

## LOCAL RULE 3070-1: CHAPTER 13- PAYMENTS

- (a) Following confirmation of a plan, all funds in possession of the chapter 13 trustee shall be disbursed pursuant to the terms of the confirmed plan. Unless the Court orders otherwise, creditors shall receive adequate protection as required by 11 U.S.C. § 1326(a) from the plan and the provisions set forth below.
- (b) Upon the dismissal of a case, the chapter 13 trustee shall, after first paying the balance of any sanctions as directed by the Court, dispose of funds in the following manner, unless otherwise ordered by the Court:
  - (1) If there is a confirmed plan in the case, the chapter 13 trustee shall pay any funds received before the dismissal of the case to creditors pursuant to the terms of the plan. All funds received thereafter shall be paid to the debtor.
  - (2) If there is neither a confirmed plan nor an order directing otherwise, funds received prior to entry of an order of dismissal shall be disbursed as follows:
    - (A) First, in a conduit case, funds paid to the chapter 13 trustee as conduit payments shall be paid to the conduit mortgage creditor;
    - (B) Second, the trustee shall disburse to the debtor's attorney the lesser of the remaining amount due to debtor's attorney, or the remaining balance of funds received by the chapter 13 trustee prior to dismissal;
    - (C) Third, as adequate protection required by 11 U.S.C. § 1326(a), the trustee shall disburse payments to holders of allowed claims secured by personal property and allowed claims for executory contracts that are proposed to be paid through the most recently filed plan, divided based upon the monthly payments provided therein. Subject to the availability of funds, these creditors will be paid a full payment for each full month beginning thirty (30) days after the order for relief and continuing through the date of dismissal. No payment will be made for partial months; and
    - (D) Any funds remaining after these payments, and all funds received after dismissal, shall be returned to the debtor unless there is a pending Motion to Reconsider Dismissal.
- (c) Unless ordered by the court or the debtor consents otherwise, upon the conversion of a case, the chapter 13 trustee shall return all funds on hand, and all funds received after conversion, to the debtor.

### Notes:

(2008) Portions of former SC LBR 1019-1 and 3015-1 were incorporated into this rule pursuant to Fed. R. Bankr. P. 9029(a) and the Judicial Conference's prescribed numbering conventions.

(2011) Former paragraph (b)(2) was eliminated and paragraph (b)(3) was renumbered to (b)(2) to eliminate reference to cases filed before the Bankruptcy Consumer Protection Act of 2005. Former paragraph (b)(3)(C) was renumbered to (b)(2)(D) and paragraph (b)(2)(C) was added to provide for an additional distribution to debtor's counsel.

(2015) Paragraphs (b) and (c) were amended to conform to the holding in *Harris v. Viegelahn*, 135 S. Ct. 1829, 191 L. Ed. 2d 783 (2015).

(2016) Paragraphs (b)(2)(A), (B), and (C) were revised.

## **LOCAL RULE 5075-1: DELEGATION OF NOTICING AND SERVICE OF ORDERS**

In addition to notice delegated by SC LBR 4001-1, 6004-1, and 9013-4 and pursuant to Fed. R. Bankr. P. 2002 and 3019, noticing and service of notices<sup>1</sup> and orders are delegated as follows:

**(a) Chapter 11.**

- (1) Order and notice setting disclosure statement hearing to the plan proponent;
- (2) Order approving disclosure statement and setting confirmation hearing to the plan proponent;
- (3) Notices pursuant to SC LBR 2081-2:
  - (A) Notice of a hearing to designate a case as complex to the movant;
  - (B) Notice of a hearing to shorten the mailing matrix to the movant; and
  - (C) Notice of status conference, omnibus, and final hearings to the debtor-in-possession or trustee.
- (4) Notice of a hearing and order on motion pursuant to 11 U.S.C. § 363 to the movant;
- (5) Notice of time fixed for filing objections and, if an objection is filed, the hearing to consider a proposed modification to plan pursuant to 11 U.S.C. § 1127(e) to the plan proponent;
- (6) Order on motion to extend the time period to file a plan or disclosure statement pursuant to SC LBR 3016-1 to the movant;
- (7) Order on motion to extend the exclusivity period to the movant;
- (8) Order on motion to appoint a chapter 11 trustee to the movant;
- (9) Order denying approval of disclosure statement or denying confirmation of a chapter 11 plan to the proponent; and
- (10) Order confirming the plan to the plan proponent.

**(b) Chapter 12.**

- (1) Service of any chapter 12 plan or amended or modified plan, any embedded motions, exhibits, and notice of time for filing objections, as further specified in SC LBR 2082-1 to the debtor;
- (2) Notice of the pre-confirmation conference pursuant to SC LBR 2082-1(e) to the debtor; and
- (3) Order confirming the plan to the debtor

**(c) Chapter 13.**

- (1) Service of any chapter 13 plan or amended or modified plan, any embedded motions, and notice of time for filing objections, as further specified in SC LBR 3015-1 and 3015-2 to the debtor;

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<sup>1</sup> Where a notice requires scheduling or a deadline, the noticing party shall contact a Courtroom Deputy for the applicable date if the matter is outside of the scope of SC LBR 9013-4.

- (2) Order confirming plan and granting embedded motions on parties affected by the embedded motions to the debtor;<sup>2</sup>
- (3) Any order pursuant to Rule 3002.1 to the prevailing party;
- (4) Order on a consensual motion to modify a mortgage to the debtor;
- (5) Order on motion to modify the co-debtor stay to the movant;
- (6) Order on motion to sell to the movant;
- (7) Order on motion to incur credit is to the movant;
- (8) Order on motion to substitute collateral to the movant;
- (9) Order on motion for moratorium to the movant; and
- (10) Notice of hearing on a Motion for Exemption from Conduit Mortgage Payment Requirement to the movant.

**(d) All Chapters.**

- (1) Order on motion to reconsider dismissal to the movant;
- (2) Order on application for professional fees to the applicant;
- (3) Order on a motion pursuant to 11 U.S.C. § 362(c) or (d) to the movant;
- (4) Order on motion confirming the termination of the automatic stay to the movant;
- (5) Notice of a hearing on a Motion to Pay Unclaimed Dividends, if an objection is filed pursuant to SC LBR 3011-1(f), to the movant;
- (6) Notice required pursuant to Fed. R. Bankr. P. 3004 to the party filing the proof of claim;
- (7) Notice of a hearing on a Request for Tax Information, if an objection is filed pursuant to SC LBR 6070-1, to the applicant;
- (8) Order on motion or application to convert to the movant or applicant;
- (9) Order on motion to avoid or value a lien to the movant;
- (10) Notice of hearing and order on a motion for expedited, emergency, or temporary relief or to shorten the time period to object to the movant;
- (11) Settlement order to the movant or applicant;
- (12) Order on motion to divide a case or for joint administration or consolidation to the movant;
- (13) Order on motion to waive or exempt credit counseling or financial management to the movant;

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<sup>2</sup> The Court will notice the debtor, the trustee, and objecting parties with the confirmation order.

- (14) Order on application for employment to the applicant;
- (15) Order on motion to reconsider relief from the automatic stay to the movant;
- (16) Order on motion to continue administration of case after death and/or designate person to act for the debtor to the movant;
- (17) Order on motion or application of a party in interest, other than a trustee, to dismiss to the movant or applicant;
- (18) Order on motion to reopen to the movant;
- (19) Order on motion to redeem to the movant;
- (20) Order on motion to value tax claim and establish priority to the movant;
- (21) Order on objection to claim to the objecting party;
- (22) Order on motion or application for Rule 2004 examination to the movant or applicant; and
- (23) Any other order or notice the Court or the Clerk's Office specifically delegates.

**Notes:**

(2008) Portions of former SC LBR 2081-1 were revised and incorporated into this rule pursuant to Fed. R. Bankr. P. 9029(a) and the Judicial Conference's prescribed numbering conventions. Paragraphs (c), (d), and (f) are new.

(2013) The rule was substantially rewritten. Amendments were made to delegate noticing of certain matters without further order.

(2016) Paragraph (c)(10) is new.

**LOCAL RULE 7012-1: WHERE A MOTION TO DISMISS IS REQUESTED AGAINST A PARTY WITHOUT COUNSEL**

Any motion seeking dismissal of an adversary proceeding in which the non-moving party is without counsel shall contain a notice in substantially the following form:

**NOTICE**

A motion to dismiss is a request that one or more issues in a case be decided without holding a trial. Motions to dismiss are governed by Rule 12, Federal Rules of Civil Procedure. Your complaint, or the portions of your complaint that the motion seeks to dismiss, may be dismissed if the court finds that the complaint does not contain sufficient allegations to state a claim upon which the court can grant relief. If you wish to oppose the motion to dismiss, you must file with the court and serve on the other party, a written response within the time period set forth in a notice that will be separately mailed to you by the Clerk of Court. If you file a written response, a hearing will be held at the location and time set forth in the notice from the Clerk of Court. **If you fail to file a timely written response to the motion, the court will consider the motion unopposed and may grant the motion without holding a hearing.** This will result in the termination of the proceeding, or some part thereof, in favor of the moving party.

**Notes:**

(2016) This rule is new.

**LOCAL RULE 7056-1: WHERE SUMMARY JUDGMENT IS REQUESTED AGAINST PARTY WITHOUT COUNSEL**

Any motion seeking summary judgment in which the non-moving party is without counsel shall contain a notice in substantially the following form:

**NOTICE**

A motion for summary judgment is a request that one or more issues in a case be decided without holding a trial. Motions for summary judgment are governed by Rule 56, Federal Rules of Civil Procedure. Summary judgment may be granted if (a) the material facts are not genuinely disputed and (b) based on those facts, the party asking for summary judgment is entitled to judgment as a matter of law. If you wish to oppose the motion, you must file with the court and serve on the other party, a written response within the time period set forth in a notice that will be separately mailed to you by the Clerk of Court. If you file a written response, a hearing will be held at the location and time set forth in the notice from the Clerk of Court. **If you fail to file a timely written response to the motion, the court will consider the motion unopposed and may grant the motion without holding a hearing.** This will result in the termination of the matter in favor of the moving party. If you disagree with any of the facts stated by the other party, you must include with your response sworn statements from yourself or other knowledgeable witnesses supporting your version of the facts. A sworn statement may take the form either of an affidavit or a declaration signed under penalty of perjury. Any documents you want the court to consider should be identified in, and attached to, the sworn statements. If you are unable to obtain sworn statements supporting your position, you must file a sworn statement stating why you are unable to obtain such statements at this time.

**Notes:**

(2016) This rule is new.

## LOCAL RULE 9036-1: NOTICE BY ELECTRONIC TRANSMISSION

- (a) **Registered CM/ECF Participants Entitled to Notice or Service by the Court or Others.**<sup>1</sup> Electronic transmission of documents through CM/ECF to Registered CM/ECF Participants constitutes sufficient Notice of Judgment or Order pursuant to Fed. R. Bankr. P. 9022 and sufficient notice and service pursuant to applicable Federal Rules of Bankruptcy Procedure, except with respect to those documents to which the service requirements of Fed. R. Bankr. P. 7004 apply. Nothing in this rule should be construed as relieving any party from preparing and filing a certificate of service as required by SC LBR 9013-3.
- (b) **Debtors.**<sup>2</sup>
- (1) **DeBN Request Form.** Each debtor who files a voluntary petition shall file, contemporaneous with the petition, a completed Debtor's Electronic Noticing Request (DeBN Request) on the form provided by the Clerk of the Bankruptcy Court. Each DeBN Request must state whether the debtor:
- (A) requests creation of a new DeBN account to begin receiving court notices and orders via email pursuant to Fed R. Bankr. P. 9036;
  - (B) declines participation in the DeBN program;
  - (C) requests an update to or reactivation of an existing DeBN account; or
  - (D) requests deactivation of an existing DeBN account.
- (2) **Email Address.** DeBN Requests to create a new DeBN account and DeBN Requests to update or reactivate an existing DeBN account must list a valid and active email address for the debtor. A debtor may list the same email address that was listed on a joint debtor's DeBN Request, however each debtor and each joint debtor must sign and file a separate DeBN Request regardless of whether they share the same email address.
- (3) **Proof of Identity.** All DeBN Requests must be filed with sufficient evidence of the debtor's identity. The debtor provides sufficient evidence of identity when:
- (A) The debtor's attorney files the DeBN Request electronically in CM/ECF;
  - (B) The debtor files the DeBN Request in person at the Clerk's Office and provides a photo identification or other information that would satisfy 11 U.S.C. § 521(h); or
  - (C) The debtor files the DeBN Request by mail and provides a copy of a photo identification or other information that would satisfy 11 U.S.C. § 521(h).
- (c) **Creditors and Other Parties in Interest.** Creditors and other parties in interest with a valid e-mail address are directed to request receipt of notices delivered by the Court electronically through the Bankruptcy Noticing Center. Registration by creditors for electronic notice should be completed through [ebn.uscourts.gov](http://ebn.uscourts.gov) and the required form mailed to:

BAE Systems  
Bankruptcy Noticing Center

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<sup>1</sup> See SC LBR 5005-4.

<sup>2</sup> See SC LBR 5005-4.

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Herndon, VA 20171-3514

**Notes:**

(2013) Paragraph (a) of this new rule incorporates provisions of former Operating Order 08-07. Paragraph (b) is new.

(2014) Paragraphs (b)(1), (2), and (3) were amended to reflect the new process for registration.

(2016) Paragraph (b) was substantially rewritten to require a debtor to file a DeBN Request Form at the beginning of the case.