

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



**2017 GENERAL ORDER AMENDING LOCAL RULE 3084-1**

For good cause shown, and pending revision to this Court's local rules, it is hereby ORDERED that Local Rule 3084-1 is amended to read:

**Rule 3084-1. Chapter 13 Proofs of Claim; Objections to Claims**

**A. Filing and Service.** Chapter 13 claims may be filed electronically with the Clerk either through the System or ePOC (link is on the Court's web site). Legible exhibits in support of the claim, if any, shall be properly redacted and filed in their entirety. Debtor's attorney and the Chapter 13 trustee will receive service by electronic means. If the debtor is pro se, the claim, with attachments, shall be served by the filing party conventionally, including any notice of transfer of claim, as required by Fed. R. Bankr. P. 3001(e).

**B. Claims Register.** The Court will maintain the claims register electronically.

**C. Classification.** Each claim must state whether it is a secured, priority unsecured, or an unsecured non-priority claim; or, what portion of the claim is secured, priority unsecured, or an unsecured non-priority claim. If a claim does not state whether it is secured, priority unsecured, or unsecured non-priority, the portion of the claim not identified as secured, priority unsecured, or unsecured non-priority claim will be deemed an unsecured non-priority claim. Unsecured priority claims shall provide the amount of the claim entitled to priority treatment and provide the Title 11 reference which entitles it to priority treatment. If the plan does not provide for the priority treatment and the statutory reference is not provided on the face of the claim for the alleged priority portion of the claim, the alleged priority portion of the claim shall be deemed allowed as an unsecured non-priority claim absent a timely written objection filed with the Court.

**D. Secured Claim.** A secured claim must state a fair market value for each item of collateral.

1. The debtor may request to value the collateral in the plan as authorized by Fed. R. Bankr. P. 3012(b). For non-governmental secured claims, the value listed in the plan controls even if the holder of the claim files a contrary proof of claim and regardless of whether an objection to the claim has been filed. For secured claims of governmental units, the

value of the collateral listed in a proof of claim filed in accordance with the Bankruptcy Rules controls over any contrary amount listed in the plan.

2. If the debtor does not request to value the collateral in the plan, the trustee will use the creditor's fair market value if the fair market value is clearly provided on the face of the proof of claim; if the creditor does not provide a fair market value on the face of the claim, then the trustee will use the value contained in the debtor's plan. If neither the proof of claim nor the plan states a value, the trustee shall use the value set out in the debtor's schedules. If neither the debtor nor the creditor has provided a fair market value, the trustee shall load the proof of claim as unsecured non-priority. Listing the amount of debt on the "secured" line of the claim or stating that the fair market value is more than the amount owed (or a similar statement) shall not constitute providing the fair market value. It is unnecessary for a governmental taxing entity to include a fair market value on the face of its claim when filing a secured claim; if a governmental taxing entity files a secured claim, it shall be deemed a secured claim absent a timely written objection filed with the Court. Pursuant to § 511, if the governmental taxing entity is entitled to interest (present value) on its secured claim, the governmental taxing entity shall provide the Chapter 13 trustee with the appropriate interest rate (discount rate) on its proof of claim, under applicable non-bankruptcy law. Absent such rate being provided to the trustee, the § 511 rate shall be deemed to be the "CHAPTER 13 RATE" applicable to the case at bar. See Local Rule 3084-1 G.

#### **E. Present Value on Secured Claims (other than claims secured by debtor's principal residence).**

Absent a Court order to the contrary, all filed and allowed secured claims entitled to present value will be paid present value at the "CHAPTER 13 RATE" (referenced below) unless the plan specifically provides for "zero" interest. Filed and allowed over-secured claimants shall receive their contract rate of interest, if provided on or with the proof of claim, from the date of the petition up to the date of confirmation. From the date of confirmation forward, filed and allowed over-secured claimants shall receive the posted "CHAPTER 13 RATE." If the contract rate is not provided on the face of the proof of claim, such a claimant will receive the posted "CHAPTER 13 RATE" from the date of the petition forward. An over-secured claim is one in which the fair market value of the collateral exceeds the total amount of the claim.

**F. Interest on Claims Secured by Debtor's Principal Residence.** Unless otherwise set forth in the Plan, a claim secured only by real estate which is the debtor's principal residence, shall receive its contract rate of interest on its arrearage claim, or on any claim which is being fully satisfied within the life of the plan from the date of the petition forward. Interest shall be paid at the specific rate provided in the plan. If the debtor does not want interest paid on the claim, then the plan must clearly provide for "zero" interest. If a specific interest rate is not provided in the plan or on the face of the proof of claim, and is not readily discernible from the Official Form 410A attached to the proof of claim, it will receive the posted "CHAPTER 13 RATE."

1. **Adjustable Rate Mortgage.** For adjustable rate mortgages, the trustee shall use the interest rate provided in the plan. If no specific rate is provided in the plan, the trustee shall use the appropriate posted "CHAPTER 13 RATE" unless the plan specifically provides for "zero" interest, in which case no interest shall be paid. If the plan does not specifically provide for "zero interest" and does not provide a specific interest rate, the trustee shall use the interest rate provided on the face of the proof of claim or on the Official Form 410A attached to the proof of claim if one is provided, rather than the appropriate posted "CHAPTER 13 RATE."

2. **Changes to Adjustable Rate.** If the adjustable rate changes, it is the responsibility of the debtor or the creditor to notify the trustee of the new interest rate so that the claim can be adjusted accordingly. The change shall be filed pursuant to Fed. R. Bankr. P. 3002.1(C).

#### **G. Chapter 13 Rate.**

1. **Calculation.** The posted "CHAPTER 13 RATE" shall be determined by the standing Chapter 13 trustee for the Western District of Missouri semi-annually as follows:
  - a. July 1 to December 31: For cases with the initial plan filed between July 1 and December 31, the interest rate shall be the 5 year treasury note rate as of the preceding June 1, plus 3% nominal interest rate per annum. The standing Chapter 13 trustee shall make the rate for the ensuing six-month period available to the Clerk of the Bankruptcy Court for posting for the first business day following June 10.
  - b. January 1 to June 30: For cases with the initial plan filed between January 1 and June 30, the interest rate shall be the 5 year treasury note rate as of the preceding December 1, plus 3% nominal interest per annum. The standing Chapter 13 trustee shall make the rate for the ensuing six-month period available to the Clerk of the Bankruptcy Court for posting for the first business day following December 10 of the preceding year.
2. **Duration.** The posted "CHAPTER 13 RATE" in effect at the time of filing of the initial plan shall remain in effect throughout the entire life of the case.
3. **Exception.** The posted "CHAPTER 13 RATE" is, absent evidence to the contrary, presumed to be the applicable rate. Parties may introduce evidence to determine what the applicable market rate of interest might otherwise be, on a case-by-case basis.

**H. Objections.** The debtor has a duty to file objections to claims. If a purpose would be served and the trustee, or any party in interest, has sufficient information, the trustee, or another party in interest, also may object to proofs of claim. Objections to proofs of claim must be served pursuant to Fed. R. Bankr. P. 3007, including on the debtor, if the debtor is pro se, and is not the objecting party. Objections shall reference the Court's claim register number rather than the trustee's payee record number.

**I. Claims Allowed.** All Chapter 13 claims will be allowed as filed absent timely objection. The trustee will pay claims according to the notice allowing claims, which is filed after the bar dates in Fed. R. Bankr. P. 3002 and the initial confirmation of a Chapter 13 plan. However, the finality of a notice allowing claim, or notice allowing additional, amended or adjusted claims does preclude any subsequent objection to a claim which could have been raised in an objection to confirmation. See Local Rule 3085-1.

**J. Claim Amount.** If the face of the filed proof of claim does not clearly state an amount owed, the trustee will load the payee record in the trustee's database as zero.

**K. Present Value and Interest Calculations.** Present value and interest calculations on claims being paid by the trustee shall be calculated on the unpaid principal balance based on a monthly interest calculation (unpaid principal balance times the discount/interest rate divided by 12).

**L. Equal Monthly Payments.** For creditors to whom the plan proposes to pay an Equal Monthly Amount (e.g. a specific monthly payment), the trustee shall only distribute, as funds are available, a full Equal Monthly Amount, or a multiple thereof, unless it is the final payment to be paid as a result of the dismissal of the case, or it is the final payment which satisfies the claim. This includes payments to attorneys who are being paid through the Chapter 13 trustee. However, if disbursements to payees receiving Equal Monthly Amounts are past due and additional funds are available for disbursement over and above the amounts needed to pay a multiple of the Equal Monthly Amount, the trustee may distribute more than a multiple of the Equal Monthly Amount to the current debtor's attorney until that attorney's monthly payments are current.

This General Order is **effective December 1, 2017** for all pending and new cases and shall remain in effect until further order or notice of this court.

/s/ Cynthia A. Norton  
Cynthia A. Norton, Chief Bankruptcy Judge

/s/ Dennis R. Dow  
Dennis R. Dow, Bankruptcy Judge

/s/ Brian T. Fenimore  
Brian T. Fenimore, Bankruptcy Judge

Kansas City, Missouri  
Dated: November 20, 2017