

United States Bankruptcy Court Southern District of Illinois

Chapter 13 Procedures Manual
Accompanying the Uniform Chapter 13 Plan
Effective August 1, 2011
Revised November 2, 2015

Judge Laura K. Grandy, Chief Judge

Donna Beyersdorfer, Clerk of Court

United States Bankruptcy Court
Southern District of Illinois
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East St. Louis, IL 62201
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This manual is divided into three parts. The first part governs general Chapter 13 practice within the Southern District of Illinois. The second part deals with the use and implementation of the new Uniform Chapter 13 Plan effective for all cases filed on or after August 1, 2011. The third part concerns new general requirements for Chapter 13 practice beginning with the implementation of the new Uniform Chapter 13 plan. All § references are to the Bankruptcy Code.

PART ONE – General Provisions Regarding Chapter 13 Practice

1) *Conflict of Laws*

If a conflict arises between the terms set forth in the Chapter 13 Procedures Manual and any bankruptcy rule, the national and local bankruptcy rule supersede the Chapter 13 Procedures Manual.

2) *Uniform Chapter 13 Plans*

A) *Mandatory Model Plan*

For all Chapter 13 cases filed in the Southern District of Illinois, the Court requires the use of the most current Uniform Chapter 13 Plan in use on the date of filing the original petition. Anyone filing an Amended Plan must always use the same version of the Uniform Chapter 13 Plan in use when the case was filed. Changes, additions, or deletions to the Plan, other than to add or delete creditor line boxes, are strictly prohibited without leave of Court. Uniform Plans, as well as their effective dates, can be found on the Court’s website at www.ilsb.uscourts.gov/forms/all-forms.

A prior version of the Uniform (standard) Chapter 13 Plan used in this District contains the following sentence in section 4(C): “Any claim by the creditors listed below will be deemed satisfied in full through surrender of the collateral.” Said sentence is null and void and shall have no further force or effect in Chapter 13 cases pending in this Court.

B) *Designation on Chapter 13 Plans*

Each Amended Plan shall be titled “Amended Plan No. 1,” “Amended Plan No. 2,” etc., as is appropriate.

3) *Signatures*

If debtor is represented by counsel, the debtor’s signature is not required on chapter 13 plans filed with the Court. Counsel shall maintain some type of verification from debtor indicating the debtor’s knowledge and approval of the plan as filed. Failure to do so will result in the imposition of sanctions by the Court, including but not limited to disgorgement of attorney fees.

4) *Minimum Monthly Chapter 13 Plan Payment*

Unless otherwise ordered, the minimum monthly Chapter 13 Plan payment is \$100.00.

5) *Attorney’s Fees for Cases that Convert to Chapter 7*

Upon conversion of a chapter 13 case to chapter 7, the chapter 13 trustee shall file with the Court a “Statement of Attorney’s Fees Disbursed by the Chapter 13 Trustee.”

6) Compliance With the Filing Requirement of 11 U.S.C. § 521(A)(1)

A) Copies of all payment advices, or other evidence of payment, received by the Debtor from any employer of the Debtor within 60 days prior to the date of the filing of the bankruptcy petition (i) shall not be filed with the Court unless otherwise ordered and (ii) shall be provided to the Trustee, the United States Trustee if no Trustee has been appointed, and to any creditor who timely requests copies of them, at least seven days before the § 341 meeting of creditors. To be considered timely, a creditor's request must be received at least 14 days before the first date set for the meeting of creditors.

B) The requirements of § 521(a)(1)(B)(iv) (copies of all payment advices or other evidence of payment received within 60 days before the date of the filing of the petition by the Debtor from any employer of the Debtor) are satisfied by providing to the Trustee, or the United States Trustee in a case where no Trustee has been appointed, at least seven days before the first date set for the § 341 meeting:

- 1)** Payment advices or other evidence of payment. This requirement may be satisfied by providing less than "all payment advices or other evidence of payment received within 60 days before the date of the filing of the petition ..." by, for example, providing a year-to-date statement that includes payments received within 60 days of the petition; or
- 2)** A verified statement that the Debtor did not receive payments to which § 521(a)(1)(B)(iv) applies.

Pay advices or other evidence of payment shall be arranged (a) separately for each debtor and (b) chronologically for each different employer. Notwithstanding the foregoing, the Trustee may require that six months of pay advices or other evidence of payment as defined in subparagraph (1) above be provided to verify the current monthly income listed on Official Form B22C or Official Form 122C-1 (effective 12/1/2015). Failure to provide this documentation shall not delay the commencement of the § 341 meeting of creditors.

In no event shall the documents required by § 521(a)(1)(B)(iv) be provided later than 45 days after the date of the filing of the petition. If the § 341 meeting is not set within 45 days of the filing of the petition, the 45-day deadline for providing payment advices to the Trustee (or the United States Trustee if applicable) still applies. If the Trustee or the United States Trustee continues the § 341 meeting to receive these documents, such continuance shall *not* be deemed a request or consent to extend the deadline of § 521(i). Nothing in this section is to be construed as requiring the Trustee or the United States Trustee to continue the § 341 meeting.

Failure to provide the documents within the 45-day deadline is grounds for the Trustee (or the United States Trustee if applicable) to request dismissal. If the case is dismissed following such a request by the Trustee or the United States Trustee, and the Debtor believes the case was dismissed in error, the Debtor shall file any motion to reinstate the case within 14 days of the entry of the dismissal order. A case that has been dismissed for

failure to file a required document or provide a required document to the Trustee or the United States Trustee will not be considered to be a case dismissed in error.

C) 11 U.S.C. § 521(a)(1)(B)(v)

The requirement of § 521(a)(1)(B)(v) (statement of the amount of monthly net income itemized to show how the amount is calculated) is satisfied by including such information on the Debtor's Schedule I.

D) 11 U.S.C. § 521(a)(1)(B)(vi)

The requirement of § 521(a)(1)(B)(vi) (a statement disclosing any reasonably anticipated increase in income or expenditures over the 12-month period following the date of the filing of the petition) is satisfied by including such information on the appropriate line of Schedule J and/or Schedule J-2 (effective 12/1/2015).

7) *Continuance of the § 341 Meeting Announced at the Meeting*

The Trustee or the United States Trustee may continue a § 341 meeting by announcement at the meeting. The Trustee or the United States Trustee shall list the continued date, time, and location for the continued meeting by making a docket entry using the Court's CM/ECF system. No further notice of the continued date is required. Unless otherwise agreed, the continued § 341 meeting will be set no earlier than 7 days after the prior § 341 meeting.

8) *Chapter 13 Plans: Confirmation Procedures*

A) *Deadline to File Objections to Confirmation of Plan and Original Confirmation Hearing*

A confirmation hearing will be scheduled by the Court at the time of scheduling the §341 meeting of creditors. Notice of the confirmation hearing will be included on the §341 Meeting of Creditors Notice. In the event the §341 meeting is continued, the Court will continue the confirmation hearing and provide notice thereof. An objection to the original Plan is considered timely if filed and served within 21 days after the date the § 341 meeting of creditors is concluded. Timely filed objections to confirmation, whether by a creditor or the Chapter 13 Trustee, will be heard at the confirmation hearing.

Objections to Amended Plans filed prior to confirmation must be filed and served within 21 days after the date of filing the Amended Plan and will be scheduled for hearing by the Court.

Untimely objections may be summarily denied by the Court.

B) *Attendance at Confirmation Hearings*

The Trustee or counsel for the Trustee shall attend all confirmation hearings unless previously excused by the Court. The Debtor's attorney or the Debtor, if not represented by an attorney, and any party objecting to confirmation, shall attend the hearing if objections have been filed and are still pending, unless an amended plan has been filed or the hearing has been continued. The parties may contact the courtroom deputy in order to request an excused absence if an agreement has been

reached prior to the hearing date, and if the Court is informed of this agreement by 3:30 p.m. the business day before the hearing. Absent such an excuse, failure to appear at the confirmation hearing may result in the overruling of the objection, or the denial of confirmation, and may subject counsel to further sanctions by the Court.

C) *Settlement Conference*

1) *Creditor Objections*

At least 10 days prior to the hearing on the objection to confirmation of the plan, the parties shall meet and discuss possible resolution of the objection. The burden of scheduling this meeting shall be on debtors' counsel.

2) *Trustee Objections*

In cases where the trustee files an objection to confirmation, the trustee shall schedule a settlement conference to discuss possible resolution of the objection. Notice of the settlement conference shall be posted on the trustee's website at least 10 days prior to the scheduled conference. All parties shall be prepared to conduct a meaningful settlement conference on the date and at the time scheduled by the trustee. If the debtor has no factual or legal basis on which to dispute the objection(s) raised by the trustee, the debtor shall file the necessary pleadings/documents to cure the objection(s) no later than the date and time of the scheduled settlement conference.

Within two days following the settlement conference, debtor's counsel shall advise the Court (by email) of those matters which have been resolved. Failure of the parties to comply with any of these provisions may result in the imposition of sanctions, including the reduction of attorney's fees.

D) *Amended Plans Filed Prior to Confirmation in Response to Objections*

If the Debtor has no legal or factual basis to dispute the objection filed by the Trustee or a creditor, the Debtor shall file those documents necessary to cure the objection as soon as possible so as to expedite the confirmation process.

E) *Actions That Will Moot Pending Objections to Confirmation*

1) *Amended Plans*

The filing of an Amended Plan moots any pending objections to a previously filed Plan. If objections to an Amended Plan are scheduled for hearing and a subsequent Amended Plan is filed, the hearing will be stricken from the docket upon entry of an Order mooting the objection. Nothing in this section is to be construed to prohibit an interested party from filing an objection to the Amended Plan.

2) *Amended Objections to Plans*

If a party files an amended objection to a Plan, any previous objections filed by that party are deemed moot. The Court will consider only those matters which have been raised in the amended objection.

3) Confirmation

If the Chapter 13 Trustee files a recommendation to confirm a Plan or orally recommends confirmation, that recommendation moots any objections previously filed by the Trustee.

F) The Trustee's "Recommendation to Confirm" Filed Prior to Confirmation

If the Trustee, after having reviewed the petition, schedules and Chapter 13 Plan, and after examining the Debtor at the § 341 meeting of creditors to ensure compliance with §§ 1322 and 1325, has no objection to a Plan prior to confirmation, whether an original or Amended Plan, he or she shall file a "Recommendation to Confirm" to the relevant Plan. Such filing is to reference whether it is filed in response to an original Plan or an Amended Plan and, if an Amended Plan, the appropriate number listed on the Amended Plan. Such document shall be filed not later than 21 days after the conclusion of the § 341 meeting of creditors or, in the case of an Amended Plan filed prior to confirmation, within 21 days after the filing of the Amended Plan.

G) Confirmation of Plan

In the event no objections to the original plan are filed, the scheduled confirmation hearing will be held, at which time the Court may enter an order of confirmation. Upon the expiration of the time for objecting to an Amended Plan and/or the resolution of all pending objections to an Amended Plan, the Court may enter an order of confirmation, whether or not the Trustee's Recommendation to Confirm has been filed.

9) Amended Plans

A) Generally

Any amended or modified plan filed with the Court must be captioned as an "Amended Plan" and must indicate the "Amended Plan Number" (e.g., "Amended Plan No. 1"). The amended plan must contain all provisions of the plan. Motions seeking to amend only certain provisions of the plan will be summarily denied.

B) Identification of Amendments

Amendments to a Plan *must* be underlined if being added/modified or *lined through* if being deleted. Failure to identify any changes will result in the plan being noticed as deficient by the Clerk's office.

C) Post-Confirmation Amended Plans Curing Delinquent Payments

Any post-confirmation Amended Plans curing delinquent payments shall be filed in conformity with Sections 17(A) and 17(B) below governing Plan payment delinquency. Such plans shall include a "Total Paid In" (TPI) amount to be listed in the first tier of the funding provision by using the month number.

10) Service of Original and Amended Plans

A) Original Plans

1) Filed With the Petition

Notwithstanding any provision of the Local Rules, the Chapter 13 Trustee is responsible for serving a copy of the original Plan, as filed with the Clerk of the Court, on all creditors listed in the Debtor's schedules, provided that said Plan is filed contemporaneously with the petition.

2) *Not Filed With the Petition*

If the Plan is not filed with the petition, the Debtor shall serve a copy of the Plan on all parties listed on the Debtor's mailing matrix and file a certificate of service with the Court.

B) *Amended Plans Filed Prior to Confirmation*

1) If the claims bar date found in Bankruptcy Rule 3002(c) has not yet expired, the Debtor shall serve a copy of each Amended Plan on the Trustee, all creditors, and all parties listed on the Debtor's mailing matrix.

2) If the claims bar date found in Bankruptcy Rule 3002(c) has expired, the Debtor shall serve a copy of each Amended Plan on the Trustee, all parties who have filed a claim or a request for service, all secured creditors, or as otherwise required by this Manual.

C) *Post-Confirmation Modifications*

1) If the claims bar date found in Bankruptcy Rule 3002(c) has not yet expired, the Debtor shall serve a copy of each Amended Plan on the Trustee, all creditors, and all parties listed on the Debtor's mailing matrix.

2) If the claims bar date found in Bankruptcy Rule 3002(c) has expired, the Debtor shall serve a copy of each Amended Plan on the Trustee, all parties who have filed a claim or a request for service, all secured creditors, or as otherwise required by this Manual.

3) Debtor shall also file amended Schedule I and amended Schedule J and/or Schedule J-2 (effective 12/1/2015) to demonstrate that the Amended Plan is filed in good faith.

(D) *Limited Service of Certain Amended Plans*

Except as indicated in (iii) below, service of an Amended Plan may be limited to the Trustee if the proposed Amended Plan meets one of the following criteria:

1) The proposed Plan only changes the terms of the Plan by increasing the amount of the Plan payment or Plan duration; or,

2) The proposed Plan:

(i) Corrects errors in the funding paragraph; or

(ii) Changes the employer information;

(iii) Corrects collateral information due to typographical error (in this instance, the affected creditor must also be noticed);

(iv) Corrects any other scrivener's or mathematical errors that will not adversely and materially affect the timing, amount, and total payment on allowed claims; or

(v) Does not waive any missed plan payments.

If limited service is authorized, the front page of the Plan must so indicate by checking the box “Limited Service Applicable.” If limited service is used and the box is not marked, the Clerk of Court will process the Plan as deficient.

11) *Objections to Plans Amended After Confirmation*

A) *Creditors*

Objections to Plans amended after confirmation shall be filed with the Court and served upon the Debtor, the Debtor’s attorney (if any), and the Trustee no later than 21 days after the date the Amended Plan is filed.

B) *Chapter 13 Trustee*

The Trustee shall file, no later than 21 days after the date the Amended Plan is filed, a pleading either recommending approval of the Plan or objecting to it, referencing the specific modification number listed on the Plan.

C) *Moot Objections*

See Section 8(E).

D) *Attendance at Hearings on Objections to Plans Amended After Confirmation*

The Debtor’s attorney or the Debtor, if not represented by an attorney, and any party objecting to the Amended Plan shall attend the hearing set on such objections. The parties may contact the courtroom deputy in order to request an excused absence if an agreement has been reached prior to the hearing date, and if the Court is informed of this agreement by 3:30 p.m. the business day before the hearing. Absent such an excuse, failure to appear at the hearing may result in the entry of an order overruling the objection or entry of an order denying approval of the Amended Plan, and may subject counsel to further sanctions by the Court.

12) *How Chapter 13 Trustee Disbursements are Affected by the Timing of the Filing of an Amended Plan*

If a modification of a Plan is received in the Trustee’s office not later than three business days prior to the Trustee’s next disbursement cycle, the Trustee is authorized, but not required, to distribute funds in accordance with the terms of the proposed modification commencing with that next disbursement, notwithstanding that an Order approving the modification has not yet been entered. Upon request of the Trustee, the Clerk of Court shall issue any wage deduction order consistent with such modification.

In the event that a Plan provision calls for the surrender of collateral on which the Trustee has been making payments, the Trustee shall reserve funds to that creditor until such time as the Order approving the modification is entered, at which time the reserve shall be released and funds distributed to other creditors pursuant to the modification of the Plan.

13) *Distribution by the Chapter 13 Trustee in Circumstances of Insufficient Funds*

In those circumstances where there are insufficient funds on hand to disburse the monthly payment amount, the Chapter 13 Trustee is authorized to disburse those funds pursuant to the Order of Distribution in the Uniform Plan in effect at that time.

14) *Calculation of the Chapter 13 Trustee Fee*

In calculating the amount of the Trustee's fee, the Debtor shall use the Chapter 13 Trustee's "effective percentage fee" in effect at the time the Plan is filed. It is the responsibility of counsel for the Debtor to monitor any changes in the fee and, if necessary, to amend the Plan to reflect any increase or decrease in the fee. The "effective percentage fee" is the fee based on the percentage allowed by the United States Trustee adjusted for certain factors (e.g. the Trustee's fee to pay the Trustee's fee). This information is available from the Trustee.

15) *Chapter 13 Claim Objections*

Absent leave of Court, any objection to a timely filed unsecured claim shall be filed within 45 days following the expiration of the claims bar date for that claim. Objections to secured and/or amended claims shall be filed within 45 days from the applicable claims bar date or within 45 days from the date of filing of the claim, whichever is later.

An objection to a proof of claim in a Chapter 13 case shall be served upon the claimant, any attorney who filed an entry of appearance for the claimant, the Trustee, the Debtor, and the Debtor's attorney (if any). Objections to claims in Chapter 13 cases will be heard only if a timely response in opposition is filed with the Court. The notice of objection shall state that any responsive pleading shall be filed with the Court, with a copy forwarded to all interested parties, no later than 30 days of the date of the notice, and that if no response is filed, the Court will enter an order sustaining the objection and disallowing or modifying the claim without further notice to any party.

16) *Discharge in Chapter 13 Cases (Applicable only to cases filed on or after October 17, 2005)*

A) *Trustee's Notice of Completion*

The Chapter 13 Trustee shall file a "Report of Plan Completion, Request for Termination of Wage Order and Notice Concerning Discharge" ("Trustee's Report/Notice") after all payments have been received.

B) *The Debtor's Required Pleadings*

*Within 21 days of the filing of the Trustee's Report/Notice, eligible Debtors shall file a Motion and Notice to all creditors and parties in interest, pursuant to 11 U.S.C. § 1328 and Bankruptcy Rule 2002(f), setting forth their eligibility for discharge. Failure to timely file said Motion and Notice will result in the Clerk of the Court closing this case without entry of an Order of Discharge.

*Prior to filing said Motion and Notice, the Debtor's counsel shall verify Debtor's eligibility to receive a discharge pursuant to 11 U.S.C. § 1328.

C) *Closing and Reopening*

If the case is closed due to an eligible Debtor's failure to timely file the Motion and Notice as required by subparagraph B above, and the Motion and Notice are subsequently filed after the case has been closed, the Debtor must also simultaneously file a Motion to Reopen Case with the required filing fee. The Motion to Reopen must set forth the reason(s) the case was closed without discharge.

(17) *Delinquent Plan Payments*

Trustee's Notice of Default in Plan Payments and Options to Cure

A) Upon a determination by the Chapter 13 Trustee that plan payments are delinquent, prior to the filing of a Motion to Dismiss for Failure to Make Plan Payments, the Trustee shall provide the Debtor and the Debtor's counsel (if any) with written notice of any default and options to cure. Within 45 days thereafter, debtor(s) must exercise one of the following three options:

- 1) Make payment to the Trustee;
- 2) Enter into an Agreed Order, to be submitted to the Court, setting forth the manner in which the arrearages shall be cured and requiring future Plan payments to remain current for an agreed upon period of time; or
- 3) File an Amended Plan with the Court, curing the delinquency. Note that, absent extraordinary circumstances, this option is not available if another Plan curing the delinquency has been filed within the past 12 months.

B) Failure by the Debtor to implement one of the foregoing options within 45 days will result in the Trustee filing a Motion to Dismiss with the Court. Upon review of the Trustee's motion, the Court may dismiss the case without further notice or hearing.

18) *Motions to Reinstate Following Dismissal on the Trustee's Motion to Dismiss for Failure to Make Plan Payments*

The motion shall state whether the case was previously dismissed and reinstated and shall provide dates of any prior dismissals and orders of reinstatement and the proposed manner in which the arrearage is to be cured. The Debtor shall serve a copy of the motion on the Trustee, U.S. Trustee, and all parties in interest.

19) *Monthly Operating Reports in Chapter 13*

Unless required by the Chapter 13 Trustee, § 1304(c) shall not apply.

20) *Obtaining Credit in Chapter 13 Cases*

A) *Dollar Limits*

The Debtor may incur non-emergency, consumer debt up to \$1,000.00 without written approval of the Trustee or Order of the Court. Non-emergency, consumer debt exceeding \$1,000.00 requires the approval of the Trustee or an Order of the Court, using the procedures set forth in subparagraphs (B) and (C) below. Notwithstanding the foregoing, nothing shall prevent the Debtor from incurring reasonable and necessary medical expenses.

B) *Request Directed to Trustee*

The Debtor shall first request approval to incur debt by written application to the Trustee. Such request shall not be filed with the Court. If approved by the Trustee, the Debtor may incur the debt in accordance with the terms and conditions approved by the Trustee. If the Trustee has not directed use of a specific form, the application shall include the following information:

- 1) A statement of facts (or a proposed amended Schedule I and amended Schedule J and/or Schedule J-2 (effective 12/1/2015)) in support of the feasibility of the request;
- 2) A description of the item to be purchased or the collateral affected by the credit to be obtained;
- 3) The reasons why the Debtor has need for the credit; and
- 4) The terms of any financing involved, including the interest rate.

C) *Motion Directed to Court*

If the request is not approved by the Trustee, the Debtor may file a Motion to Incur Debt. The motion shall contain all of the information required to be included in the request by subparagraph (B) above and shall state that the Trustee has denied the request. The motion should be served on the Trustee.

21) *Compliance with Requests for Information from the Chapter 13 Trustee*

To assist the Trustee in determining compliance with the “best interest of creditors” test for confirmation of Chapter 13 Plans (*see 11 U.S.C. § 1325(a)(4)*), the Trustee may require that the Debtor submit a liquidation analysis, showing that the proposed distribution to unsecured creditors under the Plan is not less than the amount such creditors would receive in a Chapter 7 liquidation. Such information shall be provided to the Trustee within 10 days of his request. The failure to comply with the Trustee’s request may be grounds for dismissal of the Debtor’s case.

PART TWO – Specific Provisions of the Uniform Chapter 13 Plan for All Cases Filed On or After August 1, 2011

Claims Based Plan with Exceptions

Generally, this is a “claims based” Plan. As such, all allowed secured and priority claims will be paid the amount of their allowed secured/priority claim, except as provided in paragraph 4(B) of the Plan. The interest rate set forth in the Plan shall be binding on all parties upon confirmation/approval of the same Plan unless a timely written objection is filed.

1) *Payments*

This section establishes the payment schedule the Debtor will use to make his or her Plan payments. The first “Start Month #” will always be “1” and the “End Month #” will be the last month in which the Debtor will make that specific dollar amount of a monthly payment. The “Plan Payment Amount” is the monthly payment.

For example, if the Debtor proposes a 48-month plan, the “Start Month #” will be “1”, the “End Month #” will be “48”, and the total will be the Plan Payment Amount multiplied by 48. The additional lines will be utilized in circumstances where there is an unusual payment (e.g. lawsuit proceeds), the Plan Payment Amount changes due to a subsequent amendment, or in those certain circumstances where a step payment may be justified. An example is shown below:

| Start Month # | End Month # | Monthly Payment | Total |
|--------------------------|-------------|---------------------------------|-----------|
| 1 | 33 | 200.00 | 6,600.00 |
| 34 | 60 | 300.00 | 8,100.00 |
| Unknown lawsuit proceeds | | Estimated | 15,000.00 |
| Total Months: 60 | | Grand Total Payments: 29,700.00 | |

The Debtor’s employment information is self-explanatory. Absent leave of Court, entry of a wage withholding order is mandatory in all cases unless the Debtor’s sole source of income is (i) Social Security benefits, (ii) retirement funds, (iii) unemployment benefits, (iv) self-employment, or (v) family assistance.

If the Debtor is amending the Plan to cure an arrearage in payments, the Debtor must so indicate in this section.

Order of Distribution

This sets forth the priority of payments to creditors. Unless the higher distribution level is an ongoing contractual monthly payment, all creditors must be paid in full in each category before disbursements will be made in a lower distribution level.

The first parties to be paid are the Court for any unpaid filing fees and the Chapter 13 Trustee's fees, including those for notice and mailing. Following the payment of these fees, ongoing monthly mortgage payments due after the Plan is filed will be paid. Treatment and payment of the monthly mortgage payments is set forth in greater detail below. Following mortgage payments, allowed administrative expenses will be paid. Following administrative expenses, attorney's fees and other secured creditors will be paid. The amount disbursed to each will be calculated as follows:

Based upon allowed secured claims, the attorney will receive ½ of the monies disbursed and the remaining ½ of the monies disbursed will be paid to allowed secured creditors on a *pro rata* basis. Pre-confirmation, the attorney shall not be entitled to receive more than \$2,500.00 of their attorney's fees. Thereafter, commencing with the next regular disbursement and using the same disbursement calculation described above, the Trustee shall begin reserving the monies to be paid to the attorney until such time as the case has been confirmed. With the first regular disbursement after the case is confirmed, the Trustee shall release all funds on hold to the attorney and continue making monthly disbursements to the attorney until the remainder of the attorney's fees has been paid in full. Once the Debtor's attorney's fees have been paid in full, the secured creditors will begin to receive all the funds available, on a *pro rata* basis, until such time as each secured creditor's claim is paid in full. In those cases in which there are no secured creditors, the Debtor's attorney will be paid the entire amount of the monies to be disbursed each month until their fees are paid in full, subject to the pre-confirmation limit set forth above.

Following payment of attorney's fees and secured claims, the Trustee shall pay priority claims, followed by special classes of unsecured creditors as stated in the Plan and, finally, general unsecured creditors.

Interim Disbursements by the Chapter 13 Trustee as Adequate Protection Payments under 11 U.S.C. § 1326(a)(1)(C)

Commencing with the first regular disbursement after the conclusion of the Debtor's § 341 meeting of creditors, the Chapter 13 Trustee shall begin disbursement of the regular Plan payments received from, or on behalf of, the Debtor, to allowed claims pursuant to the Order of Distribution set forth in the Uniform Chapter 13 Plan.

2) *Administrative Expenses*

Administrative Creditor

For any allowed claim to be paid as an administrative expense, the Creditor's name and the estimated amount of the claim must be included in this section.

Attorney's Fees and Responsibilities

The Debtor shall indicate in this section whether the Debtor's attorney shall be paid a flat rate for representation during the entire case (with certain exceptions) or by filing a fee application. Once a Debtor elects either section, the Debtor is bound by the selection throughout the bankruptcy case, unless on motion, the Court orders otherwise.

A) Flat fees

Effective for cases filed on or after January 19, 2011, if the Debtor elects to pay the attorney's fees on a flat fee schedule, then the maximum allowable flat fee for a non-business related bankruptcy is \$4,000.00. The maximum flat fee for a business related bankruptcy is \$4,500.00. A business bankruptcy is one in which the Debtor is engaged in business as defined by § 1304(a). Effective for cases filed October 17, 2005 through January 18, 2011, the maximum allowable flat fee is \$3,500.00 for a non-business related bankruptcy and \$4,000.00 for a business bankruptcy.

Upon notice, and if necessary, a hearing, the Court may award additional attorney's fees for the defense or prosecution of adversary proceedings by approving a fee application filed pursuant to the standards set forth by this Court in *In re Wiedau's, Inc.*, 78 B.R. 904 (Bankr.S.D.Ill.1987). Upon entry of such an award, the Plan shall be amended to pay such additional fees pursuant to the same terms set forth in the Order of Distribution.

B) Hourly fees

Attorneys electing to be paid on an hourly basis must file a fee application for approval of fees. No fees shall be disbursed until a fee application is approved by the Court. However, the Trustee shall reserve a total of \$4,000.00 for payment toward such application pursuant to the terms concerning payment of the attorney's fees as set forth in the Order of Distribution. The fee application must be made pursuant to the standards set forth by this Court in *In re Wiedau's, Inc.*, 78 B.R. 904 (Bankr.S.D.Ill.1987).

C) The Debtor's and Attorney's Rights and Responsibilities

Each Debtor and his or her counsel must execute a Rights and Responsibilities Form setting forth the minimum preparation and duties to be performed by the Debtor's counsel throughout the Chapter 13 bankruptcy. *See Appendix A.*

Failure to meet the requirements of the Rights and Responsibilities Form may result in any sanction the Court finds appropriate and reasonable under the circumstances including, but not limited to, disgorgement of fees and/or suspension of the attorney's right to practice before the Bankruptcy Court in this District.

Executed copies of this form shall be supplied upon request to the Court, the Chapter 13 Trustee, or the United States Trustee.

A Rule 2016(b) (Disclosure of Compensation of Attorney for Debtor) must be filed by every attorney entering an appearance on behalf of the Debtor. Care should be taken to ensure that the disclosures on this form are consistent with the attorney's fee amounts requested in the Chapter 13 Uniform Plan. This disclosure is a continuing obligation and must be updated during the pendency of the case to list any subsequent fees received by counsel directly from, or on behalf of, the

Debtor, excluding those payments received from the Trustee pursuant to the terms of the Debtor’s Plan.

3) Real Estate - Curing Defaults and Maintaining Payments

A) Payment of Ongoing Mortgage Payments by the Trustee and Calculation of Pre-petition Mortgage Arrearage

Post-petition payments shall be made by the Trustee if (i) a pre-petition default exists, (ii) a post-petition, pre-confirmation default occurs, or (iii) a post-confirmation default arises that cannot be cured by the Debtor within six months. Otherwise, post-petition payments may be made directly by the Debtor to the creditor. Where the Trustee is disbursing the ongoing payments, the first mortgage payment to be disbursed will be that which becomes due in the second month after the month in which the petition is filed. In this situation, a mortgage holder should file a “pre-petition” claim that includes both the pre-petition arrearage and all post-petition contractual payments not disbursed by the Trustee as set forth above. Similarly, the Debtor must include the amount of any such payment in the pre-petition arrearage calculation.

When the Trustee is to act as disbursing agent for the ongoing mortgage payments at the commencement of the case, the Debtor shall calculate any arrearage to include all post-petition payments that have become due from the date of filing up to and including the last day of the following month. For example, if a case is commenced on January 3rd (or any other month), the post-petition arrearage shall include all payments that come due from January 4th up to and including any payments that are to become due through the last day of February. Thus, assuming the Debtor’s mortgage payment was due on the 10th of the month, the number of post-petition payments to be included in the arrearage would be two – the payment due on January 10th and the payment due on February 10th. Thereafter, the Trustee would start disbursing the ongoing mortgage payments commencing with the March 10th payment. *See Table Below.*

| Filing Date | Mortgage Due Date | # Post-Petition Payments Included in Arrears Claim | # Mortgage Payments Disbursed by Trustee |
|------------------------------|-------------------------------|----------------------------------------------------|------------------------------------------|
| 3 rd day of Month | 1 st day of Month | 1 | Proposed plan duration |
| 3 rd day of Month | 10 th day of Month | 2 | Proposed plan duration |

As the Trustee disburses payment of ongoing mortgage payments with the prior month’s disbursement (i.e. the April mortgage payment is paid with the March disbursement [further assuming funds are available, the § 341 meeting has been concluded, and the creditor has an allowed claim on file]), the number of ongoing mortgage payments to be disbursed by the Trustee would equal the proposed length of the Plan – i.e. for a 36 month Plan, the Trustee would disburse 36 ongoing mortgage payments.

If the Plan is subsequently amended to have the Trustee act as disbursing agent (i.e. the Debtor was initially making the payments directly), the payments by the Trustee are to begin on the first due

date after the month in which the amended or modified Plan is filed or as otherwise ordered by the Court.

It shall be the duty of the Debtor(s) and his or her counsel to closely review each proof of claim filed by or on behalf of a mortgage company to ensure that said entity properly and correctly included any of the aforementioned payments in their arrearage claim.

No late charges, fees or other monetary amounts shall be assessed based on the timing of any payments made by the Trustee under the provisions of the Plan unless allowed by Order of the Court.

B) *The Amount of the Monthly Mortgage Payment*

If the Trustee is required to make current monthly payments, the Trustee is to pay the current monthly payment, as increased or decreased, as stated by the mortgage company in their original proof of claim and pursuant to any subsequent claim supplements. In the event the proof of claim does not set forth a current monthly payment amount, the Trustee shall pay the amount as set forth in the Debtor's plan.

C) *Monthly Mortgage Payment Change*

General Order 08-3 is repealed effective December 1, 2011.

D) *Payment of Pre-Petition Arrearages*

Absent an objection, the Trustee shall use the amount of the pre-petition arrearage listed in the mortgage holder's proof of claim.

E) *Payment of Post-Petition Arrearages*

The Debtor may propose an Amended Plan that seeks to pay, as a separate claim, any post-petition mortgage payments that have accrued after the date of the filing of the petition.

1) Subparagraph 3(C) of the Plan should be used for post-petition arrearages *only* when the Debtor seeks to include post-petition mortgage arrearages arising as a result of the Debtor's failure to timely pay such payments directly outside their Chapter 13 Plan.

2) Subparagraph 3(D) of the Plan should be used for post-petition mortgage arrears *only* (i) when the ongoing mortgage payments at issue were being disbursed by the Chapter 13 Trustee and (ii) the post-petition arrearage arises from a default by the Debtor in the Plan payments.

Unless otherwise indicated, the use of subparagraph 3(D) of the Plan constitutes an affirmative representation by the filing party that the Debtor and the affected creditor have agreed to have this post-petition arrearage paid as a separate claim. Prior to filing this Plan, the Debtor must use diligent efforts to attempt to contact the creditor to more accurately determine the arrearage, to avoid challenges to this treatment of post-petition mortgage arrearages and to make the process of approval of the Plan more efficient. At a minimum, the Debtor should attempt to contact the affected creditor and/or their counsel, if known, at least two times in writing and

two times by phone using the best possible contact information before proceeding with the filing of an Amended Plan that proposes such treatment of their claim.

If, after making diligent efforts, the Debtor is unable to contact the creditor, the Debtor may represent that he or she has made reasonable and diligent efforts to secure an agreement with the creditor for the above-described treatment of this post-petition arrearage. This is done by checking the box in the plan. Further, upon request by any party in interest, the filing party shall provide a detailed written explanation of the steps taken to attempt to secure an agreement with the creditor. Abuse of the letter and spirit of this provision may subject the filing party to any sanctions the Court deems appropriate.

3) If attorney's fees are being sought in conjunction with this post-petition arrearage, a separate Agreed Order and supplemental proof of claim for the fees must be filed with the Court.

F) *Notice Relating to Claims Secured by a Security Interest in the Debtor's Principal Residence and Non-residential Mortgages*

1) *In General*

This section applies in a Chapter 13 case to claims that are (i) secured by a security interest in the Debtor's principal residence and (ii) provided for under § 1322(b)(5) in the Plan.

2) *Notice of Payment Changes*

Rule 3002.1 of the Federal Rules of Bankruptcy Procedure also applies to non-residential mortgages.

The holder of the claim shall file and serve on the Debtor, the Debtor's counsel, and the Trustee a notice of any change in the payment amount, including any change that results from an interest rate or escrow account adjustment, no later than 21 days before a payment in the new amount is due.

(i) Upon filing of a Mortgagee's Notice, the Chapter 13 Trustee is authorized to commence disbursement of the payment amount set forth in the Mortgagee's Notice without the necessity of an Amended Plan having been filed, unless an objection to the Mortgagee's Notice is filed within twenty-one (21) days from the date the Mortgagee's Notice is filed. Should the Debtor(s) object to the Mortgagee's Notice, the Trustee shall reserve payment on the increased portion of the payment amount set forth in the Mortgagee's Notice until the objection is disposed of by the Court. This paragraph applies notwithstanding any Plan provision to the contrary, and regardless of the Plan version utilized by the Debtor(s).

(ii) If the Trustee subsequently determines any filed increase in the amount of the ongoing mortgage payment results in there being insufficient funding in the Plan to pay all classes of claims as required, the Trustee shall file a notice with the Court, or alternatively contact Debtor's counsel, alerting the parties of the failure of the Chapter 13 Plan to complete. If the Debtor fails to take any action with regard to the notice, the

Trustee may seek dismissal of the case at the conclusion of the Plan term. Notwithstanding the foregoing, if any single payment change filed by the mortgage company results in an increase of the ongoing payment by more than \$25.00 and no objection is filed by the Debtor within twenty-one (21) days from the date of the Mortgagee's Notice, a plan modification is required, whether filed by the Trustee or the Debtor. Said modification shall increase the Debtor's Plan payment and base amount accordingly. The Mortgage Payment Modification form can be obtained on the Court's website at www.ilsb.uscourts.gov.

3) *Notice of Fees, Expenses and Charges*

The holder of the claim shall file and serve on the Debtor, the Debtor's counsel, and the Trustee a notice itemizing all fees, expenses or charges (i) that were incurred in connection with the claim after the bankruptcy case was filed and (ii) that the holder asserts are recoverable against the Debtor or against the Debtor's principal residence. The notice shall be served as soon as practical, and in no event, not later than the earlier of 180 days after the date on which the fees, expenses, or charges are incurred, or the date the case is closed.

4) *Form and Content*

A notice filed and served under subdivision (2) or (3) of this section shall be prepared as prescribed by the appropriate Official Form and filed as a supplement to the holder's proof of claim. The notice is not subject to Rule 3001(f).

5) *Determination of Fees, Expenses or Charges*

On motion of the Debtor or the Trustee filed within one year after service of a notice under subdivision (3) of this section, the Court shall, after notice and hearing, determine whether payment of any claimed fee, expense, or charge is required by the underlying agreement and applicable non-bankruptcy law to cure a default or maintain payments in accordance with § 1322(b)(5) of the Bankruptcy Code.

6) *Notice of Final Cure Payment*

Within 30 days after the Debtor completes all payments under the Plan, the Trustee shall file and serve on the holder of the claim, the Debtor, and the Debtor's counsel a notice stating that the Debtor has paid in full the amount required to cure any default on the claim. The notice shall also inform the holder of its obligation to file and serve a response under subdivision (7) of this section. If the Debtor contends that a final cure payment has been made and all Plan payments have been completed and the Trustee does not timely file and serve the notice required by this subdivision, the Debtor may file and serve the notice.

7) *Response to Notice of Final Cure Payment*

Within 21 days after service of the notice under subdivision (6) of this section, the holder shall file and serve on the Debtor, the Debtor's counsel, and the Trustee a statement indicating (i) whether it agrees that the Debtor has paid in full the amount required to cure the default on the claim and (ii) whether the Debtor is otherwise current on all payments consistent with § 1322(b)(5). The statement shall itemize the required cure or post-petition amounts, if any, that the holder contends remain unpaid as of the date of the statement. The

statement shall be filed as a supplement to the holder's proof of claim and is not subject to Rule 3001(f).

8) *Determination of Final Cure and Payment*

On motion of the Debtor or Trustee, filed within 21 days after service of the statement under subdivision (7) above, the Court shall, after notice and hearing, determine whether the Debtor has cured the default and paid all required post-petition amounts.

9) *Failure to Notify*

If the holder of a claim fails to provide any information as required by subdivision (2), (3), or (7) of this rule, the Court may, after notice and hearing, take either or both of the following actions:

- (i) Preclude the holder from presenting the omitted information, in any form, as evidence in any contested matter or adversary proceeding in the case, unless the Court determines that the failure was substantially justified or harmless; or
- (ii) Award other appropriate relief including reasonable expenses and attorney's fees caused by the failure.

G) *Motions for Relief from the Automatic Stay of 11 U.S.C. §§ 362 and 1301 when Leases or Mortgages are Being Paid Directly by the Debtor*

If the Debtor is making direct, ongoing, post-petition payments to the lessor or mortgagee and the lessor or mortgagee subsequently seeks relief from the automatic stay based upon an alleged default in such direct payments by the Debtor, the parties shall comply with the following requirements:

- 1) The parties shall exchange any and all documentary evidence concerning the post-petition payment history of the Debtor at least 7 days prior to the preliminary hearing on the Motion for Relief; and
- 2) The parties shall have such evidence available at the preliminary hearing for presentation to the Court.
- 3) The failure to comply with the requirements of sub-paragraphs (1) and (2) may result in the Court taking such action as it deems appropriate, which may include the granting or denying of the relief sought in the Motion for Relief.

H) *Motions for Relief from the Automatic Stays of 11 U.S.C. §§ 362 and 1301 when Mortgages are Being Paid by the Trustee.*

If the Debtor's Plan proposes that the Trustee act as disbursing agent for ongoing mortgage payments and the mortgagee subsequently seeks relief from the automatic stay based upon an alleged default in such payments, the mortgagee shall comply with the following requirements:

- 1) Prior to filing a Motion for Relief, the mortgagee or its agent shall review the Trustee's website to verify it has received all of the payments reflected therein; and
- 2) If, after review of the Trustee's website, the mortgagee determines there still exists a default in the ongoing mortgage payments, it may proceed with the filing of the Motion for Relief.

4) Secured Claims and Valuation of Collateral Under 11 U.S.C. § 506

A) Secured Claims to which § 506 Valuation is NOT Applicable

The amount listed in the “Claim Amount” is the amount proposed by the Debtor in the Plan. If the actual allowed claim is different from the amount specified and the Trustee determines that the Plan will still complete as proposed, the Trustee shall pay the actual amount of the allowed claim without the need for an Amended Plan.

B) Secured Claims to which § 506 Valuation is Applicable

The amount of a secured claim to be paid under this Plan is the lesser of the amount listed by the Debtor as the “Value” and the allowed secured portion of the holder’s claim. If the Court orders a different amount than is shown, the Plan shall be deemed amended without the requirement of the filing of an Amended Plan unless the Trustee objects that the Plan will not complete as proposed. Any amended plan thereafter must use the amount ordered by the Court.

5) Separately Classified Claims

This section deals primarily with the Co-Debtor’s claims and is otherwise self explanatory.

6) Executory Contracts And Unexpired Leases

This section is self explanatory.

7) Priority Claims

Anytime a domestic support obligation (DSO) exists (even if the Debtor is current on payments) the DSO claimant must be listed in both the Plan and on Schedule E or Schedule E/F (effective 12/1/2015). The amount listed as the “Estimated Arrearage” is the arrearage amount proposed by the Debtor in the Plan. If the actual allowed claim is different from the estimated arrearage amount and the Trustee determines that the Plan will still complete as proposed, the Trustee shall pay the actual amount of the allowed claim without the need for an Amended Plan. If the Debtor is current on his or her DSO obligations then he should make an “X” under the word “Current.”

If the Plan addresses a DSO assigned or owed to a governmental unit under § 507(a)(1)(B), the Debtor should use section 7(B) of the Plan. If the Debtor proposes to treat this claim as a general unsecured creditor pursuant to § 1322(a)(4) then the Debtor should so indicate by inserting the word “NONE” under the language “Est. Amt. Paid.” If so treated, the Debtor must also propose a Plan that satisfies the requirements of § 1322(a)(4).

Secured Income Tax Claims and 11 U.S.C. § 507 Priority Claims

This section is self-explanatory.

8) Long-Term Debts Paid Outside by the Debtor or Co-Debtor

This section is self-explanatory.

9) *Avoidance of Liens*

This section is to identify creditors against whom the Debtor is proposing to either avoid or reduce their secured lien pursuant to law. This section does not constitute a judicial determination of whether these actions are allowed under the law.

10) *Unsecured Claims*

This section is designed to set forth the minimum amount the Debtor must pay to allowed general unsecured creditors pursuant to sections §§ 1325(a)(4) and 1325(b).

11- 19)

These sections are self-explanatory.

20) *Reason(s) for Amendment(s)*

This section requires a brief, concise statement setting forth the reasons for any amendments of the Debtor's original Plan. The failure to complete this section on all Amended Plans will result in the Amended Plan being noticed as deficient by the Clerk's office. If there is a substantial change to the proposed Plan payments or upon the Trustee's request, the Debtor shall file an amended Schedule I and amended Schedule J and/or Schedule J-2 (effective 12/1/2015).

PART THREE – Additional General Requirements for All Cases Filed on or After August 1, 2011

In addition to any duties imposed by law, rule or order, the Debtor must also perform the following duty concerning insurance on motor vehicles in Chapter 13 cases:

1) *Insurance on Motor Vehicles in Chapter 13 Cases*

A) *Required Coverage*

The Debtor in a Chapter 13 case shall maintain full-coverage insurance on any motor vehicle on which a lien exists to secure a debt, naming the lien holder as an additional loss-payee. The Debtor shall provide for a collision and comprehensive deductible of not more than \$500.00. If the security agreement or other contract requires a deductible lower than \$500.00, such contract will govern the amount of deductible the Debtor is required to maintain during the bankruptcy case.

B) *Proof of Insurance Coverage*

The Debtor in a Chapter 13 case shall provide the lien holder with proof of insurance providing full coverage, as listed in paragraph (A), from the date of the bankruptcy petition. If the insurance policy lapses during the pendency of the case, the Debtor shall be required to provide new proof of coverage which shall include proof of three months prepaid insurance. A copy of the policy or the policy declaration sheet and a copy of a receipt or similar payment statement from an insurance agent on company letterhead may be used as proof of coverage if the documents verify the terms of coverage and pre-payment of premiums.

Appendix A

Rights and Responsibilities of Chapter 13 Debtors and their Attorneys

It is important for those who file a bankruptcy under Chapter 13 to understand their responsibilities, as well as those of their attorney. As such, this document sets forth the services required to be performed by your attorney, as well as those responsibilities that are required and/or expected of you. In order to maintain a high standard of quality for the Debtors' counsel practicing in this district, the following requirements are mandatory for the Debtors' counsel in a Chapter 13 bankruptcy. These requirements are in addition to any others required by law, rule or order. Should a conflict arise between these rights and responsibilities and any law, rule or order, the law, rule or order shall supersede the conflict. Notwithstanding the foregoing, no provision, statement and/or clause contained herein shall be deemed as a limitation on the Debtors' counsel's responsibilities and/or obligations as set forth in the Bankruptcy Code.

Before the bankruptcy petition is filed, the attorney will provide the following legal services:

- 1) The Debtor shall meet with an attorney for a reasonable period of time prior to the filing of the bankruptcy petition to review facts and to receive advice concerning the Debtor's bankruptcy and non-bankruptcy options and shall be present at the signing of the final documents.
- 2) Unless an emergency filing is necessitated by exigent circumstances, the Debtor's counsel must collect the following documents from the Debtor prior to filing, or document the inability to collect the same, subject to subparagraph (o) below:
 - a) Copies of all bank account statements (or similar documentation) from at least 60 days prior to the date of the filing of the bankruptcy petition (savings, checking, CD's etc.).
 - b) Federal income tax returns, transcripts, or a completed affidavit declaring that the Debtor was not required to file tax returns for the tax year prior to the filing of the bankruptcy petition.
 - c) Federal income tax returns, transcripts, or a completed affidavit declaring that the Debtor was not required to file tax returns for the second through fourth years prior to the filing of the bankruptcy petition.
 - d) A copy of all payment advices or other evidence of payment the Debtor received within 60 days before the date of the filing of the petition from any employer of the Debtor, or an affidavit that no income was earned.

- e) A copy of all payment advices or other evidence of payment the Debtor received within the six calendar months prior to filing the petition sufficient to calculate the Debtor's current monthly income pursuant to § 101(10A).
 - f) If the Debtor is self-employed, a profit and loss statement for the six months before the filing of the petition.
 - g) Copies of all billing statements for the Debtor's credit cards, medical bills, student loans, personal/payday loans, car loans, mortgages and other secured debts. Also, any utility bills on which the Debtor is *not* current. If the Debtor does not have a bill for a debt, the Debtor must provide a written statement of the (i) creditor's name, (ii) billing address, (iii) account number and (iv) amount owed.
 - h) A copy of any domestic support order that the Debtor has been ordered to pay.
 - i) Copies of final and signed divorce decrees and marital settlement agreements entered into in the two years prior to filing the bankruptcy petition.
 - j) Copies of any and all documentation concerning lawsuits or administrative proceedings the Debtor has been involved in within the last two years, regardless of the status or outcome of the suit.
 - k) If applicable, a statement from the county showing the current status of the Debtor's real estate/mobile home taxes. If the taxes have been purchased, the Debtor should provide a copy of the redemption certificate.
 - l) Copies of the most recent non-term life insurance statements in which the Debtor has an interest.
 - m) Copies of current statements regarding any non-retirement investments in which the Debtor has an interest.
 - n) Verification/information of the balance of any and all 401(k) loans.
 - o) If any of these documents are not available or present in the Debtor's counsel's file, then the Debtor and the Debtor's counsel should execute an affidavit stating that they both made reasonable efforts to obtain the documentation and were unable to comply. The affidavit must also list the documents not obtained.
- 3) The Debtor's counsel must complete an intake document which is reasonably detailed to ensure that the Debtor is asked the appropriate questions and given appropriate advice. There is no form intake document approved by the Court at present.

- 4) The Debtor's counsel must ensure that the Debtor has completed the required pre-petition credit counseling requirements or determine if the Debtor meets the standard for one of the exceptions to such requirements.
- 5) The Debtor's counsel must review the petition, schedules, supplemental local forms, Chapter 13 Plan and mailing matrix prior to the filing of said documents.
- 6) The Debtor's counsel must meet with the Debtor when they sign the final paperwork to be filed in their case.
- 7) The Debtor's counsel must review and sign all motions filed in the Debtor's case.
- 8) The Debtor's counsel shall timely provide the Debtor with a written executed contract that conforms to the requirements in the Bankruptcy Code and Rules.

After the bankruptcy petition is filed, the attorney will provide the following legal services:

- 1) Upon information received from the Debtor, take steps necessary to avoid the termination of, or to allow the reinstatement of, the Debtor's necessary utility services by providing faxed proof of filing of the petition to utility service creditors.
- 2) Take steps necessary to obtain the return of repossessed vehicles, which are necessary to the estate, including, but not limited to, the filing of Complaints to Compel Turnover.
- 3) In the event of pending state or federal court litigation, notify creditor's attorneys and the appropriate court in which the litigation is pending that the bankruptcy case has been filed.
- 4) Send out an information letter to the Debtor reminding the Debtor to attend the § 341 meeting, specifying the time and location of that meeting, and advising the Debtor as to the procedures of the § 341 meeting.
- 5) Appear at the § 341 meeting of creditors with the Debtor, confer with the Debtor to prepare him or her for the § 341 meeting, and advise the client to cure any arrears on Plan payments. Counsel will appear at all meetings dressed in professional attire.
- 6) Upon information received from the Debtor, take steps necessary to terminate pending wage garnishments, including filing a Motion to Terminate Garnishment.
- 7) Attend all court hearings relating to the Debtor's case, excluding adversary proceedings in which counsel is not retained.
- 8) Prepare and conduct all court mandated pre-trial conferences, reports, briefs, etc.
- 9) Address objections to Plan confirmation and, where necessary, prepare an Amended Plan.
- 10) Prepare, file, and serve necessary modifications to the Plan, which may include suspending, lowering, or increasing Plan payments.

- 11) Prepare, file, and serve necessary amended statements and schedules, in accordance with information submitted by the Debtor, provided the Debtor pays the Court's filing fee, unless the amendment or omission was due to the fault of Debtor's counsel.
- 12) Prepare, file, and serve necessary motions to buy, sell, or refinance real property when appropriate.
- 13) Review all proofs of claims filed and, if appropriate and in the Debtor's best interest, object to improper or invalid claims.
- 14) Timely file proofs of claims for creditors who fail to file claims if it is in the Debtor's best interest to file such a claim.
- 15) Represent the Debtor in motions for relief from stay and file an objection to such motions, if appropriate.
- 16) Where appropriate, prepare, file, and serve necessary motions to avoid liens on real or personal property.
- 17) Upon information received from the Debtor, contact creditors who continue to communicate with the Debtor after filing, by phone or in writing, and, if necessary and appropriate, file motions for sanctions, prepare testimony and exhibits, and appear for hearing.
- 18) If necessary, contact tax authorities or other third-parties to gather information necessary for the case. However, such contact shall not include the obtaining of the names, addresses, account numbers and other information necessary for the inclusion and filing of creditors on any schedule of the petition, as it is the duty of the Debtor to provide such information to counsel for the preparation of accurate bankruptcy schedules.
- 19) These rights and responsibilities do not include a requirement to represent the Debtor in an adversarial proceeding and the Debtor's attorney may require additional fees which must be approved by the Court.
- 20) Communicate with the Debtor – either by phone or by being available for office appointments – to discuss pending issues or matters in the present case.
- 21) Provide such other legal services as, in the attorney's sound judgment, are necessary for the prompt administration of the case before the Bankruptcy Court. Nothing contained herein shall be construed to bind the attorney to perform work that has no basis in law or fact or constitutes extraordinary proceedings within the context of a normal chapter 13 proceeding, such as adversary proceedings or other work that exceeds the scope of the attorney-client contract.

The requirements for payment of attorney's fees in Chapter 13 cases for the Southern District of Illinois provide for a flat-rate attorney fee of \$4,000.00 for a non-business related Chapter 13

bankruptcy and \$4,500.00 for a business bankruptcy as defined in § 1304, or for payment based on regular billing. Fees shall be paid through the Plan as provided for by the Confirmation Order. The attorney may receive part of the allowed fees prior to the filing of the case for the actual services performed prior to filing, provided said fees are deducted from the total allowed fees as paid through the confirmed Plan. The attorney may move to withdraw or the client may discharge the attorney at any time. The attorney agrees to perform substantially all duties designated above. If the attorney does not substantially perform all of the above duties inclusive, then, upon filing of a motion and after a hearing before the Court, the Court may order the attorney to disgorge all or any part of the fees received, as the Court, in its discretion, deems appropriate. If the case is not confirmed, then the attorney is allowed only those sums as set forth in the Chapter 13 Procedures Manual.

In addition to those duties and responsibilities set forth in 11 U.S.C. § 521, the Debtor(s) shall:

- 1) Keep their attorney informed of their current mailing address and contact information (including home, work and cell phone numbers). If the Debtor is proceeding *pro se*, the Debtor shall file a Notice of Change of Address with the Court.
- 2) Timely make all payments as called for by their Plan, whether through a wage deduction or directly, as set forth in the Plan.
- 3) Immediately notify their attorney of any wage garnishments or attachments of assets which occur or continue after the filing of the bankruptcy case.
- 4) Notify their attorney upon the loss of employment or other financial problems that may arise.
- 5) Notify their attorney if they are sued or contacted by a creditor (or a creditor's agent) after the bankruptcy case has been filed.
- 6) Contact their attorney before buying, refinancing or selling any real property or before entering into any long-term loan agreements to determine what steps must be taken to obtain the required approval for same.
- 7) Cooperate with their attorney in the preparation of all documents and attend all hearings, if required. This obligation includes timely responding to all letters and phone calls left by your attorney.
- 8) Comply with all other additional contractual obligations and terms with your attorney as specifically set forth in your attorney-client contract.

Dated: _____

Attorney for Debtor

Dated: _____

Debtor