

NOV 28 2017

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF WYOMING

United States Bankruptcy Court
District of Wyoming

PROCEDURES FOR CHAPTER 13 FORM (FORM 113)

General Order 17-01

IT IS ORDERED:

I. General

- a. The United States Bankruptcy Court for the District of Wyoming chose not to opt out of the National Chapter 13 Plan Form (Official Form 113) and modifies procedures to accommodate current practices.
- b. Use of the Chapter 13 Plan (Form 113) is required as of **December 1, 2017**. Form 113 may be accessed on the Court's website at www.wyb.uscourts.gov.
- c. Certain options included in the Official Chapter 13 Form are not permissible nor required in this district. All option selections must conform to this General Order. A plan cannot be confirmed if it includes impermissible options or fails to include required options.
- d. Adequate Protection Payments and Payments to Lessors. The trustee shall pay the designated protection payments or payments on lease of personal property, and shall receive the percentage fee due under the plan on the payments. If debtor provides for pre-confirmation adequate protection payments, the Plan must designate such in the check box of Section 1.3 and set out the terms as a nonstandard provision in Part 8.
- e. Chapter 13 Plan Summary. Debtor must complete and include Local Bankruptcy Form C, Chapter 13 Plan Summary (Plan Summary), as amended, designating the applicable commitment period and liquidation analysis upon filing the plan.
- f. If filing an amended plan, check the appropriate box on Page 1, and indicate the version along with listing the sections of the plan that have been changed.
- g. Priority claims must be listed individually and include the proposed payment amount.

II. Part 1

A nonstandard provision is effective only if it is designated as "Included" in Section 1.3 and set forth with specificity in Part 8 of the Plan Required Nonstandard Provisions.

III. Part 2

- a. Section 2.2 Regular Payments to the Trustee.
 - (i) The number of months listed in Section 2.1 for which the debtor will make regular payments is only an estimate.

- (ii) The applicable commitment period stated on the Plan Summary dictates the minimum term of the plan.
 - (iii) Any below median case may be extended as necessary or the Debtor may adjust the last plan payment to ensure the required payments to the trustee under the Plan.
 - (iv) A cashier's check or money order payable to "Standing Chapter 13 Trustee," in an amount equal to the monthly payment or monthly proration of a quarterly payment proposed by the plan, is due on the date first set for the meeting of creditors under 11 U.S.C. § 341. At the meeting, the standing chapter 13 trustee may fix a schedule for regular periodic payments in accordance with the proposed plan.
 - (v) Electronic means of payment is available only upon the approval of the standing chapter 13 trustee.
 - (vi) Payments may be extended as necessarily consistent with Section 2.1 or the final payment may be adjusted to ensure the plan pays as proposed.
- b. Section 2.3 Income Tax Returns.
- (i) Debtor shall supply the trustee with a copy of each income tax return or tax account transcript filed during the applicable commitment period within 14 days of filing the return.
 - (ii) Debtor shall turn-over all income tax refunds to the trustee within 14 days of receipt.
 - (iii) Debtor shall pay the trustee all tax refunds the debtor is entitled during the applicable commitment period.
 - (iv) Tax refunds received by the trustee shall be applied reducing claims paid through the plan and reducing the term of the plan to the extent permissible under the Bankruptcy Code.

IV. Part 3

- a. This District is not a conduit mortgage district. Debtor is responsible for the direct payment of all post-petition payments coming due on secured debts of debtor's interest in real property.
- b. If a proof of claim amount exceeds the amount provided in the plan, and debtor does not object, debtor must file an amended or modified plan corresponding with the proof of claim.
- c. Section 3.1 Maintenance of Payments and Cure of Default, if any.
Debtor is responsible for disbursement of secured contractual installment payments of real property.
- d. Section 3.4 Lien Avoidance.
 - (i) Each creditor listed in the Plan must be served with the Plan in compliance with Bankruptcy Rule 4003(d) and such

- service must be evidenced by a separately filed certificate of service.
- (ii) Any Plan amendment adding a creditor must similarly be served in compliance with Bankruptcy Rule 4003(d) and such service shall be evidenced by a separately filed certificate of service.
 - (iii) Any creditor listed in the Plan shall retain its lien securing such claim under the earlier of: (A) payment of the underlying debt determined under non-bankruptcy law; (B) discharge of the underlying debt under § 1328 or completion of the plan, at which time the lien will terminate and released by the creditor; or (C) entry of an order granting a separate motion filed by the debtor seeking release of the lien for cause under § 349(b).
 - (iv) Nothing in this Order prevents Debtor from seeking to avoid a lien under §522(f) by separate motion.
- e. Section 3.5 Surrender of Collateral.
If debtor intends to surrender collateral and checks the box in Section 3.5, then upon entry of the order confirming the Plan, the automatic stay under § 362 and the co-debtor stay under § 1301 are terminated as to both the collateral and the co-debtor obligation. The debtor shall immediately make the collateral being surrendered available to the secured creditor.

V. Part 4

- a. With the exception of adequate protection payments disbursed before confirmation, the trustee will disburse payments received under the plan first to administrative claims allowed under §§ 503(b) and 507(a)(1), concurrently and pro-rata, and then concurrently to all other classes of claims pro rata.
- b. The “balance of fees owed to the attorney for the debtor” referred to in Section 4.3 of the Plan shall be determined by subtracting any retainer received by debtor’s attorney from the allowed chapter 13 presumptive fee established by the court or other orders of the court. The total award of attorney’s fees may not exceed the presumptive fee absent compliance with notice and hearing requirements of the applicable laws.
- c. The court provides for an exclusive “presumptive fee” of \$4,000.00 for fees and expenses, excluding filing fees. An application and itemization of the time and services is not required. The presumptive amount is to be approved upon confirmation of the plan and paid by the trustee, to the extent funds are available after payment of the applicable trustee fee.
- d. The presumptive fee shall provide compensation for legal services including: (A) plan confirmation; (B) the claims review process that does not require an actual contested hearing; (C) certification

of the debtor's completion of the post-petition personal financial management course; and (D) certain routine post-confirmation services, such as reviewing claims after the expiration of the claims bar date, communicating with debtor's creditors and other parties-in-interest concerning the case, defending a motion for relief from stay or motion to dismiss, and assisting debtor in providing tax returns and refunds to the trustee during the term of the plan. Prosecuting or defending against a motion for a plan modification after confirmation is not considered a routine post-confirmation service.

- e. Fee Applications.
 - (i) If applicant intends to charge more than the presumptive fee amount, it must indicate such by checking the box in Section 1.3 and include the details as a non-standard provision in Part 8.
 - (ii) If applicant provides extraordinary services, above the presumptive services and amount, applicant may request additional fees. An application and notice must be filed and served according to the Federal Rules of Bankruptcy Procedure.
 - (iii) If applicant provides services post-confirmation and requests allowance of a supplemental fee, applicant must file a fee application with a detailed statement of services provided and results obtained, according to the Federal Rules of Bankruptcy Procedure.

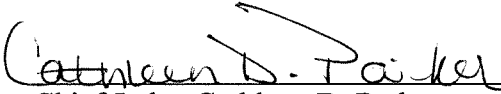
VI. Part 5

- a. Unless the Plan proposes 100% payment to all claims, the return to unsecured creditors shall be the greater of the amount specified in Section 5.1 or the pro rata distribution, if any, resulting from the Plan payment in Section. 2.1 multiplied by the applicable commitment period, plus tax refunds, other payments designated as lump sum plan contributions or other property which comes into the estate pursuant to Section 1306.
- b. Application of sale or insurance proceeds.
In all cases where a creditor applies sale or insurance proceeds to a debt treated in the Plan, the creditor must file an amended proof of claim within 14 days.

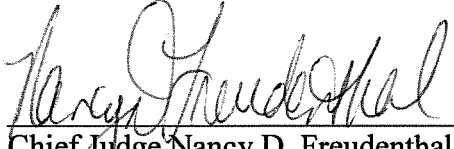
VII. Local Rules

- a. Wyoming Local Bankruptcy Rules are incorporated by reference and given equal weight for compliance with the Fed. Rules Bankr. P.
- b. Repealed.
 - (i) Wyoming LBR 3070-1 is repealed.
 - (ii) General Order 14-03 (Order amending Local Form B) Chapter 13 Plan is repealed.

- (iii) Wyoming LBR 2016-1(A) is repealed as applicable to the amount of presumptive/no-look fee. Additionally, the second paragraph of (A) is repealed.
 - (iv) Wyoming LBR 9011-4(B) is repealed as to Chapter 12 and 13 cases.
 - (v) Wyoming LBR 3007-1 is repealed.
- c. Amended
Local Bankruptcy Form C, Chapter 13 Plan Summary is amended.


Chief Judge Cathleen D. Parker
United States Bankruptcy Court
District of Wyoming

11/27/17
Date


Chief Judge Nancy D. Freudenthal
United States District Court
District of Wyoming

11/27/17
Date