

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 conversion or dismissal of a case the chapter 13 trustee shall, after first paying the balance of any sanctions as directed by the Court and next paying any unpaid fees, 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 conversion or 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 or conversion shall be disbursed as follows:
 - (A) First, unless otherwise ordered, the lesser of the amount due to debtor's attorney, to the extent that the amount owed has not been satisfied; \$500.00; or the remaining balance of funds received by the chapter 13 trustee prior to dismissal or conversion, shall be disbursed to the debtor's attorney. The attorney may seek a greater payment upon timely application to the Court made prior to the disbursement by the chapter 13 trustee;
 - (B) Second, as adequate protection required by 11 U.S.C. § 1326(a), the trustee shall disburse scheduled payments to the holders of allowed secured claims and allowed claims for executory contracts scheduled to be paid through the most recently filed plan, divided based upon the monthly payments provided therein. Subject to the availability of funds, 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 or conversion. No payment will be made for partial months;
 - (C) Third, any fees still due the debtor's attorney after the above payment; and
 - (D) Any funds remaining after these payments, and all funds received after conversion or dismissal, shall be returned to the debtor.
- (c) Subject to the above, the chapter 13 trustee shall pay any funds that would be considered an asset of a converted case to any subsequent trustee, and the chapter 13 trustee shall pay to the Court any remaining balance of the fee owed to the Court.

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.