

## LBR 3001-2. Requests to Pay Administrative Expenses

- (a) **Applicability.** Unless the court orders otherwise, this rule governs all requests for payment of administrative expenses under § 503(a), except for:
- (1) compensation and expenses awarded under § 330(a), and
  - (2) administrative expenses incurred in the ordinary course of business to the extent authorized under § 364(a), and
  - (3) a trustee's request to pay administrative expenses under LBR 2015-1.
- (b) **Form of Request.**
- (1) **Requests for Interim Payment.** An entity seeking payment for an administrative expense prior to confirmation of a plan or the filing of a trustee's final report must file a motion for allowance and payment of an administrative expense in accordance with LBR 9013-1(c). Payment may be made only upon order of the court allowing the expense and approving an interim payment.
  - (2) **Requests for Payment in the Ordinary Course of Distributions.** An entity seeking payment for an administrative expense through distributions under a confirmed plan or by the trustee after the filing of a final report may file a request substantially conforming to the local form (**Request for Payment of Administrative Expense**). Absent a timely objection to plan confirmation or a final report, payment may be made through a distribution under a confirmed plan or as part of the trustee's distribution of estate assets, without entry of a separate order allowing the expense.
- (c) **Timing of Request.** Unless the court otherwise sets a deadline, a request for payment of an administrative expense is timely if filed:
- (1) in a case under chapter 11, 12, or 13, by the later of:
    - (A) 28 days prior to the date of the plan confirmation hearing; or
    - (B) 28 days after the occurrence of the last event giving rise to the expense;
  - (2) in a case under chapter 7, by the later of:
    - (A) the deadline for filing a proof of claim;
    - (B) 28 days after the occurrence of the last event giving rise to the expense; or
    - (C) for expenses arising from the use of premises by a trustee or debtor in

possession, 28 days after surrender of the premises by the trustee or debtor in possession.

- (d) Notice.** An entity requesting payment of an administrative expense under this rule must give notice of the request to the trustee or debtor in possession, the Office of the United States Trustee, and, in a chapter 11 case, any committee appointed in the case, or if no committee has been appointed, the holders of the 20 largest unsecured claims.

## LBR 3002-1. Electronic Filing of Proof of Claim

A proof of claim submitted under Bankruptcy Rule 3002 and documents submitted in compliance with Bankruptcy Rule 3002.1 may be filed electronically using the electronic proof of claim application at the court's website. Documents submitted using this system and in compliance with all instructions and procedural requirements issued by the clerk shall have the same force and effect as if the submitting individual had signed a paper copy of the document.

## LBR 3002-2. Extension of Time to File Claim

As provided in Bankruptcy Rule 3002(c)(7), a creditor may request an extension of time to file a proof of claim by filing a motion that substantially conforms to the local form (**Motion to Extend Time to File Proof of Claim**).

## LBR 3003-1. Chapter 11 Claims Bar Date

Unless the court orders otherwise, proofs of claim or interest required to be filed in a chapter 11 case under Bankruptcy Rule 3003 must be filed within 90 days after the first date set for the meeting of creditors called under § 341. In a chapter 11 case under subchapter V, a proof of claim is timely filed if it is filed not later than 70 days after the order for relief under that chapter or the date of the order of conversion to a case under subchapter V of chapter 11.

## LBR 3004-1. Claims Filed on Behalf of Creditor

- (a) **Notice.** A party filing a proof of claim on behalf of a creditor under Bankruptcy Rules 3004 or 3005 must serve the creditor with a copy of the filed proof of claim, and a notice of the filing substantially conforming to the local form (**Notice Regarding Claim Filed on Behalf of Creditor**). The filing party must promptly file a certificate of service showing when, how, and on whom service was made. If the filing party amends or withdraws the proof of claim, the filing party shall also serve the amended claim or withdrawal of claim on the creditor and file a certificate of service.
- (b) **Amended Claim Filed by Creditor.** When a proof of claim has been filed on behalf of a creditor under Bankruptcy Rule 3004 or 3005, the creditor may file an amended proof of claim within 30 days after service of the notice required under subdivision (a) of this rule. Unless the court orders otherwise, the amended proof of claim filed by the creditor will supersede the proof of claim filed by another entity.

## LBR 3007-1. Claims – Objections

- (a) **Matter to be Set for Hearing.** A party filing an objection to a claim must obtain a hearing date and time from the court.
- (b) **Form of Objection.** Parties may object to a claim by filing an objection that substantially conforms to the local form (**Objection to Claim**). If the local form is not used, Official Form 420B (**Notice of Objection to Claim**) must be filed and served together with the objection. The objection must give not less than 30 days' notice of the deadline to respond.
- (c) **Deadline to Respond.** A response is due 7 days before the scheduled hearing. If notice was sufficient and the claimant fails to file a timely response, the court may cancel the hearing and sustain the objection by default. In that event, the objecting party may request an order sustaining the objection by filing a declaration that substantially conforms to the local form (**Declaration and Request for Entry of Order**) and submitting to chambers a proposed order that substantially conforms to the local form (**Order Sustaining Objection to Claim**).
- (d) **Objection Requiring Adversary Proceeding.** An objection to claim that includes a demand for relief of a kind specified in Bankruptcy Rule 7001 shall be converted to an adversary proceeding. Unless the court orders otherwise, the claimant will be considered the plaintiff and the objecting party will be considered the defendant.
- (e) **Attorney Fees.** Any request for an award of attorney fees and costs for prosecuting or opposing an objection to claim requires a separate motion, filed and served in the manner provided for service of a summons and complaint by Bankruptcy Rule 7004 and LBR 7004-1.

## LBR 3010-1. Dividends – Small

- (a) **Chapter 7 Cases.** The trustee in a chapter 7 case may pay dividends in amounts less than \$5.
- (b) **Chapter 12 and Chapter 13 Cases.** The trustee in a chapter 12 or chapter 13 case may distribute payments in amounts less than \$15.



## LBR 3011-1. Unclaimed Funds

- (a) **Form of Application.** A party seeking a disbursement of unclaimed funds that have been deposited with the clerk must file an application substantially conforming to the local form (**Application for Unclaimed Funds**). The application and supporting documentation must be submitted on paper for filing with the court.
- (b) **Supporting Documentation.**
  - (1) **Application by Owner of Record (Original Payee).** The person to whom the unclaimed funds were payable according to the court's records when they were deposited with the clerk is the "Owner of Record". The party filing the application is the "applicant".
    - (A) **Individual Owner of Record.** If the applicant is an individual who is the Owner of Record and whose name has changed since the funds were deposited with the court, the applicant must submit documentation of the name change.
    - (B) **Non-Individual Owner of Record.** If the applicant is a corporation, partnership, limited liability company, or other business or governmental entity that is the Owner of Record, the applicant must submit documentation showing that the individual signing the application has authority to do so on behalf of the applicant, such as articles of incorporation, board meeting minutes, or other documentation.
  - (2) **Application by Successor to Owner of Record.**
    - (A) **Successor to Individual Owner of Record.**
      - (i) **Assignment.** If the applicant is the assignee of an Owner of Record, the applicant must submit a copy of the assignment containing the notarized signature of the assignor.
      - (ii) **Deceased Owner's Estate.** If the applicant is a personal representative of a deceased Owner of Record's estate, the applicant must submit a certified copy of a letter of administration or other document authorizing the representative to file the application on behalf of the decedent's estate.
    - (B) **Successor to Non-Individual Owner of Record.** If the applicant is a successor in interest to a corporation, partnership, limited liability company, or other business or governmental entity that is the Owner of Record, the applicant must submit documentation of the transfer,

- assignment, purchase, merger, acquisition, or succession by other means, together with documentation showing authority for the signing representative to file the application on behalf of the applicant.
- (C) **Signatures.** In addition to the notarized signatures required on the application form, the individual signing the application must provide a copy of a valid photo identification issued by a government agency, such as a driver's license or a passport.
- (D) **Taxpayer Information.** The applicant must provide a W-9 or alternate form that provides the applicant's taxpayer information.
- (E) **Privacy Protection.** The clerk shall file under seal the supporting documentation to restrict public access to any personally identifiable information protected by statute, regulation, or rule.
- (c) **Competing Applications.** If there are competing applications for the same unclaimed funds, the court will usually make payment to the Owner of Record rather than to an applicant who claims to be a successor in interest or representative of the Owner of Record. If more than one applicant claims to be the Owner of Record's legal representative, the earliest application generally will be given priority. The court may request further documentation or schedule a hearing in these situations.
- (d) **Service on United States Attorney.** The applicant must serve a copy of the application on the Office of the United States Attorney, District of Hawaii, and must file a signed certificate of service showing that the application with any supporting documentation was served on the United States Attorney. The certificate should also include any other parties served.

## LBR 3015-1. Chapter 13 Plan

- (a) **Form Plan.** Unless the court orders otherwise, a plan filed in a chapter 13 case must substantially conform to the local form plan (**Chapter 13 Plan**). The form plan's text and order of presenting information may not be altered. The debtor may propose additional or different plan provisions only by setting them out in the "Nonstandard Plan Provisions" section of the plan.
- (b) **Dismissal Upon Failure to File Plan.** If a plan is not filed with a chapter 13 petition or prior to an order converting the case to chapter 13, the clerk is authorized to issue an order to satisfy the deficiency. The order may include a notice that failure to file the plan within 14 days may result in dismissal of the case without further notice, unless on or before the deadline the court enters an order extending the time to file the plan. An order dismissing the case under this provision may include a 180-day bar to refiling a subsequent petition as authorized by § 109(g)(1).
- (c) **Extension of Time to File Plan.** A debtor may request an extension of time to file a plan by filing and serving on the trustee and United States Trustee a motion substantially conforming to the local form (**Debtor's Motion to Extend Time to File Case Opening Documents**). Consideration of the motion may be expedited if the motion includes the trustee's signature indicating that there is no objection to the request.
- (d) **Motion to Reconsider Dismissal.** A debtor whose case has been dismissed for failure to file a plan may request the court to reconsider the order dismissing the case by filing a proposed plan and a motion substantially conforming to the local form (**Debtor's Motion to Reconsider Order Dismissing Case**).
- (e) **Request to Value Collateral to Determine Amount of Secured Claim.**
  - (1) **Secured Claim of a Non-Governmental Unit.** If the plan includes a request to value the collateral of a non-governmental unit under § 506(a), the plan must include an addendum that substantially conforms to the local form (**Attachment A: Addendum to Section 4.4**). Any supporting documents, such as appraisals, declarations, exhibits, and memoranda, shall be identified appropriately and appended to the addendum. Each addendum is limited to a single piece of real or personal property unless all interests being determined are secured by the same aggregate of collateral. Otherwise, requests involving different collateral must be made in additional, separate addenda.

- (2) **Secured Claim of a Governmental Unit.** A request for valuation under Bankruptcy Rule 3012(c) to determine the amount of a secured claim held by a governmental unit must be made using a motion that substantially conforms to the local form (**Attachment A: Addendum to Section 4.4**). The determination sought in a motion involving a claim by a governmental unit must be consistent with any determination involving nongovernmental creditors' claims secured by the same collateral. The motion must be filed and served at the same time the related plan is filed and served. The governmental unit may object to a motion to value collateral by filing a single pleading objecting to the motion and confirmation of the related plan. Such objections must be filed not later than the deadline to file an objection to plan confirmation.
- (f) **Request to Avoid a Lien.** If the plan includes a request to avoid a lien under § 522(f), the plan must include an addendum that substantially conforms to the local form (**Attachment B: Addendum to Section 4.6**). Any supporting documents, such as appraisals, declarations, exhibits, and memoranda, shall be identified appropriately and appended to the attachment. Additional requests to avoid liens must be made in additional, separate addenda.
- (g) **Service of Plan.**
- (1) **Debtor required to serve plan.** The debtor shall serve the plan and any amended plan on the trustee and all creditors and parties in interest when it is filed with the court. After 70 days following commencement or conversion of the case, service of an amended plan may be limited to those creditors who have filed proofs of claim.
- (2) **Manner of Service.** The debtor shall serve the plan in the same manner as required for giving notice under Bankruptcy Rule 2002 of the time fixed for filing objections to confirmation of the plan. If the plan includes a request to avoid a lien or to determine the value the collateral of a non-governmental unit, the plan and addenda must be served on each affected creditor in the manner provided for service of a summons and complaint by Bankruptcy Rule 7004 and LBR 7004-1.
- (3) **Certificate of service.**
- (A) **Local form.** The debtor shall promptly file a certificate of service. If the plan includes an Attachment A or an Attachment B, the certificate shall substantially conform to the local form (**Certificate of Service - Chapter 13 Plan**).
- (B) **Timeliness.** The debtor shall serve the plan and file a certificate of

service at least 28 days before the date of the confirmation hearing.

- (4) **Consequences of deficient service.** If the debtor fails to meet the timeliness of service requirements under this rule, the court may not schedule a confirmation hearing, or may cancel or continue the confirmation hearing, deny confirmation without a hearing, issue an order to show cause why the case should not be dismissed or converted for unreasonable delay prejudicial to creditors, or grant any other appropriate sanctions or other relief.

(h) **Interest Rate Paid on Certain Claims.**

- (1) **Standard Interest Rate.** The clerk will set and publish a standard interest rate applicable to plan distributions on secured claims governed by § 1325(a)(5)(B)(ii). This rate may be used to determine the present value of a secured claim to be paid in deferred payments over time unless a lower interest rate is specified in the proof of claim. This does not bar a debtor or creditor from proposing a different interest rate.
- (2) **Interest Rate Calculation.** The standard interest rate shall be set semiannually for the periods beginning January 1 and July 1 for cases commenced or converted to chapter 13 in those periods. The standard interest rate shall be the national prime rate of interest published in the Wall Street Journal on the first business day of those periods, plus 1.5%. This rate shall apply in cases commenced under or converted to chapter 13 during those respective periods and will remain in effect for the duration of the plan.

## LBR 3015-2. Chapter 13 - Plan Amendment and Modification

### (a) Amendment of Plan Before Confirmation.

- (1) **Amended Plan.** The debtor may file an amended chapter 13 plan any time before confirmation by filing and serving on all creditors a plan substantially conforming to the local form plan (**H113**). The debtor must check the box labeled "Amended" and indicate the date and time of the hearing on confirmation of the amended plan.
- (2) **Requests for Valuation and Avoidance of a Lien.** An amended plan that includes a request for valuation of collateral (Attachment A) or avoidance of a lien (Attachment B) must be served on a secured creditor as required by Bankruptcy Rule 7004 even if the particular request has not been amended.
- (3) **Objections.**
  - (A) **Prior Objection Deemed Moot.** An objection to a chapter 13 plan becomes moot upon the filing of an amended plan. If a party remains opposed to confirmation of an amended plan, the party must file a new objection.
  - (B) **Deadline to Object.** An objection to an amended plan must be filed not later than the time specified in LBR 3015-3(a).
- (4) **Amendments Stated Orally at Confirmation Hearing.** The trustee may request that the court confirm a chapter 13 plan with amendments stated orally at the confirmation hearing if the amendments do not prejudice any creditor.

### (b) Modification of Plan after Confirmation.

- (1) **Debtor's Motion.**
  - (A) **Form of Motion and Notice.** The debtor may request modification of a confirmed plan by filing a motion and notice of hearing substantially conforming to the local form (**Debtor's Motion to Modify Confirmed Plan; Notice of Hearing**). A copy of the entire plan as modified need not be filed so long as the motion describes with specificity the proposed modifications to the plan then in effect.
  - (B) **Service.** A debtor's motion and notice must be served promptly on the trustee and:
    - (i) all creditors and parties in interest; or
    - (ii) if the motion is filed after the deadline to file a proof of claim,

only those parties who have filed a proof of claim.

**(C) Objections.** An objection to a debtor's motion to modify a confirmed Chapter 13 plan must be filed not later than 7 days before the motion's hearing date.

**(2) Motion by Trustee or Creditor.** A motion to modify a confirmed chapter 13 plan brought by a party other than the debtor, including the trustee's motion to extend the plan's duration, must be made pursuant to LBR 9013-1(c), except that a response to the motion must be filed not later than 7 days before the hearing date. The trustee may request a plan extension up to 60 months after the time the first payment was due under the confirmed plan by filing a motion and notice of hearing substantially conforming to the local form **(Trustee's Motion to Extend Plan; Notice of Hearing)**. The trustee is not required to file a certificate of service if the clerk serves the trustee's motion and notice using the court's transmission facilities.

## LBR 3015-3. Chapter 13 – Confirmation

- (a) **Objection to Confirmation.** A party objecting to confirmation of a chapter 13 plan or a plan motion must file an objection by the later of:
  - (1) 7 days before the date of the confirmation hearing or continued confirmation hearing, and
  - (2) 21 days after the date of filing of the plan, amended plan, or plan motion.
- (b) **Lack of Objections.** In the absence of any timely filed objections to confirmation and any plan motions, the court may cancel the confirmation hearing, confirm the plan, and determine any plan motions.
- (c) **Confirmation Orders.** Unless the court directs otherwise, the trustee will prepare a confirmation order substantially conforming to the local form (**Order Confirming Chapter 13 Plan**), attaching the plan as an exhibit, and any order deciding a plan motion (**Order Granting Motion to Avoid Lien** or **Order Granting Motion to Value Collateral**). The trustee may delegate the responsibility to prepare an order to the debtor or the debtor's attorney.
- (d) **Procedure Upon Denial of Plan Confirmation.**
  - (1) **Action Required Within 14 days.** An order denying plan confirmation shall provide that the case shall be dismissed unless, within 14 days after the entry of the order denying confirmation, the debtor:
    - (A) files an amended plan and any plan motions, or
    - (B) converts the case to a case under another chapter.
- (e) **Multiple Denials of Confirmation.** If two or more plans have been denied confirmation in a case, the trustee may include in an objection to any subsequent plan a motion to dismiss the case for prejudicial delay to creditors. Separate notice of the request for dismissal is not required.



## LBR 3017-1. Disclosure Statement – Approval

- (a) **Motion and Notice Required.** A plan proponent seeking approval of a disclosure statement related to a chapter 11 plan must file a motion for approval with the disclosure statement attached as an exhibit. Except as provided in LBR 3017-2, the moving party must immediately obtain a hearing date and promptly give at least 28 days' notice of the hearing to all parties in interest.
- (b) **Form of Notice.** Unless the court orders otherwise, the notice of the hearing on a motion to approve a disclosure statement must substantially conform to the local form (**Notice of Hearing on Disclosure Statement**).
- (c) **Objections.** A party objecting to approval of the disclosure statement must file a written objection not later than 7 days before the hearing date. The objection should specify why the disclosure statement (rather than the proposed plan) is objectionable. The court generally will not entertain arguments about plan confirmation at the disclosure statement hearing.
- (d) **Intention to Proceed.** Not later than 3 days prior to the hearing (and any continued hearing), the plan proponent shall advise the court by telephone or e-mail whether the proponent intends to go forward with the hearing.
- (e) **Duty to Confer.** If an objection to the proposed disclosure statement is filed, the plan proponent and the objecting party must confer in a good faith attempt to resolve the dispute.
- (f) **Request for Continuance.** A plan proponent desiring a continuance of the hearing on a disclosure statement shall appear at the scheduled hearing to request a continuance.
- (g) **Adequate Information.** A plan proponent may establish that the proposed disclosure statement contains adequate information through offer of proof, declaration, or, if the court so requires, live testimony. In all cases, a witness competent to testify must be present. The plan proponent is not required to file briefs or memoranda.
- (h) **Confirmation Hearing.** At the conclusion of the disclosure statement hearing, counsel for the plan proponent shall be prepared to advise the court of the amount of court time the confirmation hearing will require. If a contested confirmation hearing is anticipated, the

court will entertain requests that scheduling procedures be established concerning the filing of briefs, exchange and marking of exhibits, disclosure of witnesses and discovery.

- (i) **Order Approving Disclosure Statement.** If the disclosure statement is approved at the hearing, the plan proponent must promptly prepare and submit for signing an order that substantially conforms to **Order Approving Disclosure Statement and Fixing Time for Filing Acceptances or Rejections of Plan, Combined with Notice Thereof** (Official Form 313). The proposed order must attach the approved disclosure statement as an exhibit.

## LBR 3017-2. Disclosure Statement – Small Business Case

In a small business case governed by § 1125(f), a plan proponent may file an ex parte motion to seek (i) approval of a disclosure statement submitted using a court-approved standard form, (ii) conditional approval of a disclosure statement subject to final approval after notice and a hearing, or (iii) a determination that the plan itself provides adequate information and that a separate disclosure statement is not necessary. Any disclosure statement for which conditional or final approval is sought must be attached as an exhibit to the motion.

## LBR 3018-1. Ballots – Voting on Plans

- (a) **Service.** The plan proponent must file a certificate identifying the parties served a ballot (**Official Form 314**) to accept or reject a chapter 11 plan. The certificate of service may be combined with the certificate showing service of the disclosure statement and plan.
- (b) **Ballots to be Returned to Plan Proponent.** Completed ballots must be returned to the plan proponent or its agent, not the court.
- (c) **Ballot Report.** Not later than 7 days before the confirmation hearing, the plan proponent must file a ballot tabulation report that:
  - (1) shows the percentages of acceptances and rejections for each impaired class, in number and dollar amount;
  - (2) identifies any unimpaired classes with an explanation why such classes are unimpaired under § 1124;
  - (3) identifies any ballots received after the voting deadline set by the court and whether such ballots are included in the tabulation; and
  - (4) attaches all ballots as exhibits (unless there is an unusually large number of ballots).

## LBR 3020-1. Chapter 11 – Confirmation

- (a) **Service of Disclosure Statement and Plan.** The plan proponent must file a certificate identifying the parties served the disclosure statement and plan. The certificate of service must be filed promptly after service was made.
- (b) **Objections to Confirmation.** Unless the court otherwise orders, objections to confirmation of the plan must be filed not later than 7 days prior to the confirmation hearing.
- (c) **Duty to Confer.** The plan proponent and any party objecting to confirmation must make a good faith effort to confer prior to the confirmation hearing regarding disputed issues and the conduct of the confirmation hearing.
- (d) **Status Report.** Not later than 3 days prior to the hearing (and any continued hearing), the plan proponent must advise the court whether the proponent intends to go forward with the hearing.
- (e) **Request for Continuance.** A plan proponent wishing to continue the confirmation hearing must appear at the scheduled hearing to make the request.
- (f) **Confirmation Requirements.** If the plan has been accepted by the requisite majorities and no objections to confirmation have been filed, the plan proponent may establish that the plan meets the applicable requirements of chapter 11 by offer of proof, declaration, or, if the court so requires, live testimony. In all cases, a witness competent to testify must be present.

## LBR 3022-1. Chapter 11 - Final Decree

After the entry of a plan confirmation order, the debtor in possession or trustee in a chapter 11 case may request entry of a final decree by filing and serving on the United States Trustee, any committee appointed in the case, or if no committee was appointed, the holders of the 20 largest unsecured claims, an application for a final decree closing the case and discharging the trustee, if one has been appointed. If no objection is filed within 30 days after the date of filing of the application, the clerk may enter a final decree without further notice or hearing.

## LBR 3070-1. Chapter 13 – Payments

(a) **Plan Payments to Trustee.**

- (1) **Form of Payment.** Plan payments must be made in a form acceptable to the trustee.
- (2) **Wage Orders.** The debtor may request an order directing the debtor's employer to make plan payments directly to the trustee (a "wage order") by submitting an application substantially conforming to the local form (**Application for Order to Employer to Pay Funds to Trustee; Order**). The trustee may request that the court issue a wage order if the debtor fails to make timely plan payments. The debtor may request an order vacating a wage order by submitting an ex parte motion substantially conforming to the local form (**Motion to Vacate Order to Employer to Pay Funds to Trustee; Order**).

- (b) **Pre-Confirmation Lease Payments.** Pre-confirmation payments due under personal property leases governed by § 1326(a)(1)(B) may be made directly by the debtor to the lessor only if the plan so provides or if no plan provision addresses payment of the debtor's lease obligation. If the plan provides for payment of the lease obligation by the trustee, the debtor must make the payment as part of the total payment to the trustee, and the trustee will pay the lessor, both before and after confirmation, upon the filing of a proof of claim by the lessor.

- (c) **Pre-Confirmation Adequate Protection Payments.** Pre-confirmation adequate protection payments governed by § 1326(a)(1)(C) may be made directly by the debtor to the secured creditor only if the debtor's plan so provides or if no plan provision addresses payment of the adequate protection. If the plan provides for payment of the secured claim by the trustee, the debtor must make the adequate protection payment as part of the total payment to the trustee, and the trustee will pay the secured creditor, both before and after confirmation, upon the filing of a proof of claim by the creditor.

## LBR 3070-2. Chapter 13 – Distributions

**(a) Need to File Claim.**

- (1) Need to File Proof of Claim.** A creditor must file a timely proof of claim (Official Form 410) in order to receive distributions under the plan.
- (2) Need to File Administrative Claim.** A debtor's attorney must file a request for payment of an administrative expense for compensation and reimbursement of expenses to be paid through plan distributions. The request may be made by filing in the claims register a request substantially conforming to the local form **(Request for Payment of Administrative Expense: Compensation for Debtor's Attorney in Chapter 13 Case)**.

**(b) Arrearage Portion of Secured Claim.** Notwithstanding Bankruptcy Rule 3002(a), the holder of a secured claim must file a timely proof of claim in accordance with Bankruptcy Rule 3002(c) in order to receive plan distributions for a prepetition arrearage or default. If the plan provides for payment of an "arrearage," the trustee shall make a distribution according to the amount stated on the proof of claim as "Amount of arrearage and other charges at time case filed included in secured claim," unless the court orders otherwise. The trustee will make no distribution on the secured portion of a claim that states the amount of the arrearage is \$0.00, none, or the like, or if the arrearage amount is left blank.

**(c) Untimely Claims.** The court may consider a stipulation to allow an untimely claim without notice to other creditors if executed by the debtor and the trustee.

**(d) Trustee's Notice of Claims Filed.** The trustee must file and serve on the debtor a notice of claims filed. The trustee shall give notice that distributions on these claims are being made as noted on the list according to the provisions of the confirmed plan unless an objection to a claim is filed or the court orders otherwise. The trustee shall serve the notice of claims filed by the later of (i) 28 days after the latest claims deadline stated in Bankruptcy Rule 3002(c), and (ii) 60 days after the entry of the plan confirmation order.

**(e) Determination of Claimant's Address for Distribution.** The trustee shall make distributions in accordance with the name and address of the claimant stated on the proof of claim, subject to any amendment, assignment, transfer, change of address, or any other information filed with the court as part of the individual case record. The



trustee shall not make a distribution to a claimant or address other than that stated on the proof of claim unless the notice of a change is filed with the court. A claimant may give notice of an address change by filing a form substantially conforming to the local form (**Notice of Change of Address (Proof of Claim)**).

- (f) **Claims Amended, Assigned or Transferred After the Deadline to File a Claim.** If a claim is amended, assigned, or transferred after the deadline to file a claim under Bankruptcy Rule 3002, the creditor amending the claim, the assignee, or the transferee must file promptly with the court the document amending, assigning or transferring the claim.
- (g) **Distribution on Disputed Claim.** To suspend distribution on a disputed claim, the debtor must file and serve an objection to claim on the claimant not later than 28 days after the filing of the trustee's notice of claims filed. The objection must comply with procedures stated elsewhere in these rules. Pending a determination of an objection, the trustee shall cease making a distribution on the disputed claim. If the objection is overruled, at the request of the claimant or the trustee, the court may make provision for payment of any dividends not paid while the objection was pending. Nothing in these rules prevents the debtor, the trustee, or other party in interest from objecting to a claim after the deadline specified in this paragraph. However, unless the court orders otherwise, an objection that is untimely under this subdivision and that is sustained shall not result in a refund of amounts already paid on the disputed claim.
- (h) **Relief from Stay.**
  - (1) **Order Granting Relief from Stay.** If an order granting relief from the automatic or codebtor stay unconditionally permits the secured creditor to foreclose on or repossess its collateral, the trustee shall cease making payments as soon as practicable to all creditors whose claims are based entirely on a secured interest in the collateral being foreclosed on or repossessed.
  - (2) **Stipulation or Order Regarding Relief from Stay.** If a stipulated order on relief from stay or other order provides that an arrearage in postpetition payments will be added to the prepetition debt amount paid through the plan, the creditor must file an amended claim to show the adjusted total amount due.
- (i) **Payment of Debtor's Attorney Fees.**
  - (1) **In General.**
    - (A) **Duty to Hold Funds in Client Trust Account Until Earned.** In compliance with applicable nonbankruptcy law and rules, a debtor's attorney must

deposit in a client trust account any payments made by or on behalf of the debtor. Before the petition is filed, an attorney may transfer any fees earned by that date from the trust account to the attorney's operating account. An attorney may not make any such transfers after the petition date without court approval.

(B) "Unpaid Compensation" means any unpaid compensation or reimbursement that has been allowed by a court order, less any funds held in a client trust account for the debtor, as of the date that the trustee calculates the relevant distribution.

(C) "Available Funds" means all funds received by the trustee as payments under the confirmed plan that have cleared as of the date that the trustee calculates the monthly distribution amounts.

(2) **Prior to Plan Confirmation.**

(A) **No Distribution for Unpaid Compensation Before Plan Confirmation.**

Unless the court orders otherwise, the trustee shall make no distribution from Available Funds for unpaid compensation prior to entry of a plan confirmation order, whether allowed as presumptive fees under the Chapter 13 Attorney Fee Guidelines or on a standard fee application under Rule 2016-1(a).

(B) **Payment of Presumptive Fees in Cases Dismissed or Converted Before Confirmation.** In a case that is dismissed or converted prior to confirmation in which the debtor's attorney has opted for presumptive fees under the Chapter 13 Attorney Fee Guidelines, the attorney may seek a distribution from plan payments held by the trustee or in the attorney's client trust account by filing, not later than 14 days after the dismissal or conversion, a fee application supported by time records. In accordance with § 1326(a)(2), the trustee is authorized to retain sufficient funds to pay a potential fee application as an administrative expense under § 503(b) before refunding funds to the debtor.

(3) **After Plan Confirmation.**

(A) **Initial Distribution.** Unless the confirmed plan provides otherwise, the initial distribution for Unpaid Compensation shall be paid from Available Funds before each payment to creditors under the plan.

(B) **Distributions for Additional Fee Awards.** Unless the court orders otherwise and to the extent there are Available Funds, awards for additional fees during the case shall be paid monthly in an amount specified in the fee application at the same time of each payment to

holders of secured claims. If the attorney holds funds on deposit in the client trust account, the attorney may pay its fees from these funds with court approval. If there are no allowed secured claims, the fee award shall be paid in full before any payment to other creditors.

- (4) **Upon Completion of Plan.** If the debtor has completed payments under the plan and there are no Available Funds to distribute for any unpaid compensation, the trustee shall file a final report and account in due course.
- (5) **Form of Request for Payment.** A request for payment of compensation as an administrative expense shall be made by filing in the claims register a request substantially conforming to the local form (**Request for Payment of Administrative Expense: Compensation for Debtor's Attorney in Chapter 13 Case**). The request must attach a copy of the order allowing the compensation if the fee award was made on a standard fee application.