

**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.