

Rule 1009-1
AMENDMENTS TO LISTS AND SCHEDULES

Any amendment to a petition, list, schedule or statement shall be accompanied by a certificate of service in the form of a statement of the date and manner of service and of the names and addresses of the persons served, and must be certified as correct by the person making the service. [An Amended Summary of Schedules \(Official Form B6\) must be filed each time an amended schedule is filed.](#)

Rule 2002-1
NOTICE TO CREDITORS AND OTHER INTERESTED PARTIES

- (a) **AMENDED OR SUPPLEMENTAL SCHEDULES.** The § 341 meeting will be scheduled and the clerk of court, or such other person as the clerk of court may designate, will notify the creditors listed on the matrix filed with the petition. If additional creditors are added either through filed schedules or amendments to schedules being filed after notice has been given, the debtor shall serve the notice of commencement of case, meeting of creditors, and deadlines, along with a proof of claim form if a notice to file a proof of claim has been given, on the added creditors and file a certificate of service with the clerk of court within seven days after service.
- (b) **PAYMENT OF FEE REQUIRED.** If a debtor files a request for conversion to another chapter, payment of the fee shall be a condition of the conversion.
- (c) **GUIDE TO SERVICE AND NOTICE REQUIREMENTS.** The chart included in the Administrative Guide to Practice and Procedure shall serve as a guide for the giving of notice to creditors and other parties in interest.
- (d) **RETURNED AND UNDELIVERABLE MAIL.** The procedure for returned and undeliverable mail is provided in the Administrative Guide.
- (e) **NOTICE OF PREFERRED ADDRESS**
 - (1) To file a notice of preferred address pursuant to 11 U.S.C. § 342(e), creditors may use the National Creditor Registration Service local forms found on the court's website, www.nceb.uscourts.gov.
 - (2) To file a notice of preferred address pursuant to 11 U.S.C. § 342(f), creditors may register with the National Creditor Registration Service offered through the Bankruptcy Noticing Center at ncrs.uscourts.gov.

Rule 3070-1
CHAPTER 13 - PAYMENTS

- (a) RETURN OF PLAN PAYMENTS TO DEBTOR. Upon conversion or dismissal of a chapter 13 case prior to confirmation, and unless the court orders otherwise, the standing trustee shall return to the debtor any payments made by the debtor under the proposed plan, less any claim under 11 U.S.C. § 503(b).
- (b) ADEQUATE PROTECTION PAYMENTS TO SECURED CREDITORS AND DIRECT PAYMENTS TO LESSORS.
 - (1) The debtor shall pay directly to the lessor all payments scheduled in a lease of personal property for that portion of the obligation that becomes due after the order for relief.
 - (2) Unless the chapter 13 plan provides that the entire secured claim is to be paid directly by the debtor to the creditor, the debtor shall pay to a creditor, who holds an allowed claim secured by personal property to the extent that the claim is attributable to the purchase of the property by the debtor, pre-confirmation adequate protection payments through the chapter 13 trustee; however, the court may order payments to be made by any other method.
 - (3) The presumptive adequate protection payment to be paid pursuant to Section 1326(a)(1) shall be at least one percent (1%) of the value of the subject collateral at the discretion of the chapter 13 trustee as of the petition date. The valuation of the collateral shall be made solely by the chapter 13 trustee, subject to further court consideration.
 - (4) All adequate protection payments paid through the chapter 13 trustee shall be subject to an administrative fee in favor of the trustee equal to the trustee's statutory percentage commission then in effect, and the trustee shall collect the fee at the time of the distribution of the adequate protection payment to the claimant.
 - (5) The chapter 13 trustee shall make adequate protection payments to the creditor at the address duly noted on the proof of claim. The use of the address shall be deemed proper notice of the creditors for purpose of the adequate protection payments.
 - (6) The chapter 13 trustee shall not be required to make pre-confirmation adequate protection payments on account of any claim for which the secured value of the claim is less than \$2,000.00.
 - (7) All adequate protection payments made through the chapter 13 trustee shall be disbursed in the ordinary course of the trustee's business, according to the trustee's standard monthly distribution schedule, from funds in the case as they become available for distribution to claimants prior to or after entry of the Order Confirming Plan.
 - (8) Upon the dismissal or conversion of the chapter 13 case to another chapter prior to confirmation, the chapter 13 trustee shall make the pre-confirmation adequate protection payments, or portion thereof, from any funds available for that purpose received on or before the date of the entry of the order of dismissal or conversion, to creditors that have filed proofs of claim that have been deemed allowed pursuant to Section 502(a), prior to the date of the dismissal or conversion.

- (9) Subsections (b)(2) and (b)(3) of this rule shall not apply if the adequate protection is provided by means other than by direct payments to the holder of the secured claim.
- (c) CHAPTER 13 TRUSTEE'S ADMINISTRATIVE FEE IN CHAPTER 13 CASES DISMISSED PRIOR TO CONFIRMATION.
 - (1) An administrative fee is authorized for the chapter 13 trustee in cases dismissed prior to confirmation in the amount set forth in the Administrative Guide.
 - (2) The fee shall be payable from payments made by the debtor(s) and held by the trustee at the time of case dismissal.
 - (3) The trustee who has incurred actual costs and expenses in excess of the standard administrative fee may apply under 11 U.S.C. § 503(a) for reimbursement of these additional costs and expenses from funds paid by the debtor to the trustee.*

*Please note the fee amount agreed upon to be included in the Administrative Guide at this time is \$125.00.

RULE 3070-2
CHAPTER 13 – RESIDENTIAL MORTGAGE PAYMENTS

DEFINITIONS. As used in this Local Rule, the following definitions shall apply:

- (a)
- (1) “Administrative Arrearage” is the total amount of two full post-petition Mortgage Payments and shall be in addition to any Pre-Petition Arrearage claim.
 - (2) “Conduit Payment” means a Mortgage Payment that is paid by a Debtor through the Chapter 13 Trustee. The amount of a Conduit Payment shall be equal to the amount of the petition-date monthly contractual Mortgage Payment due pursuant to the note or contract subject to any subsequent change in such Mortgage Payment effectuated in compliance with this rule.
 - (3) “Debtor” includes both Debtors in a joint case.
 - (4) “Mortgage Loan” is a mortgage, deed of trust or other consensual lien on the real property of the Debtor that is the principal residence of the Debtor, unless the confirmed plan or other order of the court provides for the surrender of the residence, the avoidance of the lien purportedly securing such loan, or such other treatment that is expressly inconsistent with the application of this rule.
 - (5) “Mortgage Payment” means a regular, periodic payment that is owed by a Debtor on a Mortgage Loan as set forth in the documents evidencing the loan that is the basis of the Real Property Creditor’s claim.
 - (6) “Plan Payment” means the total amount that the Debtor is required to pay to the Chapter 13 Trustee each month under the chapter 13 plan, which amount includes an amount sufficient to cover the Conduit Payments.
 - (7) “Pre-Petition Arrearage” is the total amount past due on a Real Property Creditor’s claim as of the petition date.
 - (8) “Real Property Creditor” is any entity holding or owning a secured claim on account of a Mortgage Loan, and including but not limited to any assignees, agents, servicers or successor as to such creditor.
- (b) DISBURSEMENT OF REQUIRED CONDUIT PAYMENTS.
- (1) Chapter 13 Debtors shall remit all Mortgage Payments owed by them to the Chapter 13 Trustee for disbursement to the Real Property Creditor.
 - (2) Debtors may be excused from the requirement of subparagraph (b)(1) in the discretion of the Chapter 13 Trustee or by order of the court, in which event the provisions of paragraph (c) shall not apply to the case.
- (c) DUTIES OF THE DEBTOR AND OF THE CHAPTER 13 TRUSTEE.
- (1) If the amount of the Mortgage Payment changes and results in the necessity for a modification of the Plan Payment, the Chapter 13 Trustee shall notify the Debtor and the attorney for the Debtor of the change and the extent to which it is necessary to modify the Plan Payment as a result of the Mortgage Payment change. If it is necessary to modify the Plan Payment as a result of a change in the Mortgage Payment, the Debtor must make any increased Plan Payment to the Chapter 13 Trustee beginning with the Plan Payment next due after the later of (i) the Trustee’s notification to the Debtor and counsel or (ii) the effective date of the Mortgage Payment change. Such a modification of the Plan Payment may be accomplished by consent order prepared and signed by counsel for the Debtor(s) and signed by the Chapter 13 Trustee, provided that no other creditor

- or party in interest is adversely affected by such modification.¹
- (2) A claim in the amount of the Administrative Arrearage shall be allowed and paid by the Chapter 13 Trustee under the chapter 13 plan for each Mortgage Loan for which the Trustee disburses Conduit Payments. This amount shall be paid on a pro-rata basis with other allowed secured claims being paid through the chapter 13 plan, subject to the provisions of paragraph (c)(4) below.
 - (3) The Chapter 13 Trustee shall not disburse any amounts to a Real Property Creditor on any claim until such time as the Real Property Creditor, the Debtor, or the Chapter 13 Trustee has filed a Proof of Claim including all necessary documentation and the chapter 13 plan has been confirmed, except as may otherwise be provided by order of the court.
 - (4) Unless otherwise ordered by the court, if during any month of the chapter 13 plan the Debtor remits payments to the Chapter 13 Trustee in an amount that is insufficient to provide for all required disbursements to claimants, the Chapter 13 Trustee shall disburse all funds received from the Debtor first toward payment of the Conduit Payment(s) due and unpaid for the current month and any prior month(s) before making disbursements to any other claimants. Such actions by the Chapter 13 Trustee shall not impair the rights of the other claimants to take any lawful action as a result of the failure to receive disbursements on their claims.
 - (5) The Chapter 13 Trustee shall continue to disburse Conduit Payments notwithstanding the filing or allowance of a motion for relief from stay filed by a Real Property Creditor, unless notified in writing by the Debtor that Conduit Payments are to be terminated in which case the Chapter 13 Trustee shall serve notice of such termination upon the Debtor and the Real Property Creditor.
- (d) DUTIES OF THE REAL PROPERTY CREDITOR.
- (1) Each Real Property Creditor shall file a Proof of Claim as to each Mortgage Loan held or owned by it as to the Debtor. The Proof of Claim must comply with Fed. R. Bank. P. 3001(c) and clearly specify the amount of the Mortgage Payment of the petition date; and the amount and effective date of any then known and anticipated change of such Mortgage Payment.
 - (2) Unless otherwise ordered by the court, pursuant to Fed. R. Bank. P. 3002.1(b) and (d) the Real Property Creditor shall file and serve on the Chapter 13 Trustee, the Debtor, and the attorney for the Debtor a notice of any change in the amount of the Mortgage Payment at least 21 days before a payment in the new amount is. No change in the Mortgage Payment amount shall be effective unless and until notification of such

¹ **EXPLANATORY NOTE:**

With regard to DECREASES in the Mortgage Payments:

(a) Due to the operation of the disposable income requirement of § 1325(b)(1)(B) under some plans, a decrease in the Mortgage Payment might not necessitate a decrease in the debtor's Plan Payments – in such a case the Plan Payments would stay the same and more money would be disbursed to unsecured creditors. Thus, in the event of a decrease in the Mortgage Payment under such a plan, the Chapter 13 Trustee would notify the debtor of the change but would not need to give notice that a plan modification was necessary.

(b) Alternatively, if the confirmed plan specifically provides that 0% is to be distributed to general unsecured claims, such as in attorney fee only chapter 13 plans for example, a decrease in the Mortgage Payment might result in no increase in distribution to unsecured creditors but would instead result in the termination of the confirmed plan by its terms earlier than originally anticipated.

Conversely, with regard to INCREASES in the Mortgage Payments: Unless the liquidation test of § 1325(a)(4) requires a minimum amount to be paid to unsecured creditors, or the Plan Payments after any increase in Mortgage Payments would not be enough to satisfy secured/priority/arrearage/administrative claims, an increase in the Mortgage Payment would not necessitate an increase in the debtor's Plan Payments – rather the Plan Payments would stay the same and less money would be disbursed to unsecured creditors. Thus, in the event of an increase in the Mortgage Payment, the Chapter 13 Trustee would notify the Debtor of the change but may not need to give notice that a plan modification was necessary.

change is served upon the Chapter 13 Trustee, the Debtor, and the attorney for the Debtor in accordance with this rule and Fed. R. Bankr. P. 3002.1(b) and (d). The effective date of such change in the Mortgage Payment shall be the later of: (i) the effective date specified in the notice of change provided by the Real Property Creditor, or (ii) 21 days after the filing and service of the notice of change by the Real Property Creditor.

- (3) At least 21 days prior to the effective date of any change in the name or identity of the Real Property Creditor or the entity servicing a Real Property Creditor's claim (herein "Servicer") and/or the disbursement mailing address of a Real Property Creditor or Servicer, the Real Property Creditor or the Servicer shall file with the court a notice setting forth the requested changes with a copy served on the Trustee, the Debtor, and the attorney for the Debtor.
 - (4) All payments made to a Real Property Creditor or Servicer shall be applied as provided under and subject to the provisions of 11 U.S.C. § 524(i).
- (e) EFFECT OF AND PROCEDURE UPON PLAN COMPLETION.
- (1) FOR CONDUIT MORTGAGE PAYMENTS. If post-petition Mortgage Payments have been made by the Chapter 13 Trustee by means of Conduit Payments, and if the plan has paid all required Mortgage/Conduit Payments, allowed Pre-petition Arrearage claims, and other allowed claims related to a Mortgage Loan, then:
 - (A) all pre-petition and post-petition defaults shall be deemed cured, the Mortgage Loan shall be deemed at least current as of the date of the disbursement by the Chapter 13 Trustee of the final plan payment to the Real Property Creditor, and any right of the Real Property Creditor to recover any amount alleged to have been incurred or become due since the petition-date, or to declare a default under the note, mortgage, deed of trust; or other loan documents based upon any and all events prior to the date of the disbursement by the Chapter 13 Trustee of the final plan payment to the Real Property Creditor shall be extinguished; and
 - (B) the Chapter 13 Trustee shall file and serve the notice referred to under Fed. R. Bank. P. 3002.1(f), which notice also shall set forth the total amount due on the Mortgage Loan as of a specific date identified in the notice.
 - (2) FOR DIRECT MORTGAGE PAYMENTS. If post-petition Mortgage Payments have been made directly by the Debtor pursuant to the confirmed chapter 13 plan, the Debtor shall be responsible for filing and serving any notice permitted under Fed. R. Bank. P. 3002.1(f). In the event the Debtor files and serves this notice, it shall contain a statement that all Mortgage Payments and other permissible fees, expenses or charges accruing on the Mortgage Loan from the petition date through the date of the notice or other date specified therein have been made, set forth the total amount due on the Mortgage Loan as of a specific date identified in the notice, and be verified by the Debtor.
 - (3) FAILURE BY HOLDER TO PROVIDE RESPONSE PURSUANT TO FED. R. BANK. P. 3002.1(g). In addition to the provisions of Fed. R. Bank. P. 3002.1(i), upon the failure by a Real Property Creditor to timely file and serve the response required by Fed. R. Bankr. P. 3002.1(g), the Real Property Creditor shall be deemed to have admitted that the Mortgage Loan is current, and the court shall enter an order providing that the Mortgage Loan is current (with no arrearage, escrow balance, late charges, costs, expenses or attorney fees owing) as of date of the disbursement by the Chapter 13 Trustee of the final plan payment to the Real Property Creditor and stating the total amount due on the Mortgage Loan as of a specific date identified in the notice.

- (4) **MOTIONS TO DEEM CURRENT OR FOR DETERMINATION OF FINAL CURE.** All motions to deem a Mortgage Loan to be current or for a determination of final cure pursuant to Fed. R. Bankr. P. 3002.1(h) must contain a statement that all Mortgage Payments and other permissible fees, expenses or charges accruing on the Mortgage Loan from the petition date through the date of the motion or other date specified therein have been made, set forth the total amount due on the Mortgage Loan as of a specific date identified in the motion, and be verified by the Debtor. The motion may include any proof of such payments as the Debtor deems appropriate.
- (f) **SERVICE.** All notices, documents and motions required to be given or served under this rule shall be served by first class mail, sufficient postage pre-paid, on all interested parties at the last mailing address of record filed in the case, and any service required to be made upon the Chapter 13 Trustee pursuant to subparagraph (d) of this rule must also include in the address line: “Attn: Mortgage Claim Administrator.”
- (g) **OTHER APPLICABLE LAWS.** Nothing in this rule shall relieve any party from complying with any obligation under the United States Bankruptcy Code, the Federal Rules of Bankruptcy Procedure, the Local Rules of Practice and Procedure of the District and Bankruptcy Courts of the Eastern District of North Carolina, the Real Estate Settlement Procedures Act, the Fair Debt Collection Practices Act, the North Carolina Mortgage Servicing Act, any other applicable standing or administrative orders of the court, or any other applicable non-bankruptcy law or rule.

Rule 4001-1
RELIEF FROM THE AUTOMATIC STAY

- (e) STAY OF EVICTION, UNLAWFUL DETAINER OR SIMILAR ACTION
- (1) CERTIFICATION. The certification required by 11 U.S.C. § 362(l)(1)(A) shall be made and designated on the petition filed with the clerk of court.
 - (2) FILING OF JUDGMENT. The debtor must file a copy of the pre-petition judgment for possession of the debtor's residence together with the petition.
 - (3) DEPOSIT. Any deposit of rent made by or on behalf of a debtor, pursuant to 11 U.S.C. § 362(l)(1)(B), shall be made in the form of a certified check or money order payable to the order of the lessor, and delivered to the clerk of court upon filing of a petition.
 - (4) TRANSMISSION TO LESSOR. Upon the clerk's receipt of the deposit and certification tendered pursuant to 11 U.S.C. § 362(l)(1), the clerk shall transmit the certified check or money order promptly to the lessor, by certified mail, return receipt requested, to the address listed on the petition.

Rule 4002-1
DEBTOR DUTIES

- (c) CHAPTER 11 DEBTOR - DUTIES. The following shall apply in chapter 11 cases.
- (11) PAYMENT OF JUDICIAL CONFERENCE QUARTERLY FEE. In all cases filed after April 1, 2002, the debtor shall promptly remit quarterly fees to the clerk, which fee shall be calculated on the graduated scale as prescribed by 28 U.S.C. §1930(a)(7), based upon the total sum of all disbursements made during a calendar quarter until the case is either converted to a case under another chapter or closed. The payment of quarterly fees shall be by remission of an attorney trust account check, certified check, money order, or payment through pay.gov.

Rule 5005-1
FILING PAPER DOCUMENTS - REQUIREMENTS

- (a) PAPER DOCUMENTS FILED WITH THE CLERK. All paper documents filed by pro se individuals and attorneys who have been granted an exemption from electronic filing, including proofs of claim, pleadings, and proposed orders shall be tendered to the clerk of court rather than directly to the judge, unless otherwise specifically directed.
 - (1) The clerk may require filing by facsimile pursuant to Rule 5005-1(b) in lieu of paper filing if the clerk deems it appropriate for the safety or security of the court. The clerk will maintain a record of any attempted paper filings and, if the facsimile filing is received within 24 hours of the attempted paper filing, the filing will be effective as of the date and time of the attempted paper filing.
- (b) FILING BY FACSIMILE.
 - (1) FILING. Pro se individuals and attorneys who have been granted an exemption from electronic filing may file the following paper documents by facsimile transmission to the clerk:
 - (A) motions for a continuance stipulated to by all parties;
 - (B) withdrawal of motions that are scheduled for hearing; and
 - (C) any other filings allowed by the court.
 - (2) FAXED DOCUMENT SERVES AS ORIGINAL. A paper document filed by facsimile serves as an original, and subjects the signer to the same penalties as an original document, including penalties of Rule 9011, Federal Rules of Bankruptcy Procedure.

Rule 5005-4(1)
ASSIGNMENT TO SYSTEM AND FILING REQUIREMENTS

- (a) ASSIGNMENT. All cases are assigned to the Electronic Case Filing System ("ECF System").
- (b) FILING. All petitions, motions, memoranda of law, and other pleadings or documents required to be filed with the court in connection with the case must be electronically filed. ~~except as provided in these rules or in exceptional circumstances preventing a Filing User from filing electronically.~~
- (c) APPLICATION FOR EXCEPTION/EXEMPTION. Any document required to be filed electronically, but presented in paper form, shall be accompanied by an application for an exception or exemption from this rule and a proposed order granting the relief sought. The application shall state the reason(s) why electronic filing would impose an extreme hardship on the applicant.
- (d) ~~EXCEPTION~~ EXEMPTION ~~TO~~ FROM ELECTRONIC FILING REQUIREMENT. Notwithstanding the foregoing, pro se individuals and ~~attorneys~~ other parties who have been granted an exception or exemption from electronic filing are not required to electronically file pleadings and other documents in cases assigned to the ECF System, but are required to comply with Local Bankruptcy Rules 5005-2 and 5005-3 above.

Rule 5005-4(2)
ELIGIBILITY, REGISTRATION AND PASSWORDS

- (a) ELIGIBILITY AND REGISTRATION. Attorneys admitted to the bar of this court, the bankruptcy administrator, private trustees, and others as the court deems appropriate, may register as Filing Users or Filing Agents of the court's Electronic Case Filing System. Registration is in the form prescribed by and available from the clerk. The registration forms ~~is~~ are published on the court's web site www.nceb.uscourts.gov.
- (b) FILING AGENT. All references within these rules to filings made by the Filing User shall likewise refer to filings made by a Filing Agent on behalf of the Filing User.
- (c) ELECTRONIC NOTICE AND SERVICE; WAIVERS. As to all documents properly filed and served electronically, registration as a Filing User constitutes (1) a waiver of the right to receive notice or service by first class mail or personal delivery; and (2) consent to electronic service pursuant to Local Bankruptcy Rule 5005-4(9), except with regard to service of a summons and complaint under Rule 7004 of the Federal Rules of Bankruptcy Procedure, a motion initiating a contested matter under Rule 9014 of the Federal Rules of Bankruptcy Procedure, and with regard to any other applicable rule or statute pursuant to which service by mail is not permitted. Waiver and consent pursuant to this subsection (c) applies to notice of the entry of an order or judgment under Rule 9022 of the Federal Rules of Bankruptcy Procedure.

Rule 5005-4(8)
SIGNATURES AND CERTIFICATION

- (a) ELECTRONIC FILING CONSTITUTES SIGNATURE AND CERTIFICATION. The use of the login and password of the Filing User, or of a Filing Agent registered to file on behalf of the Filing User, to electronically file any petition, pleading, motion, claim, or other document shall constitute the signature of that Filing User on the electronically filed document for purposes of the Federal Rules of Bankruptcy Procedure, including Rule 9011, the Local Bankruptcy Rules of this court, and any other purpose for which a signature is required in connection with proceedings before this court. Use of the login and password of the Filing User, or of a Filing Agent registered to file on behalf of the Filing User, also shall constitute certification by the Filing User, ~~and by any agent authorized by the Filing User to use the login and password,~~ that: (1) all persons indicated to have signed the document have actually executed the original or a copy of the original, or have approved the content of and authorized their signature on the document, prior to electronic filing; and (2) the Filing User has authorized the electronic filing of the executed document.
- (b) USE OF LOGIN/PASSWORD. No Filing User or other person may knowingly permit or cause to permit a Filing User's or a Filing Agent's password to be used by anyone other than an agent of the Filing User authorized to use such login and password.

Rule 9011-4
SIGNATURES

All documents signed by an attorney pursuant to Rule 9011 of the Federal Rules of Bankruptcy Procedure and filed with the court shall contain the individual name, firm name, address, telephone number, facsimile number, email and State Bar identification number, where applicable, of the signing attorney(s).