

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE WESTERN DISTRICT OF TEXAS**

FIRST AMENDED STANDING ORDER
RELATING TO CHAPTER 13 PRACTICE IN THE EL PASO DIVISION

The following First Amended Standing Order supersedes the Standing Order Relating to Chapter 13 Practice in the El Paso Division signed April 30, 1999, and sets out certain practices and procedures which shall apply to practice in cases under Chapter 13 in the El Paso Division.

If you are involved in a Chapter 13 case in the Western District of Texas in the El Paso Division, please review the terms of this Order carefully. The procedures set out herein will directly affect your practice. Please note that the procedures for Chapter 13 practice in the other Divisions are not the same, and are governed by different standing orders.

1. **FORMAT FOR CHAPTER 13 PLANS**

Attached as Exhibit 1 to this First Amended Standing Order is a Chapter 13 Plan format that shall be used by all Chapter 13 debtors where the Plan is filed on or after September 1, 2002. The Clerk shall make available to the public the Chapter 13 format. Notwithstanding Local Bankruptcy Rule 3015, no separate plan summary shall be filed or served.

2. **SERVICE OF CHAPTER 13 PLANS AND AMENDED PLANS**

(a) Whether or not the Plan and Schedules are filed with the Chapter 13 petition at the commencement of the case, the Debtor/Debtor's attorney shall be responsible for serving the Plan on all creditors and other parties in interest, other than the Chapter 13 Trustee.

(b) Whenever a Chapter 13 plan is amended prior to confirmation, modified, the Debtor/Debtor's attorney shall serve the Amended Plan upon all creditors and parties in interest, and upon the Chapter 13 Trustee within two (2) business days after filing.

(c) A certificate of service must be filed with the Clerk of the Court reflecting service of any Plan or Amended Plan. A copy of the certificate of service must be served upon the Chapter 13 Trustee.

3. **SUMMARY DISMISSAL OF CHAPTER 13 CASE**

The Notice and Order for First Meeting of Creditors issued in all Chapter 13 cases in the El Paso Division shall contain a prominent notice that a case may be summarily dismissed for any one of the following causes:

- (a) failure of the Debtor to timely file a Plan or Schedules or to file, within fifteen (15) days of the filing of the petition, a motion for extension of time to file the Plan or Schedules; if an extension is sought, the motion for extension must be served upon the Chapter 13 Trustee;
- (b) failure of the Debtor to timely serve on the appropriate parties with a copy of the Plan;
- (c) failure of the Debtor to substantially comply with the Plan format attached hereto;
- (d) unexcused failure of the Debtor to appear at the scheduled meeting of creditors;
- (e) failure of the Debtor to pay filing fees (including installment filing fees) when due;
- (f) failure of the Debtor to commence timely payment of payments proposed by the Plan, or to remain current on such payments both before and after confirmation; remaining current, for purposes of this Order, shall mean that the Debtor is not more than 60 days in arrears; OR
- (g) failure of the Debtor to get the Chapter 13 Plan confirmed at the scheduled confirmation hearing date.

To effectuate this summary dismissal procedure, the Chapter 13 Trustee shall submit an order to the court substantially in compliance with Exhibit 2 attached hereto.

4. DUTIES OF TRUSTEE

(a) Trustee's Recommendation Concerning Confirmation

It is sufficient for the purposes of Local Bankruptcy Rule 3015(e)(2)(iii) that the Trustee note his or her recommendation concerning confirmation of the Debtor's Chapter 13 Plan by signing off on the Confirmation Order.

(b) Recommendation Concerning Claims

After the deadline for filing proofs of claim has passed, the Trustee shall file a Recommendation Concerning Claims and serve a copy thereon upon the Debtor/Debtor's attorney and all creditors and parties in interest whose claims are in any way proposed by the Trustee or the Debtor to be treated differently than as reflected in their proofs of claims.

No order will be entered approving the Chapter 13 Trustee's Recommendation Concerning Claims. Instead, if no objection or other response is timely filed, then the Recommendation shall be binding upon all parties in interest, and the Chapter 13 Trustee is

authorized to make disbursements according to the provisions of said Recommendation, without further order of the court.

If an objection or response to the Recommendation Concerning Claims is timely filed, the Chapter 13 Trustee may nonetheless make distribution in accordance with the provisions of said Recommendation, except with respect to the claim that is the subject of the response or objection. The Chapter 13 Trustee shall reserve funds attributable to the challenged claim, until the allowance or treatment of the claim(s) has been resolved. If as a result of the claims resolution there is a greater amount of money available for distribution to creditors, the Chapter 13 Trustee may adjust the payments to creditors accordingly, without having to file a further Recommendation Concerning Claims.

The Recommendation Concerning Claims must prominently display a notice in substantially the following form:

"NO HEARING WILL BE CONDUCTED ON THIS RECOMMENDATION CONCERNING CLAIMS (OR ITS TREATMENT OF ANY CLAIMS) UNLESS A WRITTEN RESPONSE IS FILED WITH THE CLERK OF THE COURT AND SERVED UPON THE CHAPTER 13 TRUSTEE AT THE FOLLOWING ADDRESS: PHYLLIS BRACHER, CHAPTER 13 TRUSTEE, 1624 LEE TREVINO, EL PASO, TX 79936. SUCH RESPONSE MUST BE FILED AND SERVED WITHIN TWENTY (20) DAYS FROM THE DATE OF SERVICE OF THIS RECOMMENDATION CONCERNING CLAIMS (THE DATE OF SERVICE IS INDICATED ON THE RECOMMENDATION CONCERNING CLAIMS), UNLESS THE COURT, UPON MOTION, EXTENDS THE TIME FOR SUCH FILING. IF NO RESPONSE IS TIMELY FILED AND SERVED, THE TREATMENT OF CLAIMS REFLECTED IN THIS RECOMMENDATION CONCERNING CLAIMS SHALL BE DEEMED APPROVED BY THE COURT WITHOUT FURTHER HEARING OR ORDER. IF A RESPONSE IS FILED AND SERVED IN A TIMELY MANNER, THE COURT WILL THEREAFTER SET A HEARING THEREON ON NOT LESS THAN THIRTY (30) DAYS NOTICE."

In addition, the Recommendation must contain the following paragraph, in boldface type:

BY ORDER OF THE COURT, THE RECOMMENDATION CONCERNING CLAIMS SHALL BE DEEMED TO SET A BAR DATE FOR OBJECTING TO CLAIMS, FOR CONTESTING THE VALIDITY OR PRIORITY OF LIENS, AND FOR CHALLENGING THE PRIORITY OF CLAIMS. SAID BAR DATE SHALL BE DEEMED TO BE THE TWENTIETH DAY AFTER THE SERVICE OF THE RECOMMENDATION CONCERNING CLAIMS, AS REFLECTED IN THE CERTIFICATE OF SERVICE ATTACHED THERETO. ANY OBJECTION TO CLAIM, ANY MOTION OR ADVERSARY PROCEEDING CONTESTING THE VALIDITY OR PRIORITY OF ANY CLAIM MAY NOT BE FILED AFTER THE EXPIRATION OF THE BAR DATE EXCEPT UPON LEAVE OF COURT, AFTER MOTION REQUESTING SUCH LEAVE, AND UPON NOTICE AND HEARING TO THE CHAPTER 13 TRUSTEE, THE DEBTOR, THE DEBTOR'S COUNSEL AND ALL CREDITORS AND PARTIES IN INTEREST.

5. DISPOSITION OF FEDERAL INCOME TAX REFUNDS IN CHAPTER 13 CASES

In addition to the provisions of Local Bankruptcy Rule 3025, in the El Paso Division the balance of any refund after payment of all obligations to the Internal Revenue Service may be issued and delivered by the Internal Revenue Service directly to the Chapter 13 Debtor or to the Chapter 13 Trustee, in the discretion of the Internal Revenue Service.

It is so ORDERED.

SIGNED, to be effective as of September 1, 2002:

Larry E. Kelly
Chief U.S. Bankruptcy Judge

Leif M. Clark
U.S. Bankruptcy Judge

Ronald B. King
U.S. Bankruptcy Judge

Frank R. Monroe
U.S. Bankruptcy Judge

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE WESTERN DISTRICT OF TEXAS
EL PASO DIVISION**

IN RE:

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§
§

Case No.

Debtor(s)

Chapter 13 Proceeding

Notice: Local Rule 3002 provides, in part:

“Every Creditor filing a Proof of Claim in all cases shall transmit a copy with attachments, if any to the Debtor's Attorney (or the Debtor if the Debtor is pro se) and the Trustee appointed in the case.”

Creditors are further notified that **WITHOUT FURTHER NOTICE** the Plan may be amended at the Meeting of Creditors (341(a)meeting). Any amendment may affect your status as a creditor. The Debtor's estimate of how much the Plan will pay, projected payments and estimates of the allowed claims may also change. The following information is an attempt to advise Creditors of the status of the case based on the information known at the time of its preparation. Any special concerns of a creditor may justify attendance at the First Meeting of Creditors and such other action as may be appropriate under the circumstances. More detailed information is on file at the office of the United States Bankruptcy Clerk in El Paso, Texas.

DEBTOR'S CHAPTER 13 PLAN

- A. The Debtor's Plan Payment is scheduled at _____ per month [Pay Order, Direct Pay] for _____ months. The gross amount to be paid into the plan is _____.
- B. The Plan proposes to pay in full all allowed priority, special class and secured claims to the extent of the value of the collateral and approximately _____ % of the unsecured allowed claims.
- C. Value of non-exempt assets is _____.
- D. Monthly net income is _____, less expenses of _____, equals the amount available for the plan, which is _____.
- E. If the payment of any debt is proposed to be paid directly by the Debtor outside the Plan, it is so noted in Section IV(1) set forth below.

EXHIBIT 1

I. Vesting of Estate Property

- Upon confirmation of the Plan, all property of the estate SHALL vest in the Debtor(s), and SHALL NOT remain as property of the estate subject to the automatic stay of 11 U.S.C. §362.
- Upon confirmation of the plan, all property of the estate SHALL NOT vest in the Debtor(s), and SHALL remain as property of the estate subject to the automatic stay of 11 U.S.C. §362.

II. Lien Release

The holder of each secured claim shall retain the lien on the collateral securing its claim. Once a secured creditor (other than a creditor paid directly pursuant to this plan under 11 U.S.C. Section 1322(b)(2) & (b)(5)), has received payments which satisfy the creditor's secured claim, the creditor shall release the lien(s) securing its claim, except to the extent the Internal Revenue Code or the Bankruptcy Code operate to provide otherwise.

III. Executory Contracts/Unexpired Leases

Pursuant to 11 U.S.C. §1322(b)(7) of the Bankruptcy Code, the Debtor(s) hereby elects to assume the following executory contracts or unexpired leases. If any default exists, the Debtor's plan to cure such default is noted in Section IV (2)(E) set forth below:

Pursuant to 11 U.S.C. §1322(b)(7) of the Bankruptcy Code, the Debtor(s) hereby elects to reject the following executory contracts or unexpired leases, if any:

IV. Specific Treatment for Payment of Allowed Claims

1. DIRECT PAYMENTS BY DEBTOR TO CREDITORS

Creditor Name	Remarks	Debt Amount	Monthly Payment

2. PAYMENTS BY TRUSTEE

A. Administrative Expenses

_____ The Trustee may receive up to 10% of all sums disbursed, except on any funds returned to the debtor.

Creditor Name	Estimated Amount of Debt	Payment Method: 1. before, 2. after, or 3. along with Secured Creditors	Remarks

B. Secured Creditors

Creditor Name / Collateral	Estimated Amount of Debt	Estimated Value of Collateral	Monthly Payment or Method of Disbursement	Interest Rate	Anticipated Total to Be Paid	Other Treatment / Remarks

C. Priority Creditors

Creditor Name	Estimated Amount of Debt	Payment Method: 1. before 2. after 3. along with Secured Creditors	Remarks

D. General Unsecured Creditors [including claims from rejection of executory contracts]. (Describe treatment for the class of general, unsecured creditors.)

E. Cure claims on Assumed Executory Contracts & Leases:

Creditor Name	Estimated Amount of Debt	Monthly Payment or Method of Disbursement	Remarks

Totals: **Administrative Claims** _____
 Secured Claims _____
 Priority Claims _____
 Unsecured Claims _____
 Cure Claims _____

F. Supplemental Plan Provisions

The following are the Supplemental Plan Provisions:

Respectfully submitted this _____ day of _____, 200__.

Signature of Debtor

Signature of Joint Debtor

Name and Address of Attorney for Debtor:

Certificate of Service

The undersigned hereby certifies that the above Chapter 13 Plan was served on _____, 200__,
on the persons listed below and/or on the attached list, at the addresses listed, by the following method(s):

_____.

ATTACH PROPOSED PAYMENT SCHEDULE, IF AVAILABLE.

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE WESTERN DISTRICT OF TEXAS
EL PASO DIVISION**

IN RE:

	§ § § § §	CASE NO.
Debtor.		Chapter 13

ORDER FOR SUMMARY DISMISSAL

Pursuant to the First Amended Standing Order Relating to Chapter 13 Practice in the El Paso Division and to the Notice sent to creditors at the commencement of this case, the Trustee's signature herebelow certifies that this case should be summarily dismissed because the Debtor(s) failed to:

- _____ 1. timely file a Plan or Schedules;
- _____ 2. prepare and serve all creditors with a copy of the Plan or Amended Plan within two (2) business days of the date Debtor's Plan or Amended Plan was filed;
- _____ 3. attend the scheduled First Meeting of Creditors;
- _____ 4. timely commence making payments under Debtor's proposed Plan;
- _____ 5. remain current on making payments under Debtor's proposed or confirmed Plan;
- _____ 6. pay the filing fee (including any installment payment of the filing fee) when due;
- _____ 7. have the Chapter 13 Plan confirmed at the confirmation hearing;

EXHIBIT 2

- _____ 8. cure a default pursuant to prior order (identify the order) _____
_____ ; and/or
- _____ 9. substantially comply with the Chapter 13 Plan format as defined in the First Amended Standing Order Relating to Chapter 13 Practice in the El Paso Division.

I certify that the above facts are true:

Trustee

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