

**AMENDMENTS TO LOCAL RULES IN ADDITION TO THOSE PUBLISHED  
FOR PUBLIC COMMENT ON SEPTEMBER 27, 2017**

**RULE 2014-1. EMPLOYMENT OF PROFESSIONALS**

Unless the court orders otherwise, entry of an order approving the employment of a professional under Fed. R. Bankr. P. 2014 will be deemed to relate back to the filing date of the application to employ or, if the application to employ is filed within 7 days of the order for relief, to the date of the order for relief, provided that the application for employment and approving order references this rule. An application to employ requesting entry of an order authorizing employment retroactive to the date services were first begun other than as provided in the foregoing sentence must include the request in the title of the application, be set for hearing in accordance with E.D. Tenn. LBR 9013-1(f), and be served along with the proposed order upon all creditors and other parties in interest.

[Comment](#)

Grammatical correction is made changing “references” to “reference.”

**RULE 2015-2. DEBTOR — DUTIES / OPERATING REPORTS**

**(a) Chapter 11 Operating Reports.** Unless otherwise ordered by the court, a chapter 11 debtor in possession or trustee, if one has been appointed, must file verified operating reports in the format required by the United States Trustee, except that in a chapter 11 small business case, Official Form 425C, Small Business Monthly Operating Report, must be utilized. Prior to confirmation of a plan, the reports must be filed monthly. After confirmation, the reports may be filed quarterly instead of monthly unless the confirmed plan provides for a different reporting schedule.

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[Comment](#)

Change made to conform to renumbering of Official Form.

**RULE 2016-1. COMPENSATION OF DEBTOR’S ATTORNEY IN CHAPTER 13 CASES**

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**(d) Debtor’s Attorney Fee in Cases Dismissed or Converted Before Confirmation.** In the event a chapter 13 case is dismissed or converted before plan confirmation, the attorney for the debtor will be awarded a fee in the amount of \$1,750, absent a request filed by the attorney or an objection filed by the trustee or the debtor within 14 days after entry of the dismissal or conversion order. The awarded fee is to be paid from any prepetition retainer held by the debtor’s attorney, with the balance paid by the chapter 13 trustee from any plan payments on hand, after payment of any unpaid filing fees ~~and trustee’s fee~~. In the event there are any other unpaid administrative

expenses awarded under 11 U.S.C. § 503(b), the trustee must pay these expenses along with the balance of the fee award on a pro-rata basis from plan payments in the trustee’s possession.

Comment

The amendment previously proposed to add “and trustee’s fee” is withdrawn to avoid adoption of any substantive statement of law.

~~**RULE 2016-2. REIMBURSEMENT OF CHAPTER 13 ADMINISTRATIVE EXPENSES**~~

~~After plan confirmation, the chapter 13 trustee is authorized to disburse funds to satisfy de minimis administrative expenses incurred by the chapter 13 trustee in a particular case up to a cumulative maximum of \$75 per case.~~

Comment

This rule is being abrogated to avoid adoption of any substantive statement of law.

**RULE 3002-1. CLAIMS — TIME FOR FILING / CHAPTER 13**

**(a) Rejection of Executory Contract or Unexpired Lease.** A claim arising from the rejection by a debtor in a chapter 13 plan of an executory contract or unexpired lease must be filed within 60 days from the entry of the order confirming the plan that first rejects the executory contract or unexpired lease.

**(b) Surrender of Collateral.** When a debtor surrenders collateral in a chapter 13 plan for which a creditor has ~~timely~~ filed a secured claim, the creditor must amend the claim within 120 days from entry of the order confirming the plan in order for any deficiency claim to be paid under the plan.

**(c) Extension.** Any motion to extend the 60 or 120 day period in (a) or (b) must be filed within the relevant 60 or 120 day period to be timely.

Comment

The references to “timely” filed proofs of claims in this new rule and in Parts 1, 3.5, 3.6, and 6.1 of the Form Plan are removed to avoid the suggestion that an untimely claim is not allowable even in the absence of an objection to the claim. There was no intent by the use of “timely” for a confirmed plan to control over the process of claims allowance/disallowance. All untimely claims are still subject to objection, but absent objection will be allowed as provided in 11 U.S.C. § 502(a).

**RULE 3017-2. DISCLOSURE STATEMENT — SMALL BUSINESS CASES**

**(a) Conditional Approval.** A plan proponent seeking conditional approval of a disclosure statement in a small business case must file—

- (1) an application pursuant to Fed. R. Bankr. P. 3017.1(a) for conditional approval of a disclosure statement without a hearing;
- (2) a disclosure statement that contains the information required by Official Form 425B, Disclosure Statement in Small Business Case under Chapter 11, as may be pertinent; and
- (3) a plan that contains the information required by Official Form 425A, Plan of Reorganization in Small Business Case under Chapter 11, as may be pertinent.

Comment

Changes made to conform to renumbering of Official Forms.

**RULE 3070-1. CHAPTER 13 PAYMENTS**

**(a) Preconfirmation Payments to Lessor or Creditor.** If entitled to preconfirmation payments under 11 U.S.C. § 1326(a)(1)(B) or (C) on personal property leases or adequate protection payments on a claim secured by personal property, the creditor may file a motion under E.D. Tenn. LBR 9013-1(g) for entry of an order directing the chapter 13 trustee to commence making a monthly payment to the creditor in an amount not to exceed \$50 after the filing fee has been paid in full, provided the creditor has filed a proof of claim **and the creditor's claim is to be paid by the chapter 13 trustee under the terms of the proposed plan.** If the creditor requests a monthly payment in excess of \$50, the creditor must set the motion for hearing in accordance with E.D. Tenn. LBR 9013-1(f). The trustee may assess an administrative fee for effecting payments required by this rule equal to the percentage fee fixed for the trustee under 28 U.S.C. § 586(e)(1)(B).

Comment

This amendment clarifies that the chapter 13 trustee will make adequate protection payments under this procedure only if the plan provides for the trustee to pay the claim.

**RULE 5081-1. FEES — FORM OF PAYMENT**

With respect to conventional paper filings, fees to the clerk of court must be paid by cash, cashier's check, money order, check drawn on a business account other than the debtor's, or check drawn on a client account or trust account of the attorney of record. For electronic filings, all required fees must be paid by **the Registered User** by credit card, debit card, or Automated Clearing House (ACH) **as provided in E.D. Tenn. LBR 5005-4(d).**

Comment

This addition clarifies that only the Registered User's (and not the debtor's) credit card, debit card, or ACH may be used to pay the filing fee in connection with an electronically filed document.

