

Rule 3002-1

Notice of Payment Changes

(a) Notice of Payment Changes

In a chapter 13 case, if a claim secured by a security interest in the debtor's principal residence is provided for under the debtor's plan pursuant to § 1322(b)(5) of the Code, the holder of the claim shall file and serve on the debtor, debtor's counsel, and the trustee notice of any change in the payment amount, including any change that results from an interest rate or escrow account adjustment, no later than 30 days before a payment at a new amount is due.

(b) Form and Content

A notice filed and served pursuant to subdivision (a) of this rule shall: (1) conform substantially to the form of notice under applicable nonbankruptcy law and the underlying agreement that would be given if the debtor were not a debtor in bankruptcy, (2) be filed as a supplement to the holder's proof of claim, and (3) not be subject to Rule 3001(f).

(c) Notice of Fees, Expenses, and Charges

In a chapter 13 case, if a claim secured by a security interest in the debtor's principal residence is provided for under the debtor's plan pursuant to § 1322(b)(5) of the Code, the holder of the claim shall file and serve on the debtor, debtor's counsel, and the trustee a notice that itemizes all fees, expenses, or charges incurred in connection with the claim after the bankruptcy case was filed, and that the holder asserts are recoverable against the debtor or against the debtor's principal residence. The notice shall be filed as a supplement to the holder's proof of claim and served no later than 180 days after the date when the fees, expenses, or charges are incurred. The notice shall not be subject to Rule 3001(f). On motion of the debtor or trustee filed no later than one year after service of the notice, the court shall, after notice and hearing, determine whether payment of the fees, expenses, or charges is required by the underlying agreement and applicable nonbankruptcy law to cure a default or maintain payments in accordance with §1322(b)(5) of the Code.

(d) Notice of Final Cure Payment

No later than 30 days after making final payment of any cure amount on a claim secured by a security interest in the debtor's principal residence, the trustee in a chapter 13 case shall file and serve upon the holder of the claim, the debtor, and debtor's counsel a notice stating that the amount required to cure the default has been paid in full. If the debtor contends that final cure payment has been made and the trustee does not timely file and serve the notice required by this subdivision, the debtor may file and serve upon the holder of the claim and the trustee a notice stating that the amount required to cure the default has been paid in full.

(e) Response to Notice of Final Cure Payment

No later than 21 days after service of the notice under subdivision (d) of this rule, the holder of a claim secured by a security interest in the debtor's principal residence shall file and serve on the debtor, debtor's counsel, and the trustee a statement indicating (1) whether it agrees that the debtor has paid in full the amount required to cure the default, and (2) whether, consistent with § 1322(b)(5) of the Code, the debtor is otherwise current on all payments. If applicable, the statement shall itemize any required cure or postpetition amounts that the holder contends remain unpaid as of the date of the statement. The statement shall be filed as a supplement to the holder's proof of claim and shall not be subject to Rule 3001(f).

(f) Motion and Hearing

On motion of the debtor or trustee filed no later than 21 days after service of the statement under subdivision (e) of this rule, the court shall, after notice and hearing, determine whether the debtor has cured the default and paid all required postpetition amounts in full.

(g) Failure to Notify

If the holder of a claim secured by a security interest in the debtor's principal residence fails to provide any information required by subdivision (a), (c), or (e) of this rule, the holder shall be precluded from presenting the omitted information, in any form, as evidence in any hearing or submission in any contested matter or adversary proceeding in the case, unless the court determines that the failure was substantially justified or is harmless. In addition to or in lieu of this sanction, the court may, after notice and hearing, award other appropriate relief, including reasonable expenses and attorney's fees caused by the failure.