

UNITED STATES BANKRUPTCY COURT  
DISTRICT OF SOUTH CAROLINA

FILED  
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JUL 30 2015  
Dy  
United States Bankruptcy Court  
Columbia, South Carolina (40)

IN RE:

LOCAL RULE 3070-1,

OPERATING ORDER 15-02

The Court implements interim amendments to SC LBR 3070-1, attached as Exhibit A, pending formal amendments to the Local Rules. Paragraphs (b) and (c) of SC LBR 3070-1 are amended to conform to the holding of Harris v. Viegelaahn, 135 S.Ct. 1829 (2015).

**AND IT IS SO ORDERED.**

  
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David R. Duncan, Chief Judge

Columbia, South Carolina,  
July 30, 2015

## 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, 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, 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. 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 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 with *Harris v. Viegelahn*.