325(b)(4).

IV. Distribution of Plan Payments:

Upon confirmation, the Trustee shall disburse funds received in the following order and creditors shall apply them accordingly, PROVIDED THAT disbursements for domestic support obligations and federal taxes shall be applied according to applicable non-bankruptcy law:

- A. ADMINISTRATIVE EXPENSES:
1. Trustee. The percentage set pursuant to 28 USC §586(e).
 2. Other administrative expenses. As allowed pursuant to 11 USC §§ 507(a)(2) or 707(b).
 3. Attorney's Fees: Pre-confirmation attorney fees and costs shall not exceed \$_____. \$_____ was paid prior to filing. To the extent pre-confirmation fees and costs exceed \$3,500, an appropriate application, including a complete breakdown of time and costs, shall be filed with the Court within 21 days of confirmation.
- Approved pre-confirmation fees shall be paid as follows (check one):
- a. ___ Prior to all creditors;
 - b. ___ Monthly payments of \$_____;
 - c. ___ All remaining funds available after designated monthly payments to the following creditors: _____.
 - d. ___ Other: _____.

If no selection is made, fees will be paid after monthly payments specified in Sections IV.B and IV.C.

B. **CURRENT DOMESTIC SUPPORT OBLIGATION:** Payments to creditors whose claims are filed and allowed pursuant to 11 USC § 502(a) or court order as follows (if left blank, no payments shall be made by the Trustee):

<u>Creditor</u>	<u>Monthly amount</u>
_____	\$ _____
_____	\$ _____

C. **SECURED CLAIMS:** Payments will be made to creditors whose claims are filed and allowed pursuant to 11 USC § 502(a) or court order, as stated below. Unless ranked otherwise, payments to creditors will be disbursed at the same level. Secured creditors shall retain their liens until the payment of the underlying debt, determined under nonbankruptcy law, or discharge under 11 USC § 1328, as appropriate. Secured creditors, other than creditors holding long term obligations secured only by a security interest in real property that is the debtor's principal residence, will be paid the principal amount of their claim or the value of their collateral, whichever is less, plus per annum un compounded interest on that amount from the petition filing date.

Interest rate and monthly payment in the plan control unless a creditor timely files an objection to confirmation. If a creditor timely files a proof of claim for an interest rate lower than that proposed in the plan, the claim shall be paid at the lower rate. Value of collateral stated in the proof of claim controls unless otherwise ordered following timely objection to claim. The unsecured portion of any claim shall be paid as a nonpriority unsecured claim unless entitled to priority by law.

Only creditors holding allowed secured claims specified below will receive payment from the Trustee. If the interest rate is left blank, the applicable interest rate shall be 12%. If overall plan payments are sufficient, the Trustee may increase or decrease post-petition installments for ongoing mortgage payments, homeowner's dues and/or real property tax holding accounts based on changes in interest rates, escrow amounts, dues and/or property taxes.

1. Continuing Payments on Claims Secured Only by Security Interest in Debtor's Principal Residence (Interest included in payments at contract rate, if applicable):

<u>Rank</u>	<u>Creditor</u>	<u>Nature of Debt</u>	<u>Property</u>	<u>Monthly Payment</u>
_____	_____	_____	_____	\$ _____
_____	_____	_____	_____	\$ _____
_____	_____	_____	_____	\$ _____

2. Continuing Payments on Claims Secured by Other Real Property (Per annum interest as set forth below):

<u>Rank</u>	<u>Creditor</u>	<u>Nature of Debt</u>	<u>Property</u>	<u>Monthly Payment</u>	<u>Interest Rate</u>
_____	_____	_____	_____	_____	_____%
_____	_____	_____	_____	_____	_____%
_____	_____	_____	_____	_____	_____%
_____	_____	_____	_____	_____	_____%

3. Cure Payments on Mortgage/Deed of Trust/Property Tax Arrearage (If there is a property tax arrearage, also provide for postpetition property tax holding account at Section XII):

<u>Rank</u>	<u>Periodic Payment</u>	<u>Creditor</u>	<u>Property</u>	<u>Arrears to be Cured</u>	<u>Interest Rate</u>
_____	\$ _____	_____	_____	\$ _____	_____%
_____	\$ _____	_____	_____	\$ _____	_____%
_____	\$ _____	_____	_____	\$ _____	_____%
_____	\$ _____	_____	_____	\$ _____	_____%

4. Payments on Claims Secured by Personal Property:

a. **910 Collateral.**

The Trustee shall pay the contract balance as stated in the allowed proof of claim for a purchase-money security interest in any motor vehicle acquired for the personal use of the debtor(s) **within 910 days** preceding the filing date of the petition or in other personal property acquired within **one year** preceding the filing date of the petition as follows. Debtor stipulates that pre-confirmation adequate protection payments shall be paid by the Trustee as specified upon the creditor filing a proof of claim. If no amount is specified, the Trustee shall pay the amount stated as the "Equal Periodic Payment".

<u>Rank</u>	<u>Equal Periodic Payment</u>	<u>Creditor</u>	<u>Description of Collateral</u>	<u>Pre-Confirmation Adequate Protection Payment</u>	<u>Interest Rate</u>
_____	\$ _____	_____	_____	\$ _____	_____%
_____	\$ _____	_____	_____	\$ _____	_____%
_____	\$ _____	_____	_____	\$ _____	_____%
_____	\$ _____	_____	_____	\$ _____	_____%

b. **Non-910 Collateral.**

The Trustee shall pay the value of collateral stated in the proof of claim, unless otherwise ordered following timely objection to the claim, for a purchase-money security interest in personal property which is non-910 collateral. Debtor stipulates that pre-confirmation adequate protection payments shall be paid by the Trustee as specified upon the creditor filing a proof of claim. If no amount is specified, the Trustee shall pay the amount stated as the "Equal Periodic Payment".

<u>Rank</u>	<u>Equal Periodic Payment</u>	<u>Creditor</u>	<u>Debtor(s) Value of Collateral</u>	<u>Description of Collateral</u>	<u>Pre-Confirmation Adeq. Protection Payment</u>	<u>Interest Rate</u>
_____	\$ _____	_____	\$ _____	_____	\$ _____	_____%
_____	\$ _____	_____	\$ _____	_____	\$ _____	_____%
_____	\$ _____	_____	\$ _____	_____	\$ _____	_____%
_____	\$ _____	_____	\$ _____	_____	\$ _____	_____%

D. PRIORITY CLAIMS: Payment in full, on a pro rata basis, of filed and allowed claims entitled to priority in the order stated in 11 USC § 507(a).

E. NONPRIORITY UNSECURED CLAIMS: From the balance remaining after the above payments, the Trustee shall pay filed and allowed nonpriority unsecured claims as follows:

1. Specially Classified Nonpriority Unsecured Claims. The Trustee shall pay the following claims prior to other nonpriority unsecured claims as follows:

<u>Rank</u>	<u>Creditor</u>	<u>Amount of Claim</u>	<u>Percentage To be Paid</u>	<u>Reason for Special Classification</u>
_____	_____	\$ _____	_____%	_____
_____	_____	\$ _____	_____%	_____

2. Other Nonpriority Unsecured Claims (check one):

a. _____ 100% paid to allowed nonpriority unsecured claims. **OR**

b. _____ Debtor shall pay at least \$ _____ to allowed nonpriority unsecured claims over the term of the plan. Debtor estimates that such creditors will receive approximately _____ % of their allowed claims.

V. Secured Property Surrendered:

The secured property described below will be surrendered to the following named creditors on confirmation. Upon confirmation, all creditors to which the debtor is surrendering property pursuant to this section are granted relief from the automatic stay to enforce their security interest against the property including taking possession and sale.

Creditor

Property to be Surrendered

VI. Executory Contracts and Leases:

The debtor will assume or reject executory nonresidential contracts or unexpired leases as noted below. Assumption will be by separate motion and order, and any cure and/or continuing payments will be paid directly by the debtor under Section VII, unless otherwise specified in Section XII with language designating that payments will be made by the Trustee, the amount and frequency of the payments, the ranking level for such payments with regard to other creditors, the length of the term for continuing payments and the interest rate, if any, for cure payments. Any executory contract or unexpired lease not assumed pursuant to 11 USC § 365(d) is rejected. If rejected, the debtor shall surrender any collateral or leased property and any duly filed and allowed unsecured claim for damages shall be paid under Section IV.E.2.

Contract/Lease

Assumed or Rejected

VII. Payments to be made by Debtor and not by the Trustee:

The following claims shall be paid directly by the debtor according to the terms of the contract or support or withholding order, and shall receive no payments from the Trustee. (Payment stated shall not bind any party.)

A. DOMESTIC SUPPORT OBLIGATIONS: The claims of the following creditors owed domestic support obligations shall be paid directly by the debtor as follows:

<u>Creditor</u>	<u>Current Monthly Support Obligation</u>	<u>Monthly Arrearage Payment</u>
_____	\$ _____	\$ _____
_____	\$ _____	\$ _____
_____	\$ _____	\$ _____

B. OTHER DIRECT PAYMENTS:

<u>Creditor</u>	<u>Nature of Debt</u>	<u>Amount of Claim</u>	<u>Monthly Payment</u>
_____	_____	\$ _____	\$ _____
_____	_____	\$ _____	\$ _____
_____	_____	\$ _____	\$ _____

VIII. Revestment of Property

Unless otherwise provided in Section XII, during the pendency of the plan all property of the estate as defined by 11 USC § 1306(a) shall remain vested in the debtor, except that earnings and income necessary to complete the terms of the plan shall remain vested in the Trustee until discharge. The debtor shall not, without approval of the Court, sell or otherwise dispose of or transfer real property other than in accordance with the terms of the confirmed plan.

IX. Liquidation Analysis Pursuant to 11 USC § 1325(a)(4)

The liquidation value of the estate is \$ _____. In order to obtain a discharge, the debtor must pay the liquidation value or the total of allowed priority and nonpriority unsecured claims, whichever is less. Under 11 USC §§ 1325(a)(4) and 726(a)(5), interest on allowed unsecured claims under Section IV.D and IV.E shall be paid at the rate of _____% per annum from the petition filing date (no interest shall be paid if left blank).

X. Other Plan Provisions:

- A. No funds shall be paid to nonpriority unsecured creditors until all secured, administrative and priority unsecured creditors are paid in full, provided that no claim shall be paid before it is due.
- B. Secured creditors shall not assess any late charges, provided payments from the plan to the secured creditor are current, subject to the creditor’s rights under state law if the case is dismissed.
- C. If a secured creditor elects to charge debtor any fee, expense or cost permitted under the contract, the creditor shall give written notice to the debtor and debtor’s counsel within 30 days of the assessment.
- D. Mortgage creditors shall notify the Trustee, debtor and debtor’s counsel within 60 days of any change in the regular monthly payment (including the escrow account, if applicable).
- E. Provision by secured creditors or their agents or attorneys of any of the notices, statements or other information provided in this section shall not be a violation of the 11 USC § 362 automatic stay or of privacy laws.

XI. Certification:

A. The debtor certifies that all post-petition Domestic Support Obligations have been paid in full on the date of this plan and will be paid in full at the time of the confirmation hearing. Debtor acknowledges that timely payment of such post-petition Domestic Support Obligations is a condition of plan confirmation pursuant to 11 USC § 1325(a)(8).

B. By signing this plan, the debtor and counsel representing the debtor certify that this plan does not alter the provisions of Local Bankruptcy Form 13-4, except as provided in Section XII below. Any revisions to the form plan not set forth in Section XII shall not be effective.

XII. Additional Case-Specific Provisions: (must be separately numbered)

Attorney for Debtor(s) DEBTOR Last 4 digits SS# Date

Date DEBTOR Last 4 digits SS# Date

Name, Address, Telephone No. & I.D. No.	
UNITED STATES BANKRUPTCY COURT WESTERN DISTRICT OF WASHINGTON	
In ReTax I.D. / S.S. #: Debtor.	BANKRUPTCY NO.

**UNITED STATES BANKRUPTCY COURT
WESTERN DISTRICT OF WASHINGTON
RIGHTS AND RESPONSIBILITIES OF CHAPTER 13 DEBTORS
AND THEIR ATTORNEY
(Consumer Case)**

It is important for debtors who file a bankruptcy case under Chapter 13 to understand their rights and responsibilities. Debtors should know what their attorney’s responsibilities are, and understand the importance of communicating with their attorney to make the case successful. Debtors should also know that they may expect certain services to be performed by their attorney. To assure that debtors and their attorney understand their rights and responsibilities in the bankruptcy process, the following rights and responsibilities provided by the United States Bankruptcy Court are hereby agreed to by the debtors and their attorney. Nothing in this agreement excuses an attorney from any ethical duties or responsibilities under Federal Rule of Bankruptcy Procedure 9011. Note: This form is to be retained by counsel and does not need to be filed on the Court's docket.

UNLESS THE COURT ORDERS OTHERWISE,

The debtor shall:

1. Provide accurate financial information.
2. Provide information in a timely manner, including recent pay and earning information and recent tax returns.
3. Cooperate and communicate with the attorney.
4. Discuss with the attorney the debtor’s objectives in filing the case.

5. Make plan payments to the Chapter 13 Trustee beginning 30 days from the date the case is filed. The case is filed as of the date of the petition for relief—first day of the case. The plan may be filed later, but the plan payments begin 30 days from the date of the petition for relief.
6. Appear at the § 341 meeting of creditors
7. Keep the trustee and attorney informed of any changes of address and/or phone number.
8. Inform the attorney of any wage garnishments or attachments of assets which occur or continue after the filing of the case.
9. Contact the attorney promptly if the debtor loses his/her job or has other financial problems.
10. Let the attorney know immediately if the debtor is sued before or during the case.
11. Inform the attorney if any tax refunds the debtor is entitled to are seized or not returned to the debtor by the IRS or any state tax agency.
12. Contact the attorney before buying, refinancing, or selling real property or before entering into any long-term loan agreements as court approval may be required.
13. Pay any filing fees and filing expenses that may be incurred directly to the attorney.

The attorney shall:

1. Meet with the debtor to review the debtor's assets, liabilities, income and expenses.
2. Analyze the debtor's financial situation, and render advice to the debtor in determining whether to file a petition in bankruptcy.
3. Counsel the debtor regarding the advisability of filing either a Chapter 7 or Chapter 13 case, discuss both procedures with the debtor, and answer the debtor's questions.
4. Explain to the debtor how the attorney's fees and trustee's fees are paid.
5. Explain what payments will be made directly by the debtor and what payments will be made through the debtor's chapter 13 plan, with particular attention to mortgage and vehicle loan payments, as well as any other claims with accrued interest.
6. Explain to the debtor how, when, and where to make the chapter 13 plan payments.
7. Explain to the debtor that the first plan payment must be made to the Trustee within 30 days of the petition for relief (not the plan) being filed.
8. Advise the debtor of the requirement to attend the § 341(a) Meeting of Creditors, and instruct the debtor as to the date, time and place of the meeting.
9. Advise the debtor of the necessity of maintaining liability, collision and comprehensive insurance on vehicles securing loans or leases.
10. Render all services required, excluding adversary proceedings, necessary through the entry of the order confirming the plan and shall include, without limitation the following:
 - a. the filing of a chapter 13 plan in the form required by Local Bankruptcy Rule 3015-1;
 - b. filing with the chapter 13 Trustee the Chapter 13 Information Sheet together with the documents required by Interim Fed.R.Bank.P. 1007;
 - c. appearing at the § 341 Meeting of Creditors;
 - d. responding to objections to confirmation and motions for relief from stay that are resolvable with~~out~~ argument before the court;

- e. negotiating and presenting unopposed or agreed orders assuming or rejecting leases;
- f. resolving disputes regarding the valuation of collateral or providing for pre-confirmation adequate protection payments to creditors;
- g. amending the initial plan as necessary to obtain an order confirming the plan;
- h. adding creditors to the schedules and plan;
- i. negotiations with the Department of Licensing;
- j. review of the trustee's statement of filed claims.

It is understood that the attorney's ability and obligation to provide the services set forth above in items 2 & 10 will be impaired, and may be impossible, if the Debtors do not provide accurate and complete information, documentation and cooperation in a timely manner, and advise of any change of address, phone number and/or employment.

If the debtor disputes the legal services provided or the fees charged by the attorney, the debtor may file an objection with the court and set the matter for hearing. The attorney may move to withdraw or the debtor may discharge the attorney at any time.

We declare and certify under penalty of perjury that a copy of the foregoing was provided to the Debtor(s) prior to the filing of the schedules and plan.

Dated: _____

 Debtor

Dated: _____

 Debtor

Dated: _____

 Attorney for Debtor(s)

RULE 3015-1. CHAPTER 12 AND CHAPTER 13 PLANS

(a) **Chapter 13 Plan.** All chapter 13 plans (original and amended), filed in cases commencing on or after October 17, 2005, shall conform to Local Bankruptcy Form 13-4. Any plan or amended plan filed in a chapter 13 case commenced before October 17, 2005 shall conform to Local Bankruptcy Form 13-1. 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 dates of birth. The debtor and the debtor's attorney (if represented by counsel) shall sign and date where indicated.

(b) **Other Chapter 13 Plan Provisions.** Any additional provisions included in paragraph 10 of the plan, which modify any of the provisions contained in paragraphs 1 through 10, shall begin by specifically referencing the paragraph(s) modified, such as "Paragraph 5 is modified as follows..."

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

(1) Upon filing of a petition and a master mailing list as required by Interim Fed.R.Bankr.P. 1007(a), the clerk of court shall mail notice of the § 341 meeting of creditors.

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

(3) If the plan is filed after the petition, the debtor shall serve copies of the plan to 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.** Objections to confirmation must be filed and served on the debtor's counsel (or the debtor if unrepresented), the trustee, and any other entity designated by the court, not less than 7 days prior to the originally scheduled confirmation hearing date. In the event the objection to confirmation is going to be argued, the party making the objection shall confirm the hearing pursuant to Local Bankruptcy Rule 9013-1(b)(5). Local Bankruptcy Rule 9013-1(d)(6) governs any reply.

(e) **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, amended).

(f) **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.

(g) **Domestic Support Certification.** In all cases filed on or after October 17, 2005, 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.

(h) Plan Modification. Debtors seeking post confirmation plan modification shall file an amended plan conforming with Local Bankruptcy Form 13-4, and amended Schedules I and J, contemporaneously with a motion requesting approval of the modified plan.