LOCAL RULES OF PRACTICE

UNITED STATES BANKRUPTCY COURT

WESTERN DISTRICT OF MISSOURI

ADOPTED: ~~October 4, 2019~~

EFFECTIVE: ~~**December 1, 2019**~~ **December 1, 2022**

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Note: This Table of Contents follows the Chapter outline and the rules numbering of the Federal Rules of Bankruptcy Procedure. There may, however, be gaps in the numbering system where there is no local rule related to a federal rule. For ease of reference, all local rules pertaining to Chapter 13 administration are assigned to Local Rules 3070 – 3096.

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Definitions

File:	Means "Electronic Case File" as records (with few exceptions) are maintained electronically rather than paper form. Electronic Case Files began on March 1, 2001 for all pending and new cases. Files for cases and documents filed prior to March 1 are still retained in paper form.
Filing (to file):	Means transmitting documents and cases electronically via the Internet using the Court-specified, password-protected web site.
Service:	Means "Electronic Service" via the Electronic Case Filing System (hereafter the ECF system). When a document is filed, attorneys who participate in the ECF system and who have entered their appearance or have filed a document in a case will receive service of the document electronically. Paper service is not needed for these participants.
Conventional Service:	Means service by mail. This is needed for parties who are not participating in the ECF system and for the complaint and summons in all adversary cases. Party filers determine who needs service of the document they file. The Court may direct parties to serve notices or orders.
Matrix:	A list of all creditors, interested parties, and any ex-spouses in the bankruptcy. The matrix is prepared as a text (.txt) file and uploaded into the ECF system.
PDF	All documents except the matrix are prepared in Portable Document Format (pdf). This is the only type of electronic file that can be filed in the ECF system.
Signature	Means "electronic typed signature" unless local rules require an imaged or electronically-captured signature. For all documents which require a signature, the name of the signer typed below the signature line combined with the filer's use of the login and password issued for the ECF system and an imaged or electronically-captured signature if required, shall constitute the signature of the filer for all purposes, including Fed. R. Bankr. P. 9011 and Local Rule 9011-1.
Verification (verified):	Means a sworn statement or an unsworn declaration of the debtor attesting to the accuracy of the information contained in all petitions, lists, schedules, statements and amendments thereto pursuant to Fed. R. Bankr. P. 1008.

PART I. COMMENCEMENT OF CASE; PROCEEDINGS RELATING TO PETITION

Rule 1001-1. Scope of Rules

A. Authority and Citation. These rules are adopted pursuant to Rule 9029 of the Federal Rules of Bankruptcy Procedure and General Orders of the District Court **(Appendix 1-1 and 1-2**) to govern the local practice and procedures before the United States Bankruptcy Court for the Western District of Missouri. These Rules may be amended or supplemented from time to time by additional orders as the Court deems necessary. Unless otherwise specified, all statutory references are to Title 11, United States Code.

B. Application. These Local Rules shall apply to all cases and proceedings in the United States Bankruptcy Court for the Western District of Missouri. The failure of a party to comply with these rules may result in a ruling adverse to that party, or the imposition of appropriate sanctions.

C. Effective Date. These Rules become effective on **December 1, ~~2019~~2022**. These Rules supersede all previous Rules or General Orders promulgated by this Court or by any Judge of the Court.

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D. District Court Rules. Certain provisions of the Local Rules of the U.S. District Court, Western District of Missouri have been incorporated in the Bankruptcy Local Rules. Additional District Court Local Rules may be applied in particular cases at the discretion of the judge.

E. Administrative Procedures Manual. The Clerk of Court will publish operating procedures for this Court in a procedures manual. The manual will contain local forms, guidelines and instructions incidental to these Rules. **(See Appendices 1-3, 1-4, 1-5 and 1-6).**

F. Website. The Clerk of Court will maintain Local Rules, Administrative Procedures Manual and local forms on the Official Court website at www.mow.uscourts.gov. **(See Appendix 1-3)**.

Rule 1002-2. Complex Chapter 11 Cases

A. Designation of a Complex Chapter 11 Case. A Complex Chapter 11 Case is defined as a case filed in the Western District of Missouri under chapter 11 of the Bankruptcy Code that requires special scheduling and other procedures because of a combination of one or more of the following factors:

1. The need for "first day" emergency hearings for consideration of the use of cash collateral, debtor-in-possession financing, and other matters vital to the survival of the business;
2. The size of the case (usually total debt of more than $5 million or more than $2 million in unsecured non-priority debt);

3. The large number of parties in interest in the case;
4. The fact that claims against the debtor and/or equity interests in the debtor are publicly traded (with some creditors possibly being represented by indenture trustees);
5. The need for simplification of noticing and hearing procedures to reduce delays and expense; or
6. Other similar factors.

B. Notice of Designation. If any party filing a chapter 11 bankruptcy petition believes that the case should be classified as a Complex Chapter 11 Case, the party shall file with the bankruptcy petition a Notice of Designation as Complex Chapter 11 Bankruptcy Case **(See Local Form-MOW 1002-2.1)**.

C. Initial Motions and Hearings. The judge who is assigned a Complex Chapter 11 Case shall use best efforts to arrange the judge's calendar so that the "first day" emergency hearings can be conducted as required by the circumstances, but not more than two (2) business days after the request for emergency "first day" hearings. In the event the assigned judge is unavailable, the Chief Judge and/or other members of the Court shall use best efforts to arrange for such hearings within such time period. Following are examples of recognized first day motions and applications:

1. Motion to Use Cash Collateral (interim hearing only);
2. Motion for Post-Petition Financing (interim hearing only);
3. Motion to Pay Pre-Petition Employee Wage Claims and Benefits (to the limit provided by § 507);
4. Motion for Joint Administration;
5. Motion to Limit/Set Notice Procedures;
6. Motion to Provide Adequate Assurance to Utilities;
7. Motion to Allow Debtor to Serve Notice of Creditors' Meeting;
8. Motion to Pay Pre-Petition Trust Fund Taxes;
9. Motion to Honor Pre-Petition Obligations to Customers (to the limit provided by § 507);
10. Motion to vary U.S. Trustee's requirements, such as Motion to Authorize Maintenance of Existing Bank Accounts, Existing Business Forms, Cash Management System, Investment Procedures, etc.;
11. Motion Directing Banks to Honor Pre-Petition Checks;
12. Motion to Reject Leases and Contracts;
13. Application for Temporary Restraining Order filed in connection with an Adversary Proceeding;
14. Motion to Allow Debtor to Pay Certain Pre-Petition Trade Claims; and
15. Motion to Approve Bid Procedures Regarding Sale of Assets.

D. The Clerk's Responsibility. When a party has filed a Chapter 11 case and filed a Notice of Designation as Complex Chapter 11 Bankruptcy Case **(See Local Form - MOW 1002-2.1)**, the clerk shall:

1. Immediately confer with the assigned judge about setting hearings on any emergency motions and about issuing the Initial Order **(See Local Form - MOW 1002-2.2)**; and

2. If the assigned judge determines that the case does not qualify as a Complex Chapter 11 Case, the assigned judge shall issue an Initial Order Denying Complex Case Treatment. If the assigned judge determines that the case appears to be a Complex Chapter 11 Case, the assigned judge shall issue an Initial Order for Complex Business Bankruptcy Case.

Rule 1002-3. Filings and Other Duties in Certain ~~Small Business~~ Cases.

A. Applicability of Rule. This rule applies in small business cases as defined by § 101(51C) and in cases filed under Subchapter V of Chapter 11.

B. Duties of Debtors in Small Business Cases and Cases Under Subchapter V.

1. Required Filings. In addition to making any other required filings, a debtor in possession or trustee in a small business case or case under Subchapter V must file with the petition the additional documents or statements required by § 1116(1). In order to preserve the confidentiality of the federal income tax return required to be filed, the filer shall use the ECF event *Federal Tax Return*. This is a private entry in the court file and the attached document cannot be viewed by the public.

2. Other Duties. In addition to making any other required filings, or taking any other required actions, a debtor in possession or trustee in such a case shall make the filing and perform the requirements of § 1116(2) through (7)~~. A debtor in possession or trustee~~ and shall cooperate with the United States Trustee in connection with the responsibilities of the United States Trustee under 28 U.S.C. § 586(a)(7).

3. Order on Preliminary Matters. The Court will enter an Order on Preliminary Matters in each small business case and case under Subchapter V. A debtor in possession or trustee in such a case shall perform all duties required by the Court's Order on Preliminary Matters. **(See Local Form - MOW 1002-3.1 and Local Form – MOW 1002-3.2 for Cases Under Subchapter V)**

C. Periodic Reporting. In compliance with the periodic reporting requirements contained in § 308, each ~~small business~~ such debtor shall file on or before the ~~20th~~ 21st day of each month a [Small Business] Monthly Operating Report utilizing Official Form 425C. The report shall contain information based upon the operations of the business for the month prior to the month in which the report is filed. This report is in lieu of the report required by Local Rule 2015-2C.

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Rule 1007-1. Lists, Schedules, Statements and Other Documents

A. Filing. Initial pleadings **(Appendix 1-6)** shall consist of:

1. Signed voluntary petition.
2. Schedules A/B, C, D, E/F, G, H, I, J, summary of assets and liabilities and statistics information.
3. Statement of financial affairs.
4. Statement of intention in a chapter 7 case.
5. For individual debtors: Sstatement of current monthly income.
6. Debtor's evidence of employer payments for past 60 days or the affidavit required by subpart B. of this Rule. **(See Local Form - MOW 1007-1.2)**
7. Disclosure of compensation to counsel.
8. Mailing matrix (see **Appendix 1-7** for instructions) with Verification.
9. For individual debtors: certificate of credit counseling, or a certification of exigent circumstances, or a motion for waiver.
10. For pro se petitioners: Notice to individual consumer debtors under § 342(b).
11. For pro se petitioners: Statement of Social Security Number.
12. For chapter 7 business debtors: Statement of Chapter 7 Business Operations. **(See Local Form - MOW 1007-1.4)**
13. For chapter 11 and 12 business debtors or individual debtors operating a business: Local Rule 2015-2A and B statements.
14. For corporate debtors: corporate ownership statement containing the information described in Fed. R. Bankr. P. 7007.1. **(See Local Form - MOW 1007-1.1/7007.1-1.1)**
15. For represented debtors: an entry on the court docket regarding the Rights and Responsibilities Agreement **(See Local Forms 2016-1.3 and 2016-1.4).**
16. For represented debtors: Declaration Re: Electronic Filing **(See Local Form 1007-1.3).**

B. Debtor's Evidence of Employer Payments for 60 days prior to filing of petition.

1. **Employer Payments Received.** If employer payments were received, paystubs for the full 60 day pay period prior to filing of the petition must be filed unless otherwise ordered by the court. **(See Local Form - MOW 1007-1.2)**

2. **No Employer Payments or Partial Employer Payments Received.** If the debtor did not receive payments from any employer for the 60 days prior to filing the petition (or some portion of that period), a sworn statement to that effect signed by the debtor shall be filed with the petition. If partial employer payments were received, any paystubs within the 60 day pay period prior to filing of the petition must be filed unless otherwise ordered by the court. **(See Local Form - MOW 1007-1.2)**

3. **Self-Employed Debtor.** If the debtor was self-employed for the 60 days prior to filing the petition (or some portion of that period) a sworn statement to that effect signed by the debtor must be filed with the petition. The statement must show the amount

of net income received by the debtor in the 60 days prior to filing the petition, itemized to show how the amount is calculated. **(See Local Form - MOW 1007-1.2)**

C. Service on United States Attorney. If the United States, or any agency or department of the United States, is a creditor, on the day of filing debtor shall serve the United States Attorney with the petition and initial pleadings, and all subsequent schedules.

D. Declaration Re: Electronic Filing. The attorney for the debtor shall file an image of the originally executed "Declaration Re: Electronic Filing" **(See Local Form - MOW 1007-1.3)** on the day the petition is filed. This document shall contain an image of an original document signed by the debtor(s) or an image with the debtor'(s) signature captured electronically at the time of document generation and shall contain the full social security number of the debtor(s).
It is maintained as a private entry in the court file and cannot be viewed by the public.

E. Statement of Chapter 7 Business Operations. In a Chapter 7 business case, a statement as to whether or not any related business continues to operate, and the name, current address and telephone number of the Chief Operating Officer or other contact person shall be filed in substantial conformance with the Local Form. **(See Local Form - MOW 1007-1.4)**. Upon appointment of the interim trustee, the attorney for the debtor shall immediately notify said trustee by fax of the operating business.

F. Mailing Matrix. Debtor shall submit a verified master mailing matrix with the names and addresses of all creditors and interested parties, but not debtor or debtor's attorney. The Clerk adds to each case the Missouri Department of Revenue and trustee. If the United States is a creditor, debtor shall also add the United States Attorney to the matrix in addition to the creditor government agency. The Court may also require that a matrix with a large number of names be submitted in a format prescribed by the Court. If the mailing matrix is omitted from the initial documents or is in an incorrect format, a new verified mailing matrix must be submitted within two days from the date of filing of the case or the case may be dismissed. **Appendix 1-9** contains a list of standard addresses of government agencies.

The matrix filed with the court shall include the address last provided by the creditor to the debtor. If the creditor has a preferred address on file with the courts pursuant to §342 (e) or (f), the preferred address will be substituted on any notice mailed by the court and on the mailing matrix produced through the court's ECF system.

G. Involuntary Case. Within 14 days after the order for relief in an involuntary case, debtor shall submit a matrix. Debtor shall file schedules and other required initial items within 14 days after the order for relief, unless another party is ordered to do so.

Rule 1009-1. Lists and Schedules Not Filed with the Petition and Amendments to Lists and Schedules

A. Verification. Any schedules, statements or lists not filed with the petition and amendments to schedules, statements or lists filed with the Court must be accompanied by a

debtor verification **(See Local Form - MOW 1009-1.1)**. The debtor verification filed by the attorney for the debtor(s) shall be filed as a separate document and shall contain the image of the original signature of the debtor(s) or an image with the debtor'(s) signature captured electronically at the time of document generation.

B. Service and Notice. Debtor must serve amendments to schedules, matrices and statements of affairs on affected entities, the United States Trustee, and the trustee in the case in time to comply with applicable provisions of §523(a)(3), with a Notice **(See Local Form - MOW 1009-1.3 for the Notice)** as follows:

1. For each affected entity, the name and address, amount owed, and date the debt was incurred;
2. The name and address of debtor's counsel and the trustee;
3. The bar date for filing claims, or a statement that no date has been set, or that it is a no-asset case and claims need not be filed. If the time has passed, or will pass within 30 days, and creditors without knowledge of the bankruptcy are added, they have 30 days after service of the notice to file claims; and
4. The deadline for filing § 523 and § 727 complaints. If the time has passed, or will pass within 30 days, and creditors without knowledge of the bankruptcy are added, they have 30 days after service of the notice to file complaints.

C. Amended Matrix. Amended matrices shall list only additional creditors.

D. Format for Amended Schedule C. Exempt Property.
Any amendment to Schedule C must restate in full all claimed exemptions. All changes to previous exemptions contained in an amended Schedule C must be identified or footnoted on the amended schedule. If the debtor fails to meet either or both of these requirements, the debtor shall be deemed to have failed to meet the notice requirement for amended schedules under Fed. R. Bankr. P. 1009.

Rule 1015-1. Joint Administration

In all joint petitions filed with the Court, the case will be administered through joint administration of the estates without further Court order unless the trustee or other interested party files an objection to joint administration within 14 days after the conclusion of the first meeting of creditors. Pursuant to § 302, a joint petition can only be commenced by the filing of a single petition which includes both debtors. A petition filed by an individual debtor may not be amended at a later time to add a spouse as a debtor.

Rule 1016-1. Death of Debtor

If a debtor passes away during the pendency of a case, the debtor's attorney of record shall file a suggestion of death with the court within 30 days of debtor's attorney learning of the death of the debtor. The suggestion should provide the debtor's name and date of death but should not include the death certificate due to privacy considerations. In pro se cases, a trustee or attorney who becomes aware of the debtor's death may file a suggestion of death. Any relief related to the death of a debtor must be requested by separate motion.

Rule 1017-1. Dismissal or Conversion of Case; Reinstatement or Reopening of Dismissed Case

A. Dismissal. A debtor's motion to dismiss a Chapter 7 or 11 voluntary case, or a petitioning creditor's motion to dismiss an involuntary case, shall state the reason for requesting dismissal and shall disclose any agreement involving the debtor, any creditor, or other party in connection with the motion or the case. The moving party shall file and serve on all creditors a notice allowing creditors and interested parties 21 days in which to file an objection to the motion to dismiss. If no timely objection is filed to the motion, the Court may dismiss the case without further notice or hearing.

B. Fees. Dismissal may be conditioned on payment of expenses and fees, including quarterly fees due the United States Trustee.

C. Conversion. A debtor's motion to convert from one chapter to another chapter of the Bankruptcy Code shall be in writing, state with particularity the reason for conversion, state whether the case has been previously converted, and be served on the trustee, if any, United States Trustee, parties requesting notice, and any committee. The debtor shall file and serve a notice of the motion in accordance with Fed. R. Bankr. P. 2002(a)(4).

The notice shall advise as follows:

1. Creditors and interested parties have 21 days from the date of service of the notice to file an objection;
2. If no objection is filed, the Court may enter an order converting the case without further notice or hearing; and
3. If an objection is filed, a hearing will be scheduled by the Court upon separate notice.

D. When Conversion Procedure Applicable. The procedure set forth in Section C shall apply to the following motions:

1. Debtor's motion to convert a case under chapter 7 to a case under chapter 11, 12, or 13;

2. Debtor's motion to convert a case under chapter 11 to a case under chapter 7, 12, or 13;
3. Debtor's motion to convert a case under chapter 12 to a case under chapter 11 or 13; and
4. Debtor's motion to convert a case under chapter 13 to a case under chapter 11 or 12.

E. Debtor's Motion to Vacate Dismissal and Reinstate/Reopen Case; Debtor's Motion to Reopen. If the debtor seeks to reinstate or reopen a case that has been dismissed, the debtor must file a motion to vacate the order of dismissal and to reinstate or reopen the case **(See Local Forms MOW 1017-1.1 and 1.2),** which shall include the debtor's waiver of the debtor's right to object on the grounds of timeliness to complaints, motions, and proofs of claim filed pursuant to Fed. R. Bankr. P. 4004(a), 4004(c), 1017(e), and 3002(c). If less than thirty days remains, or if the deadline to file complaints, motions, or proofs of claim pursuant to Fed. R. Bankr. P. 4004(a), 4004(c), 1017(e), and 3002(c) expired on or after the date the case was dismissed, the applicable deadline is extended sixty days from the new date set for the meeting of creditors. If a dismissed case has been closed, debtor's motion to reopen the case to vacate an order dismissing a case shall be accompanied by the applicable fee. If the meeting of creditors was already held, the proof of claim deadline will be set sixty days from the date of reinstatement.

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Movant shall serve the motion, with a notice that recipients have 21 days to object, on the trustee, if any, United States Trustee, and all creditors and interested parties. If the dismissal was due to missing documents or fees, those missing documents must be filed and fees paid at the same time as the motion is filed.

Rule 1019-1. Conversion - Amended Schedules Required

In a chapter 7 case that has been converted from another chapter, and unless ordered otherwise, the debtor shall, not later than fourteen (14) days after the date of the order of conversion, file verified schedules and a statement of financial affairs reflecting information correct as of the date of the notice or order of conversion.

Rule 1073-1. Assignment of Cases

A. Jurisdiction. Judges of this Court have concurrent jurisdiction. When necessary or desirable, one judge may act in a case assigned to another judge.

B. Assignment. Cases shall be assigned to judges based on the county in which debtor's domicile, residence, principal place of business, or principal assets were located for the greater part of the 180-day period preceding commencement of the case as follows:

1. **Division 3 (Judge Norton**): Cedar, Christian, Dade, Dallas, Douglas, Greene, Howell, Laclede, Oregon, Ozark, Polk, Pulaski, Taney, Texas, Webster, and Wright;

2. **Division 2 (Judge Dow)**: Benton, Boone, Callaway, Camden, Cole, Cooper, Hickory, Howard, Miller, Moniteau, Morgan, Osage, and Pettis;

3. **Division 1 (Judge Fenimore)**: Andrew, Atchison, Barton, Barry, Buchanan, Caldwell, Clinton, Daviess, DeKalb, Gentry, Grundy, Harrison, Holt, Jasper, Lawrence, Livingston, McDonald, Mercer, Newton, Nodaway, Platte, Putnam, Stone, Sullivan, Vernon, and Worth;

4. **Random Assignment**: Bates, Carroll, Cass, Clay, Henry, Jackson, Johnson, Lafayette, Ray, Saint Clair, and Saline shall be randomly assigned to all judges presiding in this Court.

C. Case After Prior Case. A case filed for a debtor who has had a prior case in this District will be assigned to the judge or division where the prior case was last assigned if the new case is filed within a year after the date the prior case was closed or dismissed or debtor discharged, whichever occurred later.

D. Related Cases. Other related cases, whether filed simultaneously or over a period of time, shall be assigned in accordance with Section B above and, if appropriate, transferred to a single judge as provided below.

E. Transfer. Bankruptcy cases and proceedings may be transferred from the judge to whom the matter was originally assigned to any other judge of this Court. Transfer of a case or proceeding may be granted sua sponte by the Chief Judge or upon motion of any party or of the transferor judge, for good cause appearing, and with the consent of the transferee judge. Cause to transfer may include, but is not limited to, convenience of the parties or witnesses, and in the interest of justice; convenience of counsel alone is not sufficient cause.

F. Recusal. In the event a judge recuses from a case, that case shall be randomly assigned to another judge, provided that cases outside the Kansas City Division shall be reassigned to the judge holding court closest to the division to which the case was originally assigned.

G. Jointly Administered or Consolidated Cases. Cases that are jointly administered under Fed. R. Bankr. P. 1015 or otherwise consolidated pursuant to order, if assigned to different judges, shall be transferred to the judge with the lowest numbered case.

H. Platte County. Cases filed for Platte County residents in the St. Joseph Division will be automatically transferred to Kansas City on debtor's motion if a motion is filed with the petition, served on the U.S. Trustee, and states that debtor resides in Platte City or Platte County south of ~~U.S. Highway~~ Missouri Route 92. A motion for transfer not meeting the above criteria must be served on all creditors and other parties in interest. If the debtor fails to file the motion to transfer with the petition, such motion will not be considered prior to the § 341 meeting of creditors.

I. Stone County. Cases filed for Stone County residents in the Southwestern Division will be automatically transferred to the Southern Division on debtor's motion if a motion is filed with

the petition, served on the U.S. Trustee, and states that debtor resides in Stone County and resides geographically closer to Springfield than Carthage. A motion for transfer not meeting the above criteria must be served on all creditors and other parties in interest. If the debtor fails to file the motion to transfer with the petition, such motion will not be considered prior to the § 341 meeting of creditors.

PART II. ADMINISTRATION

Rule 2002-1. Notice to Creditors and Other Interested Parties

Except as set forth in the next sentence or u~~U~~nless otherwise ordered, pursuant to Fed. R. Bankr. P. 2002 notice shall be given as follows to **all creditors and parties in interest**~~.~~ in the manner set forth in Paragraphs A and B of this rule. Limited notice under the circumstances and to the extent authorized by Fed. R. Bankr. P. 2002(h) shall apply in all chapter 7, 12, and 13 cases.

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A. To be served by the Clerk. The Clerk or the Court's noticing agent shall serve the following notices:

1. Order for relief and § 341 meeting of creditors;
2. Order for dismissal or conversion to another chapter;
3. The deadline for filing proofs of claim in all chapters and the deadline for filing claims against a surplus in an estate;
4. The deadline for filing § 727 discharge and § 523 dischargeability complaints;
5. Waiver, denial or revocation of a discharge.

B. To be served by the movant. The movant, or some other person as the court may direct, shall serve the following notices:

1. Application for compensation and/or expenses over $1000.00;
2. Hearing on approval of a compromise or settlement of a controversy, unless the Court for cause waives notice;
3. Hearing on proposed sale of all or substantially all of debtor's assets;
4. Proposed use, sale or lease of property of the estate other than in the ordinary course of business;
5. Objection deadline or notice of hearing on dismissal or conversion to another chapter;
6. Motions to borrow or to suspend payments with a 21-day objection deadline to creditors;
7. Time to file objections to and hearing on approval of disclosure statement or to make a final determination under §1125(f) as to whether the plan provides adequate information so that a separate disclosure statement is not necessary;
8. Time for voting on, filing objections to, and conducting hearing on confirmation of a Chapter 11 plan;

9. Time for filing objections to and conducting hearing on confirmation of a Chapter 12 plan; and
10. Entry of confirmation order of a Chapter 11 or 12 plan.
11. Notice of Petition for Recognition and Notice of Court's Intention to Communicate with Foreign Courts and Foreign Representatives pursuant to relief sought under Chapter 15.

C. Preferred Creditor Addresses. An attorney required to serve a notice or order on behalf of the court must access the correct creditor addresses through the creditor mailing matrix maintained by the bankruptcy court. This list will include all addresses which have been provided by creditors under §342(e) and (f). An attorney accesses the court mailing matrix through the ECF system.

Rule 2002-2. Notice to the United States or Federal Agency

A. Notice to United States Trustee. The moving party shall serve by e-mail to the United States Trustee all notices relating to the following matters listed in Fed. R. Bankr. P. 9034:

1. the proposed use, sale, or lease of property of the estate if not in the ordinary course of business;
2. approval of a compromise or settlement of a controversy;
3. proposed case terminations, including a report of no distribution, final report or account, dismissal, and conversion;
4. employment of professional persons;
5. compensation or reimbursement of expenses; and
6. objection to or waiver of revocation of a debtor's discharge.

B. Emergency Matters. The moving party shall give telephone notice of an emergency motion or hearing to the United States Trustee immediately upon receiving the date and time of the hearing from the Court. This requirement does not apply to Chapter 13 matters or to emergency motions for imposition or continuation of the automatic stay in Chapter 7 cases.

C. Government Parties. The Clerk inserts in each matrix the Missouri Department of Revenue and trustee. If the United States is a creditor, debtor and other parties shall add the United States Attorney, in addition to the creditor government agency, to lists for service on all creditors. **(See Appendix 1-9)**

D. Educational Loans - Service on United States Attorney. If the United States made or guaranteed an educational loan, debtor shall serve a copy of the summons and complaint under § 523(a)(8), pursuant to Fed. R. Bankr. P. 7004, on the United States Attorney in Kansas City, the Attorney General in Washington, D.C., and on the appropriate agency. **(See Appendix 1-9)**

Rule 2002-3 Returned Notices

A. Returned Mail. Notices under 2002-1A returned to the court with no forwarding address will become part of the court file.

B. Returned E-mail. Attorneys are responsible for maintaining a current e-mail address with the court.

Rule 2004-1. Examinations

A. Scheduling by Notice. Fed. R. Bankr. P. 2004 examinations may be scheduled without motion or order, by filing and serving on the party a notice as in scheduling depositions pursuant to Fed. R. Civ. P. 30(b), or by agreement. The Court encourages use of this procedure.

B. Objection to Notice. An objection to examination pursuant to notice must be filed within 7 days.

C. Disputes. The Court will not entertain motions on disputes until parties have complied with the procedure in Local Rule 7026-1.

D. Ex Parte Motion. Motions for Rule 2004 examinations may be granted ex parte. Upon objection, the Court may modify an order.

E. Videotape. Examinations may be videotaped pursuant to Fed. R. Bankr. P. 7030.

Rule 2007.1-1 Appointment or Election of Trustee or Examiner in a Chapter 11 Reorganization Case

A. Request for an Election. A request to convene a meeting of creditors for the purpose of electing a trustee in a Chapter 11 reorganization case shall be filed and transmitted to the United States Trustee in accordance with Fed. R. Bankr. P. 5005 within the time prescribed by § 1104(b) of the Bankruptcy Code. Pending Court approval of the person elected, a person appointed trustee under § 1104(d) shall serve as trustee.

B. Manner of Election and Notice. An election of a trustee under § 1104(b) of the Code shall be conducted in the manner provided in Fed. R. Bankr. P. 2003(b)(3) and 2006. Notice of the meeting of creditors convened under § 1104(b) shall be given in the manner and within the time provided for notices under Fed. R. Bankr. P. 2002(a). A proxy for the purpose of voting in the election may be solicited by a committee appointed under § 1102 of the Code and by any other party entitled to solicit a proxy under Fed. R. Bankr. P. 2006.

C. Application for Approval of Appointment and Resolution of Disputes. If it is not necessary to resolve a dispute regarding the election of the trustee or if all disputes have been resolved by the Court, the United States Trustee shall promptly appoint the person elected to be trustee and file an application for approval of the appointment of the elected person under Fed. R. Bankr. P. 2007.1(b), except that the application does not have to contain names of

parties in interest with whom the United States Trustee has consulted. If it is necessary to resolve a dispute regarding the election, the United States Trustee shall promptly file a report informing the Court of the dispute. If no motion for the resolution of the dispute is filed within 14 days after the date of the creditors' meeting called under § 1104(b), a person appointed by the United States Trustee in accordance with § 1104(d) of the Code and approved in accordance with Fed. R. Bankr. P. 2007.1(b) shall serve as trustee.

Rule 2015-2. Debtor In Possession Duties

A. Statement. A debtor in possession that plans to operate a business shall file with the petition a statement as follows:

1. Whether a trustee or creditors committee was appointed in a prior bankruptcy case and, if so, their names and addresses;
2. Nature and status of each action or proceeding pending or threatened against debtor or his property, where a judgment against debtor or seizure of his property may be imminent;
3. All of debtor's property in possession or custody of a public officer, receiver, trustee, assignee for the benefit of creditors, mortgagee, pledgee, or assignee of rents; names and addresses of such persons; the court in which proceedings are pending; and the status of proceedings;
4. Whether debtor is occupying premises under a lease; if so, the length of term, rent reserved, amount owing for rent, and status of any negotiations for modification of the lease and with whom;
5. Name and address of each utility providing service to debtor. Debtor shall serve a copy of the petition on each utility and certify service in the statement required herein.

B. Operating Statement. Debtor shall file with the petition a projected operating statement with the following information for the 30-day period following filing of the petition:

1. Estimated gross revenue;
2. Estimated weekly payroll to employees;
3. Estimated operating expenses not including payroll to employees; and
4. Expected gain or loss.

C. Reports to the Court. Debtor shall file with the Court via ECF, on or before the ~~20th~~ 21st day of each month, a monthly ~~operating report summary. **(See Local Forms - MOW 2015-2.1)**~~ report of operation on the form provided by the United States Trustee. Relief from the duty to provide reports or information may be sought by motion.

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~~**D. Reports to the United States Trustee.** Debtor shall submit to the United States Trustee monthly reports of operation on the form provided by the United States Trustee and shall~~

~~provide such other information as the United States Trustee may reasonably require. Relief from the duty to provide reports or information may be sought by motion.~~

D~~E~~. Chapter 13 Cases. Chapter 13 debtors who operate a business during the pendency of the Chapter 13 are required to file reports as set out in Local Rule 3071-1.

E~~F~~. Failure to File Reports Cause for Dismissal or Conversion. Failure to file the reports required under Sections C, D or E is cause for dismissal of the case or conversion to chapter 7 under §1112(b), §1208, §1307 or other applicable law.

Rule 2015-6. Authorized Depositories

A. Required Accounts. A debtor-in-possession or trustee which operates a business shall immediately deposit funds then held or thereafter received in a depository authorized by the United States Trustee. Accounts must not exceed the insured or collateralized limits of the financial institution. Funds shall be segregated into at least two accounts, as follows:

> **1. Tax account.** This account shall include all funds received or collected for the United States, any state or political subdivision for sales, withholding, social security, or other taxes or contributions.
>
> **2. General debtor-in-possession account**. This account shall be established as set out in the United States Trustee guidelines for Chapter 11 debtors.

B. Additional Accounts. Additional accounts may be opened as appropriate, such as: cash collateral account, if a creditor has an interest in cash collateral pursuant to § 363(a), into which funds must be deposited and which funds cannot be used without order of the Court or agreement of the creditor; payroll account if there are employees; and household account.

Rule 2016-1. Debtor's Attorney's Fee Agreements in Chapter 7 Cases.

A. Disclosure & Service; Rights and Responsibilities Agreement. All attorneys representing debtors in Chapter 7 cases shall comply with the disclosure and service requirements of 11 U.S.C. § 329 and Fed .R. Bankr. P. 2016(b) and shall certify that the Rights & Responsibilities Agreement (Local Form MOW 2016-1.3) has been executed, unless such certification is excused pursuant to court order.

B. "No Look" Fee; Application to Approve Not Required. If the debtor's attorney's total attorney fee for a Chapter 7 case is a flat fee of ~~$3,600~~ $4,100 or less in a below median family income case or of ~~$4,100~~ $4,600or less in an above median income case, it is unnecessary for the attorney to file a separate application to approve the fee agreement.

C. Fees Exceeding the No Look Fee or Other Fee Agreements. In all other situations, including when the attorney represents the debtor for other than the filing of the Chapter 7 case, the attorney shall (subject to Missouri Rule Prof. Conduct 4-1.15) deposit any retainer whether received from the debtor or any other source in the trust account pending further court

order and shall promptly file an application to approve the terms of the agreement. The application shall include sufficient information to allow the Court's review of the reasonableness of any retainers, payments, fees, or fee agreements pursuant to § 329 and Fed. R. Bankr. P. 2017. The Court presumes that the services required under the Rights and Responsibilities Agreement are necessary for the representation of the debtor in a Chapter 7 case and presumes that the "No Look Fee" is a reasonable fee to compensate the attorney for those services, and agreements to exclude services or to charge fees in excess of the "No Look" amounts will ordinarily not be approved absent extraordinary circumstances.

D. Continuing Duty to Disclose. Until the case is closed by final decree, debtor's attorney is under a duty to disclose all subsequent changes in the employment agreement or subsequent payments by filing a supplement statement as required by Fed. R. Bankr. P. 2016(b).

Rule 2016-2. Debtor's Attorney's Fee Agreements and Allowance of Compensation for Services Rendered and Reimbursement of Expenses in Chapter 13 Cases.

A. Disclosure & Service; Rights and Responsibilities Agreement. All attorneys representing debtors in Chapter 13 cases shall comply with the disclosure and service requirements of 11 U.S.C. § 329 and Fed. R. Bankr. P. 2016(b) and shall certify that the Rights & Responsibilities Agreement (Local Form MOW 2016-1.4) has been executed, unless such certification is excused pursuant to court order.

B. "No Look" Fee for Pre-Confirmation Services; Application to Approve Not Required. If the debtor's attorney's total attorney fee for preconfirmation services is a flat fee of ~~$3,600~~ $4,100 or less in a below median family income case or of ~~$4,100~~ $4,600 or less in an above median income case, it is unnecessary for the attorney to file a separate application to approve the fee agreement.

C. Pre-Confirmation Adversary Proceedings. The fee amount set forth in Paragraph B does not include the filing of any adversary proceeding necessary to obtain confirmation of a Chapter 13 plan. If it is necessary to file an adversary proceeding to obtain confirmation of a plan, the attorney's fee will be allowed in an amount not to exceed $1000 per adversary proceeding without an itemized application. For fee amounts in excess of $1000, the attorney shall comply with the requirements of Paragraph E.4 of this rule. To receive fees pursuant to this paragraph, an attorney must file an application with the court at the close of the adversary proceeding.

D. Fees Exceeding the "No Look" Fee for Pre-Confirmation Services or Other Fee Agreements.

1. In all other situations, including when the attorney represents the debtor for other than the filing of the Chapter 13 case, the attorney shall (subject to Missouri Rule Prof.

Conduct 4-1.15) deposit any retainer whether received from the debtor or any other source in the trust account pending further court order and shall promptly file an application to approve the terms of the agreement. The application shall include sufficient information to allow the court's review of the reasonableness of any retainers, payments, fees, or fee agreements pursuant to § 330 and Fed. R. Bankr. P. 2016. The Court presumes that the services required under the Rights and Responsibilities Agreement are necessary for the representation of the debtor in a Chapter 13 case and presumes that the "No Look Fee" is a reasonable fee to compensate the attorney for the services required under the Rights & Responsibilities Agreement to obtain confirmation of a Chapter 13 plan. Agreements to exclude services or to charge fees in excess of the "No Look" amounts will ordinarily not be approved absent extraordinary circumstances.

2. Hourly fee agreements specifically. When the attorney and client have agreed that the attorney shall charge fees on an hourly basis for either pre or post confirmation services, the attorney shall not be required to file a motion to approve the fee agreement if the agreement to charge on an hourly basis is (1) disclosed in the Rule 2016(b) disclosure; and (2) disclosed in the Chapter 13 plan. All fees charged on an hourly basis, whether for pre or post confirmation services, are subject to court approval, and the attorney shall file applications for interim approval of hourly fees and the related expenses pursuant to § 330 and 331. All orders approving awards of interim hourly compensation are not final until a final fee application has been filed and approved by the court, and the attorney shall file the final fee application no later than the deadline for the trustee's final report.

E. Post-Confirmation Attorney Fees and Expenses in Chapter 13 Cases.

1. Post-Confirmation Allowed "No Look" Fees. Additional attorney fees, if any, for post-confirmation services may be allowed according to the flat fee schedule set out in this rule without the need for itemization. Any deviation from this schedule shall be by motion made to the Court, supported by detailed time and expense records pursuant to Paragraph D.2.

Amendments to Schedules - $200
Amendments to Schedules I & J with Business Attachments - $250
Case closing fees and expenses - $250
Defense of Motions for Relief from the Automatic Stay - $350
Defense of Motions to Dismiss - $250
Filing Proofs of Claim on behalf of creditors - $200
Motions for Emergency Hearing/Shorten Time/Expedite - $150
Motion for Order requesting substantial relief - $250
Motions for Payoff of Chapter 13 Plan - $150

Motions for Relief from Stay (divorce) - $250
Motions to Approve Permanent Home Mortgage Modification - $250
Motions to Approve Settlement/Allow Use of Settlement - $250
Motions to Approve Trial Home Mortgage Modification - $250
Motions to Avoid Lien or Avoid Judgment - $250
Motions for Personal Property Tax Waiver - $150
Motions to Distribute Insurance Proceeds - $250
Motions to Employ Counsel/Professional - $250
Motions to Incur Additional Debt - $350
Motions to Retain Tax Refund Greater than $3,500 - $250
Motions to Suspend or Abate Payments - $250
Motions to Sell Property - $350
Motions to Vacate or Set Aside Order - $250
Notice of additional creditors - $250
Objections to a Notice of Payment Change or a Notice of Fees, Expenses, and Charges (Local Rule 3094-1.C.3.) - $250
Objections to Proofs of Claim - $250
Obtaining Confirmation of Amended Plan - $350
Obtaining and Providing Proof of Direct Payments - $150
Response to Trustee's Motion (not listed above) - $150
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
Review of and providing income tax returns to the trustee when a motion to retain is not required - $150
With hearing (when any of the authorized menu items require a hearing) – additional $200

2. Case Closing Fees and Expenses. At any time after the plan is confirmed but before the case is closed, the debtor's attorney may apply for $250 in case closing fees and expenses pursuant to L.R. 2016-2(E). The $250 is meant to cover all fees and expenses associated with the closing of a Chapter 13 case. If the case is converted or dismissed, debtor's attorney must either (1) promptly refund the $250 to the debtor(s) and certify to the Court that the funds have been returned; provided that if there is the possibly that the case will be reinstated, the attorney may hold the $250 for up to 30 days pending reinstatement; (2) in a case converted to a Chapter 7, if the attorney is owed unpaid fees, and the debtor(s) has agreed, the attorney is to certify that the $250 has been applied to the outstanding balance and file an amended Disclosure of Compensation of Attorney for Debtor(s) to show the $250 has been applied; or (3) in a case that is dismissed, if the attorney is owed unpaid fees, and the debtor(s) has agreed, apply to the Court for approval of the $250 to be applied to the outstanding balance.

3. Post Confirmation Expenses. 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.

4. Service and Notice of Post Confirmation Fees and Expenses. 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 filing ~~service~~ to object. Motions for post-confirmation fees in excess of $1,000 must be noticed to all creditors pursuant to L.R. 2016-3. If no objections are filed, the court may enter an order as to such fees without further hearing.

F. Payment of Attorney Fees Through Chapter 13 Plan

1. **Payment Calculation**. If attorney for the debtor in Chapter 13 elects to receive his or her attorney fees, or any portion thereof, through the Chapter 13 plan, the plan must provide for an equal monthly amount for those attorney fees in a sum which does not cause the plan to violate § 1322(a)(1).

    a. After confirmation, the Chapter 13 trustee shall pay the equal monthly amount for debtor's attorney fees contemporaneously with claimants paid an equal monthly amount.

    b. In the event that the proposed plan payment is not sufficient to cover the equal monthly amount proposed for the payment of attorney fees and the Chapter 13 trustee's statutory maximum fee, the filing of the plan on behalf of the debtor shall be deemed a waiver of the right to receive that equal monthly amount and the Chapter 13 trustee shall set an equal monthly amount which will resolve any §1322(a)(1) issues.

    c. If the Chapter 13 plan does not provide for an equal monthly amount for the payment of attorney fees and the attorney is authorized/ordered to receive his or her fees, or a portion thereof, from the Chapter 13 plan payments, the Chapter 13 trustee shall set those fees to be paid in an equal monthly amount not less than $1.00 and not more than $350.00.

2. **Dismissed Cases**. **If the Chapter 13 case is dismissed and the debtor's attorney is owed fees:**

    a. Pre-confirmation:

i. The attorney is not entitled to payment of attorney fees from the trustee other than from funds received on or before the date of the entry of the order of dismissal which otherwise would be refunded to the debtor; and
ii. In order to obtain those funds, less the trustee's fees, the attorney must obtain an order on a motion filed within 14 days of the date of dismissal.

b. Post-confirmation: The trustee shall distribute funds to creditors, including debtor's attorney, pursuant to the terms of the confirmed plan as funds are available.

G. Continuing Duty to Disclose. Until the case is closed by final decree, debtor's attorney is under a duty to disclose all subsequent changes in the employment agreement or subsequent payments, except those payments approved by the Court, by filing a supplement statement as required by Fed.R. Bankr. P. 2016(b).

Rule 2016-3. Fee Agreements in Chapter 11 and 12 Cases; Applications for Compensation in General.

A. Disclosure & Service. Attorneys representing debtors in Chapter 11 or 12 cases shall, in addition to filing prompt applications for approval of employment pursuant to 11 U.S.C. § 327 and Fed. R. Bankr. P. 2014, comply with the disclosure and service requirements of 11 U.S.C. § 329 and Fed. R. Bankr. P. 2016(b).

B. Pre-Petition Retainers and Other Payments. Attorneys representing debtors in Chapter 11 or 12 cases and all other professionals within the meaning of § 327 shall: (1) (subject to Missouri Rule Prof. Conduct 4-1.15) deposit all retainers whether received from the debtor or any other source in the attorney's trust account pending an order of the court; and (2) with respect to all retainers and other payments made or fees sought, file an application seeking approval of such retainers, payments, and fees pursuant to § 330 and Fed. R. Bankr. P. 2016(a). Until the case is closed by final decree, debtor's attorney is under a duty to disclose all subsequent payments by filing a supplemental statement as required by Fed. R. Bankr. P. 2016(b).

C. Service of Application. An application for professional fees and expenses and the required notice shall be served on debtor's attorney, the case trustee, the United States Trustee, the attorneys for all committees, and all parties who have requested service of notices. A detailed, itemized statement of the kind required by Fed. R. Bankr. P. 2016(a) shall be filed with the application. All such applications shall be based upon contemporaneous time records and shall include: a detailed description of the services performed; the date on which services were performed; the attorney or other employee performing such services; the amount of time expended on the enumerated services; and the applicable hourly rate. Each description of

services rendered shall include a detailed description of the tasks performed (including, for example, the subject and purpose of correspondence, telephone conversations, conferences, and legal research). Failure to include this information may result in disallowance of fees. The applicant is responsible to ensure that the itemized statement is made PDF compatible for filing under the ECF system. The notice shall advise the noticed parties of the filing of the application and of the opportunity to file objections within 21 days of the date the notice is given and that, absent any objections, the court may approve the application without further notice or hearing.

D. When Application is over $1,000; Additional Notices. When an application is necessary and if such application is for compensation exceeding $1,000, in addition to service in Paragraph C, applicant shall serve on all creditors a notice **(See Local Form - MOW 2016-~~1~~3.1)** stating: the amount of fees and expenses sought; period covered; number of previous applications filed; amounts of compensation previously sought and allowed; original retainer and balance; that parties have 21 days to object, if no objections are filed the Court may enter an order, and if objections are filed the Court may set a hearing.

Rule 2090-1. Attorneys - Admission to Practice

A. Attorney Admission; Discipline. Except to the extent modified by this Rule, standard and requirements stated in the Local Rules of the District Court are adopted for attorney admission, discipline and unauthorized practice in the Bankruptcy Court.

B. Local Counsel for Member of Bar. If a party's counsel is a member of this Bar whose office is a great distance from court, counsel may be required to retain a local attorney who is a member of this Bar to be available for unscheduled meetings and hearings.

C. Visiting Counsel. An attorney who is not a member of this Bar, but is a member in good standing of the Bar of any court of record, may be permitted to appear in a case proceeding as follows:

1. Visiting counsel shall file a Motion for Admission Pro Hac Vice designating a member of the Bar of this Court with a law office in the District and division, upon whom service of all papers may be made. The Bar member shall consent to the designation in writing and be listed thereafter on all pleadings. The requirement to identify a member of the Bar of this Court for service may be waived by the Court for cause. The Court may dismiss a proceeding for failure to comply with this Rule.

2. Admission to appear as visiting counsel in a particular case does not authorize visiting counsel to appear in any other case(s) without first complying with this Rule as to such other case(s).

D. Government Counsel. A U.S. government attorney may appear without motion for admission. If not a resident in this District, he shall designate the United States Attorney in this District to receive service of all documents.

E. Former Law Clerk. An attorney who has been a law clerk to a judge shall not work on a case which was pending before the judge during the clerkship. Breach of this Rule may disqualify the attorney and firm. The employer shall implement procedures so the attorney does not work on cases pending during the clerkship. For one year after a clerk leaves the judge's employ, that clerk shall not work on any newly-filed case assigned to the judge, as follows:

1. If the clerk: a) prepared or assisted on a petition for relief which is assigned at time of filing to the judge, or b) participated in a case or proceeding for any party after filing and before assignment to the judge, the firm shall advise the judge and the judge shall recuse.

2. If the clerk begins work on a matter after assignment to the judge, the firm shall advise the judge, and the clerk and firm will be disqualified from further participation.

F. Appearance Without Counsel.

1. Individual. An individual may appear and represent himself in any proceeding or hearing in Bankruptcy Court.

2. Other Entities. An entity that is not an individual, including a corporation, partnership or trust, may not file a petition for relief or participate as a debtor, creditor, or party in interest in any proceeding involving presentation of evidence or argument to the Court except by an attorney. This Rule does not prohibit an authorized representative of a corporation, partnership or trust from appearing at a § 341 meeting, filing a claim, voting on a Chapter 11 plan, or voting to elect a trustee without an attorney.

Rule 2091-1. Attorneys - Withdrawal and Substitution

A. Withdrawal. An attorney of record may withdraw only by Court permission, by an order entered after service of notice of withdrawal on the client, other counsel of record, the trustee, if any, and the United States Trustee. An order will not be entered until new counsel enters an appearance, except for good cause.

B. Substitution. An attorney of record may file a notice of substitution of counsel if new counsel is employed in the same law firm as the attorney of record.

PART III. CLAIMS; PLANS

Rule 3001-1. Proofs of Claim

A. Form. Proofs of claim may be filed with the Court electronically and shall conform substantially to the Official Form. Legible exhibits in support of the claim, if any, shall be properly redacted and filed in their entirety.

B. Service of Proofs of Claim.

1. **Proofs of Claim – with Exhibits.** Debtor's attorney and trustee will receive service by electronic means. If the debtor is pro se, the claim and exhibits shall be served by the filing party conventionally.

2. **Proofs of Claim in Chapter 13 cases.** Proofs of Claim in Chapter 13 cases are subject to the requirements of Local Rule 3084-1.

C. Transferred Claims. Any assignment or evidence of transfer of a claim filed after a proof of claim has been filed must include:

3. the amount of the claim;
4. the name of the original creditor (transferor);
5. the name and address of the transferee; and
6. a waiver of notice by the transferor if applicable

D. Transferred Claims in Chapter 13 cases. The Chapter 13 trustee shall not disburse to the transferee of a claim until the transfer or assignment is filed with the Court and the transferee is substituted for the transferor after the 21-day notice deadline unless notice is waived by the transferor.

Rule 3002-1. Filing Proofs of Claim in Chapters 7 and 11

A. Chapter 7. In a Chapter 7 case, no deadline will be set for filing proofs of claim unless the trustee requests that the Court issue a notice to creditors to file claims. Upon receipt of a request, the Court shall serve the notice to all creditors along with instructions to access the Official Form. All claims filed with the court will be included on the claims register.

B. Chapter 11.

1. **Claims Bar Date.** In all Chapter 11 cases, on motion without hearing, the Court shall fix a claims bar date.

2. **Notice of Bar Date.** In all Chapter 11 cases, unless the Court orders otherwise, the debtor must serve notice of the claims bar date with a blank proof of claim and instructions that conform substantially to the Official Form on all creditors and parties in interest. At the discretion of the Court, such deadline may be specified in the §341 meeting notice.

3. **Newly Added Creditors.** If the debtor amends its Chapter 11 schedules to add a creditor or to reduce the amount of a claim or reclassify a claim as contingent, unliquidated, or disputed after having served notice of the claims bar date, then, in addition to serving the amended schedules on the affected creditor, the debtor shall serve the notice of claims bar date upon the affected creditor and shall give written notice that the creditor must file any claim by the bar date or thirty (30) days after the date of the notice, whichever is later.

C. Chapter 13. See Local Rule 3084-1.

D. Conversion. A proof of claim filed before conversion of any case is deemed filed in the converted case. Any claimant who did not file a proof of claim in a Chapter 9 or Chapter 11 case because the claim was correctly scheduled must file a proof of claim in the converted case.

E. Lease Rejection and Avoidance Action Claims. Any claim that arises out of the rejection of an executory contract or unexpired lease or from a judgment entered against the creditor pursuant to an action under Chapter 5 of the Bankruptcy Code shall be filed by the later of: (1) the claims bar date established in the case and (2) thirty (30) days after the date on which the order approving the rejection or the judgment becomes final.

Rule 3002.1-1. Notice Relating to Claims Secured by Security Interest in the Debtor's Principal Residence Not Required in Certain Circumstances.

The parties shall not be required to comply with the provisions of Fed. R. Bankr. P. 3002.1 as to claims secured by a deed of trust or mortgage on the debtor's principal residence if (1) the stay has been lifted as to such claim and the creditor's secured claim has been either denied or withdrawn; (2) debtor has filed a plan surrendering such residence, or the court has entered an order authorizing the debtor to do so; or (3) the deed of trust or mortgage securing such claim has been stripped off. See Local Rule 3094-1(A)(2)(i).

Rule 3007-1. Objections to Claims

A. Chapter 13 Claim Objections. See Local Rule 3084-1**.**

B. Omnibus Objection. Objections to claims may be contained in one or more omnibus objections. The recommended form of objection is contained in the Local Forms **(See Local Form - MOW 3007-1.1)**. This Rule applies to trustees serving under chapters 7, 11 and 12, and debtors-in-possession under chapter 11.

C. Procedure for Objections to Claims: Response Filed. A claimant shall have 30 days after service of the objection in which to file a response. The response shall be in writing and state with particularity why the claimant believes the claim is valid and should be allowed. If a response is filed, the Court will schedule a hearing. If no timely response is filed, the court may enter an order sustaining the objection as to the claimant and disallowing such claim.

D. Procedure for Objections to Claims: Amended Claim Filed. A claimant may elect to file an amended claim in an effort to address an objection. The filing of an amended claim is suggested when the objection goes to the form of the claim (e.g., insufficient documentation to support claim). If there is further objection to the amended claim, an objection to such amended claim shall be filed; otherwise, the amended claim may be allowed.

E. Separate Objection Permitted When Trustee Seeks Affirmative Relief. The trustee may file a separate objection and request for hearing with respect to a particular claim when,

for instance, the trustee desires to assert a counterclaim or seek other affirmative relief against the claimant.

Rule 3010-1. Small Dividends and Payments

In accordance with the authority granted under Fed. R. Bankr. P. 3010, a trustee in a Chapter 7 case may pay out dividends that are less than $5.00. In a Chapter 7 case with ten or fewer creditors scheduled to receive a dividend of less than $5.00, the trustee shall distribute the funds. In a Chapter 7 case with more than ten creditors scheduled to receive a dividend of less than $5.00, the trustee, in his discretion, may pay out the funds or treat them in the same manner as unclaimed funds as provided in § 347 of the Code.

Rule 3011-1. Unclaimed Funds

A. Deposit by Chapter 7, 12, or 13 Trustee. If any funds in excess of $25.00 remain unclaimed after the final distribution of funds is made in a Chapter 7, 12, or 13 case as required by 11 U.S.C. § 347(a), the trustee shall file a Motion to Pay Into the Court Registry any remaining funds. Upon entry of a final order granting such motion, the trustee shall pay the remaining funds into the Court Registry and shall provide the Court's finance officer a list of the last known names and address of the unpaid claimants and the amounts they are entitled to receive, as required by Bankruptcy Rule 3011. For funds equal to or under $25.00, a motion is not required.

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B. Disposition of Unclaimed Funds Under A Chapter 11 Liquidating Plan.

1. **Notice, Deposit of Funds, and Final Account.** The disbursing agent, the debtor-in-possession or the trustee under a Chapter 11 plan that provides for the complete liquidation of the property of the debtor shall, when making final distribution under the plan:

   a. Notify such entity, if any, that purchased all of the debtor's assets under the chapter 11 plan of its potential right to the unclaimed funds, to the extent the disbursing agent, the debtor-in-possession or the trustee can identify such entity.

   b. Unless the plan provides otherwise, pay over to the Court Registry any funds left unclaimed 120 calendar days after the final distribution is made under the plan, accompanied by a Motion to Pay Funds Into the Court Registry.

   c. File a final account under 11 U.S.C. §1106(a)(7) and all other reports (if any) required by Local Rule.

2. **Provisions for Unclaimed Funds.** A chapter 11 liquidating plan may provide that any unclaimed funds may be redistributed to other creditors or administrative claimants or donated to a not-for-profit, non-religious organization identified in the plan or disclosure statement accompanying the plan.

C. Disposition of Undistributable Funds Under a Chapter 11 Liquidating Plan.

1. **Undistributable funds defined.** Undistributable funds are any funds other than unclaimed funds, including, but not limited to, funds that cannot be disbursed because (a) a creditor has affirmatively rejected a distribution, (b) the administrative costs of distribution effectively interfere with distribution, or (c) all creditors, including administrative claimants, have been paid in full and there is no one that has a right to the funds.

2. **Provisions for Undistributable Funds.** A chapter 11 liquidating plan may provide that any undistributable funds, if applicable or practicable, may be redistributed to other creditors or administrative claimants or distributed to an entity or organization identified in the plan or disclosure statement accompanying the plan.

3. **Procedure for Disposition of Undistributable Funds.** If a chapter 11 liquidating plan does not provide for the disposition of undistributable funds then, if there are any such funds at the time of final distribution under the plan, the disbursing agent, the debtor-in-possession or the trustee shall file a motion proposing disposition of such funds, which may include the dispositions described in subdivision (C)(2) of this rule. Such motion shall be served on all creditors or parties in interest or on such creditors and parties in interest as the Court shall direct, with notice and opportunity for hearing.

D. Payment of Unclaimed Funds. A claimant that claims to be entitled to unclaimed funds in the Court Registry shall file a Motion for Distribution of Funds from Court Registry, sworn or attested under penalty of perjury. An individual claimant shall provide to the Clerk a copy of a government issued photo identification, such as a driver's license or passport. **[Note: To avoid privacy concerns, this photo copy should not be attached to the motion or filed on the docket.]** A corporation whose name has changed or that has been assigned rights to the funds shall provide appropriate documentation, satisfactory to the Court, to demonstrate the claimant's entitlement to the funds. Fund locator services or other agents shall provide a copy of their power of attorney authorizing them to make the claim for the claimant. The motion and other required documents shall be served on the United States Trustee and the debtor's attorney of record.

Rule 3015-1. Filing of Plan; Objection to Confirmation; Modification of a Plan in a Chapter 13

See Local Rule 3083-1.

Rule 3016-1. Chapter 11 Plan - Not Small Business

Unless otherwise required by the Bankruptcy Code or Court order, a Chapter 11 debtor shall file a plan and disclosure statement within 120 days after filing of the petition. If debtor seeks an extension of time to file a plan or of the exclusive period to file a plan, debtor shall file a motion for extension before expiration of the 120 days, stating the reason a plan has not been filed and

a schedule of steps to be taken to file a plan. This rule is not applicable in cases under Subchapter V of Chapter 11.

Rule 3016-2. Disclosure Statement - Not Small Business

A. Disclosure Statement. Chapter 11 disclosure statements must include at least three years each of detailed financial operating histories and operating projections, including projected plan payments and tax consequences. Data for longer or shorter periods may be required. This subparagraph is not applicable to cases under Subchapter V of Chapter 11.

B. Approval of Disclosure Statement.

1. **Conditional Approval.** The Court may conditionally approve a disclosure statement. On or before conditional approval of the disclosure statement, the Court shall:
   a. fix a time for filing objections to the disclosure statement;
   b. fix a date for the hearing on final approval of the disclosure statement to be held if a timely objection is filed;
   c. fix a date for the hearing on confirmation; and
   d. fix a time within which the holders of claims and interests may accept or reject the plan.

2. **Application of Fed. R. Bankr. P. 3017.** If the disclosure statement is conditionally approved, Fed. R. Bankr. P. 3017(a) and (e) do not apply. Conditional approval of the disclosure statement is considered approval of the disclosure statement for the purpose of applying Fed. R. Bankr. P. 3017(d).

3. **Objections and Hearing on Final Approval.** Notice of the time fixed for filing objections and the hearing to consider final approval of the disclosure statement shall be given in accordance with Fed. R. Bankr. P. 2002 and may be combined with notice of the hearing on confirmation of the plan. Objections to the disclosure statement shall be filed, transmitted to the United States Trustee, and served on the debtor, the trustee, any committee appointed under the Bankruptcy Code, and any other entity designated by the Court at any time before final approval of the disclosure statement or by an earlier date as the Court may fix. If a timely objection to the disclosure statement is filed, the Court shall hold a hearing to consider final approval before or combined with the hearing on confirmation of the plan.

Rule 3016-3. Plan and Disclosure Statement in Small Business Cases and Cases Under Subchapter V of Chapter 11

A. Applicability of Rule. This rule applies in small business cases as defined by § 101(51C) and cases under Subchapter V of Chapter 11. Except as specified in this Rule, the provisions of Local Rules 3016-1 and 3016-2 are not applicable in small business cases.

B. Form of Plan and Disclosure Statement. The disclosure statement and plan of reorganization in a small business case or a case under Subchapter V of Chapter 11 shall conform substantially to Official Forms 425A and 425B. Appropriate modifications to those forms are permitted.

C. Conditional Approval of Disclosure Statement. Pursuant to § 1125(f)(3)(A) and (C), upon the filing of a disclosure statement and plan of reorganization in a small business case or a case under Subchapter V of Chapter 11, the court will employ the procedures set forth in subparagraph B of Local Rule 3016-2.

D. Plan of Reorganization as Disclosure Statement. If a debtor in possession or trustee intends, pursuant to § 1125(f)(1), that the plan is to serve as a disclosure statement, the plan shall be designated as such as required by Fed. R. Bankr. P. 3016(b) and filed **(Utilize Official Form 425B or Local Form MOW 3016-3.1)**. A plan so designated shall be treated as a disclosure statement under Fed. R. Bankr. P. 3017.1.

Rule 3020-1. Ballots

A. Service. Unless otherwise ordered by the Court, ballots are to be served by the debtor on creditors, equity security holders and other parties in interest and a certificate of service filed with the Court.

B. Filing. Ballots to accept or reject a Chapter 11 plan shall be sent to the debtor or the debtor's designee unless otherwise ordered by the Court.

C. Summary. The debtor shall file a summary of the ballots with the Court prior to the confirmation hearing date.

Rule 3022-1. Final Decree in Chapter 11 Case

As soon as practicable after the confirmed plan has been substantially consummated and the estate has been fully administered, the reorganized debtor, trustee, or other responsible party as designated in the confirmed plan shall file a Chapter 11 Final Report and Application for Final Decree that substantially conforms to the Local Form **(See Local Form - MOW 3022-1.1)**

Rule 3070-1. Chapter 13 Direct Payments

All payments to claimants shall be through the Chapter 13 trustee unless the Court orders or the trustee agrees otherwise, except debtors may pay directly: 1) unmodified payments on a note secured by real property when the debtor has no past due payments or charges due to the mortgagee other than the regular payment due in the month of filing or conversion; 2) ongoing support obligations pursuant to a court decree; 3) payments under a lease which the debtor has assumed or intends to assume; and 4) payments under a contract for deed which the debtor has assumed or intends to assume.

Rule 3071-1. Chapter 13 Business Cases

A. Chapter 13 Debtor Operating a Business. A Chapter 13 debtor who operates a business shall periodically provide the Chapter 13 trustee with operating reports. Depending on the trustee's analysis of the business operated, the trustee may require monthly, quarterly, semi-annual or annual reports.

B. Form. If required by the Chapter 13 trustee, the operating reports must be provided on **Local Form MOW 3071-1.1.**

Rule 3080-1. Chapter 13 - Service

All pleadings, including amended plans and orders filed in Chapter 13 cases, shall be served on the Chapter 13 trustee and debtor's attorney or debtor, if appearing pro se. The Chapter 13 trustee and debtor's attorney are served electronically and need not be served otherwise. Once a case is converted from a Chapter 13, the Chapter 13 trustee no longer receives electronic notice and shall be served manually with any relevant pleadings pursuant to the Federal Rules of Bankruptcy Procedure.

Rule 3081-1. Chapter 13 Closing Before Confirmation

In cases which close before confirmation of a plan, the Chapter 13 trustee may retain fees collected pursuant to 28 U.S.C. §586(e)(2) prior to the date of dismissal or conversion.

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 be filed using the approved Local Forms. **(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, any post-petition mortgage arrearages, and the initial post-petition amount (IPA) 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 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. **Sixty days to finalize modification.** Absent Court order to the contrary, the debtor shall have 60 days from the date of the final trial home mortgage modification payment 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 as set forth above, 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 affected pre-petition mortgage arrearages, any affected post- petition mortgage arrearages, and the initial post-petition amount (IPA) 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 payee record, if the debtor had made the trial loan payments directly, 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 payee records.** Upon Court approval of the motion to approve a permanent home mortgage modification, the Chapter 13 trustee shall reset the mortgage payee records in the trustee's case management database as required to effectuate the terms of the home mortgage modification.

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 payee records that will continue to be paid absent objection and further order of the court pursuant to Local Rule 3094-1C(3)(e).

Rule 3083-1. Chapter 13 Plan; Objections to Plan

A. Plan. Each Chapter 13 plan and amended plan must be filed using the Local Form. **(See Local Forms - MOW 3083-1.1)**. Notwithstanding the foregoing, if the only amendment to a plan is to change the plan payment, the Local Form need not be used; instead, a statement of

the change in plan payment is sufficient and must be filed using the designated CM/ECF event. (Amended Chapter 13 Plan - Stmt of Plan Payment Change ONLY).

B. Service of the Plan.

1. Debtor shall serve the original plan on all creditors when the plan is filed with the court. Debtor shall file a certificate of service reflecting service on all creditors pursuant to all applicable federal and local rules within three (3) days after the plan is filed with the court.

2. Debtor shall serve an amended plan on all creditors affected by the amendment when the plan is filed with the court. Debtor shall file a certificate of service reflecting service on all creditors affected by the amendment pursuant to all applicable federal and local rules within three (3) days after the plan is filed with the court.

3. No plan will be considered for confirmation unless it is served when it is filed with the court and a certificate of service is filed within three (3) days thereafter.

4. The plan shall be served on the United States Attorney and the appropriate agency when the United States is a party in interest. **Appendix 1-9** contains a list of standard addresses of government agencies.

C. Plan Percentages. The debtor may use 8.0% of receipts rather than the statutory maximum of 10% of receipts for trustee fees when calculating plan length. The actual percent, set by the United States Attorney General pursuant to statute, may vary during the life of the plan.

D. Objections to Plans. It is the duty of affected creditors to file objections to confirmation of plans and amended plans on all grounds for non-confirmation. The trustee may also object to the confirmation of a plan.

1. The Court will conduct a confirmation hearing only upon the filing of a timely objection to confirmation, or a response is filed to the trustee's motion to deny confirmation of a Chapter 13 plan. Unless otherwise noticed, objections to plan confirmation must be filed within 21 days after conclusion of the § 341 meeting of creditors.

2. If neither a timely objection to confirmation nor a trustee's motion to deny confirmation is filed, the Court may confirm the plan without a hearing or reviewing any evidence.

3. If no response is filed to a Chapter 13 trustee's motion to deny confirmation, the Court may deny confirmation of a plan without a hearing.

E. Objections to Amended Plans. Objections to amended plans must be filed on or before 21 days after the amended plan is filed and served on the trustee and affected parties. If no

timely objection to confirmation is filed and the Chapter 13 trustee does not file a timely motion to deny confirmation, the Court may confirm the amended plan without a hearing or reviewing any evidence.

F. Wage Order to Employer.

1. **Issuance of Wage Order.** The Chapter 13 trustee may cause a wage order to be issued to the debtor's employer upon a written request from the debtor or the debtor's attorney; the written request must provide the full address for the employer's payroll department. The Chapter 13 trustee may cause a wage order to the debtor's employer to be issued at any time the plan payments are more than 30 days delinquent as measured pursuant to § 1326 (a)(1). The Court may require the issuance of a wage order for cause shown on motion by the chapter 13 trustee or other party in interest or as a condition to granting or denying other relief. The debtor shall amend Schedule I and provide the full address for their employer's payroll department if their employment changes.

2. **Cancelling an Employer Wage Order.** In the event the debtor wants a wage order to the employer cancelled, the debtor must send a written request to the trustee and demonstrate to the trustee that appropriate circumstances exist for the debtor to remit plan payments directly to the trustee. If the trustee does not agree to the cancellation of the Employer Wage Order, the debtor may file a motion with the Court to vacate said order demonstrating to the Court that appropriate circumstances exist for the debtor to remit plan payment directly to the trustee.

3. **Motion for Immediate Wage Order.** If the Chapter 13 plan is not filed with the petition but the debtor would like a wage order to start, the debtor may file a motion for immediate wage order listing the name and address of his/her employer and the dollar amount to be withheld per month. Any order granting the motion for immediate wage order will instruct the trustee to issue the wage order per the terms set forth in the motion.

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 ECF System or ePOC (link is on 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 if it is a secured, priority unsecured, or an unsecured non-priority claim; or what portion of the claim is secured, priority unsecured, or unsecured non-priority. 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 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.

D. Secured Claim.

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 another 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. The finality of a notice allowing claim, or notice allowing additional, amended or adjusted claims preclude any subsequent objection to a treatment of a claim which could have been raised in an objection to confirmation. See 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). The trustee does not compound interest.

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, the trustee may distribute more than a multiple of the Equal Monthly Amount to the debtor's current or prior attorney.

Rule 3085-1. Notice to Allow Claims

A. Trustee Notice. After confirmation of the plan and after the claims deadline, the trustee shall file a notice to allow or disallow claims. The trustee will serve the notice on debtor and debtor's attorney. The trustee will mail to each scheduled creditor or claimant an acknowledgment of claim and notice of the proposed treatment of the claim. Thereafter, if the trustee loads a claim which was not on the original notice or otherwise adjusts a claim which was on the original notice, the trustee shall file and serve a notice allowing the claim as an additional, adjusted, or amended claim.

B. Response. No response to the notice is required. Claims will be deemed allowed as listed in the notice and the trustee will commence distribution based on the information contained in the notice unless, within 30 days, debtor or a creditor files and serves an objection to a claim listed therein. If an objection to claim is filed, the trustee shall not commence (or shall suspend) distribution on that claim until the objection is resolved. However, the trustee may disburse on a claim when an objection is filed if the objection requests to reduce the claim amount and disbursements have not exceeded the amount in the objection. If an objection to claim is filed after the 30-day period and the trustee has made distributions on the claim, the claim shall be allowed in the amount of such distributions, even if the Court sustains the objection and otherwise disallows the claim. Any objection shall reference the Court's claim register number rather than the trustee's payee record number.

Rule 3086-1. Payment of Claim After Lifting of Stay; Adequate Protection

A. Order Lifting Stay. If an order granting relief from the stay is entered, or if the stay otherwise is not in effect, the trustee shall continue to make payments pursuant to the terms of a confirmed plan, adequate protection order or other order of the court on the claims related to that collateral. Payments shall not cease until one of the following takes place:

1. An objection to that claim is filed and an order is entered directing the trustee to cease making payments on the claim, or

2. The claimant notifies the trustee that no further payments are owed on the claim(s) in which case the trustee shall notify the parties of such action pursuant to Local Rule 30851, or

3. An amended plan is filed and confirmed which specifically provides for no further payments to the claimant(s). Such amendment shall state with particularity which claim(s) shall receive no further payments.

When payments on a claim cease, the trustee shall redirect the funds to other creditors with filed and allowed claims in accordance with the confirmed plan. Once the trustee ceases making payment on a claim on which the trustee previously has distributed payments, the trustee shall adjust the claim to the principal amount previously paid.

B. Adequate Protection - General. All adequate protection payments through the Chapter 13 trustee shall be made in the ordinary course of the trustee's business from funds in the case as they become available for distribution to claimants. The Chapter 13 trustee shall make no adequate protection payments until a proof of claim is filed. All payments to the Chapter 13 trustee shall be subject to the trustee's statutory percentage fee, as set by the designee of the United States Attorney General, and the Chapter 13 trustee shall collect such fee at the time the payment is received. On all adequate protection payments made by the Chapter 13 trustee, the principal amount of the adequate protection recipient's claim is reduced by the amount of the adequate protection payments remitted to the claimant unless the court orders otherwise, or the trustee notifies the parties otherwise.

C. Adequate Protection – Leases. Unless the court orders otherwise, the Chapter 13 trustee will not make adequate protection payments on leases.

D. Adequate Protection - Claim Secured by Personal Property. Unless the court orders otherwise, the Chapter 13 plan shall provide that §1326(a)(1) pre-confirmation adequate protection payments to a creditor holding a purchase money security interest in personal property shall be paid through the Chapter 13 trustee once a proof of claim is filed.

1. The debtor shall list the creditor's name, address, a redacted account number and Equal Monthly Amount for each secured creditor entitled to receive §1326(a)(1) pre-confirmation adequate protection payments in the Chapter 13 plan.

2. Unless the plan specifically provides in the non-standard parts of the plan that the creditor is not entitled to adequate protection payments, it is presumed that secured creditors listed in the plan as purchase money security creditors shall be entitled to adequate protection.

3. All adequate protection payments through the Chapter 13 trustee shall be made in the equal monthly amount (or specific monthly payment) provided for the claimant in the Chapter 13 plan unless the plan provides otherwise in the non-standard parts of the plan.

4. Pursuant to §1326(a)(3), claimants may file objections to the adequate protection treatment provided in the plan. The Chapter 13 trustee shall continue to make payments to the claimant in the equal monthly amount provided in the plan if a proof of claim is on file until the court orders otherwise.

5. Upon the dismissal of a case prior to the confirmation of a Chapter 13 plan, the Chapter 13 trustee shall make the pre-confirmation adequate protection payments, or a portion thereof, from any funds available for that purpose received on or before the date of the entry of the order of dismissal to creditors that have filed proofs of claim prior to the date of the dismissal.

E. Adequate Protection - Claim Secured by Real Property.

1. Unless the court orders otherwise, the Chapter 13 trustee shall distribute adequate protection payments to a real property claimant which the plan proposes to be paid by the Chapter 13 trustee from the Chapter 13 plan payments once a proof of claim is filed. If the payments on the claim are for a long-term debt, the amount remitted to the claimant shall be credited against the claimant's post-petition monthly payments.

    a. The debtor shall list the creditor's name, address, a redacted account number and monthly payment, including any amounts escrowed for taxes or insurance, for each real property claimant being paid by the Chapter 13 trustee from the Chapter 13 plan payments.

b. Unless the plan specifically provides otherwise in the non-standard parts of the plan, it is presumed that all secured creditors secured by real estate that the debtor proposes to be paid as a conduit, long-term creditor with a monthly mortgage payment by the Chapter 13 trustee shall be entitled to adequate protection payments.

   i. Adequate protection payments shall not be paid on pre-petition arrearage claims.

   ii. Adequate protection payments shall not be paid on initial post-petition arrearage "claims." See Local Rule 3094-1(A)(2)(c).

   iii. Adequate protection payments shall not be paid on any claim for which the plan does not provide a monthly mortgage payment.

c. If the plan provides for a mortgage to be paid as a long-term debt, all adequate protection payments shall be made in the amount of the monthly mortgage payment amount which the claimant provides in its proof of claim, i.e., on its Form 410A attachment. If the plan provides for a mortgage to be fully satisfied during the life of the plan, all adequate protection payments shall be made in the Equal Monthly Amount provided for the claimant in the Chapter 13 Plan. The trustee shall not release partial monthly adequate protection payments. See Local Rules 3084-1(L) and 3094-1(A)(2)(f).

d. Claimants may file objections to the adequate protection treatment provided in these local rules or in the proposed Chapter 13 plan. Until the court orders otherwise the Chapter 13 trustee shall continue to make payments to the claimant in the Equal Monthly Amount provided in the plan if a proof of claim is filed either the post-petition monthly payment, provided in the plan, or the monthly mortgage payment provided in its proof of claim. The debtor may file an objection to the claim if it disagrees with the claimant's monthly mortgage payment.

e. Upon the dismissal of a case prior to confirmation of a Chapter 13 plan, the Chapter 13 trustee shall make the pre-confirmation adequate protection payments, or a portion thereof, to creditors that have filed proofs of claim prior to the date of the dismissal. Such payments shall be made from any funds available for that purpose received by the trustee on or before the date of the entry of the order of dismissal.

Rule 3087-1. Garnishment Proceeds

Any proceeds which the Chapter 13 trustee receives from the release of a garnishment, absent a prior specific order of the Bankruptcy Court, shall be held by the Chapter 13 trustee for credit towards the debtor's plan.

Rule 3088-1. Chapter 13 Emergency Refunds, Suspension of Plan Payments and Borrowing

A. Emergency Refunds. The Chapter 13 trustee shall not issue emergency refunds without a court order, which will not be granted unless extraordinary circumstances are shown.

B. Suspension of Plan Payments. The court may order the suspension of plan payments pursuant to a motion. If the court orders a suspension and the debtor is on an employer wage order, it shall be the debtor's responsibility to cause the affected employer to stop the deduction of the plan payments for the amount of the suspension so ordered and it shall be the debtor's responsibility to make certain that the plan payments recommence on time. Any funds remitted to the trustee, despite a court-ordered suspension, shall be distributed to claimants pursuant to the terms of the confirmed plan or shall be distributed to adequate protection claimants if the plan is not yet confirmed or shall be held by the Chapter 13 trustee pending confirmation of the plan. These funds shall not be returned to the debtor.

C. Treatment of Suspended Plan Payments. An order granting an abatement, waiver, or suspension, does not eliminate the payment; rather it adds payments onto the end of the plan and may require the plan to be amended because of the suspension. The granting of an abatement, waiver, or suspension is without prejudice to the rights of any secured creditor to seek a lift of the stay or other appropriate relief.

D. Emergency Borrowing. The Chapter 13 trustee may grant a debtor permission to borrow sums of $3,500 or less per request. Applications to borrow amounts in excess of $3,500 must be filed with and approved by the Court. All requests to the Chapter 13 trustee and applications filed with the Court must state the lender, the amount of the loan, the terms of repayment (including monthly payments and interest rate), the purpose of the loan, and the impact of the borrowing on the debtor's ability to continue to fund the Chapter 13 plan.

Rule 3089-1. Refunds in Dismissed Chapter 13 Cases

If a plan payment is received by the trustee on or before the date of the order of dismissal in a confirmed plan, those funds will be disbursed to creditors pursuant to the terms of the confirmed plan.

Rule 3091-1. Disbursement of Insurance Proceeds

A. No Court Approval Needed. If the Debtor suffers a casualty loss and that loss is covered by insurance, the debtor does not need the approval of the Bankruptcy Court for the insurer to pay funds directly to the loss payee or trade vendor for the repair/replacement of the property pursuant to the terms of the insurance contract.

B. Court Approval Needed. If the Debtor suffers a casualty loss, the loss is covered by insurance and proceeds are paid to the debtor, debtor shall not pay such proceeds to the loss payee or trade vendor for the repair/replacement of the property or otherwise dispose of such proceeds without an order of the court.

C. Plan Payments Continue to Loss Payee. If any creditor being paid through the trustee's office is the loss payee on the insurance policy and funds are distributed to that creditor from the insurer or the debtor, the trustee shall continue to disburse payments to that creditor pursuant to the terms of the confirmed plan or shall continue to make adequate protection payments unless:

1. The debtor files an objection to the proof of claim and the Bankruptcy Court enters an order directing the trustee to cease making payments to the creditor or the order reduces the allowed amount of the claim (any such objection should state with specificity the treatment of both the secured and unsecured portions of the claim);

2. The creditor withdraws its claim or amends its claim; or

3. The creditor notifies the Chapter 13 trustee in writing that its claim has been paid in full.

D. Excess Insurance Proceeds Received by Debtor. If the debtor receives any insurance proceeds in excess of $3,500, after payment of the loss payee or in excess of funds paid to trade vendors for the repair/replacement of the property, the debtor shall not dispose of such excess proceeds without an order of the court.

Rule 3092-1. Executory Contracts and Leases

A. Personal Property. The debtor shall pay directly to the lessor all payments scheduled in a lease of personal property for that portion of the obligation that becomes due after the order for relief. Absent a timely objection to confirmation of the proposed plan, the debtor is presumed to have made these payments as required under § 1326(a). As the Chapter 13 plan shall provide that payments to personal property lessors will be paid directly, there shall be no reduction in the Chapter 13 plan payment for these direct payments.

B. Real Property. The debtor shall pay directly to the lessor all payments scheduled in a lease for that portion of the obligation that comes due after the order for relief. As the statute does not mandate adequate protection payments and as the Chapter 13 plan shall provide for direct payments to real property lessors, there will be no reduction in the Chapter 13 plan payment for these direct payments.

1. **Assumed Leases.** The debtor shall pay directly to the lessor all payments scheduled in a lease for that portion of the obligation which comes due after the order for relief unless the Court orders otherwise. The debtor shall pay directly to the lessor all payments required to cure a pre-petition arrearage unless the Court orders otherwise.

2. **Assumed Contracts for Deed.** The debtor shall pay directly to the holder of the contract for deed all payments scheduled in the contract for that portion of the obligation which comes due after the order for relief unless the Court orders

otherwise. The debtor shall pay directly to the holder of the contract for deed all payments required to cure a pre-petition arrearage unless the Court orders otherwise.

C. Pre-Petition Arrearages. All payments on prepetition arrearages, whether or not listed in the plan, of assumed leases and executory contracts for both personal and real property shall be paid directly unless the court orders otherwise.

D. Responsibility. It is the debtor's responsibility, and not the trustee's, to assume, reject, or assign an executory contract or unexpired lease and to properly and timely serve same on the affected parties.

Rule 3093-1. Chapter 13 Plan Payoffs

A. Motion to Provide Payoff. The Chapter 13 trustee is not required to provide Chapter 13 plan payoffs to a debtor or debtor's attorney unless the plan is confirmed, both bar dates have passed, and the Notice to Allow Claims is final. If these requirements are met, a motion may be filed with the Court requesting a payoff be provided.

B. Contents of Motion. A motion to provide a payoff must include:

1. The source of the funds to pay off the plan.

2. If the plan has run less than the applicable commitment period, a statement that all filed and allowed unsecured non-priority creditors will be paid 100%, or state with particularity why payment in full of that class of creditors is not required.

3. State with specificity any claims that are to be excluded from the payoff calculation.

Rule 3094-1. Payments on Real Property

A. Residential and Non-residential Mortgages.

1. Unmodified Payments on a note secured by real estate when the debtor is current on the date of petition. When the debtor has no past due payments or charges due to the holder of the claim other than the regular payment due in the month of filing or conversion, the debtor may make the post-petition payments directly to the holder of the claim. If a debtor who has no past due payments or charges due to the holder of the claim other than the regular payment due in the month of filing or conversion nevertheless decides to pay the post-petition payments to the claimant through the Chapter 13 trustee as part of the plan payment, Rule 3094-1.A.2 applies.

2. Unmodified Payments on a note secured by real estate when the debtor is delinquent on the date of petition.

a. If a debtor is delinquent on the date of the petition on a note secured by real estate, the debtor shall make the post-petition payments to the holder of the claim through the Chapter 13 trustee as part of the Chapter 13 plan payment unless the court orders otherwise. For purposes of Rule 3094-1, delinquent

(or not current) means there are past due payments or charges due to the holder of the claim other than the regular contractual payment due in the month of filing or conversion.

b. The trustee shall load into the trustee's database the monthly payment set out in the plan for the post-petition monthly payments.

   i. The post-petition monthly payment set out in the plan shall include all amounts which the debtor is required to pay for the escrow of taxes, insurance and any other charges allowed to be escrowed under the terms of the note and/or the deed of trust. If the Addendum Official Form 410A attachment to a Proof of Claim for a Real Estate Claim has a different Monthly Mortgage Payment from the figure provided for it in the plan, the Monthly Mortgage Payment listed in the Official Form 410A attachment will be loaded into the trustee's database. See Rule 3094-1(A)(2)(e) and the Committee Note to Fed. R. Bankr. P 3015(g).

   ii. If the holder of the claim asserts that the post-petition mortgage payment set out in the plan is incorrect and it does not provide its asserted figure in its Official Form 410A attachment to Proof of Claim, it either shall

      (I). Object to the confirmation of the plan; or

      (II). File a "Notice of Payment Change." See Local Rule 3094-1(A)(3)(b) and Fed. R. Bankr. P. 3002.1(b).

   iii. If the debtor asserts that the figure for the Post-Petition Payment, or Monthly Mortgage Payment provided in the Form 410A attachment to Proof of Claim is incorrect, the debtor shall object to the proof of claim.

c. In order to synchronize the debtor's Chapter 13 plan payments with the post-petition, on-going mortgage payments and not adversely affect other claimants who are being paid Equal Monthly Amounts through the Chapter 13 trustee,

   i. The Chapter 13 trustee shall set the trustee's database so that the first post-petition mortgage payment to be paid by the trustee comes due in the second month following the month in which the petition is filed (or in the case of a conversion from another chapter, the second month following the month in which the order of conversion is entered).

   ii. In addition, the Chapter 13 trustee shall set up a separate payee record for the mortgage payment, as set out in the plan, which came due in the

month following the month in which the petition is filed or in which the order of conversion is entered, plus a late fee equal to 5% of the monthly mortgage payment listed in the plan, unless otherwise ordered by the court. This payee record shall be known as the Initial Post-petition Arrearage ("IPA"); the holder of the claim shall not file a separate proof of claim for the IPA.

(I). The trustee shall not populate the payee record for the IPA for distribution until the proof of claim is filed.

(II). This IPA payee record shall be paid pro rata as funds are available with secured and priority claims for which the plan provides no Equal Monthly Amount.

(III). If the debtor or holder of the claim disagrees with the payee record set by the trustee for the IPA and asserts that it inaccurately reflects the amount due to the holder of the claim including appropriate late fee, they must file an objection to this payee record within 30 days of the initial date of confirmation of the plan.

iii. It is presumed for purposes of administering real estate mortgages through the Chapter 13 trustee that the mortgage payment for the month in which the petition is filed is delinquent on the date of filing the Chapter 13 petition (or the date of conversion from another chapter) and, if in fact, that payment is delinquent, the holder of the claim shall include that delinquency in the pre-petition arrearage portion of its proof of claim. If the presumption is incorrect and it is clear from the 410A attachment to the mortgage proof of claim, the trustee may add the monthly payment from the date of filing or the date of conversion of the IPA payee record. If any party believes the IPA payee record has been set up incorrectly, an objection should be filed with Court.

d. The debtor shall cure the pre-petition arrearage owed to the holder of the claim through the Chapter 13 trustee as part of the plan payment. The trustee shall populate the pre-petition arrearage payee record with the amount listed on the Official Form 410A attachment to Proof of Claim, if any. If the plan provides for no interest on the pre-petition arrearage, or if the plan provides for interest on the entire amount, but the holder of the claim is entitled to interest only on part of the pre-petition arrearage claim, the holder of the claim or the debtor shall obtain a court order which directs the trustee what portion, if any, is to receive interest and what portion is to receive no interest. The order also shall specify the rate of interest to be paid on any portion being paid interest.

e. The proof of claim shall have Mortgage Proof of Claim attachment (Official Form 410A) filed with the proof of claim, or an attachment which conforms to the Official Federal Form.

f. The Chapter 13 trustee shall release full monthly payments to the holder of the claim for its on-going post-petition mortgage payments and shall not release a partial payment to a holder of the claim unless it is the final payment disbursed because of a dismissal. Local Rule 3084-1L.

g. If the Chapter 13 debtor's plan payments are current and the Chapter 13 trustee holds a plan payment in the ordinary course of the trustee's business which results in the trustee not releasing a post-petition mortgage payment to the holder of the claim, that month's mortgage payment shall be deemed current and the holder of the claim shall not charge a late fee for that "missed" payment. For purposes of this rule, the debtor's plan payment is current if the trustee posts it to his database on or before the last business day of the month in which it is due.

h. Upon the completion of the Chapter 13 plan, the Chapter 13 trustee shall file a "Notice of Completion" with the bankruptcy court and, if applicable, a "Notice of Final Cure Payment" (Fed. R. Bankr. P. 3002.1(f). Absent a timely objection to either notice and an order otherwise, the debtor's real estate mortgages shall be deemed current, including all fees and costs but excluding any pending yearly escrow charges which were incurred or assessed during the year of debtor's discharge, as of the date the last payment was made from the Chapter 13 trustee. If there are additional fees and costs due, the holder of the claim shall also file a "Notice of Fees, Expenses and Charges (Fed. R. Bankr. P. 3002.1(c)" at the same time it files an objection to the "Notice of Completion and/or "Notice of Final Cure Payment."

i. **Rule 3002-1.1 Claims** – see Rule 3002.1-1 for filing exceptions.

3. Changes, fees, expenses and charges.

a. Rule 3094-1(A)(3) applies to all Chapter 13 cases.
b. If the loan documents provide for payment changes, including those due to interest rate adjustments or escrow account adjustments:

   i. No later than 21 days prior to any payment change the holder of the claim or its authorized agent shall file with the court and serve on the debtor, the debtor's counsel, and the Chapter 13 trustee a "Notice of Payment Changes (Fed. R. Bankr. P. 3002.1(b)).

ii. The "Notice of Payment Changes" shall include the new payment amount, the date the new payment takes effect, and a brief description of the reason for the payment change.

iii. No later than 21 days after service of the "Notice of Payment Changes," the debtor, the Chapter 13 trustee, the United States Trustee, or any party in interest may file a response to the "Notice of Payment Changes." If no such response is filed, the debtor is deemed to have accepted the payment change and the payment change will go into effect on the date provided in the "Notice of Payment Changes."

iv. The Chapter 13 trustee shall not change the payment amount in the trustee's database unless such "Notice of Payment Changes" is filed with the court unless otherwise ordered by the court.

v. If the "Notice of Payment Changes" is filed less than 21 days prior to the date of the change and requires the monthly payment to increase, the trustee shall set the new payment to commence as soon as is practicable and the holder of the claim shall file a separate supplement, e.g., a Notice of Fees, Expenses and Charges, to its proof of claim for the difference between the old payment amount and the new payment amount for any months in which the old payment amount was remitted and shall not charge a late fee due to the late notification. (See Fed. R. Bankr. P 3002.1(c)).

c. If the holder of the claim whose collateral has been retained by the debtor incurs post-petition attorney's fees, costs, or other charges such as property inspection fees, post-petition late charges or other items payable by the debtor under the terms of the loan documents, the holder of the claim shall file with the court and serve the debtor, the debtor's counsel, and the Chapter 13 trustee a "Notice of Fees, Expenses and Charges" no later than 180 days after such fees or costs are incurred on a form which conforms to the Official Federal Form or Local Form as applicable. The notice shall be filed as a supplement to the proof of claim. See Fed. R. Bankr. P. 3002.1(c).

i. On motion of the debtor or the trustee filed within one year after service of a "Notice of Fees, Expenses and Charges", the court shall, after notice and hearing, determine whether payment of any claimed fee, expense, or charge is required by the underlying agreement and applicable non-bankruptcy law to cure a default or maintain payments in accordance with § 1322(b)(5). See Fed. R. Bankr. P. 3002.1(e).

d. If the holder of the claim fails to file a "Notice of Payment Changes", a "Notice of Fees, Expenses and Charges", or a statement as discussed in

subsection (A)(8)(b), the Court may, after notice and hearing, take either or both of the following actions:

i. Preclude the holder of the claim from presenting the omitted information, in any form, as evidence in any contested matter or adversary proceeding in the case, unless the court determines that the failure was substantially justified or is harmless.

ii. Award other appropriate relief, including reasonable expenses and attorney's fees caused by the failure. See Fed. R. Bankr. P. 3002.1(i).

e. Once the fees, costs or charges have been deemed as accepted, owed, reasonable and non-dischargeable by the debtor or otherwise ordered by the Court, the Chapter 13 trustee shall load the total amount allowed in the Chapter 13 trustee's database for payment and, unless the court orders otherwise, it shall be paid pro rata as funds are available with secured and priority claims for which no EMA, e.g., a fixed monthly payment, is provided, unless payments are otherwise provided for by Order of the Court.

f. If authorized pursuant to the applicable debtor's response to a "Notice of Payment Changes," order of the Court, or to a "Notice of Fees, Expenses and Charges" or if the debtor does not respond timely to any such notice, the Chapter 13 trustee is authorized to increase the Chapter 13 plan payment without the necessity of the debtor filing a modified plan in order for the plan to comply with §§1322(a)(1) and 1322(d). If the trustee increases the debtor's Chapter 13 plan payment, the Chapter 13 trustee shall send a notice to the debtor of such payment change and shall provide the court with a proposed wage order reflecting such change in plan payment. However, rather than increasing the Chapter 13 plan payment, the Chapter 13 trustee may choose to file a notice advising the debtor of the issue or may file a motion to dismiss setting out the issue.

4. Unmodified Payments on a note secured by real estate when the debtor originally paid the holder of the claim directly and modifies a previously confirmed plan to have the Chapter 13 trustee pay on-going post-petition payments from the Chapter 13 plan payments.

a. If the debtor modifies a previously confirmed Chapter 13 plan which provided for the Chapter 13 debtor to pay the on-going post-petition payments directly to a holder of the claim to have the Chapter 13 trustee pay all or some part of the on-going post-petition payments from the Chapter 13 plan payments, the amended Chapter 13 plan must spell out with specificity the date on which the Chapter 13 trustee is to commence making the on-going post-petition payments, and the treatment of the post-petition

delinquency, including the gap between the date when the debtor modified the plan and the date on which the Chapter 13 trustee is to commence making the mortgage payment, if any.

b. The claimant must either amend its proof of claim to include any post-petition delinquency, including the gap between the date when the Chapter 13 debtor modified the Chapter 13 plan and the date on which the Chapter 13 trustee is to commence making the mortgage payment, if any; or, file a "Notice of Fees, Expenses and Charges" for those delinquencies.

c. Unless otherwise ordered by the Court, the Chapter 13 trustee shall not distribute any funds to the holder of the claim until a proof of claim is filed.

5. Unmodified Payments on a note secured by real estate when the debtor originally filed the case under another chapter of Title 11 and paid the holder of the claim directly, but the on-going, post-petition payments are delinquent at the time of conversion to Chapter 13.

a. If the debtor originally filed the case under another chapter and at the time of conversion to Chapter 13 the post-petition payments are delinquent, the debtor shall make the post-petition payments to the holder of the claim through the Chapter 13 trustee as part of the Chapter 13 plan payment., unless the court orders otherwise.

b. The Chapter 13 plan must spell out with specificity the date on which the Chapter 13 trustee is to commence making the on-going post-conversion payments, the treatment of the post-petition delinquency, including the gap between the date when the debtor filed the petition and converted to Chapter 13, and the treatment of the pre-petition arrearage.

c. The claimant either must file an amended proof of claim, including any post-petition, pre-conversion delinquency, including the gap between the date when the Chapter13 debtor filed for protection under Title 11 and converted to Chapter 13 and the date upon which the Chapter 13 trustee is to commence making the post-conversion mortgage payment, if any; or, file a "Notice of Fees, Expenses and Charges" for those delinquencies.

6. Modified Payment on a note secured by real estate. If the debtor proposes to modify a note secured by real estate, the debtor shall make all payments to the holder of the claim through the Chapter 13 trustee as part of the Chapter 13 plan payment. The Chapter 13 trustee shall distribute payment to the holder of the claim pursuant to the terms of the confirmed plan. The Chapter 13 trustee shall not distribute payments to the holder of the claim until a proof of claim is filed.

7. Chapter 13 Trustee Payments to Holder of the Claim.

a. The Chapter 13 trustee shall release payments to the entity specified in the filed and allowed proof of claim.

b. Unless the court orders otherwise, the Chapter 13 trustee shall not change the payee unless an assignment or transfer of claim is filed with the court.

8. Notice of Final Cure Payment.

a. Within 30 days after the debtor completes all payments under the plan, the Chapter 13 trustee shall file and serve on the holder of the claim, the debtor, and debtor's counsel a notice stating that the debtor has paid in full the amount required to cure any default on the claim. If the debtor contends that the final cure payment has been made and all plan payments have been completed, and the Chapter 13 trustee does not timely file and serve the "Notice of Final Cure Payment", the debtor may file and serve the notice. (See Fed. R. Bankr. P 3002.1(f)).

b. Within 21 days of the service of the "Notice of Final Cure Payment", the holder of the claim shall file and serve on the debtor, debtor's counsel, and the Chapter 13 trustee a "Response to Notice of Final Cure Payment" statement indicating:

   i. Whether the holder of the claim agrees that the debtor had paid in full the amount required to cure the default on the claim, and

   ii. Whether the debtor is otherwise current on all payments consistent with § 1322(b)(5).

   iii. The statement shall itemize the required cure or post-petition amounts, if any, that the holder of the claim contends remain unpaid as of the date of the statement. The statement shall be filed as a supplement to the proof of claim and is not subject to Fed. R. Bankr. P. 3001(f). (See Fed. R. Bankr. P. 3002.1(g)).

c. On motion of the debtor or Chapter 13 trustee filed within 21 days after service of the statement discussed in subsection (A)(8)(b), the court shall, after notice and hearing, determine whether the debtor has cured the default and paid all required post-petition amounts. (See Fed. R. Bankr. P. 3002.1(h)).

Rule 3095-1. Chapter 13 Plan and Plan Amendments – Attorney Certification

A Chapter 13 plan and any plan amendment signed by an attorney for the debtor pursuant to Local Rule 9011-1 shall constitute a certification that (a) such attorney has obtained the prior

consent of the debtor to the filing of the Chapter 13 plan or plan amendment which consent shall be in writing signed by the debtor; and (b) that the attorney has explained the proposed Chapter 13 plan or plan amendment to the debtor. For purposes of this Local Rule 3095-1, the term "signed" or "signature" means an original signature, image of an original signature, image with the debtor's signature captured electronically, or any other electronic symbol or process attached to or logically associated with a record and executed or adopted by a person with the intent to sign the record. The writing memorializing the consent of the debtor as contemplated by this Local Rule 3095-1 shall be maintained in the attorney's files and shall be available for inspection by the Court, the Chapter 13 trustee or the Office of the United States Trustee upon request.

Rule 3096-1. Chapter 13 Responses – Immediate Orders to Follow

A. Motions to Dismiss for Default in Plan Payments

1. If a response is non-responsive, the court will enter an order granting the motion to dismiss. To be considered responsive, the response should admit or deny the allegations in the motion or propose a specific solution, such as cure with a lump sum, periodic payments not to exceed six (6) months, a suspension, or contain a combination of the above.
2. If a response recites that a motion to suspend will be filed, the court will enter an order granting the motion to dismiss if the motion to suspend is not filed at the same time as the response as a separate entry.
3. If a response recites that an amended plan and motion to suspend will be filed, the court will enter an order denying the motion to dismiss on the condition an amended plan and motion to suspend are filed within 21 days.
4. If a response recites a specified repayment plan that will take six (6) months or less to cure the existing default, the court will enter an order denying the motion to dismiss on the condition on-going monthly plan payments are made in the interim in addition to the specified repayment plan set forth in the response.
5. If a response recites that the default in plan payments will be cured with a tax refund, the response shall state the basis for debtor's reasonable belief that a refund will be realized in an amount sufficient to cure the default, such as a prior history of refunds. If the response contains a reasonable belief, the court will enter an order directing the debtor to cure the default in plan payments with the tax refund on or before March 1 of the year following the tax year for which the refund is claimed with the condition that on-going monthly plan payments are made in the interim and copies of the tax returns are provided to the trustee on or before March 1. An extension of the March 1 deadline may be requested for cause shown.
6. No conditional order will be entered on a combined Trustee Motion to Dismiss for Violation of Section 1322(d) and Default in Plan Payments unless the response addresses how both plan length and payment default will be resolved.

B. Motions to Dismiss for Violation of Section 1322(d)

1. If a response recites that an amended plan will be filed, the court will enter an order denying the motion to dismiss on the condition an amended plan is filed within 21 days.
2. If the debtor needs time to file an objection to claim or take other steps to resolve the motion aside from amending the plan, the response shall recite the same and request a hearing be set within a specified amount of time.

C. Motions to Dismiss for Violation of Section 1322(d) and Default in Plan Payments

No conditional order will be entered on a combined Trustee Motion to Dismiss for Violation of Section 1322(d) and Default in Plan Payments unless the response addresses how both plan length and payment default will be resolved.

D. Motions to Deny Confirmation

1. If a response recites that an amended plan will be filed, the court will enter an order denying confirmation and granting debtor 21 days to file an amended plan.
2. If the debtor believes the court needs to hear and determine any confirmation issue, the debtor must identify all such issues and request a hearing as part of the response.
3. If the debtor needs time to file an objection to claim, adversary action, or take other steps to resolve the motion aside from amending the plan, the response shall recite the same and request a hearing be set within a specified amount of time.

E. Motions for Extension of Time.

If the debtor needs additional time to comply with any order entered pursuant to subsections A, B, C, or D, the debtor must file a motion for extension of time setting forth the cause for the request before the deadline set forth in the order has passed.

PART IV. THE DEBTOR; DUTIES

Rule 4001-1. Automatic Stay - Relief From

A. Notice; Default. When a motion for stay relief is filed, the Court will issue an order setting an answer date and a hearing date if an answer is filed. The motion and order must be served pursuant to Fed. R. Bankr. P. 7004, 9006 and 9014. If the respondent(s) fail(s) to timely file an answer, the motion is deemed admitted and the Court may enter a final order. If the movant fails to file a certificate of service with the Court showing that the order setting an answer date and a hearing date was served on parties not receiving electronic notice, the Court may deny the motion.

B. Motion for Stay Relief; Contents. A motion for relief from the automatic stay shall state the amount of the balance due of principal and interest as of the date of the bankruptcy petition. In addition, the motion shall state the following:

1. In Chapter 7 cases, if the motion is filed prior to the §341 Meeting of Creditors, the motion shall state an estimate of the value of the collateral.

2. In Chapter 13 cases, where the movant is seeking relief from the stay for failure to make post-petition payments on a claim secured by real property that is the Debtor's principal residence or is treated by the Debtor's Chapter 13 Plan pursuant to § 1322(b)(5), then the motion, or attachments thereto, shall contain a legible post-petition payment history **(Local Form - MOW 4001-1.1)**. The payment history shall set forth the date each post-petition payment was received, the amount of each post-petition payment received, and how each post-petition payment was applied by movant. Pursuant to § 362(g)(2), the Debtor has the burden to prove any post-petition payment(s) alleged to have been made but not set forth in the motion, or attachments thereto.

C. Exhibits; Witnesses. ~~Three days before the hearing, parties shall mark and exchange all exhibits which may be offered and exchange a list of witnesses who may be called. Movant's exhibits should be marked with numbers, and respondent's with letters. An Exhibit Index on the Court form **(See Local Form - MOW 7016-1.1)** must be submitted at the hearing.~~ If an evidentiary hearing is set, a specific deadline for filing of witness and exhibit lists will be set.

D. Order. Proposed orders shall be submitted by e-mail or as the Court may direct**.**

E. Adequate Protection. If debtor intends to make an offer of adequate protection, it shall be set out in the answer.

F. Trustee; Service of Documents. A trustee is a party in interest and must be timely served with the motion for relief and all documents supporting the motion. Movant shall serve legible paper copies of all documents evidencing perfection of security interests on the trustee and debtor's counsel at the time of the filing of the motion for relief or promptly thereafter. In the alternative, as to mortgages and deeds of trust only, the movant may file the page of the document, showing recording information, and the signatures of the borrowers. If such alternative is used movant shall promptly provide paper copies of the entire document upon specific request from the trustee or debtor's counsel. Service shall be certified on the motion for relief. Movant's failure to serve the trustee, debtor and debtor's counsel under this rule may result in delay in the hearing on the motion for relief or denial of the motion.

G. Mechanics' Liens. The stay is modified without motion or order to allow filing of a notice to preserve a mechanic's lien. Before proceeding with further action thereafter, the party must file a motion and obtain an order modifying the stay.

H. Negotiations with Governmental Agencies. If a farm debtor borrowed from a governmental agency, the stay is modified without motion or order to allow debtor and that agency to negotiate and submit applications for loan servicing options pursuant to agency regulations. Debtor shall file and serve on all creditors a Notice of Intent to Enter Into Loan

Service Agreement, with the opportunity to object, stating the terms of the proposed agreement, at least 21 days before entering into such agreement.

I. Conditional Orders Granting Relief from Stay. In Chapter 7 or 13 cases, an order that resolves a motion for relief from stay that, *inter alia:* (I) conditionally denies the motion; (ii) provides for future payment of some or all of the post-petition arrearage; (iii) contains a "drop dead" clause; and/or (iv) contains a grace period for curing a default of the term(s) of the order, shall be known as a conditional order granting relief from stay.

If the movant alleges that the debtor has defaulted on any term of a conditional order granting relief from stay, movant shall give the debtor 10 days written notice to cure. The notice shall include the payment history from the date of the conditional order. After such ten-day period has expired, without cure, the movant shall submit a final order setting out the terms of the alleged breach and granting the relief requested.

Rule 4001-2 Automatic Stay - Extension or Imposition

A. Scope of Rule. This rule applies to motions to extend the automatic stay pursuant to § 362(c)(3) or to impose the automatic stay pursuant to § 362(c)(4).

B. Contents of Motion. A motion to extend or impose the automatic stay filed pursuant to this rule shall include the following information: the number of previous cases under the Bankruptcy Code involving the debtor and pending within the one-year period preceding the filing of the current case; the jurisdiction and case number of each such case; the date and reason for dismissal of each such previous case; whether any presumption of lack of good faith arises pursuant to § 362(c)(3)(C) or § 362(c)(4)(D); and the facts upon which the movant relies to rebut any such presumption.

C. Service of the Motion. The motion shall be served by the debtor (or other party in interest filing the motion) in the manner required by the Bankruptcy Code, the Federal Rules of Bankruptcy Procedure and these rules, upon each party against whom the movant seeks to extend or impose the stay.

D. Notice of Motion and Hearing. Upon the filing of a motion subject to this rule, the Court shall issue a notice setting a hearing on the motion on the next available docket after the 14-day period subsequent to the filing of the motion. Movant shall serve the notice in the same manner as required for service of the motion and file a certificate of such service with the Court. If the movant requires an earlier hearing, it shall file with the motion a request to expedite the hearing, which the Court may grant or deny in its discretion. Unless otherwise ordered, any objection to such motion shall be filed within 14 days subsequent to the service of the motion.

E. Order Entered Without Hearing.

The Court may grant the motion in accordance with Fed. R. Civ. P. 43(c) and Fed. R. Bankr. P.

9017, without hearing, only if: (i) the movant files and serves, along with the motion, an Affidavit ~~signed by the movant~~ or other declaration or statement subscribed by the declarant in accordance with 28 U.S.C. §1746~~,~~ containing the facts upon which the movant relies to rebut any presumption under § 362(c)(3)(C) or § 362(c)(4)(D); (ii) no objection to such motion is filed within 14 days subsequent to the service of the motion (or such shorter time as is ordered); and (iii) the Court determines that the motion complies with this rule and that the information contained in the Affidavit is sufficient to rebut any presumption under § 362(c)(3)(C) or § 362(c)(4)(D). If no Order has been entered by 48 hours prior to the scheduled hearing, parties should assume the hearing will be held as scheduled, and failure to appear will result in the motion being denied.

Rule 4001-3. Automatic Stay - Internal Revenue Service

A. Scope of Rule. This rule applies to the Internal Revenue Service and its action, in the ordinary course of business, to offset pre-petition tax refunds owed to the debtor against the pre-petition income tax liabilities owed by a debtor in Chapter 7 and 13 cases.

B. Motion for Relief from the Automatic Stay Not Necessary. The automatic stay afforded by § 362 shall be modified without motion, notice or hearing in Chapter 7 and 13 cases 45 days after the order for relief is entered in such cases for the sole purpose of allowing the Internal Revenue Service to offset any pre-petition tax debts in accordance with 26 U.S.C. § 6402, unless the debtor or another party in interest files an objection within said 45-day period to any proposed or anticipated setoff and requests a hearing.

Rule 4001-4. Automatic Stay - Mortgage Statement Not a Violation of the Stay

A periodic statement of account sent by a mortgage creditor in the ordinary course of business to a debtor in a pending Chapter 13 case shall not be deemed a violation of the automatic stay so long as it does not include a demand for payment. The statement may include a coupon or other payment remittance form for the debtor’s use in making the periodic payment(s) on the account.

Rule 4002-1. Duties of Debtor

A. Request. Within 14 days after a trustee requests information at the § 341 meeting or in writing, debtor shall: 1) serve on the trustee a response with the information; or 2) file and serve an objection with specific grounds and a copy of the trustee's request and request a conference or hearing. Parties shall file these items only if an objection is filed or the response is an amendment to pleadings such as schedules.

B. Copies. Debtor's counsel shall promptly provide to interested parties on request copies of schedules and similar pleadings filed with the Court. If the items are not required to be served, counsel may charge a reasonable amount for copying and mailing.

C. Collateral Inspection. Debtor shall grant a secured creditor's reasonable request to inspect collateral without motion. If the request is made in preparation for a hearing, the

inspection shall be permitted within five days of such request and, in any event, not less than two days prior to the hearing.

Rule 4003-1. Garnishments

A. Pre-petition Garnishments/Lien Avoidance. Pre-petition property of a debtor subject to a writ of garnishment may be subject to a claim of exemption. If so, debtor's counsel may file a motion to avoid the garnishor's lien, pursuant to § 522(f), and serve the motion upon garnishor (or the garnishor's counsel, if known), the trustee, and the United States Trustee.

B. Post-Petition Garnishment. A writ of garnishment as to post-petition property of a debtor for a pre-petition debt violates the automatic stay, unless the case is under Chapter 13 and the garnishment is to enforce an order for alimony, maintenance, or support to a spouse, former spouse, or child. Debtor or debtor's counsel may file a Motion for Order of Release of Writ of Garnishment as to Wages earned and paid after the date of the filing of the Chapter 7 bankruptcy petition. The motion shall be served on the garnishor or the garnishor's counsel, if known, the garnishee, the trustee, and the United States Trustee.

C. Garnishment Proceeds Sent to Chapter 13 Trustee. See Local Rule 3087-1.

Rule 4004-1. Grant or Denial of Discharge

A hearing under § 524(d) on discharge or post-petition agreements in Chapter 7 will be held only on motion of debtor or other party unless required by the Bankruptcy Code or the Federal Rules of Bankruptcy Procedure.

Rule 4004-2. Extensions of Time to File Objections to Discharge / Dischargeability

A party filing a motion to extend the time for the filing of a complaint objecting to discharge, or to determine the dischargeability of a debt, shall, on the date of the filing of such motion, serve the motion on debtor and counsel for the debtor. A hearing on such motion shall be held if an objection to the motion, or a request for hearing, is filed by debtor within 21 days after service of such motion.

Rule 4004-3. Chapter 7 Cases Closed Without Discharge

If required by § 727(a)(11), proof of completion of the personal financial management instructional course is due 45 days after the first date set for the meeting of creditors. If proof of completion has not been filed, a chapter 7 case may be closed without a discharge. If proof of completion of the personal financial management instructional course is filed after the case is closed, the debtor must also file a motion to reopen the case with a 21-day notice to all creditors and interested parties. A filing fee to reopen the case must be paid with the motion.

Rule 4004-4. Discharge in Chapter 13 Case - Completed Plan

A. Motion for Entry of Discharge. If the debtor is eligible for a Chapter 13 discharge and wants a discharge order entered, the debtor shall file a motion for entry of chapter 13

discharge using the Court's form **(See Local Form - MOW 4004-4.1)** after the Chapter 13 trustee files a notice of completion of the plan.

B. No Motion Filed. If no motion for entry of chapter 13 discharge is filed, the case may be closed without entry of a discharge order upon receipt of the trustee's final report. If the motion for entry of chapter 13 discharge is filed after the case has been closed, the debtor must also file a motion to reopen the case with a 21-day notice to all creditors and interested parties. A filing fee to reopen the case must be paid with the motion.

Rule 4004-5. Discharge in Chapter 11 Case- Individual Debtor

A. Motion for Entry of Discharge. For all chapter 11 cases in which the debtor is an individual, the debtor shall file a motion for entry of chapter 11 discharge using the Court's form. **(See Local Forms - MOW 4004-5.1 and 4004-5.2)**

B. Chapter 11 Individual Discharge in Closed Case. If the case has been substantially consummated, a final decree issued, and the case closed without a discharge, the debtor shall file a motion to reopen the case before filing the motion for entry of a discharge. As the case reopening is for matters related to the discharge, the reopening fee shall be waived.

Rule 4004-6. Discharge in Chapter 12 Case

A. Motion for Entry of Discharge – Completed Plan Payments Pursuant to § 1228(a). After completion of payments required by the plan, debtor shall file a motion for entry of Chapter 12 discharge using the Court's form. **(See Local Form – MOW 4004-6.1).**

B. Motion for Entry of Discharge – Plan Payments Not Completed Pursuant to § 1228(b). After confirmation of the plan but before completion of payments required by the plan, debtor may file a motion for entry of Chapter 12 discharge using the Court's form. **(See Local Form – MOW 4004-6.2).**

C. No Motion Filed. If no motion for entry of Chapter 12 discharge is filed within 60 days after completion of payments required by the plan, the case may be closed without entry of a discharge order. If the motion for entry of Chapter 12 discharge is filed after the case has been closed, the debtor must also file a motion to reopen the case with a 21-day notice to all creditors and parties in interest pursuant to Fed. R. Bankr. P. 2002 and Local Rule 2002-1. A filing fee to reopen the case must be paid with the motion.

Rule 4008-1. Reaffirmation Agreements

A. Filing of Reaffirmation Agreement. A reaffirmation agreement pursuant to § 524(c) shall be filed no later than 60 days after the first date set for the meeting of creditors under § 341(a) of the Code. A party seeking to enlarge this time shall file a motion to extend time. Agreements to reaffirm debt pursuant to § 524(c) shall be executed on Director's Procedural Form B2400 A/B Alt promulgated by the Administrative Office of the United States Courts and available on the Court's website.

B. Statement in Support of Reaffirmation Agreement. In compliance with Fed. R. Bankr. P. 4008, the debtor's statement required under § 524(k)(6)(A) (Part D of the reaffirmation agreement) shall be accompanied by a statement of the total income and expenses stated on Schedules I and J. If there is a difference between the income and expense amounts stated on those schedules and the statement required under § 524(k)(6)(A), the statement required by this subsection shall include an explanation of the difference. Statements in Support of Reaffirmation Agreements shall be executed on Official Form 427, Reaffirmation Agreement Cover Sheet, and shall be filed with the Reaffirmation Agreement.

C. Processing and Judicial Review of Reaffirmation Agreements. The procedures described below relate to review of reaffirmation agreements for potential undue hardship under § 524(m).

1. **Review for Undue Hardship Pursuant to § 524(m).**

   a. If the reaffirmation agreement has been properly completed and no presumption of undue hardship arises because the income shown on Part D less the expenses shown there equals or exceeds the required payment on the debt to be reaffirmed, no judicial review or other action is necessary, and a notation will be placed on the docket to that effect.

   b. If the reaffirmation agreement has not been properly completed or if the presumption of undue hardship arises because the expenses shown on Part D plus the amount of the payment on the debt to be reaffirmed exceed the income shown, the reaffirmation agreement will be referred to a judge for review.

      (1) If the Court determines that no presumption of undue hardship arises, no further judicial review is required and a notation on the Court's docket to that effect will be made.

      (2) If the presumption of undue hardship arises and is rebutted by the explanatory information contained in Part D, the Court may approve the agreement without a hearing and an appropriate text order will be entered.

      (3) If the presumption of undue hardship arises and no explanatory information is offered or the Court concludes that the presumption is not rebutted by the explanatory information offered, the Court will set the reaffirmation agreement for hearing. The reaffirmation agreement may also be set for hearing if the reaffirmation agreement has not been properly completed or does not comply with Fed. R. Bankr. P. 4008.

   c. Hearing on Reaffirmation Agreement

(1) If a reaffirmation agreement has been set for hearing, deficiencies in the reaffirmation agreement may be corrected by the filing of an amended reaffirmation agreement. Supplemental information intended to rebut a presumption of undue hardship may also be submitted in advance of the hearing and must reference the related reaffirmation agreement at the time the supplemental information is filed in the ECF system. Any amended reaffirmation agreement or supplemental information intended to rebut a presumption of undue hardship must be filed no later than 24 hours before the scheduled hearing. Any information filed later than that may not be considered prior to the hearing. If the Court reviews the amended reaffirmation agreement or supplemental information and determines that it resolves any identified questions or issues or rebuts the presumption of undue hardship, the Court may enter an order finding that no presumption of undue hardship arises or that the presumption is rebutted, approving the agreement and canceling the hearing.

(2) Debtor and counsel must appear at any scheduled hearing on approval of a reaffirmation agreement. At the hearing, the Court will determine whether the reaffirmation agreement is to be approved or not. An appropriate text order will be entered subsequent to the hearing.

2. Review of Agreements not Signed by Counsel Pursuant to § 524(c)(3).

a. If the reaffirmation agreement has not been signed by counsel, it will be set for hearing. If the debt to be reaffirmed is not secured by real property, the Court may approve the agreement only if the court determines that it is in the best interest of the debtor and does not impose an undue hardship on the debtor or the debtor's dependents. If the debt to be reaffirmed is secured by real property, the Court will give the debtor the admonitions required by § 524(d)(1).

b. Debtor and counsel must appear at any scheduled hearing on approval of a reaffirmation agreement. At the hearing, the Court will determine whether the reaffirmation agreement is to be approved or not. An appropriate text order will be entered subsequent to the hearing.

Rule 4070-1. Insurance

A. Debtor-in-Possession. Unless otherwise ordered, debtors-in-possession in any Chapter shall insure all estate assets against physical damage and loss with policy limits covering asset values stated in debtor's schedules; maintain liability coverage for operations and businesses; and as appropriate or customary for the industry, maintain additional types of insurance (e.g. workers compensation, products liability, or professional liability). In the case of a motor vehicle, absent agreement between the debtor and the lienholder, the debtor shall prepay at

least three months of insurance on the vehicle; the collision and comprehensive deductible shall not exceed five hundred dollars ($500) and the insurance policy shall name the lienholder as a loss payee.

B. Proof of Insurance. Upon request of an interested party, trustee or United States Trustee, debtor shall provide proof of insurance, which shall include a certificate of insurance, binder, or other document from the carrier stating amounts, types and period of coverage, and notation of any secured party as loss payee. Failure to provide proof presumes no insurance is in effect.

C. Noncompliance. Failure to maintain insurance as required herein or to produce proof of insurance shall be grounds for dismissal or conversion, or relief from the automatic stay.

D. Motor Vehicles. For a motor vehicle retained by debtor and subject to a creditor's allowed secured claim (including a mobile home or trailer designed for or capable of travel on public roads) in addition to requirements stated in Paragraphs A, B and C, if debtor fails to provide proof of insurance or for any reason insurance lapses or terminates, debtor is enjoined from using the vehicle so long as it is uninsured and the following apply:

1. The secured creditor shall serve debtor, personally or by mail, at the address in the bankruptcy petition, and debtor's attorney, written notice of the lapse or termination of insurance.

2. Failure of the debtor to provide the creditor proof of insurance within three business days after service of the notice in subsection (1), shall constitute prima facie evidence of irreparable injury, loss or damage pursuant to § 362(f) and Fed. R. Bankr. P. 4001(a)(2)(A).

E. Motor Vehicle; When Lien is Disputed. If a lien on a motor vehicle is disputed or the subject of a trustee's complaint to avoid lien and the debtor retains possession of the vehicle, the debtor is responsible for insuring the vehicle until such time as the lien issue is decided by the Court or until the vehicle is turned over to the trustee or alleged secured creditor. If the debtor fails to provide proof of insurance to the trustee, the trustee may take such action as necessary to protect the vehicle and estate.

F. Motor Vehicle; Defined. For purposes of this Rule, the term Motor Vehicle shall include an automobile, truck, recreational vehicle, all-terrain vehicle, motorcycle, trailer, mobile home designed for or capable of transport on public roads, airplane, and motorized boat.

PART V. COURT AND CLERK

Rule 5005-1. Filing and Transmittal of Papers

A. Service of Documents and Orders by Electronic Means. All filing is by electronic means in accordance with the Court's ECF Administrative Procedures unless the exemption under Paragraph D of this section applies or paper filing is required by the Federal Rules of

Bankruptcy Procedure or the Local Rules of this Court. Electronic transmission of a document or order to the ECF system, together with the transmission of a Notice of Electronic Filing from the Court's transmission facilities, constitutes filing and service of the document or order for all purposes of the Federal Rules of Bankruptcy Procedure and the Local Rules of this Court, and constitutes entry on the docket kept by the clerk under Fed. R. Bankr. P. 5003 and 9022.

B. Procedures. The Court will accept for filing those documents submitted, signed or verified by electronic means that comply with procedures established by the Court and incorporated in these Rules or otherwise specified in its current ECF Administrative Procedures.

C. Filing Fees. Unless exempt under Paragraph D of this section, filings that require a fee shall be paid online using the internet payment program.

D. Procedures for Pro Se Filers. Procedures for the filing of documents by pro se parties and non-registered filers are set out in **PART X, REQUIREMENTS AND PROCEDURES FOR PRO SE FILERS**.

E. Technical Failure, ECF System Not Available for Filing. The Clerk shall deem the ECF System to be subject to a technical failure on a given day if the ECF system is unable to accept filing continuously or intermittently over the course of any period of time greater than one hour after 12:00 noon on that day. In the event of such technical failure, filings due that day which could not be filed solely because of such technical failure shall be due the next business day.

Rule 5007-1. Transcripts

A. Filing of Transcript. If a transcript of a Court proceeding is requested by an attorney electronically or by a pro se party in writing, the person preparing the transcript shall promptly file a certified copy and make the transcript available to the person who ordered the transcript. All transcript-related deadlines in this section shall be counted from the transcript filing date.

B. Notice of Intent to Request Redaction. Attorneys and pro se parties who attended the transcribed hearing shall have 7 days to file a Notice of Intent to Request Redaction of private information listed in Fed. R. Bankr. P. 9037(a).

C. Request for Redaction under Rule 9037(a). An attorney or party who has filed a Notice of Intent to Request Redaction shall have 21 calendar days from the filing date of the transcript to serve a Request for Redaction on the person who prepared the transcript. The Request for Redaction shall include information on the personal data identifiers to be redacted and the page and line numbers where the information appears in the transcript. The attorney or party serving the Request for Redaction shall file a certificate of service with the Court.

D. Request for Redaction under Rule 9037(d). A request to redact information not included under Fed. R. Bankr. P. 9037(a) shall be filed as a Motion for a Protective Order.

E. Redacted Transcript. If the Notice of Intent to Request Redaction has been filed and the Request for Redaction has been served on the person who prepared the transcript, the person who prepared the transcript shall file a redacted transcript within 31 days from the date of the filing of the original transcript.

F. Availability of the Transcript.

1. First 90 days after filing. Pursuant to the Judicial Conference Policy on Privacy and Public Access to Electronic Case Files, electronic access to transcripts during the first 90 days after filing is restricted to:

    a. Parties and attorneys in the case who have requested the transcript through the person who prepared the transcript.
    b. Court employees.
    c. Members of the public using the public access courthouse computer.

    In the first 90 days after a transcript is filed, a paper copy of the transcript may be obtained only from the person who prepared the transcript. Nothing in this rule shall restrict who may obtain a paper copy of the transcript.

2. After 90 days. After 90 days after the original transcript is filed, the transcript shall be made available for remote electronic access unless there is a motion for a protective order pending. If a motion for protective order is filed, the transcript or unredacted transcript shall be made available for remote electronic access after the motion is ruled. PACER charges shall apply; there is no free look and the PACER "cap" on charges does not apply. PACER charges shall also apply to persons who have already purchased a copy from the person who prepared the transcript.

3. Access to unredacted transcripts. If a transcript has been redacted, access to the unredacted transcript shall be limited to persons enumerated in this subsection.

Rule 5008-1. Notice Regarding Presumption of Abuse in Chapter 7 Cases of Individual Debtors

A. Initial Notice. The Clerk shall provide notice to all creditors of the initial determination regarding presumption of abuse.

B. Change in Presumption of Abuse. If a debtor files a statement that a presumption of abuse has arisen after the initial notice under Paragraph A indicated that there was no presumption of abuse or the presumption of abuse was unknown, the debtor is directed to provide notice to all creditors, trustees and persons requesting notice of the change in presumption of abuse pursuant to Fed. R. Bankr. P. 2002(f) and to file a certificate of service with the Court.

Rule 5009-1. Trustee's Distribution, Report and Final Decree

A. Trustee's Final Report and Proposed Distribution. As soon as practicable after completing administration of a Chapter 7 asset case, the trustee shall submit to the United States Trustee a Trustee's Final Report and Proposed Distribution (TFR) in the form prescribed by the United States Trustee. Within 60 days of submission of the TFR, the United States Trustee will file with the Court the TFR as submitted, return the TFR to the trustee for revision and re-submission to the United States Trustee, or file with the Court an objection to the TFR.

B. Service of Summary and Notice of Proposed Distribution. Promptly after the TFR is filed with the Court, the trustee shall serve a Summary and Notice of Proposed Distribution upon the creditors and interested parties appearing on the Court's matrix. Creditors and interested parties have 21 days after service of the Summary and Notice of Proposed Distribution to file objections.

C. Commencement of Distribution. The trustee shall commence distribution to creditors within 21 days of the Court's order approving the TFR.

D. Trustee's Distribution Report and Certification of Zero Balance. Within 125 days after the date of the Court's order approving the TFR, the trustee shall submit to the United States Trustee the Trustee's Distribution Report and Certification of Zero Balance (TDR) in the form prescribed by the United States Trustee. Within 30 days of submission of the TDR, the UST will file the TDR as submitted or return the TDR to the trustee for revision and resubmission to the United States Trustee.

E. Final Decree. After filing of the TDR, the Court will enter a Final Decree closing the case and discharging the trustee.

Rule 5010-1. Reopening Cases

A. Motion to Reopen Required. In accordance with § 350(b), the debtor or other party in interest may file a motion to reopen a case to administer assets, to accord relief to the debtor, or for other cause. If a debtor or creditor seeks to file an adversary proceeding to determine the dischargeability of a debt under Fed. R. Bankr. P. 4007(b) after the main bankruptcy case has been closed, a motion to reopen the closed bankruptcy case shall first be filed. If a case has been closed without granting a discharge to the debtor and the debtor seeks to file proof of completion of the Personal Financial Management Instructional Course required under §727 (a)(11) in order to receive a discharge, a motion to reopen the closed bankruptcy case shall first be filed.

B. Fee Required. Unless deferred or waived, the required filing fee shall be paid when a motion to reopen a closed case is filed. The reopening fee shall be charged when a case is closed without a discharge being entered and the debtor seeks entry of a discharge. The Court may waive this fee under appropriate circumstances or may defer payment of the fee from trustees pending discovery of additional assets and pursuant to a motion to defer filed by the

trustee. If payment is deferred, the fee shall be deemed waived if no additional assets are discovered.

C. Fee Not Required. The reopening fee shall not be charged if the reopening is necessary to:

1. Correct an administrative error.
2. Permit a party to file a complaint to obtain a determination under Fed. R. Bankr. P. 4007(b).
3. File an action against a creditor who is violating the terms of the discharge under § 524.

D. Service. On a motion to reopen to add a creditor, debtor shall file and serve upon such creditor a notice (**See Local Form - MOW 5010-1.1)** that the affected creditor must object within 30 days after service and that thereafter, the case will be reclosed, pursuant to Paragraph F. On a motion to reopen a case closed without granting a discharge to the debtor where the debtor seeks to file proof of completion of the Personal Financial Management Instructional Course required under §727 (a)(11) to receive a discharge, all creditors must be served and given 21 days to object.

E. Assignment. The motion will be assigned to the judge or division to which the case was last assigned before closing.

F. Reclosing. A motion to reopen to add a creditor may be granted ex parte. Within 30 days after the order to reopen, a creditor who objects to the addition or to the dischargeability of its debt, or the discharge of debtor, shall file an appropriate motion or adversary action. If no pleadings are filed, the claims of added creditors will be deemed discharged and the case reclosed without further notice or hearing.

PART VI. COLLECTION AND LIQUIDATION OF THE ESTATE

Rule 6004-1. Sale of Estate Property

A. Permission to Sell. A trustee may sell, without first filing a notice of intent to sell, any item of property of the estate which is: 1) not exempt; 2) not subject to any lien, dispute as to ownership or other interest as referenced in Fed. R. Bankr. P. 6004(c); and 3) a single item or group of items listed in the schedules as having a value of $3,500 or less.

B. Report of Sale. Within 14 days after a sale, the trustee shall file a report of sale specifying the property sold, price and other relevant terms, date of sale, and purchaser's name and address.

~~**Rule 6007-1. Abandonment or Disposition of Property**~~

~~The § 341 notice shall include notice that at the meeting of creditors a trustee may announce the intent to abandon specific property if it is burdensome or inconsequential to the estate. Objections to abandonment must be filed and served on the trustee within 14 days after the meeting at which the property is proposed to be abandoned.~~

PART VII. ADVERSARY PROCEEDINGS; CONTESTED MATTERS

Rule 7005-1. Serving and Filing of Pleadings and Other Papers

The provisions of Local Rule 5005-1 and the Court's ECF Administrative Procedures apply. Registration for participation in the Court's Electronic Case Filing System and receipt of a password constitute written consent to receive electronic service from the Court and/or other parties.

Rule 7005-2. Filing of Discovery Materials

A. Non-filing of Discovery. The following discovery documents and responses shall be served on opposing counsel and parties, but not filed with the Court unless ordered: requests to produce, inspect or admit; interrogatories; and depositions.

B. Certificate of Service. Instead of filing the discovery pleadings, the parties shall file a certificate of service.

Rule 7007.1-1. Corporate Ownership Statement

Local Form. See Local Form - MOW 1007-1.1 for the Corporate Ownership Statement required by Fed. R. Bankr. P. 1007(a)(1) and 7007.1.

Rule 7016-1. Pre-Trial Procedures

A. Trial Date. The trial date is generally set when the adversary complaint is filed and will be stated on the summons. Parties may request an earlier trial date.

B. Pretrial Period. In an adversary action, parties generally will be given 60 days to complete pretrial procedures which may be adjusted for cause.

C. Pretrial Conference; Scheduling Order. Discovery and pretrial conferences, and orders scheduling discovery may be set by the Court or on request of a party. If the Court determines that the Conference of Parties and Discovery Plan specified in Fed. R. Civ. P. 26(f) should be required in a particular proceeding, the Court shall enter a scheduling order as contemplated by Fed. R. Civ. P. 16(b). Plaintiff shall serve the pretrial order, summons, and complaint on all parties unless otherwise ordered. The attorney who will handle the trial shall participate in all conferences unless excused by the Court. Counsel must have authority to agree to uncontroverted facts and to the scope and scheduling of discovery.

D. Witnesses. Not later than three business days before trial, or as set forth in a pretrial order, parties shall electronically file and serve a witness list.

E. Exhibits. Not later than three business days before trial, or as set forth in a pretrial order, parties shall electronically file and serve an exhibit index, and mark and electronically file and serve all trial exhibits.

1. **Paper copies.** Unless otherwise ordered, it is not necessary to provide paper copies of the exhibit index or exhibits to the Court, except as specified below:

    a. If exhibits exceed 200 pages in total length, paper copies, marked and organized in document binders, shall be delivered to the Court in chambers in accordance with the timelines set forth in the Court's Pretrial Order or order in a contested matter; and
    b. Paper copies should be available for use by witnesses at trial.

2. **Filing order.** The exhibit index shall be filed first as the main document, using the approved Local Form **(see Local Form – MOW 7016-1.1)**. Individual marked and redacted exhibits shall then be filed, in their entirety, as attachments to the exhibit index. The exhibit index shall describe all exhibits with sufficient detail to allow for easy identification during trial.

3. **Marking and redaction.** All exhibits shall be marked before filing. Plaintiff/movant exhibits will be marked with numbers, and defendant/respondent exhibits will be marked with letters. All exhibits shall also be properly redacted before filing pursuant to Fed. R. Bankr. P. 9037, or other applicable law.

4. **Exhibits unsuitable for electronic filing.** Parties may move the Court for a waiver of the electronic filing requirement for exhibits unsuitable for such filing.

5. **Non-Compliance.** The Court may exclude evidence not filed in accordance with this rule.

F. Motion Practice. Unless the Court orders otherwise, LR 9013.1.A. through F. apply.

Rule 7026-1. Discovery. General.

A. Commencement of Discovery. Discovery may commence immediately and, unless otherwise ordered, shall be completed 14 days prior to trial. Local Rules 26.4 (Non-filing of Discovery Responses) and 30.1 (Depositions), United States District Court, Western District of Missouri, shall apply. Unless otherwise requested the Initial Disclosures specified in Fed. R. Civ. P. 26(a)(1) and the conference of Parties and Discovery Plan specified in Fed. R. Civ. P. 26(f) shall not be required. If a party wishes that such discovery procedures be imposed, a motion to that effect shall be filed as soon as practicable.

B. Discovery Deadline. Deadlines for the close of discovery will be extended only for cause. Absent extraordinary circumstances, a deadline will not be extended unless there has been active discovery. Delayed discovery is not grounds for extension of discovery deadlines. Unless

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ordered otherwise, filing of a motion, including one on dismissal, summary judgment or discovery, does not toll commencement of discovery or excuse counsel from completing discovery**.** Counsel may agree to modify deadlines without Court approval if trial and pretrial conference dates are not affected.

C. Discovery Motion. The Court will not entertain motions on a discovery dispute until parties have complied with the following:

1. Movant's counsel has conferred, or made reasonable efforts to confer, and communicated in writing with opposing counsel in a sincere effort to resolve the dispute. Counsel shall certify compliance with this Rule in any discovery motion, detailing efforts to resolve the dispute before the motion.

2. After compliance with subsection (1), the parties shall request an expedited discovery conference with the Court, which may be by telephone or in chambers. If the dispute is not resolved by conference, a discovery motion may be filed.

D. Form of Responses. The party answering interrogatories or requests to admit, produce or inspect shall set forth each question or request immediately before the answer or response.

PART VIII. APPEALS TO DISTRICT COURT OR BANKRUPTCY APPELLATE PANEL

Rule 8001-1. Manner of Taking Appeals; Voluntary Dismissal; Certification to Court of Appeals

A. Notice of Appeal. All appeals are made to The United States Bankruptcy Appellate Panel of the Eighth Circuit **(Appendix 1-10)** unless a timely election is made to have the appeal heard by the District Court pursuant to 28 U.S.C. §158(c)(1).

B. Election to Appeal to the District Court. The appellant shall file the combined Notice of Appeal and Election form **(See Form 417A)** with the Clerk of the Bankruptcy Court at the time of filing of the appeal. Any other party's election shall be filed with the Clerk of the Bankruptcy Appellate Panel.

C. Transmittal. The Clerk of the Bankruptcy Court will transmit the Notice of Appeal to the Bankruptcy Appellate Panel, or, if timely election is made, to the United States District Court

D. Application of Rules. If a timely election is filed to have the appeal heard by the District Court, the procedures of the District Court will govern; otherwise, the Local Rules of the Bankruptcy Appellate Panel will apply.

E. Direct Appeals. A certification for direct appeal to the Court of Appeals shall be made in compliance with Fed. R. Bankr. P. 8001(f).

Rule 8004-1. Service of the Notice of Appeal

Regardless of whether the appeal is to the District Court or the Bankruptcy Appellate Panel, the Court will affect service of the Notice of Appeal to counsel of record for each party and the United States Trustee.

Rule 8005-1. Stay Pending Appeal

Unless otherwise ordered, a supersedeas bond to stay execution of a judgment shall be in the amount of 125% of the judgment in order to cover the judgment, interest, costs, and any damages for delay.

Rule 8006-1. Designation of Record

A. Record for the District Court. In appeals to the United States District Court, the procedures and filing requirements of the District Court are included in the scheduling order entered after the appeal is transferred to the District Court.

B. Record for the Bankruptcy Appellate Panel. On appeals to the Bankruptcy Appellate Panel, the record on appeal shall be designated in compliance with procedures established by the Clerk of the Eighth Circuit Court of Appeals.

C. Designation of Record. The designation of record shall not be filed with the Bankruptcy Court but instead shall be filed pursuant to the orders and procedures of the appellate court.

PART IX. GENERAL PROVISIONS

Rule 9010-1. Representation and Appearances; Powers of Attorney

A. Notice. A debtor or other party shall notify the Clerk, opposing counsel and interested parties, including the trustee, in writing of a change of address and submit a list of all proceedings affected.

B. Failure to Change Address. Service to the old address of any item by the Court or a party shall be deemed effective, regardless of whether the debtor or other party actually received the item, if a notice of change of address has not been provided to the Court or made by the attorney.

C. E-Mail Address. A registered attorney or professional shall maintain a current e-mail address in the ECF system.

Rule 9011-4. Signatures

Pleadings filed by an attorney shall bear the attorney's name, bar number, firm name, address, monitored telephone number, fax number, and monitored e-mail address, and the name of the client if required by the pleading filed. The attorney's use of the login and password issued for the ECF system shall constitute the signature of the attorney for all purposes including Fed. R. Bankr. P. 9011.

Rule 9013-1. Motion Practice

A. Writing. Motions shall be in writing unless made in open court and shall state with particularity grounds for the relief requested.

B. Supporting Documents. When allegations of fact not appearing of record are relied on in support of a motion, affidavits and other pertinent documents may be filed as exhibits to the motion. Opposing counsel and trustee will receive service by electronic means. If the debtor is pro se, paper copies of affidavits and other pertinent documents shall be served by the filing party conventionally.

C. Response. Unless otherwise provided by these Rules, the Federal Rules of Bankruptcy Procedure, or by order of this Court, respondent shall file a response, any memorandum of authority, opposing affidavits for summary judgment motions, and supporting documents within 21 days after service of the motion.

D. Content of Response. Responses shall address the merits of the motion and, if applicable, set out actions to remedy the particular problem. Failure to comply with this requirement may result in a ruling on the motion without a hearing.

E. Failure to File. Failure of movant to file any supporting memorandum, or of respondent to file a timely response or memorandum, constitutes a waiver of the right to file same.

F. Submission. Motions are deemed submitted on the date the response is filed. When no response is filed, motions shall be deemed submitted 21 days after the filing date.

G. Hearings; Notice. At least a 7-day notice of a hearing date will be given if practicable. For cause, the Court may shorten the notice period. A party may request oral argument or a hearing on a motion. Whether to grant the request is within the Court's discretion.

H. Summary Judgment Motions. Motions for summary judgment shall be filed within the time deadlines set out in the pretrial order, <u>if any</u>, and shall <u>otherwise</u> comply with Rule 56, Fed. R. Civ. P.

1. The suggestions in support of a motion for summary judgment shall begin with a concise statement of uncontroverted material facts. Each fact shall be set forth in a separately numbered paragraph. Each fact shall be supported by reference to the place in the record where the fact is established.

2. Suggestions in opposition to a motion for summary judgment shall begin with a section that contains a concise listing of material facts as to which the party contends a genuine issue exists. Each fact in dispute shall be set forth in a separate paragraph, shall refer specifically to those portions of the record upon which the opposing party relies, and, if applicable, shall state the paragraph number in movant's listing of facts that is disputed. All facts set forth in the statement of the

movant shall be deemed admitted for the purpose of summary judgment unless specifically controverted by the opposing party.

3. All facts on which a motion or opposition is based shall be presented in accordance with Rule 56 of the Federal Rules of Civil Procedure. Affidavits or declarations shall be made on personal knowledge and by a person competent to testify to the facts stated. Where facts referred to are contained in another document, such as a deposition, interrogatory answer or admission, a copy of the relevant excerpt from the document shall be attached.

4. Suggestions in opposition to a motion for summary judgment shall be filed within 21 days of the filing of the motion for summary judgment. A reply, if any, to the suggestions in opposition to a motion for summary judgment shall be filed within 14 days of the filing of the suggestions in opposition.

5. Unless oral argument is ordered by the Court, motions for summary judgment will be ruled on the written motion, supporting suggestions, suggestions in opposition, and reply suggestions

Rule 9013-3. Certificate of Service

A. Certificate of Service. Each pleading shall have a signed certificate of service at the end of the pleading or on a separate, captioned certificate, stating: the manner and date of service, and each person served, either by name or reference to a standard mailing list, including electronic notice using the Court's ECF system. A pleading without a proper certificate may be stricken or denied.

B. Incorrect Certificate. A certificate is not sufficient if it is in a separate cover letter or on a cover sheet which is not a separate, captioned certificate, or consists of a general statement that proper parties have been served.

Rule 9015-1. Jury Trial

A. Jury Trial. Issues triable of right by jury shall, if timely demanded, be by jury, unless the parties or their attorneys of record, by stipulation filed with the Court or oral stipulation made in open court and entered in the record, consent to trial by the Court sitting without a jury.

B. Demand.

1. **Time; Form.** Any party may demand a jury trial of an issue triable by a jury by serving on other parties a jury demand within 14 days after service of the last pleading directed to such issue. A demand may be endorsed on a pleading. When a jury trial is demanded it shall be designated by the Clerk in the docket as a jury matter.

2. **Specification of Issues.** In a demand, a party may specify the issues which it wishes to try; otherwise it will be deemed to have demanded jury trial of all issues so triable. If a party has demanded a jury trial of only some issues, any other party may, within 14 days after service of the demand or such lesser time as the Court orders, serve a demand for jury trial of any other or all issues.

3. **Determination by Court.** On motion by a party or on its own motion, the Court may determine whether there is a right to a jury trial on the issues for which a jury is demanded or whether a jury demand in a proceeding on a contested petition shall be granted.

C. Waiver. Failure to file and serve a demand as required by this Rule and Fed. R. Bankr. P. 5005 constitutes a waiver of trial by jury. A demand cannot be withdrawn without consent of the parties.

D. Trial by Court. Issues not demanded for jury trial shall be tried by the Court. Despite a party's failure to demand a jury when such demand might have been made of right, the Court on its own may order a jury trial of any or all issues.

E. Applicability of Certain Federal Rules of Civil Procedure. Rules 38, 39, 47-51, and 81 of Federal Rules of Civil Procedure apply when a jury trial is conducted.

F. Pre-trial Proceedings. In any case where a jury trial will be conducted in District Court, the adversary action or proceeding shall remain in Bankruptcy Court until conclusion of all pretrial proceedings, including discovery, pretrial conferences, and ruling of all motions, including dispositive motions, and shall be transferred to District Court on order of the Bankruptcy Court when the proceeding is ready for trial.

Rule 9016-1. Subpoenas

Subpoenas for persons or documents for deposition, Rule 2004 examination, hearing or trial, may be obtained from any Clerk's Office in the Western District. As officers of the court, attorneys may sign and issue subpoenas as allowed by Fed. R. Civ. P. 45, as made applicable by Fed. R. Bankr. P. 9016.

Rule 9016-2. Witnesses

A. Witnesses. Absent permission of the Court, only one attorney for each litigant may examine any one witness.

B. Limitation on Experts. No more than three expert witnesses may be called by a party at trial absent prior Court approval.

Rule 9019-1. Settlement of Adversary Actions

Motions to Approve Compromise or Settlement of adversary actions shall be filed in the adversary action, and not in the main case, along with a certificate of service on those entitled to service under Fed. R. Bankr. P. 9019, 2002, or other applicable law.

Rule 9029-1. Local Rules - General

These Local Rules adopted pursuant to Fed. R. Bankr. P. 9029 and General Order of the District Court entered on December 20, 1993 **(Appendix 1-2)**, govern procedure in proceedings before the United States Bankruptcy Court, Western District of Missouri. The Rules may be modified as the Court deems appropriate to meet emergencies or in the interest of justice.

Rule 9040-1. Exhibits and Attachments

Except as otherwise provided or permitted by these Rules, documents and proofs of claim shall be filed in their entirety. Opposing counsel and trustee will receive service by electronic means. If the debtor is pro se, paper copies of exhibits or attachments shall be served by the filing party conventionally. For service requirements on proofs of claim, see Local Rules 3001-1 B and 3084-1 A.

Rule 9050-1. Proposed Orders

The Court enters orders in a text format on the court docket. If specific language is required in an order, a proposed order shall be submitted to the assigned courtroom deputy via e-mail **(Appendix 1-4)** after the hearing or expiration of the response deadline. The proposed order shall be submitted in Word format and include signature blocks entitled Submitted By, Approved By, and/or Approved as to Form and Content as applicable.

Rule 9060-1. Notices and Hearings

A. Scheduling Hearings. Unless otherwise ordered, the Court schedules all hearings and enters a hearing notice on the court docket.

B. Service of Hearing Notice. Unless otherwise ordered or provided by these Rules, the movant shall serve the hearing notice on all parties who have not received electronic notice. Parties include pro se debtors and debtors acting pro se in the specific matter before the court.

C. Continuance of Hearings. If a hearing continuance is desired, a motion must be filed no later than two business days prior to the scheduled hearing, except for cause arising within that two-day period. If the motion is filed late the movant must also contact the assigned courtroom deputy by e-mail or telephone. Any motion for continuance shall state, in addition to the reasons for such continuance, whether opposing counsel consents to such motion. A movant who is not aware of opposing counsel's position on the continuance should also state the efforts made to contact such counsel, including the date on which movant first attempted such contact.

D. Withdrawal of Document Set for Hearing. If a document set for hearing is withdrawn on the day before or the day of the scheduled hearing, the movant must contact the assigned courtroom deputy by e-mail or telephone.

E. Appearance at Court Hearing. When hearings are scheduled in the courtroom, attorneys and parties shall appear in person unless there are extenuating circumstances and

prior approval has been obtained from the Court. Contact the assigned courtroom deputy by email to discuss extenuating circumstances.

F. Telephone Hearings. When hearings are scheduled to occur by telephone, parties shall provide contact information to the Court as directed in the hearing notice. Selected hearings and all pretrial conferences are conducted by telephone. The Court will initiate the telephone call for the hearing. Parties appearing by telephone must remain available for the Court's call from the scheduled hearing time until the end of the day's hearing calendar. The Court may not postpone the hearing because of a party's unavailability or because of problems with telephonic transmission.

G. Notice with an Opportunity for Hearing—Court Prepares Notice. Certain motions will be scheduled for a hearing, but the hearing will be held only if a response is filed within the 14-day deadline set by the Court. If no response is filed, the Court will enter an order. These motions include:

1. Motion for adequate protection
2. Motion to avoid lien
3. Motion to compel abandonment
4. Motion to redeem
5. Motion for relief from stay/co-debtor stay

H. Set for Hearing.

1. Unless otherwise ordered by the Court, certain motions will be set for hearing and the hearing will be held even if no response has been filed. The Court will schedule the hearing and the movant is responsible for promptly serving the hearing notice on all parties not receiving electronic notice. These motions include:

    a. Creditor's motion to convert - all chapters
    b. Creditor's motion to dismiss - all chapters
    c. Motion for hardship discharge
    d. Objection to confirmation
    e. Trustee's motion to dismiss - chapter 7
    f. Trustee's motion to dismiss for "bad faith" or "with prejudice" - chapter 13

2. Unless otherwise ordered, certain motions will be set for hearing and, the hearing will be held unless an order disposing of the motion is entered prior to the hearing date. The Court will schedule the hearing and the movant is responsible for promptly serving the hearing notice on all parties not receiving electronic notice. These motions include:

    a. Motion to extend the stay
    b. Motion to impose the stay

3. **Creditor's Objection to Chapter 13 Plan/Amended Plan.** Unless otherwise ordered by the Court, a creditor's objection to chapter 13 plan/amended plan will be set for hearing. If an amended plan is filed after a scheduled hearing on the creditor's objection to a previous plan, the objection is moot unless the objecting creditor files a motion for hearing.

I. Held for Response - Required Notice Prepared by Movant. Motions will be held 21 days (except those held 30 days as identified below) for a response to be filed. Movant is responsible for serving the motion on all parties, all creditors not receiving electronic notice and preparing the 21-day notice. If a response is filed, the Court will schedule a hearing and post the hearing notice to the court docket. Movant is responsible for serving the hearing notice on all parties not receiving electronic notice. If a filed response proposes corrective action(s), the Court may order the respondent to take those actions by a specific deadline. Failure to take those actions may result in an order of dismissal. If no response is filed, the Court will enter an order. These motions include:

1. Debtor's motion to convert 7 to 11, 12 and 13
2. Debtor's motion to convert 11 to any chapter
3. Debtor's motion to convert 12 to any chapter
4. Debtor's motion to convert 13 to 11 or 12
5. Debtor's motion to dismiss - chapters 7, 11, ~~and~~ 12, and 13
6. Trustee's motion to dismiss - chapter 13
7. Defendant's motion to dismiss an adversary
8. Motion to Assume/Reject
9. Motion to borrow
10. Motion to compel turnover
11. Motion/Application for compensation
12. Motion to deconsolidate case
13. Motion to deposit funds in court registry
14. Debtor's application to employ
15. Trustee's application to employ special counsel
16. Motion to extend time to object to the discharge/dischargeability
17. Motion to extend time to object to exemptions.
18. Motion to file claim out of time
19. Motion to incur debt
20. Motion for joint administration
21. Motion to pay off 13 plan
22. Motion for post confirmation fees
23. Motion to reconsider
24. Motion to retain tax refund
25. Motion to reopen case to add creditors - **30-day notice to affected creditor(s)**

26. Motion to reopen case to vacate an order of dismissal or to file proof of completion of the Personal Financial Management Instructional Course and for entry of discharge
27. Motion to sell
28. Motion to suspend plan payments
29. Motion to transfer case out of district
30. Motion to vacate order
31. Objection to claim - **30-day notice to affected creditor(s)**
32. Objection to Notices of Post-Petition Fees & Costs
33. Trustee's motion to deny confirmation
34. Motion for Chapter 11 Final Decree
35. Motion to Withdraw the Reference

J. Ruled sua sponte. Certain motions may be ruled by the Court upon filing. At the Court's discretion, these motions may instead be set for hearing. These motions include:

1. Application for installment payments
2. Application to waive chapter 7 filing fee
3. Debtor's motion to delay discharge

~~4. Debtor's motion to dismiss - chapter 13 (if pro se debtor, set for hearing)~~

~~5.~~4. Plaintiff's motion to dismiss adversary proceeding

~~6.~~5. Debtor's first motion to extend time to file schedules, statements, plan - chapter 7 and chapter 13

~~7.~~6. Motion for 2004 exam

~~8.~~7. Motion for change of venue (intra-district)

~~9.~~8. Motion to appear pro hac vice

~~10.~~9. Motion to expedite hearing.

~~11.~~10. Motion to file response out of time

~~12.~~11. Motion to limit notice

~~13.~~12. Trustee's Application to Employ (unless special counsel or Chapter 11)

~~14.~~13. Motion to reinstate case

~~15.~~14. Motion to withdraw as attorney (if debtor's counsel and no entry by new counsel, will be set for hearing)

~~16.~~15. Request (from creditor) for court determination regarding stay

~~17.~~16. Trustee's motion to defer adversary filing fee/ reopening fee

PART X. REQUIREMENTS AND PROCEDURES FOR PRO SE FILERS

Rule 11002-1. Petition-General

This Part X provides special procedures applicable to pro se filers. Parts I through IX of these Local Rules are applicable to pro se filers except as provided in this Part X.

A. Filing a New Bankruptcy Petition. All initial pleadings, including the petition, schedules, statement of affairs, and matrix, shall be filed on official forms in paper format with the Clerk of the Bankruptcy Court in Kansas City, Missouri. Refer to the **Appendix 1-6** for a complete list of required documents by chapter and **Appendix 1-3** for location of Office and Local Forms.

1. Filing may be done in person or by mail.

2. If filing in person, the pro se filer shall file one original set with original signatures. If filing by mail, the debtor must include a self-addressed, stamped envelope for return of a file-stamped copy to the debtor.

3. eSR (Electronic Self Representation) is an electronic petition preparation system that is available for individuals who have decided to file a Chapter 7 or Chapter 13 bankruptcy petition without an attorney. See the Court's website at https://www.mow.uscourts.gov/bankruptcy for more information. This system allows for a one-time filing of initial pleadings. All other pleadings filed by the debtor during the case must be submitted to the Court in person or by mail. Electronic submission to the court via eSR does not constitute a case opening. Case opening will not occur until required signed documents are received by the court in person or via mail within 14 days of electronic submission.

B. Credit Counseling Requirement. Pursuant to § 109(h), an individual may not be a debtor unless the debtor has:

1. Completed a credit counseling course from an approved agency within the 180-day period preceding the date of filing and Exhibit D to the voluntary petition and, if applicable, the Certificate of Credit Counseling or

2. Received Court approval of a waiver or an exemption of this requirement pursuant to a motion filed with the Court.

Refer to **Appendix 1-3** for the location of a list of approved credit counseling agencies.

C. Service on United States Attorney. If any United States agency is a creditor, on the day of filing debtor shall serve the United States Attorney with the petition and initial pleadings.

D. Amendments. Debtor shall serve amendments to the schedules, matrix and other initial pleadings on the affected creditors.

E. Mailing Matrix and Matrix Format. Debtor shall file a master mailing matrix with names and addresses of all creditors and interested parties, but **not** debtor. The Clerk adds to each matrix the Missouri Department of Revenue. If any United States agency is a creditor, debtor shall add the United States Attorney to the matrix in addition to the creditor government agency. **Appendix 1-9** contains a list of standard addresses of government agencies. The

mailing matrix must be verified by the debtor as specified in Fed. R. Bankr. P. 1008 and prepared in a specific format (**Appendix 1-8)**. The petition may be dismissed if the matrix is not in the specified format.

F. Amended Matrix. Amendments must be identified as such, must be prepared in the specified format, must be verified, and shall list **only additional creditors.**

G. Deficient Filing and Dismissal. If the petition or initial filings are missing or incorrect, the Court may enter an order to show cause to the debtor to remedy the deficiency within 14 days (two days if it is a mailing matrix), or the case may be dismissed without further notice or hearing.

H. Payment of Fees. All payment of fees must be by cashier's check, money order or cash. No personal checks or credit cards will be accepted.

Rule 11002-2. Emergency Filing

A. Outstate Emergency. The Bankruptcy Clerk's Office is located in Kansas City, Missouri. An emergency case may be filed in the Springfield or Jefferson City District Court Clerk's Office with prior approval of the Bankruptcy Clerk's Office in Kansas City **if** a foreclosure is scheduled within 24 hours or the next business day and debtor certifies the petition could not be filed earlier in Kansas City or if, in the discretion of the Court, other emergency circumstances exist.

B. No General Outstate Filing. Only an emergency petition and documents that are required on the first day of filing may be filed in Springfield or Jefferson City District Court Clerks' Offices if approved in subsection (A) above. No other pleadings will be accepted.

Rule 11009-1. Amendments to Lists and Schedules

Debtor must serve amendments to schedules, matrices and statement of affairs on affected entities, with a separate Notice **(See Local Form - MOW 1009-1.3)** as follows:

1. For each affected entity, the name and address, amount owed, and date the debt was incurred;
2. The name and address of the trustee;
3. The bar date for filing claims, or a statement that no date has been set, or that it is a no-asset case and claims need not be filed. If the time has passed or will pass within 30 days, and creditors without knowledge of the bankruptcy are added, they have 30 days after service of the notice to file claims;
4. The deadline for filing complaints objecting to the discharge of the debtor or to the dischargeability of a debt. If the time has passed or will pass within 30 days, and creditors without knowledge of the bankruptcy are added, they have 30 days from service of the notice to file complaints; and
5. Amendments to schedules which add creditors must be accompanied by the appropriate fee, 28 U.S.C. § 1930. Amendments not accompanied by the appropriate fee will not be accepted.

Rule 17004-1. Adversary Proceedings

A. Caption. Adversary proceedings shall be captioned with the debtor's name, case number, case chapter and judge assignment. The caption shall include the plaintiff, the defendant, the adversary case number after it has been assigned and the judge assignment.

B. Service. In accordance with Fed. R. Bankr. P. 7004, service of process in an adversary action must be made on either the debtor or the debtor's agent, where applicable.

C. Summons. The summons will be prepared by the clerk and will be returned to the pro se plaintiff for service pursuant to applicable law along with the adversary complaint.

D. Educational Loans - Service on United States Attorney. If the United States made or guaranteed an educational loan, debtor shall serve a copy of the summons and complaint under § 523(a)(8), pursuant to Fed. R. Bankr. P. 7004, on the United States Attorney in Kansas City, the Attorney General in Washington, D.C., and on the appropriate agency.

E. Payment of Fees. All payment of fees must be by cashier's check, money order or cash. No personal checks or credit cards will be accepted. Any adversary filing fee owed is due at the same time the complaint is filed. If the filing fee is missing, the Court may enter an order to show cause to the pro se filer to remedy the deficiency within 14 days or the case may be dismissed without further notice or hearing.

Rule 19011-4. Signatures

Pleadings shall have the original ink signature of the pro se filer and shall include a clearly printed or typed name, address, and telephone number. This includes all documents which must contain original signatures, or which require verification or an unsworn declaration under any rule or statute.

Rule 19013-1. Motion Practice and Service

A. Writing; Conciseness. Motions shall be in writing and shall state the grounds for the relief requested. Routine motions shall be one page when possible.

B. Caption. Motions shall be captioned with the debtor's name, case number, case chapter and judge assignment.

C. Supporting Documents. When allegations of fact not appearing on record are relied on in support of a motion, affidavits and other pertinent documents shall be filed as exhibits to the motion. Opposing counsel and trustee will receive service by electronic means. If an opposing party is pro se, paper copies of affidavits and other pertinent documents shall be served by the filing party conventionally.

D. Certificate of Service. Each pleading shall have a certificate of service, signed by the pro se filer at the end of the pleading or on a separate, captioned certificate, stating: the manner and date of service, and each person served. A pleading without a proper certificate may be stricken or denied.

E. Payment of Fees. All payment of fees must be by cashier's check, money order or cash. No personal checks or credit cards will be accepted. Motions not accompanied by the appropriate fee will not be accepted for filing.