



Local Rule 2083-1 Chapter 13 - General (2014)

(a) Chapter 13 Plan. Unless otherwise ordered by the court, all chapter 13 plans shall substantially conform to the applicable Model Plan Form posted on the bankruptcy court's website.

(b) Chapter 13 Plan Payments. Unless otherwise ordered by the court, payments under [§ 1326](#) [1] of the Code must commence not later than 30 days after the date of the filing of the petition or after the date of the entry of the order converting the case to one under Chapter 13. All such payments must be made by certified funds, money order, or a trustee-approved means of electronic funds transfer, made payable as directed by the trustee.

(c) Preconfirmation Payments Pursuant to [§ 1326\(a\)\(1\)](#) [1]. The chapter 13 plan shall list the creditor name, address, account number, payment due date, and payment amount for each creditor entitled to preconfirmation adequate protection or lease payments to be paid by the trustee.

(1) **Adequate Protection.** Unless otherwise ordered by the court, all preconfirmation adequate protection payments to holders of secured claims required under [§ 1326\(a\)\(1\)](#) [1] shall not be made by the debtor directly to the secured claimant, but shall be paid to and disbursed by the trustee. The debtor's preconfirmation plan payments to the trustee shall include the amount required under [§ 1326\(a\)\(1\)](#) [1] and the amount necessary to pay the trustee's statutory fee.

(2) **Lease Payments.** If the chapter 13 plan provides for lease payments over the term of the plan to be paid by the trustee, preconfirmation lease payments to such lessors shall be paid by the trustee and the above provisions regarding preconfirmation adequate protection payments shall apply. If the chapter 13 plan provides for lease payments to be paid by the debtor and not by the trustee over the term of the plan, then preconfirmation lease payments to such lessors required under [§ 1326\(a\)\(1\)](#) [1] shall be made directly by the debtor and not by the trustee.

(d) Documents Provided to the Trustee at or before the Meeting of Creditors.

(1) In addition to those documents required by [§ 521](#) [2], a debtor must provide to the trustee copies of the following documents at least 7 days before the date first set for the first meeting of creditors:

- (A) Proof of all charitable contributions made within 60 days before the date of the filing of the petition;
- (B) A copy of the most recent county property tax assessment for all real property listed on Schedule A;
- (C) A profit and loss statement if a debtor had self-employment income for the 60 days prior to filing, including income reported on an IRS Form 1099;
- (D) A business questionnaire for each business operated by the debtor 60 days prior to filing on a form supplied by the trustee; and
- (E) Copies of tax returns required under [Local Rule 6070-1\(c\)\(2\)](#) [3].

(2) A debtor must provide to the trustee copies of the following documents at or before the first date set for the meeting of creditors:

- (A) Evidence of current postpetition income such as the most recent payment advice; and
- (B) Statements for each of the debtors' checking, savings, brokerage, and money market accounts and mutual funds for the time period that includes the date of the filing of the petition.



(e) Dismissal for Failure to Attend a Meeting of Creditors or Make Payments. If the debtor or the debtor's attorney fails to appear at the scheduled or continued meeting of creditors required under [§ 341](#) [4] of the Code or if a debtor fails to make the first payment required by subsection (a) of this rule, the trustee must file a motion to dismiss or notice of failure to comply and serve it on the debtor and debtor's attorney. If an objection is not filed within 21 days after the motion or notice is mailed, the clerk must enter an order dismissing the case. A hearing on an objection filed in response to the trustee's notice of failure to comply will be held at the time scheduled as the confirmation hearing on Official Form 9I, unless the court orders otherwise. No notice in addition to the notice of hearing contained on Official Form 9I is required.

(f) Preconfirmation Motions to Dismiss for Failure to File or Provide Documents or Comply with Other Requirements. In addition to cause for dismissal under [§ 1307\(c\)](#) [5], the trustee, or with respect to subpart (5), the applicable taxing authority, may file a motion to dismiss or notice of failure to comply for the following grounds:

- (1) Failure to file documents required under [Local Rule 1007-1\(a\)\(2\)](#) [6];
- (2) Failure to provide identification and social security documentation under [Fed. R. Bankr. P. 4002\(b\)\(1\) or \(b\)\(2\)](#) [7];
- (3) Failure to provide documents under subsection (c) of this rule;
- (4) Failure to provide information in response to a written request by a trustee or United States trustee under [Local Rule 4002-1\(b\)](#) [8]; or
- (5) Failure to provide proof of tax trust accounts under [Local Rule 6070-1\(a\)\(3\)](#) [3] or failure to comply with requirements with respect to tax returns under [Local Rule 6070-1\(c\)](#) [3].

The motion to dismiss or notice of failure to comply must be served on the debtor and the debtor's attorney. If an objection is not filed within 21 days after the motion or notice is mailed, the clerk must enter an order dismissing the case. A hearing on an objection filed in response to the trustee's notice of failure to comply will be held at the time scheduled as the confirmation hearing on Official Form 9I, unless the court orders otherwise. No notice in addition to the notice of hearing contained on Official Form 9I is required.

(g) Postpetition Child Support, Alimony, Maintenance Payments Deemed Voluntary. Unless a chapter 13 debtor on the petition date, or such later time as the court allows, files with the court, the trustee, and the requisite state office of recovery services a notice setting forth the debtor's intent to terminate postpetition child support, alimony, maintenance payments or income withholding, the debtor will be deemed as of the date of the petition to have stipulated as follows: (1) that any child support, alimony, or maintenance obligation that matures postpetition, whether continuing or delinquent and whether paid directly by the debtor or collected by means of income withholding under state law, is voluntarily made by the debtor under the debtor's budget of postpetition expenses; and (2) that any collection of such obligations will not constitute grounds for compensatory, injunctive or punitive relief against the collecting party for any violation of the provisions of [§ 362](#) [9] of the Code. This rule does not apply to any child support, alimony, or maintenance obligation that matures and becomes delinquent postpetition and that the debtor and a state office of recovery services have agreed in writing will be treated as a prepetition obligation included in the debtor's plan.

(h) Eligibility Hearing. A party must file and serve a motion to dismiss a chapter 13 case under [§ 109\(e\)](#) [10] of the Code not later than 7 days before the date set on Official Form 9I for the plan confirmation hearing. Such motion will be heard at the plan confirmation hearing, unless the court orders otherwise.



(i) Distribution in Preconfirmation Cases.

(1) Preconfirmation Disbursements by the Chapter 13 Trustee. Preconfirmation disbursements under [§ 1326\(a\)\(1\)](#) [1] are hereby authorized without further order. The amount and timing of adequate protection payments will be as stated in the plan or as ordered by the court; however, the trustee shall not disburse such payments until the creditor entitled to adequate protection has filed an allowed proof of claim. Claims filed after a case is dismissed will not receive adequate protection payments. Preconfirmation disbursements under [§ 1326\(a\)\(1\)](#) [1] shall be made to creditors within 30 days of the filing of the proof of claim, unless, within 7 business days prior to the end of such 30 day period, the trustee has not received sufficient, cleared funds to make such payment. The trustee is authorized to deduct from an allowed claim all [§ 1326\(a\)\(1\)](#) [1] preconfirmation disbursements.

(2) Distribution in Discontinued Preconfirmation Cases. If a case is converted or dismissed prior to confirmation, the trustee is authorized to apply the debtor's plan payments to pay: (1) an allowed expense fee to the standing chapter 13 trustee; (2) adequate protection payments pursuant to the terms in the preceding paragraph; (3) any allowed administrative expenses; and (4) the balance of such funds will be paid by check made payable to and sent to the debtor(s).

(j) Confirmation.

(1) Objections to Confirmation. Any objection to the original plan must be filed and served not later than 7 days before the date set on Official Form 91 for the plan confirmation hearing. If an amended or modified plan is filed, objections must be filed and served not later than 21 days after service of the plan or notice of such plan. All objections to the plan will be heard at the confirmation hearing, unless the court orders otherwise. If the objecting party does not appear at the confirmation hearing, the court may deem the objection to be withdrawn.

(2) Confirmation of the Plan. The debtor bears the burden of proof in establishing compliance with the requirements for confirmation under Title 11, Chapter 13, and specifically [11 U.S.C. § 1325](#) [11]. Any bankruptcy papers or amendments relating to confirmation of the plan must be filed with the court not later than four (4) business days before the confirmation hearing. If bankruptcy papers need to be filed after this deadline, counsel should seek a continuance of the confirmation hearing to give all parties an opportunity to review the papers. If the court confirms the plan, the debtor will be deemed to be in compliance with [§ 521\(a\)\(1\)\(A\)](#) [2].

(3) Confirmation Without a Hearing. If all timely filed objections to confirmation are resolved, the trustee may recommend to the court that the plan be confirmed without a hearing. If the court agrees, the confirmation hearing may be stricken, an order confirming the plan may be entered, and debtors and debtors' counsel need not appear at the confirmation hearing.

(4) Evidentiary Hearings on Confirmation. If parties intend to put on evidence relating to confirmation of a plan, they should inform the court, the trustee, and any objecting party of such intent and request from the court a separate, evidentiary confirmation hearing.

(k) Trustee Postconfirmation Motions to Dismiss. The trustee's postconfirmation motion to dismiss or notice of failure to comply must be served on the debtor and the debtor's attorney. Within 21 days after the motion or notice is mailed, the debtor must take all of the following actions or the clerk shall enter an order dismissing the case: (1) file an objection to the motion or notice; (2) set the objection for a hearing; and (3) give notice of the hearing to the trustee.

(l) Trustee's Report of Claims. After the governmental claims bar date and after claims have been reviewed by debtors' counsel and/or the trustee, the trustee may file a Trustee's Report of Claims ("TROC") that lists all claims and how they are treated under the plan. The TROC will be served on the current mailing matrix. Any objection to the TROC must be filed within 21 days. If there are no timely objections, the TROC will be deemed incorporated into the confirmation order and will be binding on



parties. If a timely objection is filed, the objecting party shall forthwith set and notice the matter for a hearing.

(m) Request for Discharge. As soon as practicable after the completion of all payments under the plan, the trustee shall file with the court and serve upon the debtor and debtor's counsel a Notice of Completion of Plan Payments. If debtor's counsel asserts unpaid fees or costs in a case, counsel must within 30 days of the filing of the Notice of Completion of Plan Payments take the following actions: (1) file an objection to the Notice of Completion of Plan Payments, (2) file an appropriate application for such fees and costs, and (3) serve a notice of hearing on such application. Failure to timely comply with any of these requirements will result in a waiver of all such fees. Within 60 days thereafter, the debtor shall file and serve on all parties in interest a Verification and Request for Discharge in the form attached to these Local Rules as [Local Bankruptcy Form 2083-1](#) [12]. If no written objection to the Verification and Request for Discharge is filed within 21 days after service thereof, the court may enter a discharge pursuant to § [1328\(a\)](#) [13] without further notice or hearing.

Source URL: <https://www.utb.uscourts.gov/local-rules/2014/2083/1>

Links

[1] <https://www.law.cornell.edu/uscode/text/11/1326>

[2] <https://www.law.cornell.edu/uscode/text/11/521>

[3] <https://www.utb.uscourts.gov/local-rules/2014/6070/1>

[4] <https://www.law.cornell.edu/uscode/text/11/341>

[5] <https://www.law.cornell.edu/uscode/text/11/1307>

[6] <https://www.utb.uscourts.gov/local-rules/2014/1007/1>

[7] http://http://www.law.cornell.edu/rules/frbp/rule_4002

[8] <https://www.utb.uscourts.gov/local-rules/2014/4002/1>

[9] <https://www.law.cornell.edu/uscode/text/11/362>

[10] <https://www.law.cornell.edu/uscode/text/11/109>

[11] <https://www.law.cornell.edu/uscode/text/11/1325>

[12] <https://www.utb.uscourts.gov/forms/verification-and-request-chapter-13-discharge-template>

[13] <https://www.law.cornell.edu/uscode/text/11/1328>