

Rule 3070-1. Chapter 13 Payments.

(A) Commencement of Payments.

(1) Deadline to Commence. Payments to the chapter 13 trustee pursuant to the proposed plan, as may be amended, shall commence not later than 30 days after filing the petition. If the case was converted to a chapter 13 case, payments shall commence not later than 30 days after entry of the conversion order. Payments shall be made directly to the trustee in the manner prescribed by the trustee.

(2) Scope of Payments.

(a) Payments of personal property leases governed by 11 U.S.C. §1326(a)(1)(B), shall only be made directly by the debtor to the lessor if the debtor's plan so provides or if no plan provision addresses payment of the debtor's lease obligation. If the plan provides for payment of the lease obligation by the trustee, the debtor shall make the pre-confirmation lease payments to the chapter 13 trustee in accordance with the filed chapter 13 plan.

(b) Pre-confirmation adequate protection payments governed by 11 U.S.C. §1326(a)(1)(C), shall only be made directly by the debtor to the secured creditor if the debtor's plan so provides or if no plan provision addresses payment of the secured claim. If the plan provides for payment of the secured claim by the trustee, the debtor shall make the pre-confirmation payments to the chapter 13 trustee in accordance with the filed chapter 13 plan.

(3) Pre-confirmation Payments to be Held by Trustee. Unless otherwise ordered by the court, to facilitate the administration of chapter 13 cases, all pre-confirmation payments shall be held by the chapter 13 trustee pending confirmation, conversion or dismissal of the case and where applicable, Local Rules 1017-2(F) and 1019-1(D) shall apply.

(B) Post Confirmation Payment Changes or Charges.

(1) If an obligation of the debtor is secured by a lien on real property and (i) in the case of a loan, the loan documents provide for payment changes, including changes due to interest rate adjustments or escrow account adjustments or (ii) in the case of obligations owed to a condominium association or homeowner's association, the applicable documents provide for changes to annual assessments or for special assessments:

(a) no later than 30 days prior to any payment adjustment, the lender or lender's agent, or the association or the association's agent, shall file with the court and serve on the debtor and the debtor's attorney, the Local Form "Notice of Payment Change"; and

(b) no later than 30 days after service of the Local Form "Notice of Payment Change", the debtor shall file Local Form "Debtor's Response to Notice of Payment Change".

If the debtor fails to file the response, the debtor will be deemed to have accepted the payment change and the payment change will go into effect with the next payment due.

(2) If a secured creditor whose collateral has been retained by the debtor incurs attorney fees and costs after confirmation of the debtor's chapter 13 plan, which attorney fees and costs are payable by debtor under the terms of the loan documents or applicable association documents:

(a) the secured creditor shall file and serve on the debtor and the debtor's attorney, Local Form "Notice of Fees and Costs Incurred", no later than 30 days after such fees and costs are incurred; and

(b) no later than 30 days after service of the Local Form "Notice of Fees and Costs Incurred", the debtor shall file Local Form "Debtor's Response to Notice of Fees and Costs Incurred".

If the debtor fails to file the response, the debtor will be deemed to have accepted that the charges are owing, reasonable and non-dischargeable.

(3) If a secured creditor whose collateral has been retained by the debtor incurs fees and costs other than attorney fees and costs, after confirmation of the debtor's chapter 13 plan, which fees and costs are payable by debtor under the terms of the loan documents or applicable association documents:

(a) the secured creditor shall file and serve on the debtor and the debtor's attorney a detailed report of all such fees and costs, no less than annually, which report will include all such fees and costs charged during the prior calendar year; and

(b) no later than 30 days after service of such report, the debtor shall file Local Form "Debtor's Response to Notice of Fees and Costs Incurred".

If the debtor fails to file the response, the debtor will be deemed to have accepted that the charges are owing, reasonable and non-dischargeable.

(4) Any notices delivered in accordance with this local rule shall not be a violation of the automatic stay.

(5) If authorized pursuant to the applicable debtor's response, the chapter 13 trustee will be authorized to make payment changes consistent with the applicable notice without the formality of plan modification.

(C) Dismissal of Case for Failure to Timely Remit Payments.

(1) **Dismissal at the Meeting of Creditors.** If, at the meeting of creditors, the debtor is not current in plan payments under the plan as originally filed, the chapter 13 trustee is authorized by the court to docket in the case a virtual paperless entry titled "Trustee's Request for Entry of Order Dismissing Case" and the case may be dismissed

without further notice or hearing. Dismissal shall be with prejudice to the debtor filing any bankruptcy case for a period of 180 days from entry of the order of dismissal.

(2) Dismissal Subsequent to Confirmation.

(a) Notice of Delinquency. The trustee may, upon the debtor's failure to timely make any payment, serve a notice of delinquency upon the debtor and the debtor's attorney, along with a copy of this rule.

(b) Deadline to Cure Delinquency. The debtor shall have 45 days from the date of the notice of delinquency to make all payments due under the plan, including any payments that become due within the 45-day period. If applicable, the debtor may, within 14 days of the notice of delinquency, file a motion to modify the confirmed plan.

(c) Failure to Cure. If the debtor is not current in plan payments on the 45th day after the date of the notice of delinquency, the trustee shall file and serve a report of noncompliance and the case shall be dismissed without further notice or hearing, with prejudice to the debtors filing any bankruptcy proceeding for a period of 180 days from entry of the order of dismissal.

(D) Wage Deduction Orders - Deadline for Submission of Local Form. A debtor who is not self-employed must submit a proposed Local Form "Agreed Order to Employer to Deduct and Remit and for Related Matters" to the court prior to the meeting of creditors. The proposed order must be signed by the debtor and debtor's attorney. If the proposed order is submitted to the court in electronic format, the order must contain the actual imaged signature of the debtor. The attorney for the debtor, or clerk of court, if the debtor is

pro se, shall serve the order on the employer. If a wage deduction order has not been entered the court will conduct an evidentiary hearing to determine feasibility at the confirmation hearing. The court will not confirm a case without a wage deduction order in place, absent extenuating circumstances.

(E) Motion to Confirm Mortgage is Current.

- (1)** In any chapter 13 case where mortgage arrearage cure payments are being made through the chapter 13 plan, the debtor's attorney, if the debtor is represented by an attorney, shall, no later than 30 days after receipt of the "Trustee's Notice of Completion", file the Local Form "Motion to Deem Mortgage is Current".
- (2)** In any chapter 13 case where mortgage arrearage cure payments are being made through the chapter 13 plan and the debtor is pro se, the chapter 13 trustee shall file the Local Form "Trustee's Notice Regarding Mortgage Status" not later than 30 days after the issuance of the "Trustee's Notice of Plan Completion".
- (3)** If there is no dispute that the mortgage at issue is current as of the date set forth in the motion, then the court will enter the Local Form "Order Confirming Mortgage is Current".
- (4)** If there is a dispute whether the mortgage at issue is current as of the date set forth in the motion, the court will enter an order setting evidentiary hearing to resolve the dispute as to the mortgage status.

- (5) The mortgagee shall be served in accordance with Bankruptcy Rule 7004.