

**UNITED STATES BANKRUPTCY COURT
MIDDLE DISTRICT OF NORTH CAROLINA**

In Re)
)
PROCEDURES IN AID OF)
THE ADMINISTRATION OF)
CHAPTER 13 CASES)
)
)

STANDING ORDER

Having concluded that the following procedures are needed in order to implement the provisions of the United States Bankruptcy Code, it is hereby ORDERED as follows with respect to all Chapter 13 cases filed on or after December 1, 2017:

A. PROCEDURE FOR RENT DEPOSITS. Any deposit of rent made by or on behalf of a debtor pursuant to 11 U.S.C. § 362(l)(1)(B) must be in the form of a **certified check or money order payable to the order of the lessor** and must be delivered to the Clerk of Court upon the filing of Official Forms 101 and 101A. The debtor must file a copy of the Judgment of Eviction along with Official Forms 101 and 101A. Upon the Clerk’s receipt of a copy of the Judgment of Eviction and the certified check or money order payable to the order of the lessor, the Clerk is directed to promptly transmit the certified check or money order to the lessor by certified mail, return receipt requested, to the address listed for the lessor on Official Form 101A.

B. INTERVIEW WITH TRUSTEE’S OFFICE. Within four (4) days after receipt of the “Notice of Appointment of Trustee and Meeting of Creditors,” the debtor shall contact the office of the appointed Chapter 13 Trustee (“Trustee”) for an interview appointment and to make arrangements for the commencement of payments under the plan.

C. COLLISION INSURANCE ON VEHICLES SUBJECT TO LIENS. The debtor shall maintain collision insurance on any vehicle owned by the debtor which is subject to a lien. In the event the debtor fails to comply with this requirement, the Trustee is authorized to direct that such vehicle be stored until evidence of proper insurance coverage is submitted to the Trustee. The debtor shall immediately comply with any such directive from the Trustee.

D. INCURRING DEBT. The debtor must obtain the approval of the Trustee before incurring any debt of \$2,500.00 or less. The debtor must obtain approval of the Court before incurring any debt greater than \$2,500.00. All credit cards shall be canceled.

E. TAX RETURNS. The debtor shall timely file all required tax returns, including federal and state income tax returns, and shall pay all taxes when due. The debtor shall provide copies of post-petition tax returns to the Trustee within ten (10) days of the Trustee's request. The debtor's failure to provide post-petition tax returns may constitute cause for conversion to chapter 7 or dismissal of the case under 11 U.S.C. § 1307(c).

F. DOMESTIC SUPPORT OBLIGATIONS. The debtor shall remain current on all post-petition domestic support obligations, if any, and the debtor's failure to pay post-petition domestic support obligations may constitute cause for conversion to chapter 7 or dismissal of the case under 11 U.S.C. § 1307(c).

G. CONDUIT PAYMENTS. All payments on any claim secured by real property will be disbursed by the Trustee unless the account is current, in which case the Debtor may elect to continue making payments directly. All payments on any claim secured by personal property will be disbursed by the Trustee, unless otherwise ordered by the Court.

H. WAGE DEDUCTIONS. The employer of the debtor shall deduct and remit funds from the wages, salary, or commissions of the debtor as directed by the Trustee.

I. REJECTION OF UNASSUMED LEASES OF PERSONAL PROPERTY. Any lease of personal property which is not assumed by confirmation of the plan is deemed rejected and the automatic stay is terminated as to the property and any co-debtor stay is terminated as to the lease obligations.

J. REPORTING INCOME TO TRUSTEE. The debtor shall promptly report to the Trustee any significant increase in income.

K. REPORTING RECEIPT OF PROPERTY TO TRUSTEE. The debtor shall promptly report to the Trustee the receipt of any inheritance, substantial gift of real or personal property, or lottery winnings.

L. DEBTOR OPERATING A BUSINESS. In all cases in which the debtor operates a business:

1. The debtor is authorized to operate the business pursuant to 11 U.S.C. § 1304, except as otherwise ordered by the Court.
2. The debtor may not use, sell, or lease property except in the ordinary course of business without prior approval of the Court.
3. The debtor is required to segregate all money which has been withheld from employees or collected from third parties for payment of taxes as required by federal and state law. The debtor shall deposit the collected funds, together with the debtor's share of payroll taxes, in a separate bank account immediately upon collection and shall pay the taxes when due.

4. The debtor shall file with the Trustee by the tenth day of each month a report and summary of operations of the business during the preceding calendar month. This report must include an accounting of receipts and disbursements, debts incurred, credit extended, contractual obligations assumed, a profit and loss statement, the dates and amounts of all deposits, and any other information required by the Trustee.
5. The debtor shall attend such meetings and provide such information and reports as reasonably requested by the Bankruptcy Administrator.

M. TRANSFERS OF PROPERTY. The debtor must obtain the approval of the Trustee before transferring any interest in real property or personal property having a value between \$1,500.00 and \$2,500.00. The debtor must obtain approval of the Court before transferring any interest in real property or personal property having a value of \$2,500.00 or greater.

N. PRE-CONFIRMATION ADEQUATE PROTECTION PAYMENTS. All adequate protection payments required by 11 U.S.C. § 1326(a)(1) shall be paid as follows:

1. Not later than 30 days after the date of the order for relief, the debtor shall commence paying directly to the lessor all payments scheduled in a lease of personal property or portion thereof that become due after the order for relief. Absent a timely objection to confirmation of the proposed plan, the debtor shall be presumed to have made such payments as required by 11 U.S.C. § 1326(a).
2. The debtor shall provide in the Chapter 13 plan that Section 1326(a)(1)(C) pre-confirmation adequate protection payments to a creditor holding an allowed claim secured by personal property to the extent that the claim is attributable to the purchase of such property by the debtor shall be disbursed by the Trustee, unless the Court orders otherwise.
3. The debtor shall list in the Chapter 13 plan the name, address, last four digits of the account number, and the amount of the adequate protection payment proposed for each secured creditor entitled to receive a Section 1326(a)(1)(C) pre-confirmation adequate protection payment.
4. All adequate protection payments paid through the 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 such fee at the time of the distribution of the adequate protection payment to the claimant.
5. Adequate protection payments to a creditor who is listed in the plan as a secured creditor shall not be required until a proof of claim is filed by such creditor which complies with Rule 3001 of the Federal Rules of Bankruptcy Procedure.
6. The Trustee shall not be required to make pre-confirmation adequate protection

payments on account of any claim in which the collateral for such claim is listed in the plan as having a value of less than \$2,000.00.

7. Adequate protection payments which are made through the Trustee shall be made 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.
8. If a Chapter 13 case is dismissed prior to confirmation, the Trustee shall make the pre-confirmation adequate protection payments proposed in the plan or as modified pursuant to Section 1326(a)(3), from any funds that were received on or before the date of the entry of the order of dismissal, provided that the creditors to receive such payments have filed a proof of claim that complies with Rule 3001 of the Federal Rules of Bankruptcy Procedure and the proof of claim has not been objected to by the debtor or the Trustee.

O. DEBTOR COMPLIANCE WITH CERTAIN FILING REQUIREMENTS OF 11

U.S.C. § 521. The debtor shall be required to file or produce the documents described in 11 U.S.C. § 521(a)(1)(B)(iv) only if requested in writing to do so by the Bankruptcy Administrator, the Trustee or a party in interest. If such a request is made, the requested documents shall be delivered to the party making the request within seven (7) days, but are not required to be filed with the Court. If the debtor does not comply with the written request within seven (7) days the failure to comply will constitute "cause" under 11 U.S.C. § 1307(c).

P. DEBTOR CERTIFICATION AT MEETING OF CREDITORS. At the Section 341 meeting of creditors, each debtor shall testify or execute a written certification under penalty of perjury stating the following:

1. whether the debtor is current on payment of all post-petition domestic support obligations as required by 11 U.S.C. § 1325(a)(8);
2. whether the debtor has complied with the tax return filing requirements of 11 U.S.C. § 1308(a); and
3. that the debtor's statement of his or her average income for the six month period before the month in which the petition was filed is consistent with the amount of income reflected on the payment advices or other evidence of payment received by the debtor from any employer of the debtor within 60 days before the petition date.

Q. ATTORNEY FEES AND EXPENSES.

1. *Presumptive Base Fee.* The presumptive base fee for debtor's attorneys in Chapter 13 cases filed electronically on or after the date of this order shall be \$4,500.00. The base fee in Chapter 13 cases covers the usual and ordinary services involved in representing the debtor

during the Chapter 13 case. Applications for approval of a base fee higher than the presumptive base fee must be filed by the debtor's attorney within forty-five (45) days of the conclusion of the Meeting of Creditors held pursuant to 11 U.S.C. § 341. If the total amount paid into the debtor's Chapter 13 plan will be less than \$6,000.00, the base fee will be capped at \$2,500.00.

2. *Attorney's Fees in Case Dismissed Prior to Confirmation.* Upon the entry of an order dismissing a Chapter 13 case prior to a plan being confirmed, counsel for the debtor shall have fourteen (14) days from the entry of the Order of dismissal within which to file an application for attorney's fees and expenses ("Post-Dismissal Application"). The Post-Dismissal Application shall be served upon the debtor, the Bankruptcy Administrator and the Trustee. The Trustee shall not make any disbursement until the 14-day period for filing the Post-Dismissal Application has expired. If a Post-Dismissal Application is timely filed, the Trustee shall continue to hold all funds on hand in trust pending further order of the Court.

3. *Non-Base Fees.* Services not covered by the presumptive base fee ("Non-Base Services") include the services set forth below along with the compensation deemed presumptively reasonable and allowable for such Non-Base Services:

- a. Motion for Authority to Sell Realty, \$350
- b. Motion for Authority to Refinance or Modify Mortgage, \$400
- c. Motion for Authority to Sell Personal Property, \$250
- d. Motion to Substitute Collateral, \$450
- e. Motion to Incur Indebtedness, \$250
- f. Motion to Modify Chapter 13 Plan, \$250
- g. Motion to Approve Special Counsel, \$250
- h. Motion to Deem Mortgage Current, \$350
- i. Objection to Mortgage Claim, \$400
- j. Motion or Adversary Proceeding to Value Real Property, \$500
- k. Motion for Hardship Discharge, \$250

If a request for the presumptive fee for a Non-Base Service is included in the pleading seeking relief, such compensation shall be allowable at the hearing on the pleading unless otherwise ordered by the Court; however, in the discretion of the Court, the Court may depart from the presumptive fee amount as may be reasonably warranted.

4. *Fees for Multiple Requests for Relief Based on Same Factual Predicate.* If two motions are made with the same factual predicate, such as a Motion to Modify Chapter 13 Plan made in connection with a Motion to Incur Indebtedness, the relief may be requested in a combined motion, and the presumptively reasonable and allowable aggregate compensation for the related motions, whether combined or not, shall be the higher of the presumptive fees for the related motions.

5. *Fees for Representation of Debtor in Adversary Proceedings.* Representation of the debtor in adversary proceedings constitutes a non-base service. With the exception of an

adversary proceeding to value real property as provided in paragraph Q.3.j. above, applications for approval of attorney's fees for representation of the debtor in an adversary proceeding must be filed by separate itemized application to the Court.

6. *Litigation Costs and Expenses.* When a representation agreement between the debtor and court-approved counsel requires debtor to pay litigation costs and expenses, if aggregate costs and expenses incurred in the representation total \$500.00 or less, no review or approval is necessary before such costs and expenses are paid. If such costs and expenses total between \$500.01 and \$2,500.00, an itemization of such costs and expenses must be presented to the Trustee for review and approval before the debtor pays any portion of such costs and expenses. If the total of such costs and expenses exceeds \$2,500.00, an itemization of such costs and expenses must be presented in a motion to the Court for review and approval before the debtor pays any portion of such costs and expenses. Neither the Debtor, nor the Debtor's bankruptcy estate shall be obligated for any costs and expenses in excess of those amounts authorized to be paid under this paragraph.

R. PROTECTION OF TAX INFORMATION. Federal tax returns filed with the Court by debtors in Chapter 13 cases shall be subject to the restrictions and procedures for safeguarding the confidentiality of tax information established by the Director of the Administrative Office of the United States Courts pursuant to § 315(c)(1) of the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005 (the "Restrictions and Procedures"), except that the Restrictions and Procedures shall not apply to the Bankruptcy Administrator or to the Trustee.

S. DISCLOSURE OF VALUATION METHOD. If a value is stated for property listed in Official Form B106A/B, the method of valuation used shall be stated in Official Form B106A/B.

T. TILL RATE OF INTEREST. The standing Chapter 13 trustees shall establish the presumptive rate of interest in accordance with *Till v. SCS Credit Corp.*, 541 U.S. 465 (2004). If the debtor is proposing a variance from this rate, the debtor or Trustee shall file a request for hearing on confirmation with the Court.

U. TREATMENT OF FUNDS FOLLOWING CONVERSION. In the event the debtor converts the case to a case under Chapter 7, the Trustee is authorized to retain possession of any funds collected but not yet disbursed at the time of conversion pending: (a) final determination as to whether the debtor converted the case in bad faith, and (b) final determination as to whether all or any portion of the collected but undisbursed funds constitute prepetition wages or property acquired by the debtor prepetition.

V. NOTICING COSTS. Trustees are authorized reimbursement for the Trustee's costs of noticing in a Chapter 13 case at the rate of one dollar (\$1.00) per notice and for actual certified mail noticing costs. Such noticing and mailing costs shall not be charged against the Trustee's statutory percentage fee. The Trustee shall maintain a record of all notices for which the Trustee will be reimbursed including the type of notice, the date of such notice, the amount of notices

mailed and the total amount the Trustee will be reimbursed for the notice. Detailed information regarding noticing costs shall be included in the Trustee's Final Report in each Chapter 13 case.

W. RECORDING NOTICE ON THE PUBLIC RECORDS. The Trustee is authorized to record on the public records any documents the Trustee deems advisable for the purpose of giving notice of the case.

IT IS FURTHER HEREBY ORDERED that the Court's prior March 11, 2016, Standing Order regarding procedures in aid of the administration of Chapter 13 cases and the Court's prior March 11, 2016, Amended Standing Order regarding terms and provisions incorporated into Chapter 13 confirmation orders each shall remain in full force and effect with respect to all Chapter 13 cases filed on or before November 30, 2017.

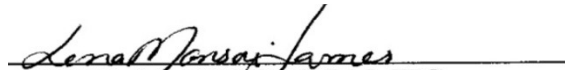
IT IS FURTHER HEREBY ORDERED that the Court's prior January 22, 2018, Standing Order regarding procedures in aid of the administration of Chapter 13 cases is VACATED.

IT IS FURTHER HEREBY ORDERED that this order shall remain in effect until otherwise ordered by the Court.

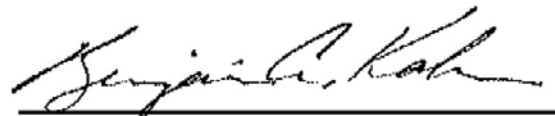
Dated this the 25th day of January, 2018.



Catharine R. Aron
United States Bankruptcy Judge



LENA MANSORI JAMES
United States Bankruptcy Judge



Benjamin A. Kahn
United States Bankruptcy Judge