

- (2) The motion will be denied if not served properly on all parties listed in subsection (b)(1) of this rule.

LBR 3015-1. PROCEDURES REGARDING CHAPTER 13 CASES

(a) Applicability.

- (1) Except as provided herein, this rule relates to chapter 13 cases in all divisions of the bankruptcy court and supersedes any previous orders in conflict with the provisions hereof.
- (2) To the extent that this rule conflicts with any other provisions of the Local Bankruptcy Rules, the provisions of this rule prevail. In all other respects, the Local Bankruptcy Rules apply in all chapter 13 cases.

(b) Filing and Service of Petitions, Plans, Proofs of Claim, and Other Forms.

- (1) Filing of Petition. An original and one copy of the petition, schedules and all other documents required to initiate the case must be filed with the court. If the petition is filed electronically, the debtor must provide court copies as required by the CM/ECF Procedures contained in the Court Manual available from the clerk and on the court's website.

Except as provided by FRBP 1019(1)(A), if the chapter 13 schedules, plan, and all other required documents are not filed with the petition, the clerk will issue a notice advising the debtor that, if the missing documents are not filed within 15 days from the date of the filing of the petition, the court may dismiss the case, unless the court grants a motion to extend time filed within the 15 days.

- (2) Time Extension. A motion for extension of time must be accompanied by a declaration showing specific cause for an extension of time, the amount of additional time requested, the date the petition was filed, and a proof of service evidencing that the motion and declaration were served on the chapter 13 trustee. The court may consider the motion without a hearing. If any schedule, the statement, or the plan is not filed within the initial 15 days or within such additional time as the court may allow in response to a timely motion for extension of time, the court may dismiss the case.
- (3) Notice and Service. The debtor must serve a notice of the hearing on confirmation of debtor's chapter 13 plan, along with a copy of the chapter 13 plan, on all creditors and the chapter 13 trustee at least 28 days before the date first set for the § 341(a) meeting of creditors, using the court-mandated F 3015-1 form. A proof of service must be filed with the court and served on the chapter 13 trustee at least 10 days prior to the date first set for the meeting of creditors. Chapter 13 papers should not be served on the United States trustee, except as provided in subsection (q) of this rule or when the United States trustee serves as chapter 13 trustee.

- (4) Forms. The chapter 13 petition, schedules, statement of financial affairs, and proofs of claim must be prepared on the appropriate Official Form, as required by FRBP 1007(b)(1). All other chapter 13 papers filed by the debtor must be filed using applicable court-mandated forms, if any, or be prepared in the same format. Any modification to the text of an Official Form or court-mandated form must comply with LBR 9009-1.

If a court-mandated form is not used, the debtor must include a statement under penalty of perjury that either certifies that the document contains all of the language of the court-mandated form or specifies each respect in which the document differs from the court-mandated form.

- (5) Proof of Claim. Each proof of claim must be filed in accordance with FRBP 3002 and must be served on the debtor's attorney or the debtor, if not represented by counsel, and on the chapter 13 trustee. Each proof of claim must include a proof of service.
- (6) Domestic Support Obligations. In all cases in which there is a domestic support obligation, regardless of the entity holding such claim, the debtor must provide to the chapter 13 trustee within 15 days of the filing of the petition the name, current address, and current telephone number of the holder of the claim along with any applicable case number and account number. Throughout the duration of the case, the debtor must inform the chapter 13 trustee of any new or changed information regarding this requirement. Should a domestic support obligation arise after the filing of the petition, the debtor must provide the required information to the chapter 13 trustee as soon as practicable but no later than 15 days after the duty arises to pay the domestic support obligation.

(c) Meeting of Creditors – § 341(a)

- (1) Notice and Service. Notice of the § 341(a) meeting of creditors and initial confirmation hearing date along with a proof of claim form will be served on all creditors by the court at least 28 days before the date first set for the § 341(a) meeting of creditors.
- (2) Attendance Requirement. The debtor and debtor's attorney (if any) must attend the § 341(a) meeting of creditors. If the case is a joint case, both debtors must appear.
- (3) Evidence of Income. The debtor must provide evidence of current income (pay stubs, tax returns, or other equivalent documentation) to the chapter 13 trustee at least 8 days before the § 341(a) meeting of creditors. If income from third party contributors will be used to fund the plan, the debtor must also provide evidence (declarations and pay stubs or other appropriate evidence) of the commitment and ability of the third party to make payments.
- (4) Required Reports in a Business Case. If the debtor is operating a business or is otherwise self-employed, the debtor must submit to the chapter 13 trustee, at least

8 days before the § 341(a) meeting of creditors, the following reports required to investigate the acts, conduct, assets, liabilities, and financial condition of the debtor, the operation of the debtor's business, and the feasibility of such business:

- (A) Projection of average monthly income and expenses for the next 12 months;
 - (B) Evidence of appropriate business insurance;
 - (C) Inventory of goods as well as a list of business furnishings and equipment as of the date of the filing of the petition;
 - (D) Monthly income and expense statements for at least the 6 months preceding the date of the filing of the petition, or for such shorter time if the business has been in operation for less than the requisite 6 months, signed by the debtor under penalty of perjury, including a statement regarding incurred and unpaid expenses;
 - (E) Tax returns for at least 5 years or since the start of the business, whichever period is shorter; and
 - (F) Such other evidence requested by the chapter 13 trustee, including bank statements, canceled checks, contracts, or other information relevant to the debtor's ability to fund the proposed plan.
- (5) Other Required Documents. The debtor must submit to the chapter 13 trustee, at least 8 days before the § 341(a) meeting of creditors, the Declaration re Payment of Domestic Support Obligation (Preconfirmation), the Declaration re Tax Returns (Preconfirmation), and any other required documents.
- (6) Failure to Comply. If the debtor fails to comply with any of the requirements of subsection (c) of this rule, such failure may result in:
- (A) Disgorgement of attorneys' fees if the failure is attributed to the debtor's attorney;
 - (B) Continuance of the § 341(a) meeting or confirmation hearing; and/or
 - (C) Dismissal of the case either (i) without prejudice or (ii) with a 180-day bar to refiling pursuant to 11 U.S.C. § 109(g), if the court finds willful failure of the debtor to abide by orders of the court or to appear before the court in proper prosecution of the case.
- (d) **Confirmation Hearing.** The debtor's attorney or the debtor, if not represented by counsel, must appear at the confirmation hearing unless specifically excused by court order or by the trustee prior to the confirmation hearing in conformance with procedures of the judge to whom the case is assigned.

- (1) Varied Calendaring and Appearance Procedures. The judges of this district do not have a uniform policy governing calendaring and appearance at a confirmation hearing. Some judges allow confirmation to take place as early as the date of the § 341(a) meeting of creditors and without court appearance by any party if there are no timely objections to confirmation or all such objections have been resolved. Some judges require a hearing on all plan confirmations but excuse appearances by the debtor and debtor's attorney (if any) if there are no timely objections to confirmation or all such objections have been resolved. Some judges require a hearing on all plan confirmations and appearance by the debtor and debtor's attorney (if any), regardless of whether there are unresolved objections to confirmation.

Because of this variance in procedure, parties in interest are advised to contact the chapter 13 trustee assigned to the case, consult the chapter 13 trustee's website, or refer to the court's website as it may pertain to the requirements of an individual judge.

- (2) Preparation of Order Confirming Plan. Unless otherwise ordered by the court, the chapter 13 trustee will prepare and lodge a proposed Order Confirming Plan ("Order"). The Order will state the amount of the debtor's attorney's fees and costs allowed by the court. If a Rights and Responsibilities Agreement has been signed by the attorney and debtor, filed, and served on the chapter 13 trustee, the order will provide for the amount set forth in that agreement, unless the court orders otherwise.

(e) **Personal Property, including Vehicles.**

- (1) Postpetition Payments. The plan may provide that postpetition contractual payments on leases of personal property and claims secured by personal property, including vehicles, will be made directly to the creditor. All such direct payments must be made as they come due postpetition. If there are arrearages or the plan changes the amount of payment, duration, or interest rate for any reason, including the fact that a portion of the claim is deemed unsecured, then all payments so provided in the plan must be paid through the chapter 13 trustee. If the plan provides for postpetition contractual payments to be made through the chapter 13 trustee, the debtor must pay the lease and adequate protection payments required by 11 U.S.C. §§ 1326(a)(1)(B) and 1326(a)(1)(C) through the chapter 13 trustee.
- (2) Property Surrendered in Confirmed Plan. When the confirmed plan provides for the surrender or abandonment of property, the trustee is relieved from making any payments on the creditor's related secured claim, without prejudice to the creditor's right to file an amended unsecured claim for a deficiency, when appropriate.

- (f) **Domestic Support Obligations.** The plan may provide for current payments of domestic support obligations directly to the creditor. Arrearages must be paid through the chapter 13 trustee unless specific cause is shown, supported by appropriate declaration or other admissible evidence.

(g) Objections to Plan.

- (1) Filing and Service. Objections, if any, to the confirmation of the plan must be in writing, supported by appropriate declarations or other admissible evidence, filed with the court, and served on debtor's attorney, the debtor (if not represented by counsel), and the chapter 13 trustee not less than 8 days before the § 341(a) meeting of creditors.
- (2) Form of Objection and Caption.
 - (A) Written. A written objection must state in the caption the date, time, and place of the § 341(a) meeting of creditors and the date, time, and place of the confirmation hearing.
 - (B) Oral. Notwithstanding subsection (g)(1), an oral objection may be made on the record at the § 341(a) meeting of creditors by any party in interest.
- (3) Failure to Object or to Prosecute Objection. The failure to file either a written objection on a timely basis or to appear at the § 341(a) meeting of creditors to prosecute the objection may be deemed a waiver of the objection.
- (4) Attendance. Any creditor who objects to confirmation of the plan should attend both the § 341(a) meeting of creditors and the confirmation hearing if the objection is not resolved. If the objecting creditor does not appear at the confirmation hearing, the court may overrule the objection.

(h) Amendments to Plan Prior to Confirmation.

- (1) Filing and Service. If a debtor wishes the court to confirm a plan other than the plan originally filed with the court, an amended plan must be received by the chapter 13 trustee and filed with the court at least 8 days before the confirmation hearing. If the amended plan will adversely affect any creditor (for example, if it treats any creditor's claim less favorably than the previously filed plan), the amended plan must also be served on all affected creditors at least 25 days before the confirmation hearing. Failure to comply with these requirements may result in continuance of the confirmation hearing or dismissal of the case.
- (2) Form of Amendment and Caption. The caption of an amended plan must identify the pleading as an amended plan (*e.g.*, "First Amended Plan," "Second Amended Plan,") and must state the date, time, and place of the confirmation hearing at which the debtor will seek confirmation.
- (3) Amended Plan Payments. If the debtor has filed an amended plan prior to confirmation, the plan payments that come due after the date the amended plan is filed must be made in the amount stated in the amended plan, which may be higher or lower than the amount stated in the original plan. Where successive amended plans are filed, any plan payment that comes due must be made in the amount stated in the most recently filed amended plan.

- (i) **Amendments to Plan at the Confirmation Hearing.** An amendment to a plan which does not adversely affect creditors may be made at the confirmation hearing by interlineation in the confirmation order. The proponent should give the chapter 13 trustee an opportunity to review the proposed amendment prior to the confirmation hearing.
- (j) **Objections to Claims.**
- (1) **Filing and Service.** An objection to claim must: (A) be filed with the court and served, subject to subsection (x) of this rule, on the chapter 13 trustee and affected creditor; (B) identify the claim by both the claim number on the court's docket and the claim number on the chapter 13 trustee's docket; (C) give notice of the date, time, and courtroom of hearing on the face of the objection; and (D) comply with LBR 3007-1.
- (2) **Payments on Claim.** Pending resolution, the chapter 13 trustee will make payments on only the uncontroverted portion of the claim subject to an objection, until such time as the court orders otherwise.
- (k) **Plan Payments to Chapter 13 Trustee.**
- (1) **Plan Payment Procedure.**
- (A) Plan payments are due on the same day of each month beginning not later than 30 days after the petition is filed. If the case was converted from chapter 7, the first plan payment is due 30 days from the date of conversion. However, if the plan payment due date falls on the 29th, 30th, or 31st of the month, then the plan payment is due on the 1st of the following month. Unless otherwise instructed by the assigned chapter 13 trustee, all plan payments that accrue before the § 341(a) meeting of creditors must be tendered, in the form described in subsection (k)(3) of this rule, to the chapter 13 trustee or the trustee's representative at the § 341(a) meeting of creditors.
- (B) All plan payments that accrue after the § 341(a) meeting of creditors but prior to confirmation must be tendered on a timely basis to the chapter 13 trustee, as instructed by the chapter 13 trustee at the § 341(a) meeting of creditors.
- (C) All plan payments that accrue after confirmation of the plan must be sent to the address provided by the chapter 13 trustee.
- (D) To the extent debtor has made plan payments under an original or modified plan prior to confirmation that differ from payments required by the confirmed plan, the confirmation order must account for plan payments made through the date of confirmation and adjust the on-going plan payments accordingly so that the debtor will complete payment of all plan amounts within the term of the confirmed plan.

- (2) Adequate Protection Payments. The debtor cannot reduce the amount of the plan payments to the chapter 13 trustee under 11 U.S.C. §§ 1326(a)(1)(B) or 1326(a)(1)(C) without an order of the court.
- (A) Pending confirmation of the plan, the chapter 13 trustee will promptly transmit payments received from the debtor as proposed in the debtor's chapter 13 plan to a creditor holding an allowed claim secured by personal property where such security interest is attributable to the purchase of such property.
- (B) The chapter 13 trustee may assess an administrative fee for effecting the payments required in subsection (k)(2)(A) of this rule and may collect such fee at the time of making the payment. The allowed expense fee must be no more than the percentage fee established by the Attorney General pursuant to 28 U.S.C. § 586(e)(1)(B) in effect at the time of the disbursement.
- (C) Should the case be dismissed or converted prior to or at the hearing on confirmation of the plan, any portion of the balance on hand which has been tendered to the chapter 13 trustee for adequate protection must be disbursed to the creditor to whom those adequate protection payments are owed as soon as practicable.
- (3) Form of Payment. Unless and until a payroll deduction order is effective, all plan payments must be in the form of cashier's check, certified funds, or money order made payable to the "Chapter 13 Trustee" and tendered by the debtor as instructed by the chapter 13 trustee. The court may require plan payments through a payroll deduction order. If a payroll deduction order is not issued upon confirmation of a plan or authorized in the confirmation order, whenever a plan payment is more than 20 days late, the chapter 13 trustee may bring a noticed motion requesting the court to issue such an order. The issued order must be served upon the debtor's employer, the debtor, and the debtor's attorney (if any).
- (4) Dismissal or Conversion for Non-Payment. If the debtor fails to make a plan payment, the case may be dismissed or converted to a case under chapter 7. If the case is dismissed for willful failure of the debtor to abide by an order of the court, or to appear before the court in proper prosecution of the case, the court may impose a 180-day bar to refile in accordance with 11 U.S.C. § 109(g).
- (l) **Chapter 13 Trustee's Fees.** The minimum trustee's fee for a chapter 13 in which a plan is not confirmed is \$100. The minimum trustee's fee in a case where the plan is confirmed is \$200.
- (m) **Payments on Mortgages or Trust Deeds.**
- (1) Scope of Rule. The term "Real Property" as used in this subsection includes both (A) commercial and residential real property and undeveloped land owned by the debtor; and (B) mobile and manufactured homes owned by the debtor and installed

on a permanent foundation or used as a dwelling, but does not include any property that the debtor's filed plan specifically states will be surrendered.

- (2) Postpetition Payment Procedure. Except for plans in which the debtor elects to make postpetition mortgage payments through the plan, until a plan is confirmed, a debtor must pay in a timely manner directly to each secured creditor all payments that fall due postpetition on debt secured by Real Property, as defined above, and must provide evidence of such payments on court-mandated form F 3015-1.4 in the manner set forth below.
- (3) Payment Through Plan. If the debtor elects to pay postpetition mortgage payments through the plan, then the amount of this payment must be included in each monthly plan payment tendered both pre- and postconfirmation to the chapter 13 trustee.
- (4) Determination of Due Date. With the exception of the payment due for the month in which the petition is filed (the "Filing Month Payment"), the due date of a payment for the purpose of this subsection is the last day that the payment may be made without a late charge or penalty. The due date of the Filing Month Payment will be the date on which such payment first becomes due under the terms of the applicable promissory note. If that date falls on or before the petition date, the Filing Month Payment will be considered prepetition and need not be paid in order to comply with this subsection.
- (5) Form of Payment. The payments required by subsection (m)(2) of this rule must be in the form of money order, cashier's check, wire transfer (including direct payments over the internet or by automatic withdrawals from the debtor's checking account), or other certified funds and must indicate on each item the debtor's name, the bankruptcy case number, and the appropriate loan number or credit account number.
- (6) Evidence of Payment. On or before each of the following dates, the debtor must file with the court and serve on the chapter 13 trustee and all secured creditors to whom the debtor is required to make payments under this subsection a declaration executed under penalty of perjury, on court-mandated form F 3015-1.4, evidencing that the debtor has made all of the payments required by subsection (m)(2) or (3) of this rule: (A) the date scheduled for each § 341(a) meeting of creditors; and (B) the date of each hearing to consider confirmation of a chapter 13 plan in the case. Copies of all money orders, cashier's checks or other instruments used to make the payments must be attached to the form.
- (7) Submission of Declarations. The debtor must bring a copy of an executed form F 3015-1.4, together with a proof of service reflecting service in accordance with this subsection, to the initial § 341(a) meeting of creditors. The form must reflect all payments made between the date of the petition and the date of the initial § 341(a) meeting of creditors. Thereafter, the debtor must bring an updated form to each continued § 341(a) meeting of creditors and each confirmation hearing, together with proof of service reflecting service of the form in accordance with this

subsection. Each updated form must reflect, cumulatively, all payments made between the date of the petition and the date of the form. If the debtor owns more than one Real Property, the debtor must prepare and submit a separate form F 3015-1.4 for each Real Property.

- (8) **Failure to Make Postpetition Payments.** Failure to make all of the payments required by subsection (m)(2) or (3) of this rule in a timely manner will generally result in dismissal of the case. In determining whether a debtor has complied with this subsection at a confirmation hearing, the court will disregard payments as to which a late penalty has not yet accrued or which are due on the date of the confirmation hearing. The failure to submit form F 3015-1.4 at each § 341(a) meeting of creditors and each confirmation hearing, with all required attachments, may result in dismissal of the case, and the court may impose a 180-day bar against refiling pursuant to 11 U.S.C. § 109(g).
- (n) **Modification of Confirmed Plan or Suspension of Plan Payments.** After a chapter 13 plan has been confirmed, its terms can be modified only by court order. A motion to modify a confirmed plan or to suspend plan payments must be made in accordance with subsections (w) and (x) of this rule and must be filed using court-mandated forms.
- (o) **Tax Returns.** For each year a case is pending after the confirmation of a plan, the debtor must provide to the chapter 13 trustee within 10 days after the return is filed with the appropriate tax agencies a copy of: (1) the debtor's federal and state tax returns; (2) any request for extension of the deadline for filing a return; and (3) the debtor's forms W-2 and 1099.
- (p) **Sale or Refinance of Real Property.** A sale or refinancing of the debtor's principal residence or other real property must be approved by the court. A motion to approve a sale or refinance of real property may be made by noticed motion in accordance with subsections (w) and (x) of this rule.
- (q) **Motion for Dismissal or Conversion.**
- (1) **Case Dismissal.** If the case has not been converted from another chapter, the debtor may seek dismissal of the case by filing a request to dismiss. If the case has been converted from another chapter, dismissal must be sought by motion. For all such requests or motions, notice must be given to all creditors and the chapter 13 trustee. In addition, the request or motion must disclose by a statement under penalty of perjury, whether the present case has been converted from another chapter of the Bankruptcy Code, and whether any motion for relief from, annulment of, or conditioning of the automatic stay has been filed against the debtor in the present case. The motion must comply with LBR 1017-2(f).
- (2) **Debtor Conversion of Chapter 13 to Chapter 7.** Pursuant to FRBP 1017 and LBR 1017-1(a)(1), the conversion of a chapter 13 case to a case under chapter 7 will be effective upon:
- (A) The filing by the debtor with the clerk of the bankruptcy court of a notice of conversion pursuant to 11 U.S.C. § 1307(a) and a proof of service

evidencing that the notice of conversion was served upon the chapter 13 trustee and the United States trustee, and

- (B) Payment of any fee required by 28 U.S.C. § 1930(b); provided however,
 - (C) Any distributions of estate funds made by the chapter 13 trustee in the ordinary course of business for the benefit of the debtor's estate prior to receipt of notice of dismissal or conversion will not be surcharged to the chapter 13 trustee.
- (3) Debtor Conversion of Chapter 13 to Chapter 11. A motion by the debtor to convert a chapter 13 case to a case under chapter 11 must be noticed for hearing.
 - (4) Interested Party Conversion of Chapter 13 to Chapter 7, 11, or 12. A motion by any other party in interest to convert a chapter 13 case to a case under chapter 7, 11, or 12 must be noticed for hearing by the moving party. This notice must be given to the debtor, debtor's attorney (if any), all creditors, the chapter 13 trustee, and the United States trustee.
 - (5) Lodging and Service of Order. When an order is required, the moving party must prepare and lodge the proposed order of dismissal or conversion in accordance with LBR 9021-1. Notwithstanding LBR 9021-1(b)(1)(D) and (E), no copies or envelopes are required to be lodged along with the proposed order, as the clerk will prepare a separate notice of dismissal or conversion.
- (r) **Motions Regarding Stay of 11 U.S.C. § 362.**
- (1) Required Format and Information. A motion regarding the stay of 11 U.S.C. § 362 must comply with LBR 4001-1.
 - (2) Default Motions.
 - (A) Preconfirmation Default. A motion for relief from the automatic stay based solely upon a preconfirmation payment default is premature until a late charge has accrued under the contract on the postpetition obligation that the creditor seeks to enforce. If no late charge is provided, the motion may be brought 10 days after the postpetition payment is due. A motion for relief from stay based on other grounds may be brought at any time.
 - (B) Postconfirmation Default. A motion for relief from the automatic stay based solely on postconfirmation payment default is premature until a late charge has accrued under the contract on the obligation that the creditor seeks to enforce. If no late charge is provided, the motion may be brought 10 days after payment is due.
 - (3) Stipulations Regarding the Stay of 11 U.S.C. § 362. A stipulation for relief from the automatic stay or to modify the automatic stay, or to impose or continue the stay, does not require the consent or signature of the chapter 13 trustee but must be prepared and lodged in accordance with LBR 4001-1(b)(2)(B).

- (4) Payments after Relief from Automatic Stay. If an order for relief from the automatic stay is granted, unless otherwise specified in the order, the chapter 13 trustee is relieved from making any further payments to the secured creditor that obtained such relief. The secured portion of that creditor's claim is deemed withdrawn upon entry of the order for relief, without prejudice to filing an amended unsecured claim for a deficiency when appropriate. The secured creditor that obtains relief from the automatic stay must return to the chapter 13 trustee any payments the creditor receives from the chapter 13 trustee after entry of the order unless the stipulation or order provides otherwise.
- (5) Shortened Notice Hearing. A hearing on a motion for relief from the automatic stay on shortened notice may be sought pursuant to LBR 9075-1(b).
- (6) No Surcharge of Chapter 13 Trustee. The chapter 13 trustee will not be surcharged for any distribution of funds in the ordinary course of business prior to receiving written notice that the automatic stay is not in effect or a claim should not be paid.

(s) Postconfirmation Adequate Protection Orders.

- (1) Filing and Service. After confirmation of a plan, if the debtor and a secured creditor propose to modify the payments by the chapter 13 trustee to the secured creditor by way of an adequate protection/relief from the automatic stay agreement, the debtor or creditor must file and serve a motion for an order approving the modification of the plan by said agreement pursuant to subsections (w) and (x) of this rule.
- (2) Payments Pending Plan Modification. Notwithstanding court approval of an adequate protection/relief from the automatic stay agreement, the trustee will continue to make payments and otherwise perform the trustee's duties in accordance with the plan as confirmed unless: (A) the debtor receives a separate court order approving a modification to the plan; or (B) the adequate protection/relief from the automatic stay agreement specifically modifies the treatment of the claim under the confirmed plan.

(t) Discharge Procedures.

- (1) General. When the chapter 13 trustee has completed payments under the plan and all other plan provisions have been consummated, the clerk will give to the debtor and the debtor's attorney (if any), a Notice of Requirement to File a Debtor's Certification of Compliance Under 11 U.S.C. § 1328 and Application for Entry of Discharge. Before any discharge may be entered, the debtor must comply with the requirements of the Certification of Compliance and file the certification with the court.
- (2) Instructional Course on Personal Financial Management. Debtor must also file a certification that an instructional course concerning personal financial management, as required by 11 U.S.C. § 1328(g)(1), has been completed or that completion of such course is not required under 11 U.S.C. § 1328(g)(2).

- (3) Case Closure Without Discharge. If the certifications required by this subsection have not been filed within 60 days of the notice provided under subsection (t)(1) of this rule, then the case may be closed without an entry of discharge.

(u) **Attorney Representation.**

- (1) Scope of Employment. LBR 2090-1(a) is modified in chapter 13 cases as follows: Any attorney who is retained to represent a debtor in a chapter 13 case is responsible for representing the debtor on all matters arising in the case, other than adversary proceedings, subject to the provisions of a “Rights and Responsibilities Agreement Between Chapter 13 Debtors and Their Attorneys,” into which the debtor and the attorney have entered and that complies with these rules.
- (2) Debtor Unavailable or Unopposed to Request, Application, or Motion Scheduled for Hearing. If an attorney for a debtor is unable to contact the debtor in connection with a request, application or motion (*e.g.*, a motion for relief from the automatic stay) that is scheduled for a hearing, the attorney may file and serve a statement informing the court of this fact. If a debtor does not oppose the request, application or motion, the attorney may file a statement so informing the court and need not appear at the hearing.
- (3) Change of Address. An attorney representing a chapter 13 debtor must provide written notice to the chapter 13 trustee and to the court of any change to the attorney’s address during the pendency of the case as required by LBR 2090-1(f).

(v) **Attorneys’ Fees.**

- (1) Rights and Responsibilities Agreement. The use of court-approved form F 3015-1.7, Rights and Responsibilities Agreement Between Chapter 13 Debtors and Their Attorneys (“RARA”) in any case is optional. However, if the debtor’s attorney elects to proceed under the RARA, the RARA form is mandatory. If the RARA form is signed by the attorney and the debtor, filed, and served on the chapter 13 trustee, the fees and included costs (excluding the petition filing fee) outlined therein may be approved without further detailed fee application or hearing, subject to the terms of both the RARA and the Guidelines for Allowance of Attorneys’ Fees in Chapter 13 Cases (“Guidelines”) adopted by the court.
- (2) Duties of Debtors and their Attorneys if the RARA is Signed, Filed, and Served. The RARA sets forth the duties and obligations that must be performed by the debtor and debtor’s attorney, both before and after the case is filed and before and after confirmation of a plan, if the parties elect to use the RARA. The RARA also specifies the fees that the attorney will charge and the procedures for seeking and objecting to payment of fees. An attorney who elects to use the RARA may not charge more than the maximum fees outlined in subsection (v)(1) of this rule for performing services described in bold face type in the RARA. If the attorney

performs tasks on behalf of the debtor not set forth in bold face, the attorney may apply to the court for additional fees and costs, but such applications will be reviewed by both the chapter 13 trustee and the court. Counsel may apply for additional fees if and when justified by the facts of the case.

An application for additional fees and costs must be made by noticed motion subject to subsections (w) and (x) of this rule. The application must be supported by evidence of the nature, necessity, and reasonableness of the additional services rendered and expenses incurred. When additional fees are sought, the court may, in its discretion, require additional supporting information or require a hearing, even though no opposition is filed. In such application, the applicant must disclose to the court any fees paid or costs reimbursed by the debtor and the source of those payments.

If the parties elect to utilize the RARA, the lists of duties and obligations set forth in the RARA may not be modified by the parties. Other portions of the RARA may be modified in the following respects only: (A) the attorneys' fees provided for in the RARA may be reduced; and (B) the agreement may be supplemented to include any additional agreements that may exist between the parties concerning the fees and expenses that the attorney will charge for performing services required by the RARA that are not in bold face type.

- (3) Debtor's Signature. The debtor's signature on the RARA certifies that the debtor has read, understands, and agrees to the best of the debtor's ability to carry out the terms of the RARA and has received a signed copy of the RARA.
- (4) Attorney's Signature. The attorney's signature on the RARA certifies that before the case was filed the attorney personally met with, counseled, and explained to the debtor all matters set forth in the RARA and verified the number and status of any prior bankruptcy case(s) filed by the debtor or any related entity, as set forth in LBR 1015-2. The RARA does not constitute the written fee agreement contemplated by the California Business and Professions Code.
- (5) An Attorney May Elect to be Paid other than Pursuant to the RARA and the Guidelines. At any time, whether or not a RARA is on file in any case, the debtor's attorney may elect to seek an allowance of fees and costs other than pursuant to the RARA and the Guidelines. In that event, the attorney must file and serve an application for fees in accordance with 11 U.S.C. §§ 330 and 331, FRBP 2016 and 2002, and LBR 2016-1 and 3015-1, as well as the "Guide to Applications for Professional Compensation" issued by the United States trustee for the Central District of California.
- (6) Court Review of any Attorney's Fee. Upon notice and opportunity for hearing, the court may review any attorney's fee agreement or payment, in accordance with 11 U.S.C. § 329 and FRBP 2017.

- (7) Payment of Fees Upon Dismissal. Unless otherwise ordered by the court, the chapter 13 trustee must disburse to the debtor's attorney as soon as practicable after dismissal any portion of the balance on hand which has been tendered to the chapter 13 trustee for payment of the RARA fees, provided:
- (A) A RARA was signed by the debtor's attorney and the debtor, filed, and served on the chapter 13 trustee; and
 - (B) The debtor's case is dismissed prior to or at the hearing on confirmation of the plan.

(w) Motions and Applications Filed on Notice of Opportunity to Request a Hearing.

- (1) Motions and Applications. The following motions and applications may be made on notice of opportunity to request a hearing pursuant to LBR 9013-1(o):
- (A) Chapter 13 trustee's motion to modify a confirmed plan or dismiss a case;
 - (B) Motion to modify a confirmed plan or to suspend or extend plan payments, subject to subsections (n) and (x) of this rule, provided that 20 days notice of the motion is given in accordance with FRBP 3015(g);
 - (C) Motion for approval of sale or refinancing of debtor's residence, subject to subsection (p) of this rule, if the entire equity therein is exempt from the claims of creditors; provided, however, notice is not required if the sale or refinance will pay off the plan and the plan allows 100% to the unsecured claims; and
 - (D) Application for supplemental attorney's fees, subject to subsections (u), (v) and (x) of this rule.
- (2) No Response Filed. If no response has been timely filed and served with respect to a motion or application listed in subsection (w)(1) of this rule, or the chapter 13 trustee's only response is to take no position, the provisions of LBR 9013-1(o)(3) must be complied with, subject to the following modifications:
- (A) Motion to Modify a Confirmed Plan or to Suspend or Extend Plan Payments. The declaration must also attest that the chapter 13 trustee did not timely file and serve a response to the motion, and the declaration and proposed order must be served on the chapter 13 trustee.
 - (B) Application for Supplemental Fees. The declaration must attest that the chapter 13 trustee did not timely file and serve a response to the application, or took no position, and the declaration and proposed order must be served on the chapter 13 trustee.
- (3) Response Filed. If a response is filed with respect to any motion or application listed in subsection (w)(1) of this rule, the provisions of LBR 9013-1(o)(4) must be complied with, subject to the following modifications:

- (A) Trustee’s Motion to Dismiss a Case; Trustee’s Motion to Modify a Confirmed Plan. The person or entity who timely files and serves a response to a trustee’s motion to dismiss a case, or a trustee’s motion to modify a confirmed plan, must obtain a hearing date from the court (or use the court’s self-calendaring system) and serve notice of the hearing with the response.
- (B) Debtor’s Motion to Modify a Confirmed Plan or Suspend or Extend Plan Payments. If the chapter 13 trustee timely files and serves any comments regarding the motion, the chapter 13 trustee must promptly lodge a proposed order, electronically via LOU, using court-mandated form F 3015-1.12, and serve the proposed order on the debtor (and debtor’s attorney, if any).
- (C) Application for Supplemental Fees. If the chapter 13 trustee timely files and serves any comments regarding the application, the chapter 13 trustee must promptly lodge a proposed order, electronically via LOU, using court-mandated form F 3015-1.12, and serve the proposed order on the applicant.
- (x) **Service of Motions and Applications.** All motions and applications must be served, subject to the electronic service provisions of LBR 9036-1, on the chapter 13 trustee, debtor (and debtor’s attorney, if any), and all creditors, with the following exceptions:
- (1) A chapter 13 trustee’s motion to dismiss a case need be served only on the debtor, debtor’s attorney (if any), any prior chapter 7 trustee, and that trustee’s attorney (if any);
 - (2) An objection to a claim need be served only on the chapter 13 trustee, the claimant, and the claimant’s attorney (if any). If the claimant is the United States or an officer or agency of the United States, the objection must be served as provided in FRBP 7004(b)(4) and (5) and LBR 2002-2;
 - (3) A motion for modification, suspension, or extension of the due date of plan payments must be filed using court-mandated forms and must be served on the chapter 13 trustee, but need not be served on creditors if: (A) the proposed modification does not have an adverse effect on the rights of creditors; or (B) the proposed suspension or extension, combined with any prior approved suspensions or extensions, does not exceed 90 days of suspended payments or 90 days of extensions to the plan’s term. Any other motion for modification, suspension, or extension must be served on all creditors pursuant to LBR 9013-1(o) in addition to being served on the chapter 13 trustee;
 - (4) A motion regarding the stay of 11 U.S.C. § 362, which is subject to the notice and service requirements of LBR 4001-1; and
 - (5) An application by debtor’s counsel for additional fees and costs not exceeding \$1,000 over and above the limits set forth in the RARA and Guidelines need be served only on the chapter 13 trustee and the debtor.