

UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF INDIANA

**PROPOSED AMENDMENTS TO  
LOCAL RULES AND CHAPTER 13 PLAN FORM:  
PUBLIC COMMENT PERIOD**

The Court is proposing additional minor edits to its local rules. As with the edits this past summer, most of these edits do not make any major substantive changes to procedure but fix minor errors in citations and cross references and clarify language that has been subject to differing interpretations.

Review of the entire set – attached to this notice - is encouraged. Chapter 13 practitioners will want to be attentive to proposed B-3015-1(d) and (e). Court staff prepared this comment to that proposed edit:

Revisions to the rule are intended to codify current practice given that, as shared by some Committee Members, most debtors are unaware of the extent of a mortgage arrearage at the time of case filing. New subparagraph (d) defines a pre-petition arrearage by cross-reference to the information set forth within a mortgage creditor's Official Form 410A – Mortgage Proof of Claim Attachment – filed in the case. Newly designated subparagraph (e) clarifies that conduit payments through the Chapter 13 Trustee are required if the debtor is more than one month behind on their mortgage. The language of subparagraph (e) does not prohibit a debtor from voluntarily electing to proceed with conduit payments from the outset of the case (for those situations in which the debtor is aware of an arrearage at filing). Former subparagraphs (e) and (f) are redesignated as subparagraphs (f) and (g), respectively.

If you seek additional information about the foregoing or any other proposed change, please send an email to the Comments address below.

The Court is also considering proposed edits to the Chapter 13 plan form. A copy of the proposed new plan form is attached, and it is accompanied by its own comments explaining the proposed changes.

Comments to the proposed rules edits and/or the plan form edits can be made by sending an email to [Local\\_Rules\\_Comments@insb.uscourts.gov](mailto:Local_Rules_Comments@insb.uscourts.gov) . Deadline for comments is **midnight Tuesday, December 28th, 2021**.

December 2, 2021

/s/ Kevin P. Dempsey  
Bankruptcy Clerk

## **B-1000-1. ABBREVIATIONS AND DEFINITIONS**

### (a) Abbreviations Applicable to All Rules

- (1) Fed.R.Bankr.P.: the Federal Rules of Bankruptcy Procedure
- (2) Fed.R.Civ.P.: the Federal Rules of Civil Procedure
- (3) ITIN: Individual Taxpayer Identification Number
- (4) S.D.Ind. B- \_\_\_: a local rule of the United States Bankruptcy Court for the Southern District of Indiana
- (5) S.D.Ind. L.R. \_\_\_: a local rule of the United States District Court for the Southern District of Indiana
- (6) SSN: Social Security Number
- (7) U.S.C.: the United States Code
- (8) UST: the United States Trustee for Region 10 and/or the Executive Office for the United States Trustees

### (b) Definitions Applicable to All Rules

Capitalized terms in these local rules are defined below or in the rule where the term is used, or are the title to an official form or specific ECF event.

- (1) Appearance: an appearance that complies with S.D.Ind. B-9010-1.
- (2) Certificate of Service: a document that complies with S.D.Ind. B-9013-2.
- (3) Clerk: the Clerk of the Court.
- (4) Court: the United States Bankruptcy Court for the Southern District of Indiana.
- (5) Court's website: refers to the Court's website located at <http://www.insb.uscourts.gov>.
- (6) Debtor: includes both debtors in a joint case and a debtor-in-possession in a Chapter 11 or Chapter 12 case. In the context of service of pleadings and notices, "the Debtor" includes the Debtor and counsel of record for the Debtor. A requirement imposed upon the "Debtor" by these rules shall be performed by counsel for the Debtor, if any, except as follows:
  - (A) Official Forms shall be signed by the Debtor or the Debtor's representative in a non-individual case under Fed.R.Bankr.P. 9001(5); and
  - (B) if counsel for the Debtor in the bankruptcy case has not entered an appearance in the matter pending before a state court or other tribunal, the notices required by B-4002-1(a) shall be signed by the Debtor or an attorney who has entered an appearance for the Debtor in the non-bankruptcy matter.
- (7) Meeting of Creditors: includes the first meeting set under 11 U.S.C. §341 and any continued meeting.
- (8) Non-Sub V Small Business Case: a case filed under Chapter 11 of the U.S.C. in which the Debtor is a small business debtor as defined by 11 U.S.C. § 101(51D)

and the Debtor has not elected to proceed under Subchapter V of Chapter 11 of the U.S.C.

- (9) Notice List: the Service List and parties required to receive notice under Fed.R.Bankr.P. 2002, unless the Debtor has obtained an order limiting notice.
- (10) Objection Notice: a notice that the filer is required to distribute to designated parties which gives a time period after service for the filing of objections or responses. A rule with this reference gives the time period and designates the parties to whom the notice is distributed.
- (11) Professional: an attorney, accountant, appraiser, auctioneer or other professional person whose employment was approved by the Court under 11 U.S.C. §§327, 1103(a), or 1114(b)(2).
- (12) Service List: the Debtor, the Debtor's counsel, the 20 largest unsecured creditors in a Chapter 11 case or, if applicable, the unsecured creditors' committee, the UST, [a Trustee](#), all secured creditors, an indenture trustee, a committee appointed under 11 U.S.C. §1102 or 1114, and counsel that has filed an Appearance. If counsel appears for a party listed above, that counsel shall be substituted for the party for purpose of this definition, absent a specific request by the party that it be retained on the Service List.
- (13) Sub V Small Business Case: a case filed under Chapter 11 of the U.S.C. in which the Debtor is defined by 11 U.S.C. § 1182(1) and the Debtor has elected to proceed under Subchapter V of Chapter 11 of the U.S.C.
- (14) Trustee or trustee: the trustee appointed in a bankruptcy case under U.S.C. §§701, 702, 1104, [1183](#), 1202, or 1302.

## **B-1007-2. NOTICING, BALLOTING, AND CLAIMS AGENTS**

### **(a) Noticing, Balloting, and Claims in Chapter 11 Cases with More than 300 Creditors**

#### **(1) Requirement**

If the number of scheduled creditors in a single, consolidated, or jointly administered Chapter 11 case exceeds 300, the Debtor or trustee shall, unless the Court orders otherwise, propose the retention under 28 U.S.C. §156(c) of an entity to handle noticing (the "Noticing Agent"), an entity to receive and process claims (the "Claims Agent"), and an entity to process plan ballots (the "Balloting Agent"). One entity may serve in all three capacities (the "Agent").

#### **(2) Motion**

A motion to retain a Noticing, Claims, or Balloting Agent, a motion to be excused from compliance with this rule, or a motion for extension of time shall be filed within 28 days after the filing of a schedule or creditor list that results in more than 300 creditors in a single, consolidated, or jointly administered case.

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(3) Contact with Clerk

The proposed Agent shall meet with the Clerk or the Clerk's designee, prior to employment, to agree on terms establishing the interactions between the proposed Agent and the Clerk. Those terms shall be incorporated in the order authorizing the employment of the Agent (the "Employment Order") or in a written agreement between the Clerk and the Agent (the "Agreement") that shall be made part of the record.

(b) Noticing Agent

A Noticing Agent shall distribute notices as directed by the Court and provide to the Debtor proof of service that shall be filed as established by the Agreement or the Employment Order.

(c) Claims Agent

If a Claims Agent is to be employed, the Agreement or Employment Order shall:

- (1) establish procedures for handling of claims filed with the Clerk prior to and after the employment of the Claims Agent;
  - (2) require the Claims Agent to mail a notice of bar date that reflects the scheduled amount of the creditor's claim, instructs claimants to send claims to the Claims Agent and not the Court, and which notice complies substantially with Official Forms 410, 410A, 410S1, and 410S2 – unless alterations are approved by the Court, after notice to a committee and the UST;
  - (3) provide that, upon receipt of a claim, the Claims Agent shall promptly date-stamp it, assign a claim number, scan the original, file the claim electronically with the Court, retain originals in a fire-proof safe or vault, and return a date-stamped copy to the claimant (if a self-addressed, postage paid envelope was provided);
  - ~~(4)~~ provide that the Claims Agent shall process all claims filed using the Court's electronic proof of claim option ("ePOC/eWOC");
  - ~~(4)~~(5) require the Claims Agent to maintain the Claims Register, and that the Claims Agent shall list the claim on the register three days of receipt, in alphabetical order, according to the name of the claimant (last name for individuals) and include the claimant's address, claim number assigned, date received, dollar amount claimed, and classification of claim;
  - ~~(7)~~(6) allow the periodic audit of claims information by the Clerk, a representative of the creditors' committee, or some other entity;
  - ~~(8)~~(7) provide the mechanism and timing for delivery of a final Claims Register to the Clerk;
  - ~~(7)~~(8) require the Claims Agent to maintain, in addition to the Claims Register, a separate mailing list including the claimants' addresses, edited to reflect a notice of change of address;
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~~(8)~~(9) establish responsibility and method for processing transfers of claims, including requiring the Claims Agent to review the Court's docket periodically, identify notices transferring claims, and issue the notices required by Fed.R.Bankr.P. 3001(e);

(10) provide for the retention or destruction of documents received by the Claims Agent; and

(11) provide for treatment and disposition of Proofs of Claim if the case is converted to Chapter 7.

(d) Balloting Agent

The Balloting Agent shall receive, record, and tabulate ballots. The Agreement or Employment Order shall provide for filing of a declaration showing the results of balloting and provide for the retention or destruction of original ballots.

**B-1015-1. CONSOLIDATION OR JOINT ADMINISTRATION OF CASES PENDING IN SAME COURT**

(a) Joint Cases

A joint case commenced under 11 U.S.C. §302(a) shall be jointly administered, unless the Court orders otherwise. The separate estates of the Debtors in a joint case will only be consolidated upon motion, after notice.

(b) Joint Administration

Jointly administered cases shall be administered as follows, unless the Court orders otherwise:

(1) Designation of Lead Case

The case with the lowest number shall be designated as the "Lead Case." The other jointly administered cases are known as "Member Cases."

(2) Caption

All papers, except those filed in a Member Case under subparagraphs (b)(4) and (5) of this rule, shall have the caption with the name and case number of the Lead Case followed by the words "Jointly Administered," except that if one of the Member Cases is for an individual Debtor, the caption shall include the Lead Case name and case number and the case name for an individual Debtor. The caption for a jointly administered case shall not include the word "Consolidated."

(3) Docket

Except for the documents listed in subparagraphs (b)(4) and (5) of this rule, a pleading or document filed in a jointly administered case after the entry of the order for joint administration shall be docketed under the case number of the Lead Case.

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If joint administration is terminated, documents filed after the order terminating joint administration shall be filed and docketed in the separate cases.

(4) Claims and Related Pleadings

Claims shall be filed only in the name and case number of the Debtor against which the claim is asserted. A separate claims register shall be maintained for each case. A separate claim shall be filed in each jointly administered case in which a claim is asserted. A pleading related to a claim filed in a Member Case shall also be filed in that Member Case, and its caption shall have the name and case number of the Member Case.

(5) Documents to Be Filed in Member Cases Separately

The following documents shall be filed on the dockets of the Lead or Member Cases as to which the document applies, even if filed after the entry of the order for joint administration, and the caption of these documents shall have the name and case number of the Member Case:

(A) All Chapters

- (i) amended petitions;
  - (ii) schedules, statements of financial affairs, and amendments thereto;
  - (iii) proofs of claim and objections thereto;
  - (iv) Motions to Dismiss;
  - (v) Motions to Continue Hearing (if notice of hearing issued in Member Case);
  - (vi) UST's Notice of Revocation of Appointment of Trustee;
  - (vii) 341 Meeting Adjourned/Continued;
  - (viii) trustee final reports and accounts and related notices;
  - (ix) adversary proceedings filed under Fed.R.Bankr.P. 7001(4) or (6);
  - (x) a notice of appeal and related documents concerning an order entered only in the member case;
  - (xi) corporate ownership statements;
  - (xii) Verifications of Creditor List; and
  - (xiii) documents related to the foregoing.
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(B) Chapter 11 & 12 Cases

- (i) plans, disclosure statements, ballot reports, and objections or other documents related thereto;
- (ii) debtor monthly operating reports;
- (iii) Motions to Extend Exclusivity Period/Deadlines Under 11 U.S.C. §§ 1121, 1129, or 1221;
- (iv) Applications for Final Decree; ~~and~~

(v) in addition to documents required by this subparagraph (B) of this rule, in Sub V Cases:

(a) Notices of Completion of 1192 Payments;

(b) Notices of Substantial Consummation of Subchapter V Plan;

(c) Objections to Small Business/Subchapter V Designation/Request for Determination;

(d) Statements of Small Business/Subchapter V Designation; and

(e) Subchapter V Status Reports Pursuant to 1188(c); and

- (vi) documents related to the foregoing.

(6) Ballots

Ballots shall have the caption of the name and case number of the Member Case for which the plan being voted on was filed.

(c) Substantive Consolidation

Substantively consolidated cases shall be administered as follows, unless the Court orders otherwise:

(1) Designation of Lead Case

The case with the lowest number shall be designated as the “Lead Case.”

(2) Caption

All documents in substantively consolidated cases shall have the caption of the Lead Case, unless one of those cases is for an individual Debtor; then the caption shall include the Lead Case and the case name for an individual Debtor.

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(3) Docket

A single case docket shall be maintained after the entry of the order for consolidation. If consolidation is later terminated, documents filed after the order terminating consolidation shall be filed in the separate cases.

(4) Claims

After consolidation all claims shall be filed in the Lead Case. Claims filed and docketed prior to consolidation shall be considered as filed in the substantively consolidated cases but shall remain on the claims register where originally filed.

## **B-2015-1. REPORT OF OPERATIONS**

(a) Operating Reports

For all Chapter 11 cases, and for Chapter 7 cases in which the trustee operates a business, and until the case is closed or converted, the trustee or the Debtor shall file reports of operations, at intervals to be determined by the UST or an applicable rule or regulation, using forms approved by the UST. For all Chapter 12 cases, and for Chapter 13 cases in which the Debtor operates a business, the Debtor shall file reports of operations as required by the trustee, at intervals to be determined by the trustee or an applicable rule, using forms acceptable to the trustee.

(b) Distribution

~~The~~ Unless the Court orders otherwise, the report shall be distributed to the UST, the Debtor, a trustee and counsel for the trustee, any governmental unit charged with responsibility for collection or determination of any tax arising out of the estate's operation, the Service List in a Chapter 11 case, and a party requesting service.

(c) Penalties for Failure to File

The failure to file operating reports may constitute cause for the conversion or dismissal of the case, or for the appointment or removal of a trustee.

## **B-3015-1. FILING AND DISTRIBUTION OF CHAPTER 13 PLANS AND NOTICE OF CONFIRMATION**

(a) Form of Plan

The Court has adopted a Local Form for the Chapter 13 plan (the "Local Form Plan") which replaces Official Form 113 as permitted by Fed.R.Bankr.P. 3015.1. The Debtor shall use the Local Form Plan, which is available on the Court's website or from the Bankruptcy Clerk.

(b) Extension of Time to File Plan

A motion to extend the time to file a Chapter 13 plan shall be filed within 14 days after the commencement of the case.

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(c) Pre-confirmation Payments as Adequate Protection

Unless the Court orders otherwise for claims secured by personal property, “adequate protection” under 11 U.S.C. §1326(a)(1)(C) shall be paid by the Debtor to the trustee, as a portion of the payment made under 11 U.S.C. §1326(a)(1), in an amount equal to 1% of the allowed secured claim. Such amount shall be presumed to constitute adequate protection although that presumption may be rebutted. The trustee shall disburse adequate protection payments to the secured creditor as soon as practicable. All adequate protection payments shall be subject to the trustee’s percentage fee.

(d) Definition of Pre-Petition Arrearage

For the purposes of subparagraph (e), a “pre-petition arrearage” is defined as the amount asserted in Part 3 of Official Form 410A attached to the proof of claim if filed by a mortgage creditor, less any amount asserted as a projected escrow shortage.

~~(d)~~(e) Payment of Pre-Petition Arrearage through Trustee

If, on the petition date, a pre-petition arrearage of more than one monthly mortgage payment exists on a mortgage secured by the Debtor’s principal residential real estate, then the Debtor shall make all payments on the mortgage through the Chapter 13 trustee. Such payments made by the Trustee to the mortgage creditor shall include on-going post-petition mortgage installments, pre-petition arrearage, and any uncontested or allowed post-petition costs, fees, and charges asserted by the mortgage creditor. The Debtor shall pay a pre-petition arrearage claim on a mortgage secured by the Debtor’s residential real estate, along with the post-petition mortgage installments, through the Chapter 13 Trustee. These disbursements shall be subject to the trustee’s percentage fee.

~~(e)~~(f) Distribution of Plans and Amended Plans

The Chapter 13 Trustee shall distribute the original plan, the first and second amended plans and related notice, and file a Certificate of Service. If service of the plan other than by first-class mail is required by Fed.R.Bankr.P. 3012 or 4003, the trustee may require the Debtor to distribute the plan to that entity and provide proof of service to the trustee. The Debtor shall distribute a third amended or subsequent plan and related notice, and file a Certificate of Service.

~~(f)~~(g) Distribution of Notice of Confirmation

After the Court has entered an order confirming a plan, the Chapter 13 Trustee shall distribute notice of confirmation as required by Fed.R.Bankr.P. 2002(f)(7) and file a Certificate of Service.

**B-3017-2. CONSIDERATION OF DISCLOSURE STATEMENTS IN NON-SUB V SMALL BUSINESS CASES AND CONFIRMATION DEADLINES**

(a) Expedited Processing of Disclosure Statement in Non-Sub V Small Business Cases

If the proponent of a plan in a Non-Sub V Case requests that the Court:

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- (1) determine that the plan itself provides adequate information and that a separate disclosure statement is not necessary;
- (2) approve a disclosure statement submitted on an approved official form; or
- (3) conditionally approve a disclosure statement subject to final approval at a hearing where the Court will also consider confirmation of the proposed plan,

the proponent shall file a notice along with the proposed plan or disclosure statement. The notice shall specify why the relief requested is appropriate. A sample ~~notice~~ [Notice of Proposed Expedited Processing of Non-Sub V Small Business Case](#) is available on the Court's website.

(b) Deadlines

At the hearing on a request under subparagraph (a) of this rule the Court may also, either on its own initiative or at the request of a party in interest, consider whether a deadline for confirming a proposed plan should be extended.

**B-3022-2. FINAL DECREE IN CHAPTER 11 CASES WHERE THE DEBTOR IS AN INDIVIDUAL**

(a) Timing of Application for Final Decree

In a case confirmed under 11 U.S.C. § 1191(a), the individual Debtor may apply for a final decree any time after docketing of the confirmation order. In a case confirmed under 11 U.S.C. § 1129 or § 1191(b), the individual Debtor shall apply for a final decree upon completion of all plan payments. The application shall include the percentage paid to general unsecured creditors.

(b) Request for Hardship Discharge

If the Debtor seeks a discharge under 11 U.S.C. §1141(d)(5)(B), the Debtor shall file a Motion for Hardship Discharge.

(c) Closing Case Before Plan Payments Completed

In a case confirmed under 11 U.S.C. § 1129, ~~or § 1191(b)~~ for which the Debtor is the entity administering the confirmed plan, a Debtor that wishes to close the case pending completion of the plan must file a Motion to Close Chapter 11 Case that states an intention to reopen the case upon plan completion. If the motion is granted, the Clerk shall not issue a Notice of No Discharge as otherwise required by Fed.R.Bankr.P. 4006. After completion of the plan and the reopening of the case, the Debtor shall file the Application for Final Decree and supporting documents as required in subparagraph (a) of this rule.

**B-4001-3. OBTAINING CREDIT IN CHAPTER 13 CASES**

(a) Dollar Limits

- (1) \$2,500.00 or Less
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The Debtor may incur non-emergency consumer debt up to \$2,500.00 without the trustee's written approval or Court order.

(2) Greater than \$2,500.00

The Debtor shall seek the trustee's approval or a Court order under subparagraphs (b) ~~and (c) through (d)~~ of this rule before incurring non-emergency consumer debt of more than \$2,500.00.

(b) Request Directed to Trustee

The Debtor's request to incur debt, other than debt to be secured by real estate, shall first be made to the trustee. If approved by the trustee, the Debtor may incur the debt. If the trustee has not directed use of a specific form, the request shall include the following information:

- (1) a statement in support of the feasibility of the request;
- (2) a description of the item to be purchased or the collateral affected by the credit to be obtained;
- (3) a description of the interest held by another entity in collateral affected by the credit;
- (4) the reasons why the Debtor needs the credit;
- (5) the terms of the proposed financing, including the interest rate; and
- (6) the protection proposed for the interest held by another entity in the collateral.

(c) Obtaining a Court Order

(1) When Required

The Debtor shall file a Motion to Incur Debt if:

- (A) the proposed debt is greater than \$2,500.00 and is to be secured by real estate;
- (B) the Debtor's request under subparagraph (b) of this rule has not been approved by the trustee; or
- (C) the Debtor seeks a Court order on a request that has been approved by the trustee.

(2) Contents

The motion shall include all the information required by subparagraph (b) of this rule. If the new debt will replace an existing obligation secured by the Debtor's property, the motion shall also include the principal loan balance of the original debt, the rate of interest, the amount of monthly escrow for taxes and insurance, the

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monthly payment, and the maturity date. Unless the motion states or documents the trustee's approval, the Court shall give the trustee 14 days to object to the motion.

## **B-7041-2. COMPLAINTS TO DENY OR REVOKE DISCHARGE: DISMISSAL OR SETTLEMENT**

- (a) Contents and Service of Notice of, Motion for, or Stipulation Regarding Voluntary Dismissal of Complaint to Deny or Revoke Discharge

The proposed dismissal, whether by notice, motion, or stipulation, of a complaint to deny or revoke the Debtor's discharge under 11 U.S.C. §727, shall be served upon the UST, a trustee, counsel of record in both the bankruptcy case and the adversary proceeding, and a party that has intervened in the adversary proceeding under Fed.R.Bankr.P. 7024. The notice, motion, or stipulation shall contain a recital concerning the consideration, if any, for the dismissal or the terms and conditions of an agreement concerning the dismissal.

- (b) Objection to Dismissal

Unless the UST, the trustee, or another entity seeks to intervene or to be substituted for the plaintiff in the proceeding or objects to the dismissal within ~~28~~21 days following service of the notice, motion, or stipulation, the Court may dismiss the complaint and/or close the adversary proceeding, upon such terms and conditions as it deems proper, without further notice or hearing.

## **B-9013-3. FIRST DAY MOTIONS IN CHAPTER 11 CASES**

- (a) Motions Included

To qualify as a First Day Motion, the motion shall be filed with the Chapter 11 petition, or within two days thereafter, state in its caption that it is a First Day Motion, and be one of the motions included within subparagraph (f) of this rule. First Day Motions shall be scheduled for an expedited hearing without any formal request by the Debtor. All other requests for expedited treatment shall comply with S.D.Ind. B-9006-1.

- (b) Procedure Prior to Filing

Prior to filing, the Debtor shall attempt to confer with and provide copies of any First Day Motions to the UST. The Debtor shall include in any First Day Motion, or in a separate pleading, a statement of efforts made to meet with the UST and affected parties prior to filing when possible. ~~The Debtor shall also contact the Clerk or Chief Deputy to advise that a case with First Day Motions will be filed.~~

- (c) Procedure upon Filing

Upon filing, the Debtor shall contact the courtroom deputy for the Judge assigned. The Judge assigned, or a designated replacement, shall schedule and conduct a hearing on the First Day Motions within two days of their filing, if possible, unless the Debtor requests a later hearing date.

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(d) Service of First Day Motions and Notice

The Debtor shall serve copies of all First Day Motions and notice of the hearing on the initial Service List, known counsel for a party, and named parties in interest. Notice of the hearing and copies of the First Day Motions shall be served by fax, e-mail, hand, or overnight delivery. If the documents are more than three pages in length, the movant may fax the first page of the motion with a statement as to the total number of pages in the document and instructions for obtaining all documents on the movant's website or by e-mail. Prior to the hearing, the Debtor shall file a Certificate of Service. Failure to give timely notice may result in relief being denied or the hearing continued.

(e) Contents of Notice

The notice of hearing on the First Day Motions shall provide:

- (1) the date and time of the hearing;
- (2) a list by title of the First Day Motions; and
- (3) the mailing address, fax number, telephone number, and e-mail address of the Debtor's counsel.

(f) List of Included Motions

The following motions shall be treated by the Court as First Day Motions if filed with the petition or within two days thereafter:

- (1) joint administration;
  - (2) use of cash collateral (interim hearing only) under S.D.Ind. B-4001-2;
  - (3) post-petition financing (interim hearing only) under S.D.Ind. B-4001-2;
  - (4) pay pre-petition employee wage claims (to the limit provided by 11 U.S.C. §507);
  - (5) limit notice generally;
  - (6) provide adequate assurance to utilities;
  - (7) pay pre-petition trust fund taxes;
  - (8) honor pre-petition obligations to customers (to the limit provided by 11 U.S.C. §507);
  - (9) vary UST financial requirements, such as motion to authorize maintenance of existing bank accounts, existing business forms, cash management system, investment procedures, etc.;
  - (10) authority to pay pre-petition claims of alleged critical vendors;
  - (11) reject leases and contracts;
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- (12) not appoint a creditors' committee under 11 U.S.C. §1102(a)(3); and
- (13) seeking expedited scheduling of the confirmation hearing under S.D.Ind. B-2081-2.

## **B-9018-1. SEALED CASES AND DOCUMENTS**

### (a) Filing a Case or Document Under Seal

A party seeking to file a case or document under seal shall follow the Sealed Cases and Documents procedures in the Court's ECF Administrative Policies and Procedures Manual.

### (b) Termination of Seal

Five years after the order imposing the seal, unless the Court in establishing the seal has set a different date for the seal to be terminated, the Clerk shall give notice to the party that requested the seal and any party that objected to the request that the seal will be terminated if no objection is filed within 21 days of the notice. If no objection is filed, or if the Court overrules the objection, the Clerk shall terminate the seal and make the documents available. ~~The Clerk may then dispose of the sealed records according to the archiving procedures established by the Judicial Conference.~~

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UNITED STATES BANKRUPTCY COURT  
 Southern District of Indiana

In re: \_\_\_\_\_ )  
 )  
 ) Case No. \_\_\_\_\_  
 Debtor(s) ) (xx-xxxxx)

**CHAPTER 13 PLAN**

Original

Amended Plan # \_\_\_\_\_ (e.g. 1<sup>st</sup>, 2<sup>nd</sup>)

**\*\* MUST BE DESIGNATED \*\***

**1. NOTICE TO INTERESTED PARTIES:**

The Debtor must check one box on each line to state whether or not the plan includes each of the following items. If an item is checked as "Not Include", if neither box is checked, or if both boxes are checked, the provision will be ineffective if set out later in the plan.

**1.1 A limit on the amount of a secured claim, pursuant to paragraph 8.(b), which may result in a partial payment or no payment at all to the secured creditor.**

Included  Not Included

**1.2 Avoidance of a judicial lien or nonpossessory, non-purchase money security interest. Any lien avoidance shall occur by separate motion or proceeding, pursuant to paragraph 12.**

Included  Not Included

2. **GENERAL PROVISIONS:**

**(a) Your Rights May be Affected:** Read these papers carefully and discuss them with your attorney. If you oppose any provision of this plan, you must file a timely written objection. This plan may be confirmed without further notice or hearing unless a written objection is filed before the deadline stated on the separate Notice you received from the Court.

**(b) Proofs of Claim:** You must file a proof of claim to receive distributions under the plan. Absent a Court order determining the amount of the secured claim, the filed proof of claim shall control as to the determination of pre-petition arrearages; secured and priority tax liabilities; other priority claims; and the amount required to satisfy an offer of payment in full. All claims that are secured by a security interest in real estate shall comply with the requirements of Federal Rule of Bankruptcy Procedure (“FRBP”) 3001(c)(2)(C).

**(c) Notices Relating to Mortgages:** As required by Local Rule B-3002.1-1, all creditors with claims secured by a security interest in real estate shall comply with the requirements of FRBP 3002.1 (b) and (c) without regard to whether the real estate is the Debtor's principal residence. If there is a change in the mortgage servicer while the bankruptcy is pending, the mortgage holder shall file with the Court and serve upon the Debtor, Debtor’s counsel and the Chapter 13 Trustee (“Trustee”) a Notice setting forth the change and providing the name of the new servicer, the payment address, a contact phone number and a contact e-mail address.

**(d) Notices (Other than those Relating to Mortgages):** Non-mortgage creditors in Section 8(c) (whose rights are not being modified) or in Section 11 (whose executory contracts/unexpired leases are being assumed) may continue to mail customary notices or coupons to the Debtor or the Trustee notwithstanding the automatic stay.

**(e) Equal Monthly Payments:** As to payments required by paragraphs 7 and 8, the Trustee may increase the amount of any “Equal Monthly Amount” offered to appropriately amortize the claim. The Trustee shall be permitted to accelerate payments to any class of creditor for efficient administration of the case.

**(f) Payments Following Entry of Orders Lifting Stay:** Upon entry of an order lifting the stay, no distributions shall be made on any secured claim relating to the subject collateral until such time as a timely amended deficiency claim is filed by such creditor and deemed allowed, or the automatic stay is re-imposed by further order of the Court.

3. **SUBMISSION OF INCOME:** Debtor submits to the supervision and control of the Trustee all or such portion of future earnings or other future income or specified property of the Debtor as is necessary for the execution of this plan.

4. **PLAN TERMS:**

**(a) Payment and Length of Plan:** Debtor shall pay \$ \_\_\_\_\_ to the Trustee, starting not later than 30 days after the order for relief, for \_\_\_\_\_ months, for a total amount of \$ \_\_\_\_\_.

Additional payments to Trustee and/or future changes to the periodic amount proposed are:



**(b) Increased Funding:** If additional property comes into the estate pursuant to 11 U.S.C. §1306(a)(1) or if the Trustee discovers undisclosed property of the estate, then the Trustee may obtain such property or its proceeds to increase the total amount to be paid under the plan. However, if the Trustee elects to take less than 100% of the property to which the estate may be entitled OR less than the amount necessary to pay all allowed claims in full, then a motion will be filed, and appropriate notice given.

**(c) Curing Defaults:** If Debtor falls behind on plan payments or if changes to the payments owed to secured lenders require additional funds from the Debtor's income, the Debtor and the Trustee may agree that the Debtor(s) will increase the periodic payment amount or that the time period for making payments will be extended, not to exceed 60 months. Creditors will not receive notice of any such agreement unless the total amount that the Debtor(s) will pay to the Trustee decreases. Any party may request in writing, addressed to the Trustee at the address shown on the notice of the meeting of creditors, that the Trustee give that party notice of any such agreement. Agreements under this section cannot extend the term of the plan more than 6 additional months.

**(d) Other Plan Changes:** Any other modification of the plan shall be proposed by motion pursuant to 11 U.S.C. §1329. Service of any motion to modify this plan shall be made by the moving party as required by FRBP 2002(a)(5) and 3015(h), unless otherwise ordered by the Court.

**5. PAYMENT OF ADMINISTRATIVE CLAIMS (INCLUSIVE OF DEBTOR'S ATTORNEY FEES):**

NONE

All allowed administrative claims will be paid in full by the Trustee unless the creditor agrees otherwise.

	Creditor	Type of Claim	Scheduled Amount
+			
-			

**6. PAYMENT OF DOMESTIC SUPPORT OBLIGATIONS:**

**(a) Ongoing Domestic Support Obligations:**

NONE

Debtor shall make any Domestic Support Obligation payments that are due after the filing of the case under a Domestic Support Order directly to the following payee:

	Creditor	Type of Claim	Payment Amount
+			
-			

**(b) Domestic Support Obligation Arrears:**

NONE

The following arrearages on Domestic Support Obligations will be paid in the manner specified.

	Creditor	Type of Claim	Estimated Arrears	Treatment
+				
-				

**7. PAYMENT OF SECURED CLAIMS ~~MORTGAGES~~ RELATING SOLELY TO THE DEBTOR'S PRINCIPAL RESIDENCE:**

NONE

**(a) Claims Covered:** Only consensual mortgages on the principal residence are treated under this paragraph. All other secured claims are treated under paragraph 8.

**(b) Pre-Petition Arrearage:** As required by Local Rule B-3015-1(d), if there is a pre-petition arrearage claim on a mortgage secured by the Debtor's principal residence, then both the pre-petition arrearage and the post-petition mortgage installments shall be made through the Trustee. Initial post-petition payment arrears shall be paid with secured creditors. If there are no arrears, the Debtor may pay the secured creditor directly.

**(c) Treatment:** Before confirmation, the payment to the mortgage lender shall be the regular monthly mortgage payment unless otherwise ordered by the Court or modified pursuant to an agreement with the mortgage lender. After confirmation, payment shall be as set forth below. Equal Monthly Amount and Estimated Arrears listed below shall be adjusted based on the filed claim and/or notice. ~~Delinquent real estate taxes and homeowners' association or similar dues should be treated under this paragraph.~~

Creditor	Residential Address	Estimated Arrears	Equal Monthly Amount	Mortgage Treatment
				<input type="radio"/> Trustee pay <input type="radio"/> Direct pay

**No late charges, fees or other monetary amounts shall be assessed based on the timing of any payments made by the Trustee under the provisions of the Plan, unless allowed by Order of the Court.**

**(d) Escrow Surplus:** An escrow surplus arising as to a mortgage paid by the Trustee shall be returned to the Trustee by the mortgage lender or servicer within 30 days of the completion of an annual escrow analysis or other review that determines a surplus. The Trustee shall file and serve on the Debtor and claimants a Notice of Proposed Distribution of the escrow surplus, provide a 30-day Objection Notice and file a Certificate of Service. If no response is timely filed, the Trustee may treat the escrow surplus as set forth in the Notice of Proposed Distribution.

**(e) Resumption of Direct Mortgage Payments:** The Trustee shall cease payment of the Debtor's post-petition mortgage installments upon completion of all non-mortgage plan payments and provide the Debtor 30 days' notice of the obligation to resume direct mortgage payments.

**8. PAYMENT OF SECURED CLAIMS OTHER THAN CLAIMS TREATED UNDER PARAGRAPH 7:**

**(a) Claims Covered:** Secured claims not treated under paragraph 7 are treated under this paragraph, including but not limited to delinquent real estate taxes; homeowners' association or similar dues with secured status; sewer liens, and judgment liens that are not being fully avoided under paragraph 12. Claims secured by personal property are treated in subparagraphs (b) and (c). Treatment of other secured claims is provided for in subparagraph (d).

**(a)(b) Secured-Claims Secured by Personal Property as to Which 11 U.S.C. § 506 Valuation Is Not Applicable:**

NONE

Pursuant to Local Rule B-3015-1(c), and unless otherwise ordered by the Court, prior to plan confirmation, ~~as to secured~~ allowed claims ~~not treated under paragraph 7 and~~ secured by personal property as to which valuation under 11

U.S.C. § 506 is not applicable, the Trustee shall pay monthly adequate protection payments equal to 1% of a filed secured claim. The Trustee shall disburse such adequate protection payments to the holders of allowed claims secured by personal property ~~secured creditor~~ as soon as practicable after receiving plan payments from the Debtor, and the secured claim will be reduced accordingly. After confirmation of the plan, unless otherwise provided in paragraph 15, the Trustee will pay to the

holder of each allowed secured claim the filed claim amount with interest at the rate stated below.

Creditor	Collateral	Purchase Date	Estimated Claims Amount	Interest Rate	Equal Monthly Amount

**~~(b)~~(c) Secured Claims Secured by Personal Property as to Which 11 U.S.C. § 506 Valuation Is Applicable:**

NONE

Pursuant to Local Rule B-3015-1(c), and unless otherwise ordered by the Court, prior to plan confirmation as to ~~secured~~ allowed claims secured by personal property not treated under subparagraph (d) ~~7 [or paragraph (d) below]~~ but as to which § 506 valuation is applicable, the Trustee shall pay monthly adequate protection payments equal to 1% of the value of the collateral stated below. The Trustee shall disburse such adequate protection payments to the secured creditor as soon as practicable after receiving plan payments from the Debtor, and the secured claim will be reduced accordingly. After confirmation of the plan, unless otherwise provided in paragraph 15, the Trustee will pay to the holder of each allowed secured claim in the manner set forth below.

Creditor	Collateral	Purchase Date	Scheduled Debt	Value	Interest Rate	Equal Monthly Amount

**~~(c)~~(d) Curing Defaults and/or Maintaining Payments Payment of Other Secured Claims:**

NONE

This subparagraph applies to non-mortgage claims secured by real estate and claims secured by personal property not covered in subparagraphs (b) or (c) above. The Trustee shall pay the allowed secured claim for the ~~any~~ arrearage, and Debtor shall pay regular post-petition contract payments directly to the creditor. Claims not subject to a monthly payment amount established before filing shall be paid as specified below. (When completing the chart if a column is not applicable enter "n/a").

Creditor	Collateral/ Type of Debt	Date Incurred	Estimated Arrears	Interest Rate	Equal Monthly Amount	Treatment

**~~(d)~~(e) Surrendered/Abandoned Collateral:**

NONE

The Debtor intends to surrender the following collateral. Upon confirmation, the Chapter 13 estate abandons any interest in, and the automatic stay pursuant to 11 U.S.C. § 362 is terminated as to, the listed collateral and the automatic stay pursuant to 11 U.S.C. § 1301 is terminated in all respects. Any allowed unsecured claim resulting from the disposition of the collateral will be treated in paragraph 10.(b) below. Upon confirmation, the secured creditor is free to pursue its *in rem* rights.

Creditor	Collateral	Surrendered/Abandoned	Scheduled Value
		<input type="radio"/> Abandoned <input type="radio"/> Surrendered	

**9. SECURED TAX CLAIMS AND 11 U.S.C. § 507 PRIORITY CLAIMS:**

NONE

All allowed secured tax obligations shall be paid in full by the Trustee, inclusive of statutory interest thereon (whether or not an interest factor is expressly offered by plan terms). All allowed priority claims shall be paid in full by the Trustee, exclusive of interest, unless the creditor agrees otherwise.

	Creditor	Type of Priority or Secured Claim	Scheduled Debt	Treatment
+				
-				

**10. NON-PRIORITY UNSECURED CLAIMS:**

**(a) Separately Classified or Long-term Debts:**

NONE

	Creditor	Basis for Classification	Treatment	Amount	Interest
+					
-					

**(b) General Unsecured Claims:**

Pro rata distribution from any remaining funds; or

Other: \_\_\_\_\_

**11. EXECUTORY CONTRACTS AND UNEXPIRED LEASES:**

All executory contracts and unexpired leases are REJECTED, except the following, which are assumed. Click [here](#) to list assumed leases.

**12. PARTIAL OR COMPLETE AVOIDANCE OF LIENS:**

NONE

Debtor will file a separate motion or adversary proceeding to avoid in whole or in part the following non-purchase money security interests, judicial liens, wholly unsecured mortgages or other liens that impair exemptions:

Creditor	Collateral/Property Description	<del>Amount to be Avoided</del> <u>Basis for Avoidance</u>

**13. LIEN RETENTION:** With respect to each allowed secured claim provided for by the plan, the holder of such claim shall retain its lien securing such claim until the earlier of a) the payment of the underlying debt determined under non-bankruptcy law or b) entry of a discharge order under 11 U.S.C. §1328.

**14. VESTING OF PROPERTY OF THE ESTATE:** Except as necessary to fund the plan or as expressly retained by the plan or confirmation order, the property of the estate shall revert in the Debtor upon confirmation of the Debtor's plan, subject to the rights of the Trustee, if any, to assert claim to any additional property of the estate acquired by the Debtor post-petition pursuant to operation of 11 U.S.C. §1306.

**15. NONSTANDARD PROVISIONS:**

NONE

Under FRBP 3015(c), nonstandard provisions are required to be set forth below. Any nonstandard provision placed elsewhere in the plan is void. These plan provisions will be effective only if the included box in Paragraph 1.3 of this plan is checked.

Date: \_\_\_\_\_

\_\_\_\_\_  
Signature of Debtor

\_\_\_\_\_  
Printed Name of Debtor

\_\_\_\_\_  
Signature of Joint Debtor

\_\_\_\_\_  
Printed Name of Joint Debtor

\_\_\_\_\_  
Signature of Attorney for Debtor(s)

Address: \_\_\_\_\_

City, State, ZIP code: \_\_\_\_\_

Area code and phone: \_\_\_\_\_

Area code and fax: \_\_\_\_\_

E-mail address: \_\_\_\_\_

By filing this document, the Debtor(s), if not represented by an attorney, or the Attorney for the Debtor(s) certify(ies) that the wording and order of the provisions in this Chapter 13 plan are identical to those contained in the form plan adopted by this Court, other than any nonstandard provisions included in paragraph 15.

PROPOSED EDITS TO  
FORM CHAPTER 13 PLAN

Generally

The proposed edits to the plan form are intended to resolve questions of interpretation and bring greater uniformity to the procedures followed within the Court's separate divisions.

Paragraph 1

A cross-reference in section 1.1 is updated.

Paragraph 7

The paragraph is retitled and limited to the treatment of mortgage claims. Other claims secured by real estate are addressed in Paragraph 8 and elsewhere within the plan. The paragraph is not currently divided into subparagraphs but the Committee recommends doing so to improve readability.

Subparagraph (a) specifies that the paragraph now only concerns mortgage claims on the debtor's principal residence.

Subparagraph (b) captures current plan language on treatment of pre-petition arrearages. Local Rule 3015-1 has been revised to define pre-petition arrearage and to spell out when conduit payments are required.

Subparagraph (c) repeats current plan language on the treatment of mortgage claims.

The content of subparagraph (d) is new and directs the return to the trustee of any escrow surplus arising as to a mortgage paid by the trustee. The trustee will file a Notice of Proposed Distribution and give the debtors and claimants 30 days within which to object.

Subparagraph (e) is new and requires the trustee to alert the debtor when the trustee will cease making mortgage payments.

## Paragraph 8

The paragraph now covers all secured claims other than mortgages.

Subparagraph (a) is new and describes the claims that should be treated in Paragraph 8 or notes other paragraphs where treatment may be appropriate.

Subparagraphs (b), (c), and (e) are subparagraphs (a), (b) and (d) in the current plan form. Minor edits are proposed for clarification. The title to newly designated subparagraph (d) has been changed to “Payment of Other Secured Claims” as it deals with non-mortgages claims secured by real property that were previously treated within Paragraph 7. New subparagraph (d) also provides for treatment of claims secured by personal property that are not found within subparagraphs (b) or (c). The chart below the subparagraph allows for treatment of claims for which a monthly payment amount was not established pre-petition

## Paragraph 12

The paragraph is changed so that it applies to claims as to which liens are proposed to be entirely or only partially avoided. The heading for the third column of the chart is changed from “Amount to Be Avoided” to “Basis for Avoidance”, as the amount of the lien will be determined through the separate adversary proceeding or motion.