

**United States Bankruptcy Court  
Western District of Missouri**



**NOTICE OF AMENDMENTS TO LOCAL RULES AND FORMS RELATED TO  
HOME MORTGAGE MODIFICATIONS IN CHAPTER 13 CASES**

The United States Bankruptcy Court – Western District of Missouri herein posts two amendments to its Local Rules of Practice for public comment. Additionally, two Local Forms are created and one revised which support the rules. These amendments are based on an Attorney Advisory Group proposal to standardize the Chapter 13 process regarding home mortgage modifications.

1. The first amendment creates Local Rule 3082-1 related to home mortgage modifications in Chapter 13 cases. The proposed rule is attached at [page 2](#) below.
2. In addition, two Local Forms were created in support of Local Rule 3082-1.
  - a. Local Form MOW 3082-1.1 Motion to Approve Trial Home Mortgage Modification and Shorten Notice. The proposed form is attached at [page 4](#) below.
  - b. Local Form MOW 3082-1.2 Motion to Approve Permanent Home Mortgage Modification and Shorten Notice. The proposed form is attached at [page 6](#) below.
3. The second amendment revises Local Rule 2016-1F and Local Form MOW 2016-1.2 related to post-confirmation attorney fees in Chapter 13 cases. The proposed change allows “no look” fees in the amount of \$250.00 (no hearing) and \$350.00 (hearing required) when filing home mortgage modification motions. The proposed rule ([page 8](#)) and form ([page 10](#)) are attached below.

**Comments will be accepted through September 26, 2014**

*Please email questions or comments to:*

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**PROPOSED LOCAL RULE 3082-1 RELATED TO  
HOME MORTGAGE MODIFICATIONS IN CHAPTER 13 CASES**

**Rule 3082-1. Home Mortgage Modifications in Chapter 13 Cases**

- A. **Local Forms Required.** Unless otherwise ordered in advance by the Court, motions to enter into trial home mortgage modifications and motions to approve permanent home mortgage modifications shall use the approved Local Forms. This replaces the prior practice of plan amendments to address loan modifications. (See **Local Forms - MOW 3082-1.1 and MOW 3082-1.2**).
- B. **Objections.** Objections are due 7 days after a trial or permanent home mortgage modification motion is filed. If no response is filed within 7 days, the court will enter an order granting the motion.
- C. **Trial Home Mortgage Modification.** If the debtor successfully negotiates a trial home mortgage modification, a motion shall be filed in accordance with subsection A.
1. **Pay mortgage directly, or through trustee.** During the trial home mortgage modification period, the debtor may elect to either pay the mortgage directly to the creditor, or pay the mortgage through the Chapter 13 trustee from plan payments.
    - i. **Mortgage paid directly.**
      1. **Trustee to cease disbursement on arrearage records.** If the debtor elects to pay the mortgage directly, the Chapter 13 trustee shall cease all disbursement on any pre-petition mortgage arrearage claim, any post-petition mortgage arrearages, and the initial post-petition amount (IPA) claim upon entry of the order granting the motion.
      2. **Plan payment change.** If the debtor elects to pay the mortgage directly, the debtor may request a Chapter 13 plan payment change, which, once approved, will continue until further order of the Court.
    - ii. **Mortgage paid through trustee.**
      1. **Trustee to cease disbursement on arrearage records.** If the debtor elects to pay the mortgage through the Chapter 13 trustee from the plan payments during the trial period, the Chapter 13 trustee shall cease all disbursement on any pre-petition mortgage arrearage claim, any post-petition mortgage arrearages, and the initial post-petition amount (IPA) claim during the trial period or until the expiration of the 6 month period set forth in Paragraph 2 below. The trustee shall continue making the on-going mortgage payments at the amount specified in the trial loan modification motion until further order of court.
      2. **Plan payment change.** If the debtor elects to pay the mortgage through the Chapter 13 trustee from the plan payments during the trial period, the debtor may request a Chapter 13 plan payment change, which, once approved, will continue until further order of the Court.
  2. **Six months to finalize modification.** Absent Court order to the contrary, the debtor shall have 6 months to finalize the home mortgage modification.
    - i. **If agreement reached.** If a permanent home mortgage modification agreement is reached, the debtor shall file a motion set forth in subsection D.

- ii. **If agreement not reached.** If a permanent home mortgage modification agreement is not reached at the end of the 6 month period, or a motion set forth in subsection D is not filed, the Chapter 13 trustee shall file a motion, pursuant to Local Rule 3094-1C, to amend the Chapter 13 plan to pay the mortgage through the Chapter 13 trustee from the plan payments and increase the plan payment if merited.

D. **Permanent Home Mortgage Modification.** If the debtor successfully negotiates a permanent home mortgage modification, a motion shall be filed in accordance with subsection A.

- 1. **Pay modified mortgage directly, or through trustee.** If a permanent home mortgage modification agreement is reached, the debtor may elect to either pay the modified mortgage directly to the creditor, or pay the modified mortgage through the Chapter 13 trustee from plan payments.

- i. **Modified mortgage paid directly.**

- 1. **Plan payment change.** If the debtor elects to pay the modified mortgage directly, the debtor may request a Chapter 13 plan payment change, which, once approved, will continue until further order of the Court.
    - 2. **Trustee to cease disbursement.** If the debtor elects to pay the modified mortgage directly, the Chapter 13 trustee shall cease all disbursement on any pre-petition mortgage arrearage claim, any post-petition mortgage arrearages, and the initial post-petition amount (IPA) claim upon entry of the order granting the motion.

- ii. **Modified mortgage paid through trustee.**

- 1. **Plan payment change.** If the debtor elects to pay the modified mortgage through the Chapter 13 trustee from the plan payments, the debtor may request a Chapter 13 plan payment change, which, once approved, will continue until further order of the Court.
    - 2. **Post Loan Modification Amount.** If the debtor elects to pay the modified mortgage through the Chapter 13 trustee from the plan payments, the trustee will set up a Post Loan Modification Amount (PLMA) as a separate claim record and will provide for the first modified mortgage payment to be paid on a pro rata basis, as funds are available, until the modified mortgage payment is brought current. The PLMA will include a 5% increase to cover any late fees.

- 2. **Upon motion approval, trustee to reset mortgage claims.** Upon Court approval of the motion to approve permanent home mortgage modification, the Chapter 13 trustee shall reset the mortgage claim records in his case management database accordingly.

E. **Effects of Plan Payment Change.** Any order changing the plan payment shall not prohibit the Chapter 13 trustee from requesting amended schedules to support a lower plan payment or filing a motion to amend plan if merited.

F. **Continuing Payment of Additional Fees, Expenses and Charges.** This rule does not affect the payment of additional fees, expenses and charges filed in connection with a mortgage claim. Once allowed, these fees are set up by the Chapter 13 trustee as separate claim records that will continue to be paid absent objection and further order of the court pursuant to Local Rule 3094-1C(3)(e).

**Proposed MOW 3082-1.1**

**UNITED STATES BANKRUPTCY COURT  
WESTERN DISTRICT OF MISSOURI**

**IN RE:**

**DEBTOR**

**Debtor(s).**

)  
)  
) **CASE NO.**  
)  
)

**MOTION TO APPROVE TRIAL HOME MORTGAGE MODIFICATION  
AND SHORTEN NOTICE**

**COMES NOW** debtor(s), by and through his/her/their attorney, \_\_\_\_\_, and for his/her/their Motion state(s) as follows:

1. Debtor(s) filed his/her/their Chapter 13 petition/converted their case to Chapter 13 on \_\_\_\_\_.
2. Debtor(s) has/have a mortgage with \_\_\_\_\_.
3. Debtor(s) and \_\_\_\_\_ have entered into a trial loan modification.
4. Per the terms of the trial loan modification, the mortgage payment will be \$\_\_\_\_\_ for the months of \_\_\_\_\_, \_\_\_\_\_, and \_\_\_\_\_ 201\_. Thereafter, these payments will revert to the contract payment absent other agreement with the mortgagee and continue until further order of court.
5. Debtor(s) request(s) permission to enter into this trial loan modification.
6. The claim in favor of \_\_\_\_\_ shall be paid in the following manner (check one):
  - Debtor(s) further request(s) permission to make their on-going mortgage payments to \_\_\_\_\_ directly beginning with the first trial loan modification payment in \_\_\_\_\_ 201\_.
  - Debtor(s) further request(s) the mortgage payment to be paid by the trustee from the plan payments be changed to \$\_\_\_\_\_ due to the trial loan modification. This mortgage payment is effective with the \_\_\_\_\_, 201\_, mortgage payment.

7. Debtor(s) further request(s) this court order the trustee to stop all disbursement on the on-going mortgage claim if the debtor now is paying it directly. Further, the trustee shall stop all disbursement on any pre-petition mortgage arrearage claim, any post-petition mortgage arrearages, and the initial post-petition amount (IPA) claim.
8. (If applicable) Debtor(s) further request(s) the plan payment be changed to \$\_\_\_\_\_ due to the mortgage being paid directly. This new plan payment is effective as of \_\_\_\_\_, 201\_. This new plan payment will continue until further order of court.
9. Debtor(s) will provide the trustee with a copy of the final loan modification. If no final loan modification is provided to the trustee within six (6) months of this motion, the debtor(s) understands the plan will be amended, upon motion of the trustee, to pay the mortgage through the plan pursuant to Local Rule 3094-1C.
10. Debtor(s) request(s) this Honorable Court schedule the matter on the next available docket, or in the alternative, grant Debtor('s') request without a hearing after expiration of the notice period.

WHEREFORE, debtor(s) request(s) this Honorable Court enter an Order allowing debtor(s) to enter into a trial loan modification with \_\_\_\_\_ and pay the mortgage directly with the \_\_\_\_\_, 201\_ payment or through the plan at the new payment amount of \$\_\_\_\_\_ as specified in Paragraph 6 above. Further, debtor(s) requests(s) an Order directing the trustee to stop all disbursements on any pre-petition mortgage arrearage claim, any post-petition mortgage arrearages, the initial post-petition amount (IPA) claim, and the on-going mortgage claim if the debtor now is paying it directly during the trial period. If applicable, the plan payment shall be and changed to \$\_\_\_\_\_ effective \_\_\_\_\_, 201\_.

\_\_\_\_\_  
Date

\_\_\_\_\_  
Attorney for Debtor(s)

UNITED STATES BANKRUPTCY COURT  
WESTERN DISTRICT OF MISSOURI

IN RE: )  
 )  
DEBTOR ) CASE NO.  
 )  
Debtor(s). )

**MOTION TO APPROVE PERMANENT HOME MORTGAGE MODIFICATION**  
**AND SHORTEN NOTICE**

COMES NOW debtor(s), by and through his/her/their attorney, \_\_\_\_\_, and for his/her/their Motion state(s) as follows:

1. Debtor(s) filed his/her/their Chapter 13 petition/converted their case to Chapter 13 on \_\_\_\_\_.
2. Debtor(s) has/have a mortgage with \_\_\_\_\_.
3. Debtor(s) and \_\_\_\_\_ have entered into a permanent mortgage modification.
4. Per the terms of the permanent mortgage modification, the modification begins with the \_\_\_\_\_, 201\_, payment. The new mortgage payment is \$\_\_\_\_\_ each month, including escrow, with an interest rate of \_\_\_%.
5. The principal balance on the loan is \$\_\_\_\_\_.
6. The loan maturity date is \_\_\_\_\_, 20\_\_.
7. Debtor(s) request(s) this court approve the permanent mortgage modification and authorize the changes set forth below:
8. The claim in favor of \_\_\_\_\_ shall be paid in the following manner (check one):
  - Debtor(s) further request(s) permission to make their on-going mortgage payments to \_\_\_\_\_ directly beginning with the first modification payment in \_\_\_\_\_ 201\_. (If applicable) Debtor(s) further request(s) the plan payment be changed to \$\_\_\_\_\_. This new plan payment is effective as of \_\_\_\_\_, 201\_.

Debtor(s) further request(s) the mortgage payment to be paid through the plan be changed to \$\_\_\_\_\_ due to the permanent loan modification. This mortgage payment is effective with the \_\_\_\_\_, 201\_, mortgage payment. The trustee will set up the first monthly modified on-going mortgage payment as a Post-Petition Loan Modification Amount (PLMA) be paid pro-rata over the life of the case with a 5% increase, on that payment only, to account for any late fees.

9. Debtor(s) further request(s) this court order the trustee to stop all disbursement on the on-going mortgage claim if the debtor now is paying it directly. Further, the trustee shall stop all disbursement on any pre-petition mortgage arrearage claim, any post-petition mortgage arrearages, and the initial post-petition amount (IPA) claim.

10. (If applicable) Debtor(s) further request(s) the plan payment be changed to \$\_\_\_\_\_. This new plan payment is effective as of \_\_\_\_\_, 201\_.

11. The trustee will reset the mortgage claim records upon entry of an order granting this motion based on the changes set forth above.

12. Debtor(s) request(s) this Honorable Court schedule the matter on the next available docket, or in the alternative, grant Debtor('s') request without a hearing after the expiration of the notice period.

WHEREFORE, debtor(s) request(s) this Honorable Court enter an Order approving the permanent mortgage modification with \_\_\_\_\_ and allowing debtor(s) to pay the mortgage directly beginning with the \_\_\_\_\_, 201\_ payment or through the plan at the new payment amount of \$\_\_\_\_\_ as specified in Paragraph 8 above. If the mortgage is paid through the plan, the trustee is ordered to set up the first monthly modified on-going mortgage payment as a Post-Petition Loan Modification Amount (PLMA). Further, debtor(s) request(s) an Order directing the trustee to stop all disbursements on any pre-petition mortgage arrearage claim, any post-petition mortgage arrearages, the initial post-petition amount (IPA) claim, and the on-going mortgage claim if the debtor now is paying it directly. If applicable, the plan payment shall be changed to \$\_\_\_\_\_ effective \_\_\_\_\_, 201\_. Debtor(s) request the trustee to reset the mortgage claim records based on the changes set forth above.

\_\_\_\_\_  
Date

\_\_\_\_\_  
Attorney for Debtor(s)

**PROPOSED REVISED LOCAL RULE 2016-1F RELATED TO  
POST-CONFIRMATION ATTORNEY FEES IN CHAPTER 13 CASES**

**Rule 2016-1. Compensation for Services Rendered and Reimbursement of Expenses**

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**F. Post-Confirmation Attorney Fees in Chapter 13 Cases.** Additional attorney fees, if any, for post-confirmation services may be allowed according to the flat fee schedule set out in this rule. Any deviation from this schedule shall be by motion made to the Court, supported by detailed time and expense records.

Amendments to Schedules - \$150

Amendments to Schedules I & J with Business Attachments - \$200

Appearance at Hearing Due to Trustee's Request for Hearing Based on Debtor's Failure to Cooperate - \$125

Certificate of Service Regarding State Tax Returns - \$100

Defense of Motions for Relief from the Automatic Stay - \$350

Defense of Motions to Dismiss - \$200

Filing Proofs of Claim on behalf of creditors - \$125

Motions for Emergency Hearing - \$100

Motions for Payoff of Chapter 13 Plan - \$75

Motions for Relief from Stay (divorce) - \$200

Motions to Approve Settlement/Allow Use of Settlement - \$ 175

Motions to Approve Trial Home Mortgage Modification (no hearing) - \$250

Motions to Approve Trial Home Mortgage Modification (with hearing) - \$350

Motions to Approve Permanent Home Mortgage Modification (no hearing) - \$250

Motions to Approve Permanent Home Mortgage Modification (with hearing) - \$350

Motions to Avoid Lien or Avoid Judgment - \$200

Motions to Distribute Insurance Proceeds - \$125

Motions to Employ Counsel/Professional - \$ 175

Motions to Incur Additional Debt - \$150

Motions to Retain Tax Refund Greater than \$2,500 - \$150

Motions to Suspend or Abate Payments - \$200

Motions to Sell Property - \$200

Motions to Vacate or Set Aside Order - \$125

Objections to a Notice of Payment Change or a Notice of Fees, Expenses, and Charges (Local Rule 3094-1.C.3.) (no hearing) - \$250

Objections to a Notice of Payment Change or a Notice of Fees, Expenses, and Charges (Local Rule 3094-1.C.3.) (with hearing) - \$350

Objections to Proofs of Claim (no hearing) - \$125

Objections to Proofs of Claim (with hearing) - \$225

Obtaining Confirmation of Amended Plan - \$250

Review of a Notice of Payment Change or a Notice of Fees, Expenses, and Charges (Local Rule 3094-1.C.3. (without filing an objection) - \$50

Debtor's attorney may also request reimbursement for expenses, in addition to the above fee schedule, at the rate of up to \$0.25 per copy and any postage costs that debtor's attorney incurs. Debtor's attorney must include the number of copies, the postage rate, and the number of items mailed in the request for post-confirmation fees.

Debtor's attorney seeking payment of flat fees pursuant to this rule shall file with the court a motion **(See Local Form - MOW 2016-1.2)** identifying the services provided, and stating that the services are for post-confirmation work. Such motion shall be served on the debtor, the trustee, the United States Trustee, and parties who requested notice, with 21 days after service to object. Motions for post-confirmation fees in excess of \$1,000 must be noticed to all creditors pursuant to Local Rule 2016-1. If no objections are filed, the court may enter an order as to such fees without further hearing.

UNITED STATES BANKRUPTCY COURT  
WESTERN DISTRICT OF MISSOURI

IN RE: )  
 )  
DEBTOR ) CASE NO.  
 )  
Debtor(s). )

**MOTION FOR POST-CONFIRMATION FEES**

In accordance with Local Rule 2016-1E, attorney for debtor hereby requests additional compensation for services performed on behalf of the debtor(s).

- \_\_\_\_\_ Amendments to Schedules - \$150  
Date Amendments filed \_\_\_\_\_
- \_\_\_\_\_ Amendments to Schedules I & J with Business Attachments - \$200  
Date Amendments filed \_\_\_\_\_
- \_\_\_\_\_ Appearance at Hearing Due to Trustee’s Request for Hearing Based on Debtor’s Failure to Cooperate - \$125  
Date of Hearing \_\_\_\_\_
- \_\_\_\_\_ Certificate of Service Regarding State Tax Returns - \$100  
Date Certificate of Service filed \_\_\_\_\_
- \_\_\_\_\_ Defense of Motions for Relief from the Automatic Stay - \$350  
Date Response filed \_\_\_\_\_ Hearing Date \_\_\_\_\_
- \_\_\_\_\_ Defense of Motions to Dismiss - \$200  
Date Response filed \_\_\_\_\_
- \_\_\_\_\_ Filing Proofs of Claim on behalf of creditors - \$125  
Date Claim filed \_\_\_\_\_
- \_\_\_\_\_ Motions for Emergency Hearing - \$100  
Date Motion filed \_\_\_\_\_
- \_\_\_\_\_ Motions for Payoff of Chapter 13 Plan - \$75  
Date Motion filed \_\_\_\_\_
- \_\_\_\_\_ Motions for Relief from Stay (divorce) - \$200  
Date Motion filed \_\_\_\_\_
- \_\_\_\_\_ Motions to Approve Settlement/Allow Use of Settlement - \$ 175  
Date Motion filed \_\_\_\_\_ Hearing Date \_\_\_\_\_
- \_\_\_\_\_ Motions to Approve Trial Home Mortgage Modification (no hearing) - \$250  
Date Motion filed \_\_\_\_\_
- \_\_\_\_\_ Motions to Approve Trial Home Mortgage Modification (with hearing) - \$350  
Date Motion filed \_\_\_\_\_ Hearing Date \_\_\_\_\_
- \_\_\_\_\_ Motions to Approve Permanent Home Mortgage Modification (no hearing) - \$250  
Date Motion filed \_\_\_\_\_

Motions to Approve Permanent Home Mortgage Modification (with hearing) - \$350

Date Motion filed \_\_\_\_\_ Hearing Date \_\_\_\_\_

Motions to Avoid Lien or Avoid Judgment - \$200

Date Motion filed \_\_\_\_\_

Motions to Distribute Insurance Proceeds - \$125

Date Motion filed \_\_\_\_\_

Motions to Employ Counsel/Professional - \$ 175

Date Motion filed \_\_\_\_\_

Motions to Incur Additional Debt - \$150

Date Motion filed \_\_\_\_\_

Motions to Retain Tax Refund Greater than \$2,500 - \$150

Date Motion filed \_\_\_\_\_

Motions to Suspend or Abate Payments - \$200

Date Application/Motion filed \_\_\_\_\_ Hearing Date \_\_\_\_\_

Motions to Sell Property - \$200

Date Motion filed \_\_\_\_\_ Hearing Date \_\_\_\_\_

Motions to Vacate or Set Aside Order - \$125

Date Motion filed \_\_\_\_\_

Objections to a Notice of Payment Change or a Notice of Fees, Expenses, and Charges (Local Rule 3094-1.C.3.) (no hearing) - \$250

Date Objection Filed \_\_\_\_\_

Objections to a Notice of Payment Change or a Notice of Fees, Expenses, and Charges (Local Rule 3094-1.C.3.) (with hearing) - \$350

Date Objection Filed \_\_\_\_\_ Hearing Date \_\_\_\_\_

Objections to Proofs of Claim (no hearing) - \$125

Date Objection filed \_\_\_\_\_

Objections to Proofs of Claim (with hearing) - \$225

Date Objection filed \_\_\_\_\_ Hearing Date \_\_\_\_\_

Obtaining Confirmation of Amended Plan - \$250

Date Amendments filed \_\_\_\_\_

Review of a Notice of Payment Change or a Notice of Fees, Expenses, and Charges (Local Rule 3094-1.C.3. (without filing an objection) - \$50

Date Notice Filed \_\_\_\_\_

Copy Expenses (Number of Copies Multiplied by \$.25)

Document Copied \_\_\_\_\_

Postage Expenses (Postage Rate Multiplied by Number of Items Mailed)

Document Mailed \_\_\_\_\_

The services indicated above having been completed, additional compensation is hereby requested in the amount of \$\_\_\_\_\_, and expenses in the amount of \$\_\_\_\_\_.

**I hereby certify that the services referenced in this motion were actually provided after confirmation of the plan in this case.**

\_\_\_\_\_  
Date

\_\_\_\_\_  
Attorney for Debtor