

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF MICHIGAN

In re:

Administrative Order
Regarding Local Bankruptcy
Rules 2015-5(a) and 3001-2

Administrative Order No. 11-08

**ADMINISTRATIVE ORDER REGARDING INTERIM
AMENDMENTS TO LOCAL BANKRUPTCY RULES 2015-1(a) AND 3001-2**

On December 1, 2011, new Federal Rule of Bankruptcy Procedure 3002.1 becomes effective. There are provisions contained in two Local Bankruptcy Rules for the Eastern District of Michigan, 2015-5(a) and 3001-2, that conflict with this new Federal Rule of Bankruptcy Procedure. Therefore, the Court has determined to enter this order amending L.B.R. 2015-5(a) and L.B.R. 3001-2 on an interim basis to conform them to F.R.Bankr.P. 3002.1 until such time as permanent amendments to these local rules may be made in accordance with F.R.Bankr.P. 9029. Effective December 1, 2011, L.B.R. 2015-5(a) and L.B.R. 3001-2 are amended on an interim basis to read as follows:

Rule 2015-5 Trustee's Procedures Upon Chapter 13 Plan Completion

(a) Procedure Leading to Entry of the Debtor's Discharge. Within 30 days after the completion of plan payments by the debtor to the trustee, the trustee shall file and serve on the debtor and all holders of allowed claims a notice stating that:

- (1) The debtor's payments to the trustee under the plan have been completed.
- (2) The order of discharge will include findings that:

(A) All allowed claims have been paid in accordance with the plan, and

(B) With respect to any secured claim that continues beyond the term of the plan, any prepetition or post-petition defaults have been cured and the claim is in all respects current, with no escrow balance, late charges, costs or attorney fees owing.

(3) The order of discharge will direct that:

(A) Any creditor who held a secured claim that was fully paid shall execute and deliver to the debtor a release, termination statement, discharge of mortgage or other appropriate certificate suitable for recording; and

(B) Any creditor who holds a secured claim that continues beyond the term of the plan shall take no action inconsistent with the above findings.

(4) In addition to the requirements for holders of claims governed by F.R.Bankr.P. 3002.1, any party may file an objection: to the trustee's notice under subparagraph (a)(1); to assert that the debtor is not current in the payments that the debtor was authorized to make directly to a creditor; to the proposed findings as stated in subparagraph (a)(2); or to the proposed terms of the order of discharge as stated in subparagraph (a)(3).

(5) The deadline to file an objection is 21 days after service of the notice. If no objection is timely filed under this rule, and no statement disagreeing with the notice of final cure payment is timely filed under F.R.Bankr.P. 3002.1(g), the court may enter an order of discharge containing the provisions of subparagraphs (a)(2) and (a)(3) without a hearing. If either a timely objection is filed under this rule, or a timely statement disagreeing with the notice of final cure payment is filed under F.R.Bankr.P. 3002.1(g), the court will delay entry of the order of discharge until it resolves such objection or statement, after a hearing that will be scheduled by the court upon the filing of such objection or statement with notice to the party filing such objection or statement, the debtor and the trustee.

(6) To avoid defaulting on any continuing secured debt obligation, the debtor must immediately begin making the required payments on that obligation.

(7) The chapter 13 discharge does not discharge the debtor from

any obligation on any continuing secured debt payments that are due after the date of the debtor's last payment under the plan.

The trustee shall file a certificate of service of this notice.

Rule 3001-2 Adjustment in a Periodic Payment on a Secured Claim in Chapter 13

(a) Creditor's Notice. A creditor with a claim under § 1322(b)(5) or (b)(7) that is not governed by F.R.Bankr.P. 3002.1 shall file and serve on the debtor, debtor's counsel and the trustee a notice of any proposed increase or decrease of periodic payments and file a certificate of service. The deadline to file this notice is 21 days before the effective date of the adjustment of the payment amount. The notice shall fully disclose the calculations on which the adjustment is based.

(b) Objection. The deadline to file an objection to a creditor's notice under paragraph (a) or to a notice of mortgage payment change filed under F.R.Bankr.P. 3002.1(b) is 21 days after service of the notice. If an objection is filed, the court will schedule a hearing with notice to the debtor, the creditor and the trustee.

(c) Effective Date of Proposed Change. A proposed payment change under paragraph (a) or under F.R.Bankr.P. 3002.1(b) shall be effective 21 days after service of the notice, unless the court orders otherwise.

Blacklined versions of the current L.B.R. 2015-5(a) and L.B.R. 3001-2 reflecting the changes to be made to L.B.R. 2015-5(a) and L.B.R. 3001-2 are attached to this order. The Local Bankruptcy Rules for the Eastern District of Michigan posted on the Court's website will be changed on December 1, 2011 to include these interim amendments.



PHILLIP J. SHEFFERLY, Chief Judge
United States Bankruptcy Court

Dated: November 23, 2011

Rule 2015-5 Trustee's Procedures Upon Chapter 13 Plan Completion

(a) Procedure Leading to Entry of the Debtor's Discharge. Within 30 days ~~As promptly as practicable~~ after the completion of plan payments by the debtor to the trustee, the trustee shall file and serve on the debtor and all holders of allowed claims a notice stating that:

(1) The debtor's payments to the trustee under the plan have been completed.

(2) The order of discharge will include findings that:

(A) All allowed claims have been paid in accordance with the plan, and

(B) With respect to any secured claim that continues beyond the term of the plan, any prepetition or post-petition defaults have been cured and the claim is in all respects current, with no escrow balance, late charges, costs or attorney fees owing.

(3) The order of discharge will direct that:

(A) Any creditor who held a secured claim that was fully paid shall execute and deliver to the debtor a release, termination statement, discharge of mortgage or other appropriate certificate suitable for recording; and

(B) Any creditor who holds a secured claim that continues beyond the term of the plan shall take no action inconsistent with the above findings.

(4) In addition to the requirements for holders of claims governed by F.R.Bankr.P. 3002.1, ~~a~~Any party may file an objection: to the trustee's notice under subparagraph (a)(1); to assert that the debtor is not current in the payments that the debtor was authorized to make directly to a creditor; to the proposed findings as stated in subparagraph (a)(2); or to the proposed terms of the order of discharge as stated in subparagraph (a)(3).

(5) The deadline to file an objection is 21 ~~28~~-days after service of the notice. If no objection is timely filed under this rule, and no statement disagreeing with the notice of final cure payment is timely filed under F.,R.Bankr.P. 3002.1(g), the court may enter an order of discharge containing the provisions of subparagraphs (a)(2) and (a)(3) without a hearing. If either a timely objection is filed under this rule, or a timely statement disagreeing with the notice of final cure payment is filed under F.R.Bankr.P. 3002.1(g), the court will delay entry of the order of discharge until it resolves such the objection or statement, after ~~and~~ a hearing that will be scheduled by the court upon the filing of such objection or statement with notice to the party filing such objection or statement, objecting party, the debtor and the trustee.

(6) To avoid defaulting on any continuing secured debt obligation, the debtor must immediately begin making the required payments on that obligation.

(7) The chapter 13 discharge does not discharge the debtor from any obligation on any continuing secured debt payments that are due after the date of the debtor's last payment under the plan.

The trustee shall file a certificate of service of this notice.

Rule 3001-2 Adjustment in a Periodic Payment on a Secured Claim in Chapter 13

(a) **Creditor's ~~Statement Notice~~.** A creditor with a claim under § 1322(b)(5) or (b)(7) that is not governed by F.R.Bankr.P. 3002.1 shall file and serve on the debtor, debtor's counsel and the trustee, a statement-notice of any proposed increase or decrease of periodic payments and file a certificate of service. The deadline to file this statement-notice is 42-21 days before the effective date of the adjustment of the payment amount. The statement-notice shall fully disclose the calculations on which the adjustment is based.

(b) **Objection.** The deadline to file an objection to ~~the a~~ creditor's statement-notice under paragraph (a) or to a notice of mortgage payment change filed under F.R.Bankr.P. 3002.1(b) is 21 days after service of the statement-notice~~is filed~~. If an objection is filed, the court will schedule a hearing with notice to the debtor, the creditor and the trustee.

~~(c) **Trustee's Analysis.** Within 14 days after the later of the deadline in paragraph (b) or the date that the court enters an order resolving any objection under paragraph (b), the trustee shall file a notice stating whether the plan will still be adequately funded with the current plan payment amount and if not, stating the necessary increase in plan payments.~~

~~(d) **Debtor's Proposed Plan Modification.** Within 21 days after the trustee files the notice under paragraph (c), the debtor shall file a plan modification under Local Rule 3015-2(b), if necessary to assure adequate funding of the plan.~~

~~(e) **Exception to the Deadline in Paragraph (a) for Certain Creditors.** This exception applies to a creditor secured by a mortgage for which the amount of the debtor's payment obligation is subject to change more frequently than once every six months. When this exception applies to a creditor:~~

~~(1) The creditor shall file a "Notice of Exception to the LBR 3001-2(a) Deadline" as an attachment to any statement of proposed payment change filed under paragraph (a). This Notice of Exception shall certify that proposed payment change relates to a mortgage for which the amount of the debtor's payment obligation is subject to change more frequently than once every six months.~~

~~(2) Upon the filing of a Notice of Exception, the trustee shall thereafter immediately effectuate any payment change proposed in any statement of payment change that the creditor files. The trustee shall effectuate the payment change only prospectively.~~

~~(3) Subparagraphs (b), (c) and (d) of this rule shall apply.~~

~~(f) **Notice of Payment Decrease.** Notwithstanding paragraph (a), a debtor who has received a notification of a payment decrease from a mortgage creditor may file a notice of a payment decrease. The debtor shall serve the notice upon the mortgage creditor and file a proof of service.~~

~~(gc) **Effective Date of Proposed Change.** A proposed payment ~~increase~~change under paragraph (a) or under F.R.Bankr.P. 3002.1(b) shall be effective ~~45~~21 days after ~~filing and~~ service of the notice~~under subparagraph (a)~~, unless the court orders otherwise.~~The trustee shall effectuate a proposed payment decrease upon filing any such notice.~~~~

~~(h) **Application.** This rule applies only after confirmation of the debtor's plan, and only in a case in which the trustee makes the payment to the creditor.~~