

Summary of Proposed Changes to Bankruptcy Court Local Rules

(Proposed Effective Date of December 1, 2019)

1. **Local Rule 2083-1(d)(3): Amount and Period of Adequate Protection Payments.** Added language to clarify that the Chapter 13 trustee will only disburse adequate protection payments to creditors entitled to such under 11 U.S.C. § 1326(a)(1)(C) and § 1325(a)(5)(B)(iii)(II). The present rule could be interpreted to require the trustee to pay adequate protection on any secured claim listed in the plan.
2. **Local Rule 2083-1(k)(1): Trustee's Post-Confirmation Motions to Dismiss.** Added language to clarify that the objection deadline for the Chapter 13 trustee's motion to dismiss must be at least 21 days after the motion or notice is served.
3. **Local Rule 2083-1(m): Request for Discharge.** Removed requirement to serve the Verification and Request for Discharge on all parties in interest and limited service to ECF notice, parties requesting notice, and any holder of a domestic support obligation. Added language to clarify that failure to comply with this Rule may result in the closure of the bankruptcy case without the entry of a discharge. Also, modified Committee Note on Local Form to reflect change to parties to receive service.
4. **Local Rule 2083-2(g): Part 3.1 Maintenance of Post-Petition Payments and Cure of Default, If Any.** Added language to clarify that if the Chapter 13 plan provision regarding the monthly payment on a mortgage arrearage claim is left blank or is "zero," the trustee will make *pro rata* disbursements on the arrearage claim.
5. **New Local Rule 3002.1-2: Procedure for Lenders of Home Equity Lines of Credit ("HELOC") to File Notices of Mortgage Payment Changes.** As contemplated by Fed. R. Bankr. P. 3002.1(b)(1), a new local rule is added that modifies the requirement for HELOC lenders to serve notice of any payment change within 21 days before the new payment amount is due. Under the new Local Rule, the HELOC lender can elect to send the debtor monthly payment statements but only send the notice of payment changes twice-yearly.
6. **Local Rule 3011-1: Procedure for Payment of Unclaimed Funds.** Amends the Local Rule to be consistent with the new Official Form 1340 for the application for payment of unclaimed funds held in the court registry.
7. **Local Rule 9013-1(m): Motion to Shorten Time for Expedited Hearing.** This is a procedural change which clarifies that the main motion should be filed first and then the motion to shorten time. This will ensure consistent docket entries for such motions.

Proposed Changes to Bankruptcy Court's Local Rules – December 1, 2019

Local Rule 2083-1(d)(3): Amount and Period of Adequate Protection Payments.

Unless the debtor files a separate Notice for Adequate Protection Payments (Local Form 2083-1-C) or includes the Notice for Adequate Protection Payments as an attachment to the Plan, the Equal Monthly Plan Payment amount listed ~~for each creditor~~ in Part 3.2 or 3.3 of the Plan for a creditor entitled to adequate protection under § 1326(a)(1)(C) and § 1325(a)(5)(B)(iii)(II) shall will constitute ~~such that~~ creditor's Adequate Protection Payment amount. The Notice for Adequate Protection Payments ~~shall~~ must fix the amount and period of the Adequate Protection Payments.

Local Rule 2083-1(k)(1): Post-Confirmation Motions; Trustee's Motion to Dismiss.

The trustee's post-confirmation 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 served~~ By the objection deadline set in the trustee's motion to dismiss, which must be at least 21 days after the motion or notice is served, the debtor must take all of the following actions or the clerk ~~shall~~ will 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 serve notice of the hearing ~~to~~ on the trustee. Responses must be filed and served within 14 days after notice of the hearing is served pursuant to Local Rule 9006-1(b)(3).

Local Rule 2083-1(m): Request for Discharge.

As soon as practicable after the completion of all payments under the plan, the trustee ~~shall~~ must 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 21 days of after service 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 allowance of 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 after service of the Notice of Completion of Plan Payments, the debtor ~~shall~~ must file and serve a Verification and Request for Discharge in the form attached as Local Form 2083-1 on all parties in interest parties entitled to ECF notice, any party requesting notice, and any holder of a domestic support obligation ~~a Verification and Request for Discharge in the form attached as Local Form 2083-1~~. 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) without further notice or hearing. Failure to follow the provisions set forth in this rule may result in the Court's closure of the debtor's bankruptcy case without the entry of a discharge.

Local Rule 2083-2(g): Part 3.1 Maintenance of Post-Petition Payments and Cure of Default, If Any.

(1) The trustee shall make disbursements on allowed arrearage claims listed in Part 3.1 of the Plan. The trustee will pay the amount of the arrearage stated in the proof of claim, unless modified by an amended claim or court order. If the column designated as “Monthly plan payment on arrearage” is left blank or is “zero,” the trustee will make pro rata disbursements on that arrearage claim.

Local Rule 3002.1-2: Procedure for Holders of Home Equity Lines of Credit (“HELOC”) to File Notices of Payment Changes. [NEW RULE]

If a claim arises from a home equity line of credit agreement (“HELOC”), the holder of that claim may elect to file the notice of payment change required by Fed. R. Bankr. P. 3002.1(b) on a twice-yearly basis by doing the following:

- (a) Send the debtor monthly payment statements consistent with the terms of the lending agreements. These periodic statements must notify the debtor of any payment changes under the HELOC agreement that may occur between the filing of each twice-yearly notice; and,
- (b) File a notice of payment change on the first day of December and June of each year following the petition date. The twice-yearly notice shall include (i) the current monthly payment amount; and (ii) the history of any payment changes since the last notice of payment change or since the filing of a proof of claim. If the petition date is less than 30 days before either the first day of December or June of the petition year, then the first semi-annual notice shall be filed on or before the next reporting date.

The debtor shall retain its rights under Fed. R. Bankr. P. 3002.1(b)(2). Monthly payment statements or the twice-annual notice of payment change mailed to a debtor under this rule are not, without further cause, a violation of the automatic stay.

Local Rule 3011-1: Procedure for Payment of Unclaimed Funds

(a) **Requirements for Payment of Unclaimed Funds.** The Court may not disburse unclaimed funds without an application for payment of unclaimed funds, supporting documentation, notice of the application and a court order authorizing payment of unclaimed funds.

(b) **Application for Payment of Unclaimed Funds.** The following documentation is required in order to obtain a court order authorizing payment of unclaimed funds:

- (1) **Requirements for Individuals.** An application for payment of unclaimed funds should substantially conform to [Local Form 3011-1](#). Claimant must submit a photocopy of a valid photo identification issued by a government entity, such as a driver’s license or

passport. The application shall include the last four (4) digits of the claimant's social security number.

(2) Requirements for Assignee of Claimant or Representative of Estate of a Deceased Claimant. An application for payment of unclaimed funds submitted by an Assignee of Claimant or Representative of Estate of a Deceased Claimant should substantially conform to [Local Form 3011-1](#) . If the claimant is an assignee, claimant must provide documents establishing the chain of succession and assignment from the original claimant as proof of entitlement to the funds. If the claimant is a representative of the estate of a deceased claimant, certified copies of all probate documents to substantiate the representative's right to act on behalf of the decedent's estate must be provided as proof of entitlement. The assignee or the representative must comply with paragraph (1) above.

(3) Requirements for Corporations. An application for payment of unclaimed funds submitted by a corporation should substantially conform to [Local Form 3011](#) . In addition, if the claimant is a successor corporation, claimant must provide documents establishing the chain of succession of the original corporate claimant as proof of entitlement to the funds. The application shall also include the tax identification number of the corporate claimant.

(4) Requirements for Funds Locators. An application for payment of unclaimed funds submitted by a funds locator should substantially conform to [Local Form 3011-1](#) . In addition, the funds locator shall provide documentation establishing their authorization to act on behalf of claimant. The application shall also include the tax identification number or the last four digits of the claimant's social security number.

(c) **Service of the Application.** An application for payment of unclaimed funds and a notice that any objection to the application must be filed within twenty-one (21) days from the date of service mailing of the applications. The application and notice shall be filed with the Bankruptcy Court Clerk's office and mailed served by mail or other means to the debtor, debtor's attorney, ~~the trustee, the United States Trustee~~, the United States Attorney for the District of Utah, and, if the Claimant is not the original creditor or payee, the application and the notice must be served on the individual or entity for whom the funds were deposited.

(d) **Order Authorizing Disbursement of Unclaimed Funds.** If no objection is timely filed, the application and accompanying documents may be considered by the Court without a hearing. shall issue an order authorizing the disbursement requested in the application. If an objection to the application is timely received, the matter shall will be referred to the Court for a determination. The Court may sue sponte set a hearing on any application.

Local Rule 9013-1(m): Motion to Shorten Time for Expedited Hearing.

A party may file a motion to shorten time for expedited hearing, which may be granted *ex parte* for cause. A party seeking a Motion to Shorten Time for Expedited Hearing must telephone the court scheduling clerk to obtain a date and time to schedule a hearing on the underlying motion. The notice period may not be less than ten days from the date of the request without permission of the court for a shorter period. Once a date has been set by the scheduling clerk, the party must file the following documents on the case docket in the following order:

(1) The underlying motion for which the movant is seeking an expedited hearing;

(2) A Motion to Shorten Time for Expedited Hearing that states cause as to why the underlying motion should be heard on an expedited basis, and states the proposed time frame for presentment of the motion, the hearing date and time, the objection deadline, and the date of service; and,

(3) A proposed order on the Motion to Shorten Time for Expedited Hearing that includes the hearing date and time, the objection deadline, and the date of service;

~~(3) A copy of the proposed underlying motion, for which the moving party requests an expedited hearing;~~ and,

(4) A Notice of Hearing (Local Form 9013-1) with an objection deadline that expires not less than one business day before the scheduled hearing.

If the Motion to Shorten Time for Expedited Hearing is denied, the party must serve notice of the underlying motion in accordance with Local Rule 9013-1(d).

LOCAL FORM 3011-1

Application for Payment of Unclaimed Funds – [Local Rule 3011-1](#)

Fill in this information to identify the case:			
Debtor 1	_____	_____	_____
	First Name	Middle Name	Last Name
Debtor 2	_____		
(Spouse, if filing)	First Name	Middle Name	Last Name
United States Bankruptcy Court for the District of Utah			
Case number: _____			

APPLICATION FOR PAYMENT OF UNCLAIMED FUNDS

1. Claim Information

For the benefit of the Claimant(s)¹ named below, application is made for the payment of unclaimed funds on deposit with the court. I have no knowledge that any other party may be entitled to these funds, and I am not aware of any dispute regarding these funds.

Note: If there are joint Claimants, complete the fields below for both Claimants.

Amount:	_____
Claimant's Name:	_____
Claimant's Current Mailing Address, Telephone Number, and Email Address:	_____

2. Applicant Information

Applicant² represents that Claimant is entitled to receive the unclaimed funds because (*check the statements that apply*):

- Applicant is the Claimant and is the Owner of Record³ entitled to the unclaimed funds appearing on the records of the court.
- Applicant is the Claimant and is entitled to the unclaimed funds by assignment, purchase, merger, acquisition, succession or by other means.
- Applicant is Claimant's representative (e.g., attorney or unclaimed funds locator).
- Applicant is a representative of the deceased Claimant's estate.

3. Supporting Documentation

- Applicant has read the court's instructions for filing an Application for Unclaimed Funds and is providing the required supporting documentation with this application.

¹ The Claimant is the party entitled to the unclaimed funds.

² The Applicant is the party filing the application. The Applicant and Claimant may be the same.

³ The Owner of Record is the original payee.

4. Notice to United States Attorney

- Applicant has sent a copy of this application and supporting documentation to the United States Attorney, pursuant to 28 U.S.C. § 2042 at attached a Certificate of Service to this application.

Office of the United States Attorney
for the District of Utah
111 South Main Street, Suite 1800
Salt Lake City, Utah 84111

5. Applicant Declaration

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Date: _____

Signature of Applicant

Printed Name of Applicant

Address: _____

Telephone: _____

Email: _____

5. Co-Applicant Declaration (if applicable)

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Date: _____

Signature of Co-Applicant (if applicable)

Printed Name of Co-Applicant (if applicable)

Address: _____

Telephone: _____

Email: _____

6. Notarization

STATE OF _____

COUNTY OF _____

This Application for Unclaimed Funds, dated _____ was subscribed and sworn to before me this _____ day of _____, 20_ _____ by _____

who signed above and is personally known to me (or proved to me on the basis of satisfactory evidence) to be the person whose name is subscribed to the within instrument. WITNESS my hand and official seal.

(SEAL) Notary Public _____

My commission expires:

6. Notarization

STATE OF _____

COUNTY OF _____

This Application for Unclaimed Funds, dated _____ was subscribed and sworn to before me this _____ day of _____, 20_ _____ by _____

who signed above and is personally known to me (or proved to me on the basis of satisfactory evidence) to be the person whose name is subscribed to the within instrument. WITNESS my hand and official seal.

(SEAL) Notary Public _____

My commission expires:

Fill in this Information to identify the			
Debtor 1	_____	_____	_____
	First Name	Middle Name	Last Name
Debtor 2	_____	_____	_____
(Spouse, if filing)	First Name	Middle Name	Last Name
United States Bankruptcy Court for the District of Utah			
Case number: _____			

NOTICE OF OBJECTION DEADLINE

PLEASE TAKE NOTICE that the attached Application to Pay Unclaimed Funds has been filed with the United States Bankruptcy Court for the District of Utah.

Right to Object. Any party in interest who objects to the Application for Payment of Unclaimed Funds being sought in this Application must, within twenty-one (21) days of the mailing of this Application, file an objection or other appropriate response to this Application with the:

United States Bankruptcy Court
District of Utah
 Room 301
 350 South Main Street
 Salt Lake City, UT 84101

CERTIFICATE OF SERVICE BY MAIL OR OTHER MEANS

I hereby certify that on _____(date), I caused to be served a true and correct copy of the foregoing Application for Payment of Unclaimed Funds and all attachments as follows:

<p>Office of the United States Attorney District of Utah 111 South Main Street, Suite 1800 Salt Lake City, UT 84111</p>	<p> <input type="checkbox"/> By Mail: First-class U.S. mail, postage pre-paid <input type="checkbox"/> By Hand Delivery <input type="checkbox"/> By Other Means (Describe): _____ _____ _____ </p>
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<p>Debtor</p> <p>Name: _____</p> <p>Address: _____</p> <p>_____</p> <p>_____</p>	<p><input type="checkbox"/> By Mail: First-class U.S. mail, postage pre-paid</p> <p><input type="checkbox"/> By Hand Delivery</p> <p><input type="checkbox"/> By Other Means (Describe):</p> <p>_____</p> <p>_____</p> <p>_____</p>
<p>Debtor's Attorney</p> <p>Name: _____</p> <p>Address: _____</p> <p>_____</p> <p>_____</p>	<p><input type="checkbox"/> By Mail: First-class U.S. mail, postage pre-paid</p> <p><input type="checkbox"/> By Hand Delivery</p> <p><input type="checkbox"/> By Other Means (Describe):</p> <p>_____</p> <p>_____</p> <p>_____</p>
<p>If Claimant is not the original creditor or payee, the Individual or Entity for whom the funds were deposited:</p> <p>Name: _____</p> <p>Address: _____</p> <p>_____</p> <p>_____</p>	<p><input type="checkbox"/> By Mail: First-class U.S. mail, postage pre-paid</p> <p><input type="checkbox"/> By Hand Delivery</p> <p><input type="checkbox"/> By Other Means (Describe):</p> <p>_____</p> <p>_____</p> <p>_____</p>

Dated this _____ Day of _____, 20_____.

Signature

Printed Name

Privacy Policy

Applicant shall redact only the following personal data identifiers from the Application and any supporting documentation attached to the Application before filing such documents: (i) all but the last four digits of a social security number or a tax ID number; (ii) all names of minor children (use minors' initials); (iii) all but the last four digits of any bank, savings, or similar account numbers; and (iv) all birth date information except the year.

The responsibility for redacting personal data identifiers rests solely with the filing party.