

RULES

UNITED STATES BANKRUPTCY COURT FOR THE SOUTHERN DISTRICT OF OHIO



Effective August 1, 1991

**LOCAL RULES
UNITED STATES BANKRUPTCY COURT
FOR THE
SOUTHERN DISTRICT OF OHIO**

EFFECTIVE AUGUST 1, 1991

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION

IN RE:

ADOPTION OF AMENDED LOCAL BANKRUPTCY RULES OF THE
BANKRUPTCY COURT FOR THE SOUTHERN DISTRICT OF OHIO

In connection with a review of the Local Bankruptcy Rules during the past year, the Bankruptcy Judges of this district have received written comments from the bar. The comments were carefully considered by an advisory rules committee of the district. Such comments indicated areas in which improvement and clarification were desirable. The attached amended rules reflect the experience of the bar practicing under the rules, comments from members of the bar, extensive work of the advisory rules committee, and views of the Bankruptcy Judges of the district. Such rules have been approved and adopted by the District Court for the Southern District of Ohio.

The Amended Local Bankruptcy Rules for the Southern District of Ohio are adopted by the Bankruptcy Judges of this district on the _____ day of April, 1991, and shall become effective on the 1st day of August, 1991.

IT IS SO ORDERED.

BURTON PERLMAN
CHIEF U. S. BANKRUPTCY JUDGE

WILLIAM A. CLARK
U. S. BANKRUPTCY JUDGE

DONALD E. CALHOUN, JR.
U. S. BANKRUPTCY JUDGE

THOMAS F. WALDRON
U. S. BANKRUPTCY JUDGE

BARBARA J. SELLERS
U. S. BANKRUPTCY JUDGE

R. GUY COLE, JR.
U. S. BANKRUPTCY JUDGE

J. VINCENT AUG, JR.
U. S. BANKRUPTCY JUDGE

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**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF OHIO**

I. GENERAL PROVISIONS; VENUE; ASSIGNMENT OF CASES

1.0 SHORT TITLE

These Local Rules for the United States Bankruptcy Court for the Southern District of Ohio may be cited individually as "LBR _____", and are intended to facilitate local bankruptcy practice under the Federal Rules of Bankruptcy Procedure abbreviated herein as "Fed. R. Bankr. P."

1.1 EFFECTIVE DATE

The effective date of these rules is August 1, 1991. These rules shall govern all proceedings under Fed. R. Bankr. P. 7001 and matters under Fed. R. Bankr. P. 9014, in all cases filed after the effective date and in subsequent proceedings and matters in cases pending on the effective date, unless otherwise specifically ordered by the court.

1.2 APPLICABILITY OF RULES

These rules, together with the applicable Federal Rules of Civil Procedure and the Federal Rules of Bankruptcy Procedure, govern procedure in the United States Bankruptcy Court, Southern District of Ohio, and supersede all prior local rules. In the event of a conflict, the provisions of the applicable Federal Rules of Civil Procedure or Federal Rules of Bankruptcy Procedure shall govern.

Upon notice entered in a particular case, proceeding or matter, a Judge may temporarily suspend the applicability of any of these rules.

1.3 CONSTRUCTION OF RULES

Reference to statutes, regulations or rules shall be interpreted to include revisions and amendments made subsequent to the adoption of these rules. Reference to the clerk shall include the clerk of the United States Bankruptcy Court and any deputy clerk. References to Federal Rules of Bankruptcy Procedure are to those rules of procedure in bankruptcy cases adopted by the United States Supreme Court and any amendments or additional rules at such time as they are effective.

1.4 SANCTIONS FOR NON-COMPLIANCE WITH RULES

Failure to comply with any of these rules may result in the imposition of sanctions against any party in interest or such party's counsel appearing before the court, any person appearing without counsel, any person acting in a fiduciary capacity, or any other professional person appointed by the court, and the debtor. Upon notice and hearing, sanctions may be imposed when it is determined that non-compliance with these local bankruptcy rules, or other applicable rules or statutes, has obstructed the effective conduct of the business of the court.

Such sanctions may include, without being limited to, the following:

- (a) all or part of a pleading being stricken or a defense being disallowed;
- (b) stay of further proceedings;
- (c) all or part of an order being vacated;
- (d) dismissal of a case or adversary proceeding;
- (e) the imposition of costs and expenses, including where appropriate, attorney's fees, upon the party and the attorney failing to comply with the requirements of these local bankruptcy rules.

1.5 AMENDMENTS AND REVISIONS

This court may adopt amendments or revisions to these local bankruptcy rules. Any such amendments and revisions shall be posted in the clerk's office in Cincinnati, Columbus and Dayton, and published in a newspaper of general circulation in Cincinnati, Columbus and Dayton, and shall contain the text of the amendments or additional rules and their effective date.

1.6 VENUE

The United States Bankruptcy Court for the Southern District of Ohio is the proper venue for cases and proceedings at each indicated city:

EASTERN DIVISION: COUNTIES:

Columbus	Athens, Belmont, Coshocton, Delaware, Fairfield, Fayette, Franklin, Gallia, Guernsey, Harrison, Hocking, Jackson, Jefferson, Knox, Licking, Logan, Madison, Meigs, Monroe, Morgan, Morrow, Muskingum, Noble, Perry, Pickaway, Pike, Ross, Union, Vinton, Washington
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WESTERN DIVISION: COUNTIES:

Cincinnati	Adams, Brown, Butler, Clermont, Hamilton, Highland, Lawrence, Scioto, Warren
Dayton	Butler, Champaign, Clark, Clinton, Darke, Greene, Miami, Montgomery, Preble, Shelby, Warren

NOTE: BUTLER COUNTY AND WARREN COUNTY CASES MAY BE FILED IN EITHER CINCINNATI OR DAYTON

The Cincinnati court holds regularly scheduled proceedings in the cities of Cincinnati and Portsmouth, Ohio. The Columbus court holds regularly scheduled proceedings in the cities of Columbus, Steubenville and Zanesville, Ohio. The Dayton court holds regularly

scheduled proceedings in the city of Dayton, Ohio. The mailing addresses and telephone numbers to which all inquiries and filings must be directed are: for Cincinnati, United States Bankruptcy Court, 735 United States Post Office Building, Fifth and Walnut Streets, Cincinnati, Ohio, 45202, (513) 684-2574; for Columbus, United States Bankruptcy Court, 124 United States Courthouse, 85 Marconi Boulevard, Columbus, Ohio, 43215, (614) 469-6637; for Dayton, United States Bankruptcy Court, The Federal Building, 200 West Second Street, Dayton, Ohio, 45402 (513) 225-2516.

1.7 COMPANION CASES AND THEIR FILING

If venue is otherwise proper in the Southern District of Ohio, a petition involving a companion case may be filed at the court location where the first related case was filed. Companion cases are those involving:

- Identical individuals or entities;
- A corporation and any major shareholder thereof;
- Affiliated corporations;
- A partnership and any of its general partners;
- An individual and his or her general partner or partners;
- An individual and his or her spouse;
- Any substantial identity of financial interests or assets.

1.8 ASSIGNMENT OF CASES AND PROCEEDINGS

Proceedings and matters arising in or related to a case shall be assigned to the Bankruptcy Judge to whom the case is assigned.

In the event of the absence of a Bankruptcy Judge from the judge's office or court, any other Bankruptcy Judge at the absent judge's court location or, if no other Bankruptcy Judge is available at the absent judge's court location, then any other Bankruptcy Judge of the district who is available, may act temporarily for the absent Bankruptcy Judge and determine any matter in a case or proceeding assigned to the absent Bankruptcy Judge.

II. THE FORM AND FILING OF DOCUMENTS

2.0 ALL FILINGS WITH CLERK

All petitions, motions, applications or other pleadings shall be filed with the clerk. The clerk shall accept any document duly presented for filing, except that the clerk may refuse to accept for filing a document not bearing a certificate of service required by these local bankruptcy rules or any discovery document presented in violation of LBR 5.7(b). All pleadings presented to the clerk's office for filing shall be time stamped.

2.1 FORM OF PETITIONS

All petitions filed in bankruptcy cases shall comply with the appropriate Official Bankruptcy Form and shall state the petitioner's county of venue. The debtor's address

shall include the domicile address, as well as the mailing address, with the typewritten name of the attorney for the debtor, registration number, full address, zip code and business telephone number.

2.2 FORM OF PLEADINGS, MOTIONS AND APPLICATIONS

Pleadings and other papers shall be typewritten or printed legibly on 8 1/2" by 11" bond paper and shall be double spaced with appropriate side margins and a top margin of not less than one inch. They shall be offered for filing without folding or backing, suitable for flat filing. Forms approved by this court or approved for use in Federal courts are exempt from these requirements. Original documents attached or offered as exhibits are exempt from these requirements, provided that all exhibits shall be neatly bound; and, whenever possible, reduced or folded to an 8 1/2" by 11" size; and, if they are not attached to the pleadings and other papers, they shall be designated by the caption of the case and the case number. All pleadings shall be signed by the case attorney, and shall include the case attorney's typewritten name, registration number, full address, zip code and business telephone number.

Except for an original petition, all pleadings, other papers and exhibits in a case shall contain the case number, shall be identified by a title which shall contain the name and party designation of the person filing it, the chapter under which the case is filed and the nature of the pleading or paper. The name of the judge to whom the case is assigned shall be placed in parentheses below the case number.

All pleadings and proposed orders shall clearly and specifically include in the caption a statement of the nature of the document, and the relief requested or granted. For example:

In re:	Case No. 3-83-00011
	Chapter ____ (Judge _____)
Richard Roe	
Debtor	
	* * * *
Mary Smith	Adversary No. 3-83-0023
Plaintiff	DEFENDANT JOHN SMITH'S
	ANSWER TO AMENDED COMPLAINT
v.	
John Smith	
Defendant	

In re: Case No. 3-83-00011
Chapter ____ (Judge _____)
Richard Roe
Debtor MOTION OF DEBTOR FOR
AUTHORITY TO COMPROMISE
CLAIMS AGAINST ABC, INC.

In re: Case No. 3-83-00011
Chapter ____ (Judge _____)
Richard Roe
Debtor MOTION OF CREDITOR XYZ
FOR RELIEF FROM STAY

In re: Case No. 3-83-00011
Chapter ____ (Judge _____)
Richard Roe
Debtor APPLICATION FOR APPOINTMENT
AS ATTORNEY FOR DEBTOR IN
POSSESSION

In re: Case No. 3-83-00011
Chapter ____ (Judge _____)
Richard Roe
Debtor ORDER GRANTING CREDITOR
XYZ's MOTION FOR RELIEF
FROM STAY

In re: Case No. 3-83-00011
Chapter ____ (Judge _____)
Richard Roe
Debtor TRUSTEE'S OBJECTION TO
PROOFS OF CLAIM OF JOHN JONES

All documents requiring the signature of the court must be submitted as a separate document and not combined with any other document. The signature shall be identified as follows:

UNITED STATES BANKRUPTCY JUDGE

The signature line for the Bankruptcy Judge shall not appear on a continuation page which is otherwise blank or contains only the name and case number referred to above, or only the words "So Ordered", or an equivalent.

2.3 COPY REQUIREMENTS OF PETITIONS

At all court locations, copies of the petition required to be filed in this district under Fed. R. Bankr. P. 1002 and copies of all schedules, statements and lists required to be filed pursuant to Fed. R. Bankr. P. 1007 shall be:

- (a) an original and three copies for chapters 7, 12 and 13; and
- (b) an original and four copies for chapters 9 and 11.

2.4 CHANGE OF ADDRESS OF DEBTOR, PARTY, OR ATTORNEY

Should the address of the debtor or any party or attorney in the case change during the pendency of such case, that person shall immediately notify, in writing, the clerk, trustee, the United States Trustee, attorney for debtor and chairperson of any committee appointed in the case and its counsel, if counsel is employed pursuant to an order of the court. A failure to comply with this rule may result in appropriate sanctions.

2.5 OPTICAL CHARACTER READER MAILING LIST

(a) The debtor shall file a mailing list in a format prescribed by the clerk for scanning by an optical character reader containing the names and post office addresses, including zip codes, of the debtor's creditors, equity security holders, the United States Trustee in chapter 7, 11 and 12 cases, at the time of filing of a petition in a voluntary case, or not later than fifteen (15) days after the entry of an order for relief in an involuntary case, unless, on application for cause shown on notice to any other party designated by the court, the court extends the time. The mailing list shall be verified or contain an unsworn declaration on a separate page. Any amendment to the debtor's schedules which amends, deletes or adds to any of the information contained in the original mailing list shall be accompanied by an amended or supplemental mailing list.

(b) All chapter 7, 11, 12 and 13 cases filed with the clerk which contain 100 or more creditors and parties in interest will be entered into the Bankruptcy Automated Noticing System computer terminals by the use of a magnetic tape listing which will be provided by the debtor. Said magnetic tape listing shall be submitted five (5) working days after the petition is filed and shall contain the same information as required for a mailing list in (a) above.

2.6 PAYMENT OF FEES AND CHARGES

(a) **Scheduled Fees Are Statutory.** All filing fees and other scheduled fees and charges, including fees for conversion of cases and reopening of cases, shall be paid as required by 28 U.S.C. §1930.

(b) **Manner of Payment.** All checks for payment of filing fees and other scheduled clerk's fees and charges shall be made payable to the "Clerk, U. S. Bankruptcy Court", and shall be paid by a law firm check, certified check, cashier's check, money order or cash. All payments shall be in the exact amount of such fees and charges. Payment of quarterly fees due the United States Trustee pursuant to 28 U.S.C. §1930(a)(6) shall be made payable to "United States Trustee" and shall be sent to the address designated by the United States Trustee.

2.7 ORIGINALS AND COPIES OF DOCUMENTS - LEGIBILITY

A copy of any original document or copies of documents permitted or required to be filed in any case or proceeding must be legible or it may be stricken by the court on its own motion or that of any party in interest. If a document does not copy in a readable manner, the original or a copy of the original, together with a clearly typed attached facsimile, shall be filed and shall contain counsel's certification that the typed facsimile contains, to the extent possible, the exact information set forth on the original document.

III. CASE ADMINISTRATION

A. GENERAL

3.0 CORPORATE OR PARTNERSHIP FILING OF BANKRUPTCY CASES

(a) No corporation or partnership shall file a bankruptcy petition unless it is represented by an attorney.

(b) A copy of the corporate or partnership resolution or other appropriate authorization, duly attested to, authorizing the filing of a voluntary petition shall be filed by the debtor with the petition.

3.1 AMENDMENTS TO SCHEDULES

(a) When the debtor amends schedules to add or make any change concerning any creditor or party in interest, the debtor's attorney shall serve a copy of the amendment on the trustee, the United States Trustee, and the creditor or party in interest concerned. If the amendment adds one or more creditors, the debtor also shall serve a copy of the order for meeting of creditors on each newly added creditor. Any amendment must comply with the requirements as to the number of copies for an original filing. The debtor shall file a certificate of service as to service of any amendment or order for meeting of creditors required by this rule.

(b) If the petition is filed without Schedules or Statement of Financial Affairs, when such Schedules or Statement are filed, they shall be accompanied by one of the following:

(1) An amendment to the list of creditors with the unsworn declaration of the debtor(s) which consists only of the names and post office addresses, including zip codes, of all creditors in the schedules or statement which did not appear in, or appeared with a different name or address in, the original list of creditors filed with the petition; or

(2) A certification, signed by the case attorney for the debtor(s) or by the debtor(s) if not represented by an attorney, that the schedules or statement do not contain any creditors in addition to or different from those named in the list of creditors filed with the petition.

(c) If Schedule C, Property Claimed as Exempt, is amended, the debtor's attorney shall serve a copy of the amendment on the trustee and the United States Trustee and shall file a certificate of service. Objections to the amended claim of exemption shall be filed within thirty (30) days from the date of such service.

(d) When a debtor amends any schedule, statement or list required by Fed. R. Bankr. P. 1007, the debtor's attorney shall serve a copy thereof on the trustee and the United States Trustee and shall file a certificate of service.

(e) All amendments of schedules, or any statement or list required to be filed by Fed. R. Bankr. P. 1007, shall be verified or contain the debtor's unsworn declaration, pursuant to Fed. R. Bankr. P. 1008.

(f) When filing an amended list of creditors, the debtor shall provide a mailing list of the added creditors in a format prescribed by the clerk for scanning by an optical character reader.

3.2 DEBTOR'S DUTY TO SUPPLY INFORMATION TO THE TRUSTEE

(a) The debtor shall comply promptly with all trustee requests for additional information whether oral or written. Not later than twenty (20) days after service of any written request on debtor and debtor's counsel, debtor shall:

(1) serve on the trustee the information and/or documents requested; or

(2) serve on the trustee and file a written motion for a protective order, stating the grounds for the motion and requesting a hearing.

(b) The trustee shall not file a copy of a request for information with the court unless the debtor fails to comply with this rule and the trustee or any other party in interest requests the court to compel compliance.

(c) The debtor shall not file a copy of a response to a request for information with the court unless it is in the form of amendments to schedules, the statement of affairs or other statements or lists required to be filed by Fed. R. Bankr. P. 1007, or unless the debtor is otherwise required to do so.

3.3 CONTINUANCE OF SECTION 341 MEETINGS

(a) Because the conduct of §341 meetings is the responsibility of the United States Trustee, any request for a continuance of a §341 meeting shall in the first instance comply with the requirements prescribed by the United States Trustee.

(b) Only if the request directed to the United States Trustee is denied may the party whose request was denied move that the court grant a continuance. The memorandum accompanying any such motion must state the steps taken to secure a continuance from the United States Trustee.

3.4 PERSON(S) TO ACT WHEN DEBTOR IS NOT A NATURAL PERSON

(a) The natural persons occupying the following positions shall be responsible for any and all acts required by the Bankruptcy Code or the Federal Rules of Bankruptcy Procedure to be performed by a debtor corporation or partnership and shall attend on behalf of the debtor any examination, meeting or hearing unless the court orders otherwise.

(1) If the debtor is a corporation, the person serving as its chief executive officer, or the person who most recently served in that capacity if no such person is serving in that capacity as of the date of the petition. (The person occupying, or who most recently occupied, the position of president is presumed to be chief executive officer.)

(2) If the debtor is a partnership;

(A) an individual who is a general partner; or

(B) an individual who is the chief executive officer of a corporation which is a general partner; or

(C) an individual who bears the relationship described in subparagraphs (A) and (B) above to a partnership which is a general partner of the debtor.

(b) With the filing of the petition in a voluntary case, and no later than fifteen (15) days after entry of the order for relief in an involuntary case, the natural person or persons who occupy the positions designated in LBR 3.4(a) above, shall be identified by name and title in the petition or in a pleading filed in the court.

(c) If any party in interest or any person designated pursuant to LBR 3.4(a) and (b) deems any person so designated inappropriate, motion shall be made to the court for relief from this rule and for the designation of some other natural person or persons. A copy of the motion shall be served upon the debtor, the trustee, the United States Trustee, debtor's counsel, all persons so designated and the person or persons whom the applicant suggests should be so designated, and a certificate of service shall be filed.

3.5 REPORT OF SALE

(a) Unless otherwise ordered by the court, all proceeds of a sale shall be paid directly to the trustee, if a trustee is serving in the case, or if no trustee is serving in the case, to the debtor in possession, or as otherwise ordered by the court. No disbursement of proceeds shall be made without a specific order of the court authorizing the disbursement.

(b) Unless otherwise ordered by the court, within twenty (20) days after the sale of any property not in the ordinary course of business, and prior to disbursement of any proceeds of sale, the trustee or debtor in possession shall file with the court and serve upon the United States Trustee a report of the sale. This report shall include:

- (1) an itemized statement of the property sold;
- (2) the price realized for each item or lot;
- (3) the name of the purchaser of each item;
- (4) the date, time and place of sale;
- (5) a calculation of the compensation allowable under the order of appointment;
- (6) a statement of the expenses of sale; and
- (7) a certificate of service, showing service on the United States Trustee.

(c) This rule does not apply to chapter 13 cases.

3.6 UNCLAIMED FUNDS

All unclaimed funds received by the court pursuant to Fed. R. Bankr. P. 3010(a) shall be immediately deposited with the United States Treasury and not into a Registry Account of the court.

3.7 ABANDONMENT OF PROPERTY OF THE ESTATE

(a) Obtaining Abandonment

(1) When a party requests an abandonment and follows the notice procedure hereafter prescribed, and no objection has been filed, that party shall prepare and submit to the trustee an abandonment document for execution and delivery, which the trustee shall execute within ten (10) days of its receipt.

(2) A party unable to secure an abandonment from a trustee who then proceeds pursuant to 11 U.S.C. §554(b) shall, pursuant to Fed. R. Bankr. P. 6007(b), and subject to the notice procedure hereafter prescribed, file a motion for abandonment.

(3) The trustee may execute abandonments until the case is closed.

(b) Notice Procedure

(1) Chapter 7 Cases

(A) In §341 Meeting Notice. In a chapter 7 proceeding only, the §341 meeting notice shall inform creditors and other parties in interest that the trustee may abandon property listed on the debtor's schedules upon the request of any party in interest or upon the trustee's determination that there is no equity in the property for the benefit of unsecured creditors, and that the property is burdensome. The §341 meeting notice shall also provide that further notice to creditors and other parties in interest is not required for the abandonment of any property unless a party in interest, before the conclusion of the §341 meeting, files a request for further notice of abandonment, or unless further notice is ordered by the court or required by the trustee.

(B) Further Notice of Proposed Abandonment. In a chapter 7 proceeding, if further notice of proposed abandonment is required, the party proposing the abandonment shall give such further notice to the party in interest filing the request for such notice, or to any party ordered by the court, or required by the trustee, to receive such further notice.

(2) Chapter 11, 12 and 13 Cases. In chapter 11, 12 and 13 proceedings, unless otherwise ordered by the court, notice of any proposed abandonment shall be given to the debtor and the debtor's attorney and to all creditors and parties in interest as the court may order or as the trustee may determine.

(3) Certificate of Service. Any notice under (1)(B) or (2) hereof shall contain a certificate of service, indicating that the appropriate parties have been served, and such certificate shall be filed with the clerk of the Bankruptcy Court. Upon request, the clerk shall provide to the party proposing the abandonment a copy of the matrix or equivalent list of creditors and parties in interest in the case.

(4) Contents of Notice. Notice pursuant to (a)(2) or (b) hereof shall contain:

(A) A description of the property, and if it is real property, its designated address, if the property has an address.

(B) A statement of the present fair market value of the property or an explanation why the statement is unnecessary or unavailable.

(C) A statement of the payoff amounts of any encumbrances on the property as of the date of the filing of the notice or motion, or an explanation why the statement is unnecessary or unavailable.

(D) A statement that a written objection to the proposed abandonment, together with a request for hearing, must be filed with the court and served on the trustee, the debtor, debtor's counsel and the party proposing abandonment, no later than twenty (20) days from the date of service of the notice or the property may be abandoned without further notice.

(E) The original notice pursuant to (b)(1)(B) or (b)(2) of this rule filed with the court and the copy served on the trustee shall contain copies of all

documents by which any encumbrances against the property were created or perfected, or an explanation why the copies are unnecessary or unavailable. The copy of such notice forwarded to creditors shall contain a statement that said copies or explanation are on file with the court and available for review by interested parties.

3.8 REOPENING CASES

(a) A case may be reopened on motion of the debtor or other party in interest pursuant to 11 U.S.C. §350(b) and Fed. R. Bankr. P. 5010. The motion shall specifically set forth the basis for the proposed reopening and information which would demonstrate that the proposed reopening is to correct an administrative error, for actions related to the debtor's discharge, or for some other reason. The movant shall pay a filing fee at the time of filing a motion to reopen, unless the movant or counsel certifies that the purpose of the reopening is to correct an administrative error or relates to the debtor's discharge.

(b) The movant shall serve a copy of the motion and a proposed order on the former trustee, on the United States Trustee and any affected person and shall file a certificate of service. Any response shall be filed within twenty (20) days from the date set forth on the certificate of service. In any chapter 7, 12 or 13 case, the proposed order shall contain blank spaces in which the court may enter its determination of whether or not a trustee must be appointed.

(c) Unless the court orders otherwise, the case shall be reopened only for the limited purposes set forth in the motion and order.

3.9 FINAL HEARING

Notice of the Trustee's Final Account and Application for Professional Fees in chapter 7 cases shall be made by the clerk to all parties in interest. Unless the court orders otherwise, in the event there are no objections to the Final Account and Application for Professional Fees, or no request for hearing, the court may enter an order approving the Final Account and Application for Professional Fees without holding an actual hearing. All objections or requests for hearing shall be filed with the court and served on the trustee within twenty (20) days of the notice.

B. CHAPTER 7 ADMINISTRATION

3.10 ENFORCEMENT OF DEBTOR'S STATEMENT OF INTENTION

In the event the debtor fails to comply with 11 U.S.C. §521(2), any creditor or party in interest, within thirty (30) days after the expiration of the forty-five (45) day period prescribed by 11 U.S.C. §521(2)(B), may file with the court and serve upon the debtor, the debtor's attorney and the trustee a motion for sanctions in which the movant advises the court of the debtor's failure to comply with 11 U.S.C. §521(2) and requests that the debtor be ordered by the court to comply promptly. The court may issue an order to show cause to the debtor, and thereafter may issue an order providing for appropriate sanctions

for the failure of the debtor to comply with that statute.

C. CHAPTER 11 ADMINISTRATION

3.11 OPERATING REPORTS

The trustee or debtor in possession in a chapter 11 case shall file written reports of the financial condition of the estate at such times, containing such information, and in such form as is reasonably prescribed by the United States Trustee.

3.12 SCHEDULE OF CONTINGENT, UNLIQUIDATED OR DISPUTED CLAIMS

Within fifteen (15) days after the filing of a petition or the entry of an order for relief under chapter 11, the debtor in possession shall file a schedule listing separately those creditors whose claims are contingent, unliquidated or disputed, which shall include the name and address of each such creditor, the amount claimed by each such creditor, the basis of the claim, and a brief statement of the reason the claim is considered contingent, unliquidated or disputed. The schedule shall be accompanied by a certificate of service indicating that it has been served by the debtor upon all creditors listed in the schedule and upon the United States Trustee.

3.13 BAR DATE FOR FILING CHAPTER 11 PROOF OF CLAIM OR INTEREST

(a) Unless otherwise ordered by the court, any proof of claim required by the Code to be filed in a chapter 11 case shall be filed by the later of: (1) ninety (90) days after the first date set for the §341 Meeting of Creditors, or (2) ninety (90) days after the filing of any amendment to the schedules which adds a creditor to the case, as to any creditor so added. An unsecured claim which arises in favor of a person or becomes allowable as a result of a judgment may be filed within thirty (30) days after the judgment becomes final if the judgment is for the recovery of money or property from that person or denies or avoids the person's interest in property. If the judgment imposes a liability which is not satisfied, or a duty which is not performed within such period or such further term as the court may permit, the claim shall not be allowed. A claim arising from the rejection of an executory contract of the debtor may be filed within the time as the court may direct.

(b) The court may not excuse compliance with this rule unless, prior to the expiration of the ninety (90) day period, (1) a party required to file a claim files a motion to excuse compliance with this rule and establishes good cause for not complying; or (2) the debtor files a motion for enlargement of the ninety (90) day period and establishes good cause therefor.

3.14 ENLARGEMENT OF EXCLUSIVITY PERIOD TO FILE PLAN

(a) A debtor wishing to enlarge the exclusivity period for filing a plan contained in 11 U.S.C. §1121, within the respective periods specified in that section, shall file a motion. The motion shall contain:

(1) the latest operating report required under LBR 3.11 or a brief description of the procedural status of the case, including the date of the filing of the petition and a recitation of any previous extensions of time to file a plan;

(2) the reason the debtor requests an extension of time;

(3) whether a committee appointed under the Bankruptcy Code has consented to the enlargement of time; and

(4) the length of time for which an enlargement is sought.

(b) All such motions shall be accomplished by a proposed order granting the enlargement of time, which shall contain a provision that all creditors and parties in interest shall have twenty (20) days within which to file objections to the enlargement. A copy of the motion shall be served promptly by the debtor upon counsel, chairpersons or all members of any committee appointed under the Bankruptcy Code or, if no committee has been formed, upon the twenty (20) largest unsecured creditors, and upon the United States Trustee. A certificate of service shall be filed.

3.15 CERTIFICATION OF ACCEPTANCES AND REJECTIONS OF CHAPTER 11 PLANS

(a) The proponent of a plan shall file, with the proposed disclosure statement, the form of the ballot clearly marked "draft" to be circulated for acceptance or rejection of the plan.

(b) Upon approval of the form of the ballot and of the disclosure statement, the proponent of the plan shall circulate ballots for acceptance or rejection of the plan to creditors. The ballots shall contain the address of the plan proponent and shall specify that the original of the completed ballots are to be filed with the clerk and a copy returned to the attorney for the proponent of the plan.

(c) Prior to or at the hearing on confirmation, the proponent of a plan shall certify to the court the amount and number of allowed claims of each class accepting or rejecting the plan and the amount of allowed interests of each class accepting or rejecting the plan. The original certification shall be filed with the clerk of the Bankruptcy Court. A copy of the certification shall be served on the debtor, debtor in possession, trustee, if any, and any creditors' or equity security holders' committee appointed pursuant to the Code or on the chairperson and counsel for those committees and upon the United States Trustee. The court may find that the plan has been accepted or rejected on the basis of the certification.

3.16 PAYMENT OF SPECIAL CHARGES AND FEES IN CHAPTER 11 CASES

All special charges and fees, such as adversary proceeding fees, noticing fees, copy fees, certified copy fees, proofs of claim fees, due and owing at the time the plan is to be confirmed, shall be paid to the clerk of the United States Bankruptcy Court before an order of confirmation of the plan is approved and entered.

3.17 POST-CONFIRMATION PROCEDURES IN CHAPTER 11 CASES

(a) Thirty (30) days after entry of an order of confirmation and every one hundred eighty (180) days thereafter, or within such other time as the court may direct, the debtor or such other party as the court designates shall file a report or reports with the clerk and shall serve a copy on any creditors' or equity security holders' committee appointed in the case pursuant to the Code, which report or reports shall set forth the actions taken and the progress made toward the consummation of the plan.

(b) One year from the date of the entry of an order confirming a chapter 11 plan of reorganization, the court may notify all parties in interest that a final decree may be entered in the case thirty (30) days from the date of the notice unless a party in interest objects to the entry of the final decree. If objection is timely made, the court shall conduct an appropriate hearing and shall serve all parties in interest with any order resolving the objection.

(c) Any objection to the entry of the final decree shall be filed with the clerk and served upon the debtor, any committee appointed in the case pursuant to the Bankruptcy Code, the proponent of the plan that was confirmed in the case, and any other party that the court may designate.

D. CHAPTER 13 ADMINISTRATION

3.18 CHAPTER 13 PROCEDURE

The court in Cincinnati, Columbus and Dayton may each promulgate such rules for the governing of chapter 13 proceedings as it may deem appropriate. Such additional rules may be found as an appendix to these local bankruptcy rules.

E. CHAPTER 12 ADMINISTRATION

3.19 (reserved)

IV. ATTORNEYS; TRUSTEES; PROFESSIONALS

4.0 ADMISSION TO THE BAR and DISCIPLINARY ENFORCEMENT

Admission to practice in the United States District Court for this district shall constitute

admission to practice in the Bankruptcy Court for this district. The Code of Professional Responsibility adopted by the Ohio Supreme Court, as amended from time to time, applies in the Bankruptcy Court. Disciplinary enforcement of the conduct of attorneys shall be as provided in Rule 2.6 of the Rules of the United States District Court for the Southern District of Ohio, as that rule may from time to time be amended.

4.1 CASE ATTORNEY

(a) Designation and Qualification of Case Attorney. Unless otherwise ordered by the court, in all cases and adversary proceedings filed in, referred to, transferred to or removed to this court, all parties not appearing *pro se* shall be represented by a "case attorney" who is a member in good standing of the United States District Court for this district, or who is a member in good standing of the highest court of a state, has been admitted to practice in a United States District Court, and maintains an office for the practice of law either within the State of Ohio or within 100 miles of the location of the court at Cincinnati, Columbus or Dayton.

(b) Duties and Responsibilities of Case Attorney. The case attorney shall have ultimate responsibility and accountability for all matters arising in the bankruptcy case or adversary proceeding in which the case attorney's client is named or otherwise appears.

(c) Participation by Co-Counsel. Any member in good standing of the Bar of any United States District Court or the highest court of any state, who is not otherwise eligible to become a member of the Bar of this court under paragraph (a) above, may be permitted to appear and participate as co-counsel upon motion of the case attorney for the party. Such permission may be withdrawn at any time.

(d) Service. All notices and communications from the court and all documents required to be served on other parties by these rules, the Federal Rules of Civil Procedure and the Federal Rules of Bankruptcy Procedure, shall be served on the case attorney. The attorney shall be responsible for notifying co-counsel or designated counsel of all matters arising in the case or proceeding.

(e) Substitution or Withdrawal of Case Attorney. The substitution or withdrawal of a case attorney shall be permitted only:

(1) Upon filing with the court and service on all other parties of a notice of a substitution of attorney signed by the withdrawing attorney, the client and a substitute attorney (except that the client's signature is not required if the withdrawing attorney is a member of the same partnership or legal professional association as the attorney to be substituted and affirmatively states that the substitution is made with the client's knowledge and consent), or

(2) Upon written application for substitution or withdrawal served upon the client, a showing of good cause and upon such terms as the court shall impose.

Unless otherwise ordered, an attorney shall not be permitted to withdraw from a case

or proceeding at any time later than twenty (20) days in advance of a trial or hearing on any matter. Unless otherwise ordered, the substitution of an attorney shall not serve as the basis for a postponement of any trial or hearing.

(f) *Pro Se* Designations. Unless the court otherwise orders, a person appearing *pro se* who is a resident of the Southern District of Ohio shall include with his or her initial filing the person's current mailing address, including zip code, and telephone number. A new designation must be filed with the court and served on all parties in interest in the event of any change in the mailing address or telephone number of the person appearing *pro se*. Unless otherwise ordered by the court, a person appearing *pro se* who is not a resident of the Southern District of Ohio shall designate an address within the Southern District of Ohio where service of papers may be made. Neither corporations nor partnerships may appear *pro se*.

(g) The requirements of this rule may not be waived except upon written application and order of the court.

4.2 TRUSTEE CONFLICTS OF INTEREST

(a) A trustee in a case under any chapter of the Bankruptcy Code shall review the statement of affairs and schedules immediately upon receipt thereof from the clerk. If service as an interim trustee or trustee would result in an actual or apparent conflict of interest for whatever reason, the trustee shall notify the court and the United States Trustee in writing within five (5) days of such receipt and shall decline to accept the appointment, or shall file an appropriate motion.

(b) If an actual or apparent conflict of interest develops after a trustee or interim trustee commences service in a case under any chapter of Title 11, United States Code, the trustee or interim trustee shall bring the matter to the attention of the court immediately by an appropriate motion, which shall be served upon the United States Trustee, the debtor and debtor's attorney.

(c) A party in interest in a case under any chapter of Title 11, United States Code, may bring a trustee's or interim trustee's actual or apparent conflict of interest to the attention of the court at any time by an appropriate motion, which shall be served upon the United States Trustee, the debtor and debtor's attorney.

4.3 APPOINTMENT OF PROFESSIONALS

(a) A trustee or debtor in possession pursuant to 11 U.S.C. §327 or committee appointed under the Code pursuant to 11 U.S.C. §1103 requesting the appointment of a professional person shall apply to the Bankruptcy Court for appointment of such professional person in accordance with this rule, and any such person appointed shall be subject to the jurisdiction of the Bankruptcy Court for approval of all fees. The application for appointment shall contain the information required by paragraph (b) below and shall be accompanied by an affidavit executed by the professional person containing the disclosures required by paragraph (c) below and by a proposed order granting the application.

(b) Any application for appointment as a professional shall conform generally to Fed. R. Bankr. P. 2014 and shall further state (1) the professional's customary and proposed hourly rates of compensation, or other formula for determining compensation, (2) the amount, date paid, and source of any fees paid to the applicant from a period of thirty (30) days prior to the filing of the petition through the time of application, and (3) the amount, date paid, and source of retainer sought or received by the professional within such period.

(c) The affidavit or verified statement of the professional person which accompanies the application for appointment, in addition to the requirements set forth in Fed. R. Bankr. P. 2014, shall set forth any past or present relationship of the debtor, the trustee, or any creditor or equity security holder of the debtor; establish the lack of any adverse interest to the estate, and establish that the proposed employment is not prohibited by or improper under Fed. R. Bankr. P. 5002.

(d) Any application for appointment of a professional person in a chapter 11 or chapter 12 case shall be served upon the United States trustee, and applications for appointment of a professional person, other than for the appointment of an attorney to represent generally the debtor in possession in chapter 11 or chapter 12, shall additionally be served upon the debtor in possession, the trustee, on any committee appointed under the Bankruptcy Code, or the twenty (20) largest unsecured creditors as scheduled in the original or amended list filed under Fed. R. Bankr. P. 1007(d), if no committee has yet been appointed, and on the case attorney for each of those parties. Any application for employment of a professional person in a chapter 7 case shall be served upon the debtor, the United States Trustee, the trustee, a committee elected pursuant to 11 U.S.C. §705 and the case attorney for each of those parties. All such applications so served shall contain a certificate of service containing the information required in LBR 5.0(c).

(e) Any trustee, debtor in possession, or any committee appointed under the Bankruptcy Code seeking to employ a professional person in a collateral proceeding in state court, other federal court, or in any other area requiring special representation shall apply to the Bankruptcy Court for appointment of such professional person in accordance with this rule. The professional person so appointed shall be subject to the jurisdiction of the Bankruptcy Court for approval of all fees and reimbursement of expenses. The application for appointment shall contain the information required by paragraph (b) above and shall be accompanied by the professional's affidavit or verified statement containing the disclosure required by paragraph (c) above.

4.4 COMPENSATION FOR SERVICES AND REIMBURSEMENT OF EXPENSES FOR PROFESSIONALS

(a) Except as otherwise provided for by LBR 4.5 or otherwise ordered by the court, any professional seeking interim or final compensation for services and reimbursement of expenses under 11 U.S.C. §§330, 331, or 503(b)(2) or (4), shall file an application for compensation and reimbursement of expenses. The application shall conform generally to Fed. R. Bankr. P. 2016 and shall also include:

- (1) the time period during which services were performed;

(2) a copy of any contract or other document reciting the terms and conditions of employment and compensation;

(3) a copy of any order authorizing employment;

(4) the date and amount of any retainer, partial payment or prior allowance;

(5) an itemization of actual necessary expenses incurred;

(6) a specific description of services performed and a statement of the total time spent performing the services;

(7) an itemization of services need not be provided if the aggregate amount of compensation being requested by the professional is less than \$500.00 in a chapter 7 case or \$1,000.00 in a chapter 11 or chapter 12 case.

(b) Any application for compensation by co-counsel shall specify the separate services rendered by each counsel and contain a certificate that no compensation is sought for unnecessarily duplicative services.

(c) The application for compensation filed by the chapter 7, chapter 11 or chapter 12 trustee shall state:

(1) the total amount received in the estate;

(2) all prior distributions from the estate;

(3) the balance of funds remaining in the estate at the time of the application;

(4) the amount available for distribution to priority and general unsecured creditors and the dividend, expressed as a percentage, if the requested compensation and other requested administrative expenses are allowed in the amounts requested;

(5) the requested compensation as a dollar amount;

(6) the calculation of the maximum compensation allowable under 11 U.S.C. §326(a) as a dollar amount; and

(7) a summary of the duties performed by the trustee.

(d) An application for compensation and reimbursement of expenses shall be served on the debtor in possession, the United States Trustee, the trustee, any committee appointed under the Bankruptcy Code and the case attorney for each of those parties.

4.5 APPOINTMENT OF AND LIMITATION ON COMPENSATION AND EXPENSES OF APPRAISERS, AUCTIONEERS AND REAL ESTATE AGENTS

(a) Appointments

(1) Any application for appointment as an appraiser, auctioneer or real estate agent shall contain, in addition to the information required by paragraph (b) of LBR 4.3, the following: a description of the property to be appraised or sold; the terms of the proposed compensation; and a good faith estimate of the types and amount of expenses to be reimbursed.

(2) An affidavit or verified statement of the appraiser, auctioneer or real estate agent shall accompany the application for appointment. The affidavit or verified

statement shall contain, in addition to the information required by paragraph (c) of LBR 4.3, the following: a statement that the appraiser, auctioneer or real estate agent is not an officer or employee of the Judicial Branch of the United States or the United States Department of Justice; a statement that gross proceeds of any sale conducted by the auctioneer or real estate agent will be immediately turned over to the trustee or debtor in possession unless otherwise ordered by the court; and an acknowledgement that the appraiser, auctioneer or real estate agent will not under any circumstances, directly or indirectly, purchase or acquire any interest in any of the property to be appraised by or sold by that appraiser, auctioneer or real estate agent.

(b) Compensation

(1) Out-of-pocket expenses of appraisers, auctioneers and real estate agents may be reimbursed only upon order of the court and to the extent those expenses are reasonable and necessary.

(2) No compensation for services rendered as an agent for the sale of property of the estate shall be paid, directly or indirectly, to any appraiser who has appraised any property sold in that sale, nor to any person affiliated with that appraiser.

V. ADVERSARY PROCEEDINGS AND CONTESTED MATTERS

5.0 SERVICE and PROOF OF SERVICE

(a) Unless otherwise provided in these rules, or unless the court orders otherwise, every pleading shall be served on all parties having procedural or equitable rights which may be affected by the pleading. The debtor, the trustee, the United States Trustee and any committee appointed under the Bankruptcy Code are deemed to have procedural or equitable rights which may be affected. If a party other than the debtor is represented, service shall be made only on that party's attorney unless service upon the actual party also is ordered by the court. Service upon the debtor shall be made both on the debtor and the case attorney for the debtor.

(b) Service shall be by a method prescribed in Fed. R. Bankr. P. 7004 or Rule 5(b), Federal Rules of Civil Procedure.

(c) A proof of service shall be appended to any pleading tendered for filing which is required to be served under paragraph (a) above.

The proof of service shall be signed and shall:

- (1) identify, with specificity, the pleading served;
- (2) state the date and method of service; and
- (3) identify, by name and address, each entity served.

(d) A copy of the proof of service shall be served with the copy of the pleading.

(e) Proof of service shall be by written acknowledgement of receipt, by affidavit of the person making service, or by written certification of an attorney.

5.1 REQUEST FOR EXPEDITED HEARING

(a) In the event the debtor, or any party in interest, files a motion or application which, in the opinion of the moving party, involves matters requiring an expedited hearing and/or expedited disposition, the moving party may request an immediate hearing on such motion or application. The motion or application for expedited hearing filed by the moving party shall set forth:

- (1) a description of the relief requested;
- (2) the reasons for which an expedited hearing is requested;
- (3) the identity of all parties who may be affected by the relief requested in the underlying motion or application;
- (4) the method of notification of all interested parties; and
- (5) a summary of the evidence which will be presented and the authority which will be cited in support thereof.

The motion or application for expedited hearing shall be accompanied by a proposed form of notice and a proposed order which, if signed, will set an expedited hearing date on the underlying motion or application.

(b) The moving party shall serve a copy of the underlying motion or application and written notice of the expedited hearing date upon: the debtor, the trustee, the United States Trustee, all parties affected by the relief requested in the underlying motion or application; and counsel for each of the foregoing; and in chapter 11 cases the chairperson and counsel for any committee appointed under the Bankruptcy Code or, if no such committee has been appointed, the twenty (20) largest unsecured creditors in the case.

(c) In the event the nature of the underlying motion or application does not provide time for written notice as required by LBR 5.1(a), telephone notice may be given.

(d) A certificate of service certifying that notice as required by LBR 5.1(a) has been provided, and specifying the method by which notice was provided, shall be filed by the moving party prior to the expedited hearing.

5.2 ADVERSARY PROCEEDINGS

(a) All complaints, counterclaims, cross-claims or third party complaints shall contain a statement whether the proceeding is a core or non-core proceeding, with a statutory citation of the appropriate jurisdictional sections. If the assertion is made that such proceeding is non-core, the statement shall indicate whether the pleader consents to the entry of a final order of judgment by the Bankruptcy Court.

(b) The plaintiff shall prepare an original plus two copies of a summons for each defendant to be served. The complaint and the summons must include the address and telephone number of the plaintiff's attorney. The original summons and copies shall be

filed with the clerk and the copies returned to plaintiff's counsel. One of the returned copies shall be served on each defendant with the complaint. After service of the complaint upon each defendant, the certification of service shall be completed on the second copy of the summons, which shall be filed with the clerk.

(c) An "Adversary Proceeding Cover Sheet" in the form prescribed by the Administrative Office of the United States Courts, available through the clerk, must be completed and filed with each complaint.

5.3 CAPTIONS FOR ADVERSARY PROCEEDINGS AND CONTESTED MATTERS

The caption on all adversary proceedings and contested matters shall conform substantially to official Form No. 34, pursuant to Fed. R. Bankr. P. 7010. All complaints, motions, responsive pleadings, pretrial statements, proposed pretrial orders, memoranda and other pleadings filed with the court shall comply with LBR 5.0(c).

5.4 MOTIONS AND APPLICATIONS

All motions and applications tendered for filing shall be accompanied by a memorandum in support and, except in the case of (1) an *ex parte* motion or application, or (2) a motion or application, notice of which is issued to all parties in interest, the certificate of service in accordance with LBR 5.0(d).

(b) Unless otherwise ordered by the court or required by the Federal Rules of Bankruptcy Procedure, any responsive filing or memorandum to a motion or application shall specifically designate the pleading to which it responds and shall be filed within twenty (20) days from the date of service as set forth on the certificate of service attached to the motion or application. The response shall state with particularity the reasons that the motion is opposed.

(c) Failure to file a response and accompanying memorandum on a timely basis may be cause for the court to grant the motion or application as filed without further notice. A reply memorandum may be filed within seven (7) days after the date of service shown on the certificate of service of the memorandum contra. No additional memoranda beyond those enumerated above will be considered except upon leave of court for good cause shown.

5.5 MOTIONS FOR SUMMARY JUDGMENT

All motions for summary judgment pursuant to Fed. R. Bankr. P. 7056 shall be served and filed with a statement of the grounds relied upon and citation of authority. The motion shall also contain a statement of the material facts as to which the movant contends there is no genuine issue and references to the specific parts of the record relied on to support the statement.

The party opposing the motion shall serve and file a responsive pleading containing the grounds relied upon with citations of authorities and a concise statement of genuine issues.

The statement shall set forth all material facts where it is contended that a genuine issue of material fact exists which must be litigated and shall include reference to the specific parts of the record relied upon to support such statement.

On any motion for summary judgment, a party will be deemed to have waived a hearing on the motion unless the request for a hearing is filed within ten (10) days of the filing of the motion for summary judgment or the expiration of time for filing a memorandum in opposition to a motion for summary judgment.

5.6 OBJECTIONS TO PROOFS OF CLAIM

Unless otherwise ordered by the court, the following procedures shall govern objection to proofs of claim:

(a) Each objection to a proof of claim shall be filed with the clerk of the Bankruptcy Court and shall be served on the claimant pursuant to Fed. R. Bankr. P. 9014, its attorney of record, any trustee, the United States Trustee, counsel and chairperson of any creditors' or equity security holders' committee appointed under the Bankruptcy Code, the debtor, and the case attorney if the objecting party is an entity other than the debtor.

(b) Each objection shall contain a concise statement of the grounds for which the objection is being asserted, and a specific request for how the claim shall be treated. The objection shall also state that a response must be filed and served within thirty (30) days of the date set forth on the certificate of service.

(c) The claimant shown on a proof of claim to which an objection is filed shall file a response to the objection and serve a copy thereof pursuant to LBR 5.0(d) not later than thirty (30) days after service of the objection. All further proceedings on the objection shall be governed by Fed. R. Bankr. P. 9014.

(d) If a claimant fails to file a response to an objection within thirty (30) days, the claimant shall be deemed to have waived any objection to the relief sought and the moving party shall submit an order in accordance with LBR 5.11.

5.7 DISCOVERY AND DISPUTES REGARDING DISCOVERY

(a) Cooperation and Consultation Among Counsel. Discovery proceedings shall be promptly commenced by counsel for all parties. All counsel are required to cooperate and consult with each other in a courteous manner in all matters related to discovery and shall freely exchange discoverable information and documents upon informal written request, whether or not a pretrial conference has been scheduled or held in a proceeding. No objections, motions, applications or requests related to discovery shall be filed in this court pursuant to the provisions of Federal Rules of Bankruptcy Procedure 7026 through 7037 unless counsel have exhausted among themselves all extrajudicial means for the resolution of the discovery dispute. Without other compelling factors, discovery should not be delayed as a result of a dispute involving the payment or allocation of the costs of discovery.

(b) **Discovery Documents Not to be Filed.** Interrogatories, requests for production of documents, requests for admissions, responses to such discovery and other discovery materials shall not be filed with the court, unless otherwise authorized by law, except in those cases where informal attempts at discovery have proved ineffective and it becomes necessary to file a motion to compel discovery under the provisions of Fed. R. Bankr. P. 7037.

(c) **Interrogatories and Requests for Admission.** Separate interrogatories and requests for admission, in each instance, shall be followed by a space of at least one inch in which an answer or response can be inserted. Answers to interrogatories and requests for admission, in each instance, shall be preceded by the text of the interrogatory or the request.

(d) **Time for Objection or Response.** Unless otherwise agreed to by the parties, all responses and objections to discovery requests shall be made within the times set forth in the Federal Rules of Bankruptcy Procedure.

(e) **Motions Related to Discovery Procedures.** To the extent that extrajudicial means have not resolved a discovery dispute, the parties seeking discovery, or a protective order, may proceed with the filing of a motion for a protective order or a motion to compel discovery. Such a motion shall be accompanied by a supporting memorandum and an affidavit of counsel setting forth what extrajudicial means have been attempted to resolve the discovery dispute, including a statement that the movant has met in person with opposing counsel, or has offered in writing to meet in person with opposing counsel on one or more specific dates and the offer has been refused or has not received a written response. Only those specific portions of the discovery requests or materials reasonably necessary to a resolution of the motion shall be included with the motion. Opposition to any motion filed pursuant to this rule shall be filed within ten (10) days of the filing of the motion for protective order or motion to compel discovery. Any reply memorandum shall be filed within five (5) days of the filing of any motion in opposition. The court may enter an appropriate award of expenses or impose appropriate sanctions in connection with the determination of such motions on the motion of a party or on its own motion.

5.8 LIMITATION UPON BRIEFS, MEMORANDA AND EXHIBITS

Briefs and memoranda shall be prepared in accordance with LBR 2.2 and this rule, and shall not exceed twenty (20) pages, except upon leave of court for good cause shown. In all cases in which such leave is granted, counsel shall include a table of contents which contains a summary of all points raised. Exhibits, including discovery documents, shall be limited to those to which reference is made in the brief or memorandum.

5.9 UNREPORTED OPINIONS

If unreported opinions or opinions only available through an electronic retrieval process are cited, copies of the opinion shall be attached to the pleadings, briefs or memoranda and shall be furnished to opposing counsel, and such attachments shall be an exception to the twenty (20) page limitation of LBR 5.8. Failure to submit such attachments may be grounds for striking the pleading.

5.10 NO ORAL ARGUMENT ON MOTIONS

Motions and applications may be decided without oral argument on the memoranda filed with the clerk, unless otherwise provided in these rules and ordered by the court.

5.11 PROPOSED ORDER WHEN NO RESPONSE TO MOTION OR APPLICATION

If a response is not filed to any motion or application within the time allowed by the court or any applicable rule or statute, then upon the expiration of the applicable time period, the movant shall submit a proposed order to the court granting the relief requested in the motion or application or such other pleading or proposed order as may be appropriate.

5.12 SUBMISSION OF PROPOSED ORDERS BY PREVAILING PARTY

(a) Unless otherwise ordered by the court, the party prevailing at any hearing or trial shall submit to the court a proposed order conforming to the court's decision not later than seven (7) calendar days following the hearing or trial. The use of telephone or other authorization not requiring counsel's actual signature is encouraged by the court, although no signature of counsel is required for entry of the court's order.

(b) Unless otherwise ordered by the court, the party who filed a motion or other proceeding which was resolved without a hearing or trial shall submit to the court a proposed order conforming to the compromise or to the relief requested in the motion or other proceeding within seven (7) days of the date the court is informed of the resolution.

5.13 DISPOSITION OF EXHIBITS, MODELS, DIAGRAMS, DEPOSITIONS AND OTHER MATERIALS

(a) Withdrawal by Counsel. All models, diagrams, depositions, photographs, x-rays and other exhibits and materials filed in an action or offered in evidence shall not be considered part of the pleadings in the action and, unless otherwise ordered by the court, shall be withdrawn by counsel without further order within six (6) months after final termination of the action.

(b) Disposal by the clerk. All models, diagrams, depositions, photographs, x-rays and other exhibits and materials not withdrawn by counsel shall be disposed of by the clerk as waste at the expiration of the withdrawal period.

VI. STATUTORY PROCEDURES

6.0 RELIEF FROM AUTOMATIC STAY

(a) Parties for the purpose of service in connection with relief from stay proceedings shall include, but are not limited to:

(1) the debtor, debtor in possession and the debtor or debtor in possession's attorney;

(2) any applicable co-debtor where relief is sought from the co-debtor stay under 11 U.S.C. §1201 or §1301;

(3) the trustee, if any, appointed in the case;

(4) all holders of liens or encumbrances known to the movant or scheduled by the debtor, or the property concerning which relief is sought;

(5) all members of any committee appointed in the case, or the chairperson and counsel for that committee, if counsel is employed pursuant to order of the court; and

(6) the United States Trustee, except in chapter 13 cases.

(b) The movant shall serve the motion seeking relief from stay upon the appropriate parties pursuant to LBR 5.0(a) and file a certificate of service. The clerk shall issue notice of the hearing on the motion to the appropriate parties as provided in LBR 5.0(a).

(c) The motion for relief from stay shall be accompanied by a statement that any responsive filing or memorandum shall be filed within twenty (20) days from the date of service of motion unless otherwise provided for by the court, and that a failure to file a response and accompanying memorandum on a timely basis may be cause for the court to grant the motion as filed without further notice.

(d) Any response to such motion shall state with particularity the reasons that the motion is opposed and, if appropriate, make a specific offer of adequate protection.

(e) Upon the filing of a motion for relief from stay, the court shall issue an order providing that a hearing shall be held, fixing a day for the filing of any responsive pleading to the motion, providing that the stay shall be continued pending the hearing, and providing that the hearing will not be held should a responsive pleading not be filed.

(f) Any party failing to file a timely responsive pleading shall be deemed not to oppose the motion. If the motion is unopposed, the movant shall present an order granting the relief at or prior to the hearing, with a recitation that no responsive pleading was received as provided in LBR 6.0(d).

If the movant fails to present the appropriate order, the court may enter its own order disposing of the motion or setting the matter for further hearing to consider appropriate relief including imposition of sanctions.

(g) Any party may request a preliminary hearing on the motion, which request may be included in the motion, supported by a memorandum providing the grounds for the request. The request shall be made in writing, shall be filed with the court and shall be served by the requesting party upon all parties entitled to notice pursuant to LBR 5.0(a). Any such request shall be filed not later than ten (10) days after entry of the order setting the final hearing.

(h) A motion for relief from stay shall be filed separately from and not combined in the same pleading with any other request for relief.

6.1 USE OF CASH COLLATERAL AND OBTAINING CREDIT

(a) Any motion or agreed order filed under Fed. R. Bankr. P. 4001(b) (use of cash collateral) or 4001(c) (obtaining credit) shall contain:

(1) a description of the cash collateral to be used, sold or leased, or collateral affected by the credit to be obtained;

(2) a description of the interest claimed by any other entity in the cash collateral, or interests held in collateral affected by the credit to be obtained;

(3) the reasons for which the debtor seeks authorization to use, sell or lease the cash collateral, or has need for credit;

(4) a description of any method or proposal by which the interests of any other entity in the cash collateral or collateral affected by the credit may be protected; and

(5) photocopies of all documents by which the interest of any other entity in the cash collateral or collateral affected by the credit to be obtained was created or perfected, or, if any of those documents are unavailable, the reason for the unavailability. The debtor shall make its best effort to obtain and file any documents which are unavailable as soon as possible after the motion is filed.

(b) If the movant asserts an immediate need for the use of cash collateral, the court may schedule a preliminary hearing on the motion after notice has been provided to any entity claiming a security interest in the cash collateral. Notice provided may be by telephone if time does not permit written notification. If the court finds that an immediate need exists, the court may authorize the use of only that amount of cash collateral as is necessary to avoid immediate and irreparable harm to the estate pending the final hearing contemplated by the Federal Rules of Bankruptcy Procedure.

6.2 USE, SALE OR LEASE OF PROPERTY OF THE ESTATE

(a) Unless otherwise ordered by the court, the notice of a proposed use, sale or lease of property other than in the ordinary course of business shall be prepared, served and the certification of such service filed with the clerk by the trustee, debtor in possession, or chapter 12 or chapter 13 debtor.

(b) Any notice of the proposed use, sale or lease of property, other than in the ordinary course of business, shall contain:

(1) a description which reasonably informs the parties in interest of the property to be used, sold or leased. If the property is real property, its address shall be set forth, with the legal description, if available;

(2) the terms and conditions of the proposed use, sale or lease;

(3) the date, time and place of any public sale; and

(4) the basis upon which the movant determined that the suggested price for the use, sale or lease of such property is in the best interest of the estate.

(5) a statement that a written objection to the proposed use, sale or lease, together with a request for hearing, must be filed with the court and served on the trustee and the debtor not later than twenty (20) days from the date of service of the notice, unless the notice period is shortened by order of the court, and that in the

absence of objection the property may be used, sold or leased without further notice.

6.3 DETERMINATION WHETHER PROCEEDING IS CORE PROCEEDING

(a) In addition to an answer or other pleading in an adversary proceeding, if any party asserts that the proceeding involves a non-core issue, the party asserting such a position shall file a separate motion for a determination that the adversary proceeding or a particular issue is not a core proceeding. Such motion shall be filed within the time limits for motions set forth in Fed. R. Bankr. P. 7012(b). The filing of the motion shall not postpone the time periods for filing pleadings or other motions as required by Fed. R. Bankr. P. 7012. Any responsive pleading and supporting memorandum in opposition to the motion for a core or non-core determination shall be filed within twenty (20) days from the date of service indicated in the certificate of service filed with the motion. If a responsive pleading is filed, movant may file a reply memorandum within seven (7) days from the date of service indicated in the certificate of service filed with the responsive pleading.

(b) In addition to any other response in a contested matter, if any party asserts that the proceeding involves a non-core issue, the party asserting such a position shall file a separate motion for a determination that the contested matter, or a particular issue, is not a core proceeding. Such a motion shall be filed within twenty (20) days from the date of service indicated in the certificate of service filed with the motion commencing the contested matter. The filing of the motion shall not postpone the time periods set forth in LBR 5.4(b) with respect to the filing of pleadings and memoranda in opposition to the motion which commenced the contested matter, or the filing of reply memoranda. Any responsive pleading and memorandum in opposition to the motion for a core or non-core determination shall be filed within twenty (20) days from the date of service indicated in the certificate of service filed with the motion. If a responsive pleading is filed, the party moving for a core or non-core determination may file a reply memorandum within seven (7) days from the date of service indicated in the certificate of service filed with the responsive pleading.

(c) A motion filed under LBR 6.3(a) or (b) shall be heard and determined before the scheduling of a trial or hearing upon the merits.

6.4 RELATED MATTERS - OBJECTIONS TO PROPOSED FINDINGS OF FACT AND CONCLUSIONS OF LAW

(a) Within ten (10) days after being served with a copy of the proposed findings of fact and conclusions of law required by 28 U.S.C. §157(c)(1), a party may object thereto by serving written objections, and filing same with the clerk.

(b) A party objecting to the Bankruptcy Court's proposed findings of fact and conclusions of law shall arrange for a transcript of the record, or such portion of it as all parties may agree or the Bankruptcy Court deems sufficient, unless the District Court otherwise directs.

(c) A copy of the order for the transcript shall be filed with the clerk of the Bankruptcy Court on the date the transcript is ordered. The court reporter shall certify to the Bankruptcy Court, and to all counsel of record in the proceeding, when the transcript has been transmitted.

(d) An objection filed under this rule shall contain:

- (1) the specific findings or conclusions to which objection is made;
- (2) a brief statement of the grounds upon which any objection is founded; and
- (3) a brief memorandum of law if the objection relates to a conclusion of law.

(e) The objecting party shall serve any objection upon all parties to the proceeding and their counsel of record, and shall file a certificate of service.

(f) If any objection to a proposed finding is filed, any other party to the proceeding may file a response within ten (10) days of the date of service of the objection. Any response shall be served on all parties to the proceeding or their counsel of record and a certificate of service shall be filed.

6.5 BANKRUPTCY APPEALS

(a) A party filing a notice of appeal shall serve a copy of the notice on all parties, the trustee, counsel for trustee, the chairman and counsel of any committee appointed in the case.

(b) Any party requesting a transcript on appeal shall file a written request with the clerk of the Bankruptcy Court, deliver the request to the court reporter and make satisfactory arrangements for payment of the costs immediately upon filing the designation of record on appeal. If no court reporter was present at a relevant hearing, an appellant may specify that the audio tape recording is the record of the hearing. If an audio tape is requested, a separate tape limited only to the relevant hearing shall be prepared by the clerk at the expense of the appellant, and forwarded with the record as required by Fed. R. Bankr. P. 8007.

(c) A motion for stay of judgment or order shall be served by the movant upon those parties designated in subdivision (a) of this rule.

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION

RE:

GENERAL ORDER ADOPTING CHAPTER 13 RULES FOR CINCINNATI

Pursuant to Local Bankruptcy Rule 3.19 for the Southern District of Ohio, attached hereto are Chapter 13 rules for Cincinnati, effective August 1, 1991.

So Ordered.

BURTON PERLMAN
UNITED STATES BANKRUPTCY JUDGE

J. VINCENT AUG, JR.
UNITED STATES BANKRUPTCY JUDGE

**LOCAL BANKRUPTCY RULES
CINCINNATI - CHAPTER 13**

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Cin.13.1 ATTORNEY'S FEES

At the time of, or prior to the 341 meeting of creditors, the attorney for the debtor shall file with the Court a motion filed in duplicate for the allowance of attorney's fees, setting forth the amount of the fee requested, the amount paid directly by the debtor to the attorney, and the amount requested to be paid by the trustee.

Such form shall substantially conform to Form 13.1.

Cin.13.2 INSURANCE

The debtor shall maintain collision insurance on any motor vehicle subject to a lien by a creditor where the motor vehicle has a value of more than one thousand dollars (\$1,000.00), if contractually obligated to do so.

Cin.13.3 PROFIT OR LOSS STATEMENT

In Chapter 13 cases in which the debtor is engaged in business, the debtor shall serve the trustee, on or before the 341 meeting, with a profit or loss statement for the month preceding the 341 meeting, and thereafter shall serve quarterly profit and loss statements on the trustee. A copy of each statement served under this rule shall be served on the trustee, and the debtor shall file a certificate of service.

Cin.13.4 OBJECTION TO CONFIRMATION

An objection to the confirmation of a Chapter 13 plan must be made in writing, served upon counsel for the debtor and the trustee, and filed not later than three (3) days before the 341 meeting. Unless the Court orders otherwise, objections shall be heard at the confirmation hearing. An objection to confirmation shall specifically set forth the grounds for the objection.

Cin.13.5 CHAPTER 13 PLAN - CONTENTS

(a) Chapter 13 plans filed with the Court shall be signed by the debtor(s) and shall clearly set forth at minimum the following information:

1. Monthly payment to the trustee;
2. Identity of holders of secured claims. The proposed amount of each allowed secured claim; the proposed monthly payment to be paid to each allowed secured claim;
3. Percentage payments to holders of unsecured claims;
4. Creditors to be paid by debtor(s) outside the Chapter 13 plan, and the month in which said payments outside the plan are to commence;
5. Name and address of employer on whom the Court will be requested to order payroll deduction;
6. Request for direct payment plan, if applicable;
7. Proposed cure of defaults under 11 U.S.C. §1322(b)(5) including the amount of default to be cured and the proposed monthly payment to the claim holder; and
8. The estimated length of the plan.

(b) In addition to the foregoing, the plan shall contain provisions necessary to comply with the provisions of 11 U.S.C. §1322(a).

(c) A sample plan is set out in Form 13.2

Cin.13.6 MODIFICATION OF A PLAN PRIOR TO 341 MEETING

Modification of a Chapter 13 plan prior to the 341 meeting shall be made in one of the two following methods:

1. If the modification is filed more than fourteen (14) days prior to the 341 meeting, the counsel for debtor shall serve upon all creditors whose interests are adversely affected by the modification a copy of the amended plan, titled as such. The debtor, through his/her attorney, shall prepare and file a certificate of service indicating regular mail service upon all such affected creditors at least seven (7) days prior to the confirmation hearing. Said amended plan shall also be served upon the trustee with an appropriate certificate of service filed at least seven (7) days prior to the 341 meeting.

2. If the modification is not filed pursuant to paragraph (1) above, then the plan as modified may be provisionally confirmed by the Court subject to twenty (20) days' notice to adversely affected creditors and an opportunity to object to such proposed modification. Such notice shall be served by counsel for debtor, and a certificate of service filed with the Court.

Cin.13.7 CHAPTER 13 - FIRST PAYMENT

Pursuant to the order of the Bankruptcy Court on September 10, 1984, debtor(s) shall make the first payment to the trustee in Chapter 13 plans at the 341 meeting, or within ten (10) days thereafter. Failure to make timely payment shall be cause for dismissal.

Cin.13.8 MODIFICATION OF A PLAN AFTER CONFIRMATION

(a) Modification of a Chapter 13 plan after confirmation shall be by motion. The motion shall set forth the extent of the modification, and the estimated length of the plan, and shall be served on the trustee. Such motion shall substantially conform to Form 13.3.

(b) Debtor shall file with the motion a proposed entry granting the motion. Such entry shall substantially conform to Form 13.4.

(c) Upon receipt of the entry signed by the Court, debtor shall serve a copy of said entry upon all creditors listed on said schedules and amendments and shall file a return service as required by the entry.

(d) The Court may order a plan modified after confirmation without notice to creditors where no creditor is prejudiced by the modification proposed by the debtor.

Cin.13.9 SUSPENSION OF PAYMENTS

Debtors unable to make current Chapter 13 payments may file an application to suspend payments with the Court. Such application shall state the reason such suspension is requested and the period of time for which the suspension is required. Such suspensions shall not exceed ninety (90) days, except for good cause shown. Said application shall generally conform to Form 13.5.

Cin.13.10 ADDITIONAL INDEBTEDNESS

Debtors with the need and the ability to incur additional debt shall file an application with the Court. Such application shall contain the amount of the additional debt requested, the reason such additional debt is necessary and whether such debt shall be paid inside or outside of the plan. Supporting documentation shall be attached to such application when applicable. Such application shall generally conform to Form 13.6.

Cin.13.11 CONVERSION OF CHAPTER 13 CASE

To convert a case pending under Chapter 13 to a case under Chapter 7, the debtor shall file the following:

1. A notice of debtor's election to convert the proceedings from a Chapter 13 to Chapter 7. Such notice shall conform substantially with Form 13.7.
2. All schedules required under 11 U.S.C., Chapter 7.

The filing of a notice to convert a case under Chapter 13 to a case under Chapter 7 shall automatically terminate any wage deduction order against the debtor's employer. The trustee is authorized to communicate the termination of said order to the employer in accordance with a form which conforms substantially to Form 13.8.

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION

In re: : Case No:
: (Chapter 13)
: Judge _____
: Debtor(s) : APPLICATION FOR FEE FOR
: SERVICES AS ATTORNEY FOR
: DEBTOR(S) IN WAGE EARNER
PLAN

* * * * *

Your petitioner respectfully represents that as Attorney of Record for the debtor(s) in these proceedings he has performed on behalf of the debtor(s) numerous services in connection with the preparation of the petition filed herein, and that he has represented the debtor(s) in all proceedings in this matter.

Your petitioner believes that the fair and reasonable fee for his services hereunto the debtor(s) is the sum of \$ _____.

Your petitioner further represents that he has received the sum of \$ _____ from the debtor(s) to date on his fee.

WHEREFORE, your petitioner prays for an order directing the trustee of said debtor(s) to pay to the petitioner the sum of \$ _____ in accordance with the usual method of making such payments in this jurisdiction.

Attorney for Debtor(s)
Address

STATE OF OHIO :
: SS:
COUNTY OF HAMILTON :

I, _____ being first duly sworn, depose and say that the facts stated in the above application are true as I verily believe and that no understanding exists for a division of fees between said deponent and the trustee, the debtor, or the attorney for the trustee.

Sworn to and subscribed before me this _____ day of _____, 19__.

UNITED STATES BANKRUPTCY COURT FOR THE SOUTHERN DISTRICT
OF OHIO WESTERN DIVISIONIN RE: JOHN DOE MARY DOE NO: 1-87-00001
Petitioner Spouse

DEBTOR'S PLAN & APPLICATION TO CONFIRM

1. The future earnings of the debtor are submitted to the supervision and control of the trustee and debtor (or the debtor's employer) shall pay to the trustee the sum of \$450.00 monthly, and further, debtor specifically reserves the right to seek relief under other chapters of the Bankruptcy Code on the debts listed herein.

2. The debts of the debtor, duly proved and allowed, shall be paid to the holder thereof in accordance with the provisions of the Bankruptcy Code and this Plan. Secured creditors who have been duly scheduled as creditors in the Plan, shall, upon payment of the amount allowed by the Court as a secured claim in the Wage Earner Plan, or creditors who have not filed a claim as provided by law be deemed to have their full secured interest satisfied and shall cancel any mortgage on debtor's property which was in existence at the time of the filing of the plan or the Court may order cancellation of same. Creditors who have co-signers, co-makers, or guarantors, from whom they are enjoined from collection under 11 USC 1301, and which co-signers, co-makers or guarantors are not also in a Wage Earner proceeding, are separately classified and shall file their claim, including all of the contractual interest that is due or which will become due during the consummation of the Plan, and payment of the amount specified in the proof of claim to the creditor shall constitute full payment of the debt as to the debtor and any co-signer, co-maker or guarantor. Secured creditors shall retain their security interest in their collateral until the amount of their allowed secured claim has been fully paid or until the debtor has been discharged. All priority creditors under 11 USC 507 shall be paid in full in deferred cash payments.

3. From the payments under the Plan, the trustee shall make disbursements as follows:

a. The payments required by 11 USC 330.

b. After the above payments, holders of secured claims shall be paid as follows, provided that such priorities may be amended by the court at or after the confirmation hearing, and that holders of secured claims will be given priority as set forth herein over holders of unsecured claims. Secured claims shall be paid simple interest (direct reducing) on the amount of their allowed secured claim in an amount of %. This interest shall be paid as a part of payments shown as the monthly payment below.

	Creditor	Monthly Payment	Proposed Amount of Allowed Secured Claim
1	Bank Two	\$150.00	\$2250.00
2	Joe's Furniture Store	50.00	450.00
3	Frank's Dept. Store	35.00	350.00
4			
5			

c. Any claim for fees, costs, or other charges shall be made by the creditor by application to the Court therefor, to determine whether such fees, costs or charges meet the test as reasonable as required in section 11 USC 506(b).

d. The unsecured debts shall be dealt with generally and paid 70* cents on the dollar and paid pro rata, with no interest if the creditor has no co-obligor, and is not classified as set forth in paragraph 2, provided that where the amount or balance of any unsecured debt is less than \$10.00 it may be paid in full.

e. Creditors who will be paid directly by the debtor and not through the Trustee are: (Debtor reserves the right to amend and pay these creditors through his wage earner plan upon application to the court.)

1st Mortgage payments to Allheart Mortgage Co. beginning May, 1987
(arrearage in plan)

4. The employer on whom the Court will be requested to order payment withheld from earnings in:
(Name of Employer)
A-1 Employer

5. (If applicable) Executory contracts of the debtor are rejected as indicated on the Statement of Executory Contracts.

6. The Court may, at the confirmation hearing or from time to time during the operation of the Plan, increase or decrease the amount of payments provided herein or to be paid by the debtor or to be paid as a priority payment to any creditor, or may extend or reduce the time for such payments after such hearing and upon such notice as the Court may designate, if it appears that the circumstances of the debtor so require.

7. Debtor reserves the right to add after acquired creditors deemed appropriate by the Court, to his Wage Earner Plan with the permission of the Court. Post petition claims which are allowed and upon which creditors file a claim herein shall be paid the same percentage as prepetition claims, which shall represent payment in full to the creditor, unless the Court orders otherwise. The amount of any secured creditor's allowed secured claim shall be that amount set forth in the plan as the "Proposed Amount of Allowed Secured Claim" unless the Court, prior to confirmation, shall order otherwise.

8. The confirmation of the plan shall constitute a finding by the Court that there is good cause to extend the payout of the plan beyond 3 years, if the Plan calls for an extension beyond that period.

9. Any notices to the debtor, attorney for the debtor, creditors, attorneys for creditors, or to any other person requiring notice for any reason of hearings or proceedings under this Plan, shall be made by regular mail. The debtor further represents that he is able to carry out this Plan.

10. Title to the debtor's property shall revert in the debtor on confirmation of a Plan. Debtor may, with court approval, remove or add any creditor to this proceeding.

11. Confirmation of this plan by the court shall also constitute a finding by the Court that the plan was filed by the debtor in good faith and is the debtor's best effort.

12. Debtor proposes to cure defaults to the following creditors by payment of the following monthly payments by the Trustee:

Creditor	Monthly Payment	Amount of Default to be Cured
1. <u>Allheart Mortgage Co. (10% interest rate)</u>	<u>\$175.00</u>	<u>\$3085.00</u>
2. _____	_____	_____
3. _____	_____	_____

Any default of the debtor which is not proposed to be cured as set forth herein is deemed waived by the confirmation of this Plan.

13. This plan is estimated to be for 41 months.

14. * Everybody's Loan Co. to be paid 100% (Co-maker Loan)

Debtor

Dated: 4/17/91

Debtor

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION

In Re:

:

Case No:
(Chapter 13)

:

Judge _____

Debtor(s)

:

MOTION TO MODIFY PLAN

* * * * *

1. Come(s) now the debtor(s) and move(s) the Court to modify ____h____
plan in the following regard:

2. Proposed percentage to unsecured creditors as modified: _____

Percentage prior to modification: _____

3. Debtor(s) state(s) that ____h____ reason for requesting this modification
is:

4. Proposed length of plan: _____

WHEREFORE, debtor(s) move(s) the Court to modify ____h____ plan as set forth herein.

Attorney for Debtor(s)
Address

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION**

In Re: : **Case No:**
: **(Chapter 13)**
: **Judge** _____
Debtor(s) :
: **ENTRY AS TO MODIFICATION OF**
: **CHAPTER 13 PLAN**

* * * * *

**TO THE TRUSTEE, CREDITORS AND OTHER
PARTIES IN INTEREST:**

Debtor(s) ha _____ filed a modification of Chapter 13 plan confirmed on
_____, in the following manner:

Pursuant to Section 1329(b)(2) of the Bankruptcy Code, the plan as modified becomes the plan, unless an objection is filed within fifteen (15) days from the date of service as certified below.

UNITED STATES BANKRUPTCY JUDGE

RETURN OF SERVICE

I hereby certify that a copy of this entry was served upon all creditors listed on schedules and amendments on the _____ day of _____, 19____.

Attorney for Debtor(s)
Address

TO: ATTORNEY FOR DEBTOR

RETURN DATE: _____

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION

In re: _____ : Case No:
_____ : (Chapter 13)
_____ : Judge _____
Debtor(s) : APPLICATION TO SUSPEND
PAYMENTS

* * * * *

Comes now the debtor(s), _____, by and through counsel and represents(s) to the Court that he/she/they filed a Wage Earner Petition and Plan in this Court on the _____ day of _____, 19____ and that the plan was confirmed on the _____ day of _____, 19 ____.

Debtor(s) state(s) that at the present time he/she/they is (are) unable to make his/her/their payments to the trustee in Chapter 13 for the following reason: _____

WHEREFORE, Debtor(s) request(s) the permission of the Court to have his/her/payments to the trustee in Chapter 13 suspended for _____.

Attorney for Debtor(s)
Address

ORDER GRANTING APPLICATION

The above application is granted. Debtor's(s') payments to the trustee in Chapter 13 are hereby suspended for _____ by order of this Court.

UNITED STATES BANKRUPTCY JUDGE

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION

In re: : Case No:
: (Chapter 13)
: Judge _____
: Debtor(s) : APPLICATION FOR PERMISSION
: TO INCUR INDEBTEDNESS

* * * * *

Now come(s) the debtor(s), _____ and respectfully represent(s) that _____ he _____ filed a Wage Earner Petition and Plan in this Court on the _____ day of _____, 19____, and that the Plan was subsequently confirmed by this Court at the first meeting of creditors. Debtor(s) state(s) that _____ he _____ is (are) in need of \$_____, for the purpose of: _____

_____, and respectfully request(s) the permission of the Court to incur an indebtedness in that amount, and to repay the same outside this Wage Earner Plan.

Attorney for Debtor(s)
Address

ORDER GRANTING APPLICATION

The above application is granted. Debtor(s) is (are) granted permission by this Court to incur an indebtedness in the amount of \$ _____. The Court waives its jurisdiction over the wages of debtor(s) and assets as to this new indebtedness. Payments to this new creditor are to be made outside debtor's(s') Wage Earner Plan.

Dated at Cincinnati, Ohio this _____ day of _____, 19____.

UNITED STATES BANKRUPTCY JUDGE

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION**

In re: : **Case No.**
: **(Chapter 13)**
: **Judge** _____
Debtor(s) :
: **NOTICE TO PROCEED UNDER 11**
: **UNITED STATES CODE,**
CHAPTER 7

* * * * *

Now come(s) the debtor(s), and give(s) notice that _____ he _____ is (are)
converting a case previously filed under Chapter 13 of Title 11 of the United States Code
to a case under Chapter 7 of Title 11 of the United States Code.

X _____
Debtor

X _____
Debtor

Attorney for Debtor(s)
Address

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION

In re: : Case No.
: (Chapter 13)
:
Debtor(s) : Judge _____
:
: NOTICE OF TERMINATION OF
: WAGE DEDUCTION ORDER

* * * * *

TO: _____, Employer.

You will take notice that the Wage Deduction Order previously entered by the Bankruptcy Court for the above named Debtor, who is your employee, has been terminated as of the _____ day of _____, 19 _____. You are directed to make no further deductions in accordance with the said Order.

Trustee

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION

General Order
No. 92-01

AMENDED GENERAL ORDER ADOPTING CHAPTER 13 RULES

At Columbus, in the Southern District of Ohio, on the 19th day
February, 1992.

The Court hereby orders that Local Bankruptcy Rules C-3.18.7
and C-3.18.13 (a) and (b) shall be amended as attached hereto.
Such amendments shall be effective as of the date of this General
Order and shall govern all bankruptcy cases and proceedings.

IT IS SO ORDERED.

Date: February 19, 1992

Donald E. Calhoun, Jr.
United States Bankruptcy Judge

Barbara J. Sellers
United States Bankruptcy Judge

R. Guy Cole, Jr.
United States Bankruptcy Judge

APPENDIX
LOCAL BANKRUPTCY RULES
COLUMBUS - CHAPTER 13

**LOCAL BANKRUPTCY RULES
COLUMBUS - CHAPTER 13**

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CHAPTER 13 RULES - COLUMBUS

C-3.18.1 EFFECTIVE DATE, APPLICABILITY AND SHORT FORM

(a) As a supplement to the Local Rules for the United States Bankruptcy Court for the Southern District of Ohio, and pursuant to LBR 3.19, these rules shall be effective for all cases filed under or converted to chapter 13 after August 1, 1991, and for all proceedings in chapter 13 cases pending on that date to the extent such application is just and practicable.

(b) These rules shall be cited as C-LBR 3.18.1 - 3.18.18.

C-3.18.2 SUPERSESION OF PRIOR ORDERS

These rules specifically supersede Local Superintendency Orders 82-01, 82-02, 82-03, 82-04, 83-03, 83-04, 84-01, 84-02, 84-03, 84-04, 85-02, and the Court's Chapter 13 Administrative Order of September 14, 1983.

C-3.18.3 NUMBER OF COPIES AND SERVICE OF PLAN, PLEADINGS AND OTHER PAPERS

(a) The number of copies for all initial filings required by Fed. R. Bankr. P. 1002, 1007(b)(2) and 3015, and any amendments thereto, shall be filed in the original plus three (3) copies.

(b) If the chapter 13 plan is not filed with the petition or within five (5) days thereafter, the attorney for the debtor shall serve a copy of the plan upon all parties in interest. Proof of such service must be supplied pursuant to LBR 5.0(b), (c), and (e).

(c) All pleadings and papers other than those set forth in subsection (a) of this rule shall be filed in the original plus one (1) copy and shall be served upon the trustee and all other affected parties in interest pursuant to LBR 5.0.

C-3.18.4 REPORTS AND OTHER FILINGS REQUIRED FOR DEBTOR ENGAGED IN BUSINESS

(a) Any chapter 13 debtor who is self-employed and who has employees or incurs trade debt in the production of income from such employment, in addition to the filings required by Fed. R. Bankr. P. 1007(b)(2) and 3015, must file with the clerk and serve upon the trustee:

(1) Copies of the federal tax returns of the debtor, and of any entity controlled by the debtor, for the three (3) tax years immediately preceding the year in which the

petition has been filed. These documents shall be filed no later than five (5) days prior to the meeting of creditors.

(2) A balance sheet reflecting the financial condition of the business at the date of the filing of the chapter 13 petition, and a profit and loss statement accrued from the date of the last issued profit and loss statement to that same date. Copies of any other balance sheets or profit and loss statements issued within the three (3) years immediately preceding the filing of the petition. These documents shall be filed no later than five (5) days prior to the meeting of creditors.

(3) Written reports of the business operations and financial condition of the debtor shall be filed initially five (5) days prior to the date set for the meeting of creditors and every ninety (90) days thereafter.

Such reports shall include a statement of operations of the business for the preceding period, including all receipts, all disbursements for indebtedness, contractual obligations incurred, and, if payments are made to employees, the amounts of deductions for withholding and social security taxes and the place where such amounts are deposited.

(b) New books of account shall be opened by the debtor as of the date of the filing of the petition herein, in which books of account shall be kept a proper account of earnings, expenses, receipts, disbursements and all obligations and transactions had in the operation of the business and the management, preservation and protection of the property of the business.

C-3.18.5 OBJECTIONS TO CONFIRMATION

Objections to confirmation of a plan must be in writing and must specifically set forth the statutory grounds upon which the objections are based. Unless the notice authorizes a different date, such objections must be filed with the court and served upon the trustee, the debtor and the debtor's attorney at least three (3) days prior to the meeting of creditors or ten (10) days prior to confirmation, whichever is later. Unless the court orders otherwise, objections to confirmation will be heard at the time of the hearing on confirmation.

C-3.18.6 INSURANCE

Unless otherwise ordered by the court or agreed to by the parties, all motor vehicles having a value in excess of \$1,000.00 and subject to valid liens must carry comprehensive and collision insurance. All motor vehicles driven during the pendency of a plan, whether or not subject to a lien, must carry liability insurance. All real estate, whether or not subject to a mortgage, must be insured for fire and extended coverage in an amount acceptable to the trustee or to any holder of a mortgage against that property. Required insurance shall be in effect at the time of confirmation and continue in effect throughout the plan.

C-3.18.7 ADMINISTRATION EXPENSES OTHER THAN FEES OF PROFESSIONALS

(a) Prescribed Fees for All Cases

In addition to the fees promulgated under authority of 28 U.S.C. §1930 and collected by the Clerk's Office at the time filings are made, and subject to the maximum percentage fee as set forth in 28 U.S.C. §586(e)(1)(B)(i), Chapter 13 debtors will be assessed noticing fees and claims processing fees pursuant to that same authority. The fee for each notice generated by the Trustee in cases filed under Chapter 13 of Title 11 of the United States Code, shall be fifty cents (\$.50) each. The fees shall be payable only from the estate and only to the extent there is an estate. The noticing fees will be assessed in all cases prior to the time the Final Report and Account is filed with the Clerk of the Bankruptcy Court. The total of those fees will be shown on the Trustee's Final Report and Account.

(b) Special Assessment for Dismissed or Converted Case

In lieu of the fees set forth in subsection (a), the Trustee is authorized to charge an administrative expense of \$40.00 in a consumer case and \$50.00 in a business case where no plan is confirmed. That amount may be periodically adjusted by amendment to this rule to reflect actual charges incurred and, for good cause may be specifically set in a different amount in unusual cases.

C-3.18.8 AMENDMENTS, APPRAISALS, AND OTHER FILINGS REQUIRED FOR CONFIRMATION

(a) For cases heard in Columbus, debtor's counsel shall file with the clerk all amendments, appraisals, stipulations, pleadings or other papers necessary to place the plan in a posture for confirmation at least seven (7) days prior to the hearing on confirmation of the plan.

(b) Proposed orders relating to confirmation shall be submitted to the court at least seven (7) days prior to the hearing on confirmation of the plan, or, at the latest, to the courtroom deputy at the hearing.

(c) Unless otherwise ordered by the court upon request by the debtor, or unless such property has been purchased within twelve (12) months of the order for relief under chapter 13, an acceptable appraisal must be filed with the clerk and served on the trustee for each parcel of real property owned by the debtor unless the plan proposes a 100% dividend for holders of allowed unsecured claimants.

C-3.18.9 CONSENT DOCKET

Cases which appear to the court to meet all statutory tests for confirmation and in which

no objections to confirmation have been filed may be placed on a consent docket and may be confirmed without actual presentations in each case. Such cases will be read into the record at the confirmation hearing, and it will be the duty of the debtors' attorneys, the trustee, or parties in interest to inform the court at that time of any existing bar to confirmation. Cases with pending objections will not be placed on the consent docket. Deficiencies in the plan, if correctly noted in the trustee's recommendation, must be cured in a manner which is evident upon review of the clerk's file, or the plan will not be scheduled on the consent docket.

C-3.18.10 FORM OF PRE-CONFIRMATION PAYMENTS

A debtor shall commence making the payments proposed under the plan by payment to the trustee on or before the date first set for the meeting of creditors. Such payment shall be in the amount proposed in the plan to be paid over the period of not less than one month, and shall be made only in the following form: money order, certified check, cashier's check, check drawn on an attorney's trust account, or in such other form as the trustee directs. Pursuant to 11 U.S.C. §1326(a)(1), payments must continue on a regular basis, at least monthly, from the date of that first payment until confirmation is granted or denied. All such payments will be held in trust pending confirmation.

C-3.18.11 MODIFICATIONS OF PLANS

(a) Pre-Confirmation Modifications

Any modification of a plan proposed prior to confirmation must be filed with the clerk at least seven (7) days prior to the hearing on confirmation. All such modifications shall be served upon the trustee and upon all adversely affected parties in interest pursuant to LBR 5.0.

(b) Post-Confirmation Modifications

Any modification of a plan proposed after confirmation must be filed with the clerk and served upon the trustee and all affected parties in interest, including, where appropriate, the debtor and the case attorney. Proof of such service must be supplied pursuant to LBR 5.0. All such proposed modifications will be treated as motions and shall conform to and be governed by LBR 5.4. Submission of orders related to such motions is governed by LBR 5.11.

When appropriate, proposed plan modifications shall include:

(1) A paragraph that contains the modification with particular reference to the provisions of a confirmed plan that are being modified, including a specific statement of any proposed percentage to be paid to unsecured creditors and the approximate number of months required to complete payment of the proposed plan;

(2) A paragraph that sets forth the extent to which the proposed modification affects the rights of creditors or other parties in interest;

(3) A paragraph that states the date(s) of the confirmation order of the original plan and of any previous modified plans;

(4) If a motion to modify the plan proposes to decrease the dividend to unsecured creditors or to extend the length of the plan, a paragraph that sets forth the reason for the modification, including any change in circumstances since confirmation;

(5) If the motion to modify proposes to change the amount of each periodic payment to the plan, an attachment consisting of an amended monthly family budget;

(6) If the motion to amend or modify proposes to change the payment to holders of allowed unsecured claims from one hundred percent (100%) to any amount less than one hundred percent (100%), an attachment consisting of an appraisal of any real estate in which the debtor has an interest, if such appraisal was not previously filed in connection with confirmation.

(c) Modifications Proposed While a Motion to Dismiss is Pending

If the debtor proposes a plan modification subsequent to and during the pendency of a motion to dismiss the case, in addition to the requirements set forth in C-LBR 3.18.11(b), such modification must be filed and served at least ten (10) days prior to the scheduled hearing on the dismissal motion.

C-3.18.12 ALLOWANCE, STATUS AND DISTRIBUTION OF CLAIMS

(a) Proofs of Claim

The trustee shall not distribute funds to any claimant unless a proof of claim has been filed on behalf of such claimant or unless a claim has been otherwise allowed by order of the court.

(b) Claims of Newly Added Creditors

Any entity added to the schedule of creditors by amendment shall have ninety (90) days from the first date scheduled for the meeting of creditors or the date shown on the certificate of service of the amendment, whichever is later, within which to file a proof of claim.

(c) Supersession by Duplicate

A proof of claim which duplicates an earlier claim filed by the same entity, in the same amount, based upon the same transaction(s) with supporting documentation, and which is in all material aspects a "duplicate" claim, shall be deemed to supersede the earlier claim without need for a court order to that effect.

(d) Valuation of Real and Personal Property

Unless otherwise ordered by the court, stipulated between the parties, or evidenced by uncontested appraisal, real and personal property secured by valid liens shall be valued for purposes of 11 U.S.C. §506(a) at the lower of the claimant's representation on its proof of claim or the debtor's opinion as set forth in the chapter 13 statement. Any amount by which a proof of claim exceeds that valuation shall be allowed and treated as an unsecured claim unless otherwise subject to objection.

(e) Discount Factors

Holders of allowed secured claims rejecting the debtor's plan shall receive a discount factor equal to the market rate of interest for similar loans in the region as proposed by the debtor or ordered by the court. Claimants which do not specifically reject the treatment proposed in the plan for their claim shall be deemed to have accepted the plan.

(f) Interest

Interest shall be paid to holders of allowed unsecured claims when an estate is solvent. Such interest shall be the rate prescribed by 28 U.S.C. §1961(a) and currently certified by the Department of the Treasury at the time of confirmation.

C-3.18.13 ATTORNEY FEES AND EXPENSES

(a) Attorney fees for services already rendered and to be rendered by the debtor's attorney which are to be paid by the trustee from payments made by and on behalf of the debtor into the plan shall be allowed and paid without specific application to the extent of a fee not in excess of eight hundred fifty dollars (\$850.00). Such attorney fee shall be paid along with other secured or priority unsecured claims in the initial distributions as soon as funds are accumulated.

(b) Requests for fees and expenses in excess of eight hundred fifty dollars (\$850.00), or for allowance of fees and expenses incurred after confirmation, must be made pursuant to application. Said application must conform to LBR 4.4 and must include an itemization for all services and fees for which an award is requested, including fees and expenses included in the initial eight hundred fifty dollars (\$850.00) requested.

C-3.18.14 POST-PETITION SALES

All sales of personal or real property out of the ordinary course of the debtor's business or affairs shall be subject to the requirements of Fed. R. Bankr. P. 2002(c) and 6005, and LBR 3.4 and 6.2. Notices of proposed sales shall be sent by the debtor or the case attorney to the trustee and to any party with a retained lien against property proposed to be sold. The notice shall include the proposed disposition of the sale proceeds, and, if any sale proceeds are proposed to be retained by the debtor in an amount in excess of allowed exemptions, the notice of sale must also be sent to all parties in interest.

C-3.18.15 POST-PETITION CREDIT

Any post-petition extensions of credit sought by the debtor which aggregate in excess of five hundred dollars (\$500.00), shall be in the form of a motion subject to Fed. R. Bankr. P. 4001(c) and (d) and LBR 6.1. Such motions shall be served upon the trustee and all parties in interest unless the plan is a one hundred percent (100%) plan in which instances service may be only upon the trustee and upon any party retaining or being granted a lien against property in connection with such extension of credit.

C-3.18.16 PAYROLL DEDUCTIONS

In all plans funding shall be by payroll deduction unless otherwise agreed by the trustee or ordered by the court.

C-3.18.17 CONDUIT MORTGAGE PAYMENTS

In all plans in which a pre-petition arrearage exists for claims treated pursuant to 11 U.S.C. §1322(b)(5) as of the date of the bankruptcy filing and such arrearage is in excess of two months' payments under the terms of the applicable note or contract, unless otherwise ordered by the court, the payments maintained during the plan shall be made by the trustee.

C-3.18.18 SANCTIONS

(a) Unless good cause is shown, the failure to have all necessary amendments, appraisals, stipulations, proposed orders, pleadings or other papers timely filed or submitted, or the failure to perform any act required by these rules in a timely manner, in addition to the sanctions provided by LBR 1.4, may result in a decrease in the reasonable attorney fee allowed by the court for the services of the case attorney or such other action as is appropriate, including denial of confirmation and dismissal of the case.

(b) If confirmation is denied and the court grants time to file an amendment, pleading or other paper to put the plan in a posture for confirmation, the time granted to the debtor by the court shall commence from the date of the oral order issued at the confirmation hearing. If such amendment, pleading or other papers are not timely filed the case may be dismissed without further notice to the debtor or other parties in interest.

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION AT DAYTON

**GENERAL ORDER ADOPTING AMENDMENTS TO LOCAL BANKRUPTCY RULES
DAYTON - EFFECTIVE JANUARY 1, 1991.**

DATED AT DAYTON, OHIO this 20th day of December, 1990:

In connection with a review of the Chapter 13 Local Bankruptcy Rules of the United States Bankruptcy Court at Dayton, Ohio, an Advisory Committee, consisting of the United States Bankruptcy Judges, the Chapter 13 Trustee, the Clerk, and counsel who regularly represent debtors and creditors in Chapter 13 proceedings, met on numerous occasions and considered the comments and experiences of the Bench, the Chapter 13 Trustee, the Clerk's Office, and the practicing Bar in arriving at proposed amendments to the Chapter 13 Local Bankruptcy Rules of the United States Bankruptcy Court at Dayton, Ohio.

These proposed amendments were thereafter mailed to the president of the Bar Association or a representative for each county where venue is appropriate in the Dayton Bankruptcy Court in order to receive additional comments. Notices were also placed in the Daily Court Reporter, a newspaper of general circulation in Montgomery County, seeking additional comments.

All comments received were reviewed, and, where appropriate, changes to the proposed amendments were made.

Accordingly, pursuant to the Local Rules for the United States Bankruptcy Court for the Southern District of Ohio, which authorize the court in Dayton to promulgate such rules for the governing of Chapter 13 proceedings as it may deem appropriate, **the attached Local Bankruptcy Rules Dayton - Chapter 13 are HEREBY ADOPTED, effective January 1, 1991.**

SO ORDERED.

WILLIAM A. CLARK
United States Bankruptcy Judge

THOMAS F. WALDRON
United States Bankruptcy Judge

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION AT DAYTON**

**GENERAL ORDER ADOPTING AMENDMENTS TO LOCAL BANKRUPTCY RULES
DAYTON - EFFECTIVE FEBRUARY 1, 1992**

DATED AT DAYTON, OHIO this _____ day of January, 1992

The Court finds that, pursuant to Rule 9029 FRBP and LBR 3.18, Rules D-3.18.1(a) and D-3.18.5(a) shall be amended as follows, **effective February 1, 1992.**

D-3.18.1 ORIGINAL AND MODIFIED PLANS

- (a) The debtor shall file an original and two (2) copies of:
- (1) the voluntary petition,
 - (2) the schedules and statements as required by Rule 1007 of the Federal Rules of Bankruptcy Procedure,
 - (3) the plan, and
 - (4) Debtor's Proposed Method of Plan Payment which shall generally conform to Form 18.1(a).

D-3.18.5 ATTORNEY FEES FOR DEBTOR'S ATTORNEY

- (a) The attorney for the debtor shall make application to the court for a reasonable attorney fee to be allowed for services rendered and to be rendered in the case. The application shall generally conform to Form 18.5(a).

Applications for attorney fees not exceeding \$850.00 may be allowed in the confirmation order without hearing.

SO ORDERED

WILLIAM A. CLARK
United States Bankruptcy Judge

THOMAS F. WALDRON
United States Bankruptcy Judge

**LOCAL BANKRUPTCY RULES
DAYTON-CHAPTER 13**

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**LOCAL BANKRUPTCY RULES
DAYTON-CHAPTER 13**

I. INTRODUCTION TO DAYTON CHAPTER 13 RULES

D-3.18.0 DAYTON CHAPTER 13 RULES; SHORT TITLE; APPLICABILITY OF THE LOCAL RULES FOR THE SOUTHERN DISTRICT OF OHIO

(a) Pursuant to the Local Rules for the United States Bankruptcy Court for the Southern District of Ohio, LBR 3.19, the Bankruptcy Court at Dayton, Ohio, promulgates and adopts the following rules for the governing of chapter 13 proceedings in the Bankruptcy Court at Dayton, Ohio. These rules become effective January 1, 1991 and replace the rules which were originally effective August 1, 1987, and the amendments thereto which became effective May 1, 1989.

(b) These chapter 13 rules shall be cited as Dayton Chapter 13 Rules and shall be abbreviated D-3.18._____.

(c) The Local Rules for the United States Bankruptcy Court for the Southern District of Ohio (LBR) shall be applicable in all chapter 13 Cases and proceedings in the Bankruptcy Court at Dayton, except to the extent that a particular rule, or a portion of a particular rule, is by its terms not applicable to a Chapter 13 case or proceeding.

II. FILING AND SERVICE REQUIREMENTS IN CHAPTER 13 CASES AND PROCEEDINGS

D-3.18.1 ORIGINAL AND MODIFIED PLANS

(a) The debtor shall file an original and two (2) copies of:

- (1) the voluntary petition,
- (2) the schedules and statements as required by Rule 1007 of the Federal Rules of Bankruptcy Procedure,
- (3) the plan, and
- (4) Debtor's Proposed Method of Plan Payment which shall generally conform to Form 18.1(a).

(b) The debtor shall, not later than the date first set for the meeting of creditors, file an appraisal of any real property in which the debtor has an interest if the Chapter 13 plan proposes to pay less than one hundred percent (100%) to unsecured claims.

(c) If a plan is not filed with the petition, the trustee shall serve the plan when filed on all scheduled creditors and entities the documents provided by D-3.18.13(a)(1)(i), the time fixed for objecting to valuation and confirmation, and the time for the hearing on objections to valuation and confirmation.

- (1) The trustee is authorized to charge as an administrative expense a notice fee and postage for the noticing required by this subparagraph (c) in an amount as generally authorized by the chapter 13 Guidelines issued by the Executive Office of the United States Trustee.

(d) Any motion to modify a confirmed Chapter 13 plan shall be filed in duplicate with the clerk and served on the trustee and shall include:

(1) A paragraph that contains the modification with particular reference to the provisions of the confirmed plan that are being modified, including a specific statement of the proposed percentage to be paid to unsecured creditors and the approximate number of months required to complete payment of the proposed plan;

(2) A paragraph that sets forth the extent to which the proposed modification affects the rights of creditors or other parties in interest;

(3) A paragraph that states the date(s) of the confirmation order of the original plan and the last confirmed modified plan;

(4) If the motion to modify the confirmed chapter 13 plan proposes to change the percentage to unsecured creditors on a compromise plan, or to extend the length of the plan a paragraph that sets forth the specific reason(s) for the modification, including specific and detailed changes in circumstances since confirmation;

(5) If the motion to modify a confirmed chapter 13 plan proposes to change the monthly payment to the plan, attachments consisting of a completed amended Name Address and Employment page and an amended Monthly Family Budget page on forms provided by the chapter 13 trustee. These attachments shall contain information accurate as of the date the motion is filed;

(6) If the motion to modify a confirmed chapter 13 plan proposes to change the payment to unsecured claims from one hundred percent (100%) to any amount less than one hundred percent (100%), an attachment consisting of an appraisal of any real estate in which the debtor has an interest.

(e) Chapter 13 plans which propose to pay less than one hundred percent (100%) to unsecured claims shall propose only whole number percentages. The trustee is authorized in his discretion to round any fractional percentage to a whole number.

(f) If a modified plan is filed after the filing of any objection to confirmation and before a plan is originally confirmed, the modified plan shall specifically list all prior objections and set forth what changes, if any, the modified plan proposes with regard to all prior objection(s) to all prior proposed plans.

(g) A modified plan may not be combined with any other motion.

D-3.18.2 AMENDMENTS TO SCHEDULES

(a) The addition of any creditor in a case shall be by amendment filed with the clerk and a file stamped copy served on the chapter 13 trustee. The amendment shall be by separate document and shall not be combined with a plan modification or any other document. Each added creditor shall be identified as a prepetition or postpetition creditor. Service of the amendment shall be as provided by D-3.18.13(f).

(b) The filing fee payable pursuant to 28 U.S.C. §1930(b) for amendments adding creditors under this rule may be waived upon separate application, or the amendment shall contain a certification by counsel that the order confirming the plan provided for a waiver of the fee.

D-3.18.3 OBJECTIONS TO VALUATION OF PERSONAL PROPERTY

(a) An objection to valuation of household goods and furnishings, motor vehicles and other personal property scheduled by the debtor and upon which there is a consensual lien, or an objection for failure to list an item of personal property as being secured by a consensual lien and to indicate a value therefor, shall be filed with the clerk and served upon the chapter 13 trustee, the debtor, and counsel for the debtor five (5) days prior to the date first set for the meeting of creditors. Such objection shall also be orally brought to the attention of the chapter 13 trustee at the time of the examination of the debtor at the meeting of creditors. Property which is subject to a security interest shall be valued as scheduled unless an objection is filed in accordance with the provisions of this rule.

(b) An objection to valuation must be in writing and must be to specific items of property and not a blanket objection.

(c) At the meeting of creditors, if an objection to valuation is resolved, a stipulation determining the valuation shall be signed by the parties, including the trustee, and filed with the clerk immediately following the meeting of creditors. If an objection to valuation is not resolved, the debtor and objecting creditor, prior to the end of the creditors meeting, shall determine a mutually agreeable time for appraisal of the subject property which shall be within four (4) days after the meeting of creditors including, Saturdays and Sundays. Unless otherwise agreed in writing, the appraisal shall occur at the debtor's residence. The agreement for appraisal, when entered as an order of the court, shall, if violated, subject a party or attorney to appropriate sanctions.

(d) If the creditor and the debtor cannot reach agreement on valuation after the appraisal of the specific property, the creditor shall, not later than seven (7) days after the date of the meeting of creditors attended by the debtor, file with the clerk and serve upon the debtor, debtor's attorney and the chapter 13 trustee:

- (1) legible copies of all documents supporting any claimed security interest,
- (2) all written appraisals of the specific property, and
- (3) the names and addresses of all witnesses to be called by the creditor at the valuation hearing.

Counsel for the debtor and the chapter 13 trustee shall not later than seven (7) days after the date of the meeting of creditors file with the clerk:

- (1) all written appraisals of the specific property, and
- (2) the names and addresses of all witnesses the debtor or the chapter 13 trustee will call at the valuation hearing and serve these documents on the creditor's attorney and each other.

All service pursuant to this provision [D-3.18.3(d)] shall be postmarked not later than seven (7) days after the date of the meeting of creditors and a certificate of such service shall be filed with the clerk.

(e) Provided all parties have complied with the above procedures [D-3.18.3(c) and (d)], the court shall hear the objection to valuation at the scheduled valuation hearing. Failure of any party to comply with the above procedures may be treated by the court as a waiver of that party's valuation claim or objection to valuation and a violation of the court's order for which sanctions may be imposed.

(f) Should the debtor appear, but the creditor fail to appear at the valuation hearing, the valuation of the collateral shall be as set forth in the debtor's schedules; should the creditor appear at the valuation hearing, but the debtor fail to appear, the value of the collateral objected to by the creditor shall be as appraised by the creditor; should both the debtor and creditor fail to appear at the valuation hearing, the valuation of the collateral shall be as set forth in the debtor's schedules. When both the creditor and debtor appear at the valuation hearing, counsel shall be prepared to present all witnesses, evidence and memoranda regarding valuation at that time.

(g) Unless otherwise determined by the court, the general standard for resolving disputed valuation of motor vehicles shall be the average of the trade-in value and the retail value, including options, contained in the Central Edition of N.A.O.A. Official Used Car Guide for the month the debtor's petition was filed or the most recent National Edition of the N.A.D.A. Appraisal Guides for Older Cars, for Older R.V.s., and Older Motorcycles. If the parties have complied with the above procedures [D-3.18.3(c) and (d)], any party may present otherwise admissible evidence regarding the value of the collateral.

(h) An objection to valuation shall not be combined with any motion or with an objection to confirmation.

(i) An objection to valuation of household goods and furnishings, motor vehicles, or other personal property scheduled by the debtor in a modified plan, shall be by written motion filed with the clerk and served upon the debtor, the debtor's attorney and the trustee within the time set forth in the notice for filing an objection to valuation.

(j) If the debtor fails to file a plan with the petition, the time fixed for filing an objection to valuation of personal property shall be as provided by D-3.18.1(c).

(1) An objection to valuation shall be in writing and shall specify the items of property and shall not be a blanket objection and shall be served upon the trustee, the debtor, and counsel for the debtor. The provisions of subsection (f) of this rule shall apply to the hearing on the objection to valuation.

D-3.18.4 OBJECTION TO CONFIRMATION/CONFIRMATION ORDERS

(a) Unless otherwise provided for by law or a specific order of the court, all objections to confirmation shall be filed in accordance with the provisions of this rule.

(b) Objections to confirmation of the original chapter 13 plan shall be by written motion filed with the clerk and served upon the debtor, the debtor's attorney, and the trustee, bearing a certificate of service dated not later than seven (7) days after the first scheduled date for the meeting of creditors, unless the notice to creditors of the filing of the petition and meeting of creditors authorizes a different date for filing objections to confirmation. If the debtor fails to attend any meeting of creditors the time to file an objection to confirmation shall be extended to seven (7) days following the meeting of creditors which is attended by the debtor, and if the last date to object to confirmation is less than seven (7) days before the date scheduled for the hearing on objections to confirmation, the hearing will be rescheduled.

(i) The motion objecting to confirmation shall include:

1. the specific number and letter section(s) of title 11 U.S.C. upon which the objection is grounded;
2. the specific alleged facts which support the objection to confirmation;
3. a complete legible copy of the movant's filed proof of claim, including all attachments;
4. a brief memorandum in support of the objection; and
5. a listing of all exhibits to be introduced and the names and addresses of all witnesses to be called at the confirmation hearing.

(ii) Counsel for all parties shall be prepared to present all witnesses, evidence and memoranda at the confirmation hearing.

(iii) All parties and their counsel shall conduct good faith settlement efforts in connection with objections to confirmation at the time of the meeting of creditors and thereafter.

(iv) The motion objecting to confirmation shall not be combined with any other motion or request for relief, including stay relief.

(c) After an objection to confirmation, if a modified plan is filed the objection will be deemed moot and any objections to the modified plan shall be filed as ordered by the court in the notice of the proposed modified plan.

(d) Objections to confirmation of a modified plan shall be, by written motion filed with the clerk and served upon the debtor, the debtor's attorney and the trustee within the time set forth in the notice or order.

(i) The motion objecting to confirmation of a modified plan shall include:

1. the specific number and letter section(s) of title 11 U.S.C. upon which the objection is grounded;

2. the specific alleged facts which support the objection to confirmation;
3. a complete legible copy of the movant's filed proof of claim, including all attachments; and
4. a brief memorandum in support of the objection;
5. a listing of all exhibits to be introduced and the names and addresses of all witnesses to be called at the confirmation hearing.

(ii) Counsel for all parties shall be prepared to present all witnesses, evidence and memoranda at the confirmation hearing.

(iii) All parties and their counsel shall conduct good faith settlement efforts in connection with objections to confirmation.

(e) Confirmation orders shall be prepared by the trustee. The clerk shall serve a copy of the filed confirmation order on the debtor and the debtor's attorney.

D-3.18.5 ATTORNEY FEES FOR DEBTOR'S ATTORNEY

(a) The attorney for the debtor shall make application to the court for a reasonable attorney fee to be allowed for services rendered and to be rendered in the case. The application shall generally conform to Form 18.5(a).

Applications for attorney fees not exceeding \$850.00 may be allowed in the confirmation order without hearing.

(b) Any consideration received prior to filing the bankruptcy by the attorney for the debtor for services related to the bankruptcy shall be disclosed on the appropriate schedules. The attorney for the debtor shall turn over any such consideration to the trustee at the first meeting of creditors.

If the case is dismissed without being confirmed, or is converted to another chapter under the Code without being confirmed, the funds shall be returned to the attorney, except for any administrative expense allowed the trustee for which no other funds are available from the case.

(c) The trustee shall pay fifty percent (50%) of the allowed attorney fees after confirmation of the plan and prior to any distributions in payment of claims. The trustee shall pay the remaining fifty percent (50%) of the allowed attorney fee in approximately twelve (12) equal monthly installments, except that if the case is dismissed or converted, the balance of the unpaid fee shall be paid to the extent funds are available in the case.

(d) Applications for additional attorney fees, after the initial application filed with the original petition, shall be by separate application.

(1) The application shall include numbered paragraphs which shall state:

- (i) what legal services were performed;
- (ii) what was the result obtained by the legal services;
- (iii) what was the actual time spent by the case attorney, any other attorney, paralegals and other support personnel for whom fees are sought;
- (iv) that no previous application has been made for the services for which the application is made;
- (v) the date of plan confirmation, the original proposed percentage payment to unsecured creditors, and date of the last confirmed modified plan; and
- (vi) the amount of fee requested.

(2) If the fee application is for \$500.00 or less, the attorney shall serve the application on the debtor with a notice to the debtor that the court may allow the fee without further notice unless the debtor files with the court an objection to the allowance of the fee within 20 days; except, that if the debtor signs the fee application, the application does not have to be served on the debtor.

(3) Attorney fee applications shall not be combined with any other motion, application, or notice unless the application is for \$500.00 or less, the debtor signs the document, and the caption includes the words "and Application for Additional Attorney Fees."

(4) The chapter 13 trustee shall submit a proposed order to the court concerning the additional attorney fee. The trustee may file a report with the court recommending the application be allowed, disallowed, modified and/or file other information concerning the case and attorney fees in the case. The report shall be served on the attorney by the trustee.

(5) No attorney fee shall be considered allowed unless specifically ordered by the court.

(6) Any such allowed additional attorney fees shall only be paid after complete payment of all previously allowed attorney fees and shall be paid at the monthly installment rate contained in the confirmation order or provided for by these rules.

(e) Any attorney fees ordered to be paid for cases filed prior to August 1, 1987, or at a percentage of the disbursements to creditors, which remain unpaid on the effective date of these rules, may be paid, at the trustee's discretion, at the monthly installment rate provided for in these rules.

(f) The provisions of this rule governing attorney fees for the debtor's attorney shall be interpreted by the trustee and applied as is administratively efficient to carry out the intent that allowed attorney fees for customary and ordinary work in a case be paid within a year from the date of the confirmation order, and any additional allowed attorney fees shall be paid in monthly installments only after full payment of the original allowed attorney's fees.

D-3.18.6 RESERVED

D-3.18.7 MOTIONS TO INCUR NON-EMERGENCY CONSUMER DEBT

(a) The debtor in a chapter 13 case shall not incur non-emergency consumer debt in excess of two hundred fifty dollars (\$250) without written approval of either the court or the trustee.

(b) The debtor shall make written application to the trustee for approval to incur non-emergency consumer debt in excess of two hundred fifty dollars (\$250.00). The debtor shall not file the application with the clerk. If approved by the trustee, the trustee shall file the approval and the application with the clerk. If not approved by the trustee, the debtor may then file with the clerk a motion to incur non-emergency consumer debt and the motion shall contain as an attachment the trustee's denial of the application to incur debt.

D-3.18.8 MOTIONS TO DISPOSE OF OR SELL PROPERTY OF THE ESTATE, OTHER THAN REAL PROPERTY

(a) The debtor shall make written application to the trustee to dispose of or sell property of the estate other than real property. The debtor shall not file the application with the clerk. If approved by the trustee, the debtor may dispose of or sell the property in accordance with the terms and conditions approved by the trustee. The trustee shall file the approval and the application with the clerk. If not approved by the trustee, the debtor may file with the clerk a motion to dispose of or sell property of the estate, other than real property, and the motion shall contain as an attachment a copy of the trustee's denial of the application to dispose of or sell property of the estate, other than real property.

D-3.18.9 PROOFS OF CLAIM

(a) Unless otherwise ordered by the court, a creditor must timely file a proof of claim to receive payment under the provisions of the chapter 13 plan. Any prepetition entity, or any entity that holds an 11 U.S.C. § 1305(a) postpetition claim, added to the schedule of creditors by amendment shall have ninety (90) days from the first date scheduled for the meeting of creditors, or the date listed on the certificate of service of the amendment, whichever is later, in which to file a proof claim.

(b) Proofs of claim shall be filed on the proof of claim forms provided by the trustee.

However if a claim is filed on a claim form not provided by the trustee, the claim will be allowed as filed, except as otherwise provided by the Code, unless the trustee is unable to process the claim from the information contained therein. In such event, the trustee shall file an objection to the allowance of the claim and attach thereto a blank proof of claim form.

(c) A proof of claim shall be filed in duplicate with the file stamped duplicate copy retained by the clerk for delivery to the trustee. The duplicate copy shall contain copies of all attachments to the original proof of claim. An objection to the allowance of a claim by the trustee for failure of the entity to attach the required documents shall be prima facie evidence that the claim was not filed in accordance with this rule.

(d) Any creditor asserting a security interest in property of the debtor or the debtor's estate shall, in order to receive payment under the provisions of a chapter 13 plan, file a proof of claim including, the required attachments.

(e) A proof of claim filed as a secured claim shall contain the following attachments:

(1) if the security claimed is a motor vehicle - a copy of the note, security agreement and of the certificate of title, evidencing notation of the lien thereon;

(2) if the security claimed is a nonpossessory nonpurchase-money security interest - a copy of the note, security agreement, and filed financing statement(s); and a complete listing of any personal property in which the secured interest is claimed;

(3) if the security claimed is a purchase money security interest - a copy of the security agreement and evidence of the purchase of the property, including the date of the purchase, the sale price and any additional charges including sales tax and interest;

(4) if the security claimed is real estate - a copy of the note recorded mortgage, and any recorded or unrecorded assignment of the note and mortgage to the claimant;

(5) except as otherwise provided herein documents evidencing perfection of the security interest.

(f) An entity holding an allowed secured proof of claim that obtains relief from stay shall not continue to receive the payments provided for in a confirmed plan and may file an amended proof of claim for any deficiency claim.

(g) Except as otherwise provided by law or a specific order of the court, claims shall be allowed secured or unsecured as filed rather than as scheduled.

D-3.18.10 OBJECTION TO THE ALLOWANCE OR DISALLOWANCE OF CLAIMS

(a) A debtor's, or trustee's, objection to the allowance or disallowance of a proof of claim shall be by motion as herein provided and not as governed by LBR 5.6.

(1) The motion shall:

(1) state the specific ground(s) upon which the objection is based;

(2) identify the proof of claim by filing date, creditor and amount, or in some other specific manner;

(3) state the treatment proposed for the proof of claim; and

(4) state that a response must be filed within thirty (30) days of the date set forth on the certificate of service. The objecting debtor or trustee shall serve the objection on the affected claimant(s) and file a certificate of such service with the clerk.

(2) If the objection is to the claim of the United States for federal taxes, the objection shall be served by the debtor on the Special Procedures Section of the Internal Revenue Service, the local United States Attorney and the Attorney General of the United States.

(b) A claimant's response to an objection to the allowance or disallowance of a proof of claim shall:

(1) state the specific grounds for the allowance of the claim as filed, or the allowance of the claim in a manner different than filed;

(2) state the date of the certificate of service on the objection to the claim;

(3) file in duplicate any documents not originally filed which would be necessary to support the claim; and

(4) set forth the treatment the claimant proposes for the proof of claim.

The claimant shall serve the response on the debtor's attorney and trustee and file a certificate of service with the clerk.

(c) If a claimant fails to file a response to an objection within the time set forth in this rule, the claimant shall be deemed to have waived any objection to the relief sought and the moving party shall submit an order in accordance with LBR 5.11.

(d) If a claimant files a response, the court shall direct the trustee to schedule a conference, pursuant to Bankruptcy Rule 7016, with the debtor's attorney and the responding claimant for the purposes of expediting the disposition of, and facilitating the settlement of, the objection to the claim. If the objection is resolved at the conference an appropriate proposed order shall be submitted to the court by the trustee. If the objection is not resolved at the conference the trustee shall submit a report to the court that the objection was not resolved; in such event the court will set appropriate further proceedings. Failure of any person to attend the trustee conference will subject the non-attending party or attorney to appropriate sanctions.

D-3.18.11 THE CHAPTER 13 TRUSTEE AS A PARTY TO MOTIONS FOR RELIEF FROM STAY

(a) The chapter 13 trustee is not required to be named as a party in any motion for relief from the provisions of 11 U.S.C. § 362 in a confirmed case. Unless the chapter 13 trustee is named as a party and specific relief is sought against the chapter 13 trustee, or the chapter 13 trustee wishes to be heard in connection with a motion for relief from stay, the chapter 13 trustee is not required to file a response.

D-3.18.12 ADDRESSES AND REQUESTS FOR SERVICE OF NOTICE

(a) The chapter 13 trustee shall mail all notices to an entity at the address listed in the schedule of creditors. If, however, a different address is stated on a proof of claim filed by an entity, the address stated on the filed proof of claim shall be used; or, if an entity or an entity's authorized agent files a written request to receive notice, notice shall be mailed in accordance with the written request.

(1) A request by an entity's authorized agent to receive notices sent to all entities in a case shall be made by a written request filed with the clerk.

(2) A request by an entity's authorized agent to receive only the notices sent to an individual entity shall be made by a written request and filed with the clerk and shall contain the signed approval of the entity. Such a request shall also constitute a request that all payments due the entity be mailed to the authorized agent and, unless otherwise specifically ordered by the court, all future notices and the checks, from the trustee made payable to the entity, shall be mailed to the authorized agent and not to the entity.

(b) Any request under this rule must be made in each case in which the notice is sought and shall not include multiple case numbers.

(c) The addresses for notice pursuant to this rule shall be maintained by the trustee.

(d) The trustee, at his discretion, may provide notice to additional entities in any case or proceeding.

(e) All notices to the debtor shall be mailed to the address stated on the petition unless the debtor files with the clerk a written change of address.

D-3.18.13 SERVICE BY THE CHAPTER 13 TRUSTEE

(a) The trustee shall give the debtor, debtor's attorney, creditors and other entities originally scheduled by the debtor not less than twenty (20) days notice by first class mail of:

(1) the meeting of creditors pursuant to 11 U.S.C. § 341, and,

(i) the trustee shall attach to the notice a copy of the plan or a summary of the plan if the plan was filed with the petition, a blank proof of claim form, and a copy of, or a summary of, Dayton Chapter 13 Rules D-3.18.3-Objections To Valuation Of Personal Property D-3.18.4-Objections to Confirmation/Confirmation Orders D-3.18.9-Proofs of Claim and D-3.18.10-Objection To the Allowance Or Disallowance Of Claims and a copy of the debtor's budget.

(2) a proposed sale, use, or lease of property, other than in the ordinary course of business, unless:

(i) the court authorizes another method of service,

- (ii) orders that no notice be made,
 - (iii) the plan provides for the sale, or
 - (iv) the proposed sale, or the sale or disposal is pursuant to D-3.18.8;
- (3) the notice of transferred claim(s) as provided by B.R. 3001(e)(2) and (4);
 - (4) the time fixed for filing objections to a proposed modification of a plan;
 - (5) the time fixed for motions objecting to or requesting a hearing on applications for compensation or reimbursement of expenses in excess of five hundred dollars (\$500.00);
 - (6) the time fixed for filing objections to conditional confirmation orders.
- (b) The trustee shall give the debtor, debtor's attorney, creditors and other entities originally scheduled by the debtor, not less than 25 days notice by first class mail of the time fixed for filing objections to, and the date of, the hearing on objections to confirmation of the plan.
- (c) The trustee shall give the debtor, debtor's attorney, creditors and other entities originally scheduled by the debtor, notice by first class mail of the order for relief, not more than twenty (20) days after the entry of such order.
- (d) The trustee shall give the debtor, debtor's attorney, creditors and other interested parties notice by first class mail of a final order dismissing a case, plan completion, and in completed cases the filing of the trustee's final report and account.
- (e) The trustee shall give notice of the filing of a proof of claim by the debtor, in the name of the creditor, to the creditor and the debtor.
- (f) The trustee shall give notice to any creditor added in a case by amendment pursuant to D-3.18.2(a). The notice shall include a statement setting forth:
- (1) the date the petition was filed,
 - (2) the date first scheduled for the meeting of creditors,
 - (3) whether the plan has been confirmed or not, and
 - (4) the last day in which the creditor shall file a proof of claim as established by D-3.18.9(a).
- (g) The trustee shall file with the clerk a certificate of service made pursuant to this rule or any other service the court orders the trustee to make.

(h) Notices returned undeliverable to the trustee shall be filed by the trustee with the clerk. Such filing shall consist of a copy of the envelope showing failure of service and a copy of the notice.

(i) The trustee shall not be required to serve under this rule any scheduled creditor:

- 1) who fails to file a proof of claim within 6 months after the first date scheduled for the meeting of creditors, or
- 2) who fails to file a proof of claim within 6 months after the creditor has been scheduled by an amendment.

Notwithstanding the above, the trustee shall serve any creditor who files a proof of claim.

(j) The trustee shall give notice of the entry of the order converting the case from a chapter 7 case.

(k) The trustee, in conjunction and consultation with the clerk, may fix times for filing sundry motions and responses and give notices as appropriate for court hearings and continued or rescheduled court hearings, including but not limited to confirmation and valuation hearings.

D-3.18.14 SERVICE ON THE CHAPTER 13 TRUSTEE

(a) The trustee shall be served with a copy of all papers filed in a case, and if the filed paper is a notice of conversion to chapter 7, a modified plan or request for additional attorney fees, the copy served on the trustee shall be a file stamped copy. All papers filed with the clerk shall contain a certificate of service in accordance with LBR 5.0.

D-3.18.15 SALE OF REAL ESTATE

(a) Unless otherwise provided by law or a specific order of the court, sale of real estate shall be in accordance with the provisions of this rule.

(b) The debtor shall file a Motion for Sale of Real Estate after a contract of sale is procured. In the motion the debtor shall state the following:

- (1) whether or not the debtor's plan has been confirmed;
- (2) the address of the property;
- (3) whether or not the property is the debtor's residence;
- (4) the sale price;
- (5) the appraisal in the petition and the trustee's appraisal;
- (6) the name of each mortgagee or lienor and the approximate payoff for each lien;

- (7) the approximate amount of unpaid real estate taxes;
- (8) the name of any realtors and the proposed real estate commission, but not to exceed 6% of the sale price, unless the sale proceeds will be used to pay off the debtor's plan;
- (9) the proposed attorney fee; the amount of allowance to the debtor for relocation; list and explanation of other proposed deductions from the sale proceeds; approximate amount of closing costs;
- (10) a summary of the total deductions from the sale proceeds and the approximate amount of the sale proceeds to be paid to the plan;
- (11) whether or not the plan provided for the sale, and, if the confirmed plan did not provide for the sale, that the plan has been modified to provide for the sale, and whether the time for objection to the modification has expired. If the sale proceeds will pay off the confirmed plan, no modified plan need be filed.

(c) The chapter 13 trustee or the trustee's agent shall attend the closing of the sale with all sale proceeds being turned over to the trustee, or the trustee's agent, who is to be the disbursing agent, but not the closing agent, at closing;

(1) The closing agent shall make suitable arrangements with the chapter 13 trustee, or the trustee's office staff, for the time and place of closing and the closing shall be during the normal working hours of the chapter 13 office unless other arrangements are made with the trustee, and, except as otherwise ordered, in no event shall the trustee be required to attend a closing within three (3) days prior to the trustee's monthly disbursement;

(2) Those checks which are distributed by the trustee as disbursing agent and which are not payments provided for by the plan to be paid by the trustee, but are distributions to be made by the debtor at closing, shall be issued with the debtor and the creditor as joint payees, with the trustee's records reflecting that those distributions were debtor refunds and not payments provided for under the plan;

(3) The trustee's reports of administration and final report of receipts and disbursements shall be the report of the sale and distribution of the proceeds therefrom.

D-3.18.16 EXCLUSION OF MOTOR VEHICLE AND PERSONAL PROPERTY LEASES

(a) If a plan proposes to exclude a motor vehicle or other personal property lease from chapter 13 the debtor shall

- (1) schedule the debt;
- (2) clearly disclose in the proposed plan the proposal to exclude the debt;

(3) file with the court, and serve on the trustee, the creditor and any co-debtor, by the date first set for the meeting of creditors, a motion entitled MOTION TO EXCLUDE LEASE DEBT FROM CHAPTER 13 PLAN, and attach to the motion a copy of the lease and a copy of all other documents which will allow determination of the terms of the lease, including all deposits made, all amounts paid, and all remaining payments required under the terms of the lease.

(b) Unless otherwise ordered, objections to the Motion shall be heard at the confirmation hearing.

(c) If there is no objection filed within twenty (20) days after service of the Motion, the debtor may submit a proposed order excluding the lease.

D-3.18.17 DEBTOR'S FEDERAL INCOME TAX REFUNDS

(a) Unless otherwise ordered or provided by the debtor's confirmed plan, debtor's Federal tax refunds received by the trustee shall not be turned over to the debtor until the claim(s) filed by the IRS are paid by the trustee, as provided for by the plan.

(1) Nothing in this rule prohibits the debtor from consenting to the trustee applying the tax refund to payment of the IRS claim(s), or from consenting to the tax refund in whole or in part, being applied as payments provided for by the plan.

(2) If the case is either converted to another chapter under title 11, or is dismissed, prior to the payment of the IRS claim(s), the trustee may return the tax refund to the IRS.

D-3.18.18 CONVERSION FROM CHAPTER 13 TO CHAPTER 7

(a) A chapter 13 case shall be converted to chapter 7 without court order on the filing by the debtor of a notice of conversion. The debtor shall serve a file stamped copy of the notice on the chapter 13 trustee.

(b) If a joint case is divided into separate cases by conversion the clerk shall assign a new case number to the chapter 7 case.

D-3.18.19 CONVERSION FROM CHAPTER 7 TO CHAPTER 13

(a) A chapter 7 case, which has not been previously converted to chapter 7 under 11 U.S.C. §§ 1112, 1208, or 1307, shall be converted to chapter 13 by the filing of motion for an order of conversion and the entry of the order of conversion. The debtor shall serve the motion on the chapter 7 trustee, United States trustee, and the chapter 13 trustee.

(i) The motion for an order of conversion shall be signed by the debtor and the debtor's case attorney. It shall set forth the date of the commencement of the chapter 7 case, the name of the chapter 7 trustee and affirmatively state that the case has not been converted to chapter 7 under 11 U.S.C. §§ 1112, 1208, or 1307.

(ii) Within fifteen (15) days after entry of the order of conversion, the debtor shall file a plan and comply with D-3.18.1(a). The Voluntary Petition shall be captioned as an "Amended Voluntary Petition" and shall contain the case number assigned to the case by the clerk when the case was originally commenced.

(iii) The trustee shall make service, as provided by D-3.18.13, of the notices for the meeting of creditors, the time for filing objections to, and the date of, the hearing(s) on objections to valuation and to confirmation of the plan.

(b) If a joint case is divided into separate cases by conversion the clerk shall assign a new case number to the chapter 13 case.

D-3.18.20 PLAN PAYMENTS

(a) Except as otherwise ordered, all plan payments for plans filed on and after January 1, 1991, shall be by wage deduction.

(b) The debtor shall pay the first plan payment at the time of the meeting of creditors and continue to pay the proposed plan payments until otherwise ordered by the court or notified in writing by the trustee.

(c) The debtor may, in writing, authorize the trustee to commence the wage deductions before the plan is confirmed.

(d) Except as otherwise ordered, the confirmation order shall provide that the trustee may notify any entity from whom the debtor receives income from wages to pay all or any part of such income to the trustee as is necessary for the execution of the plan, or to cease payment of all or any part of such income to the trustee.

(e) If the debtor proposes to make plan payments other than by wage deduction, the debtor shall file an application setting forth with specificity the grounds for the proposed method of plan payments.

D-3.18.21 RESERVED

D-3.18.22 RESERVED

D-3.18.23 RESERVED

D-3.18.24 RESERVED

D-3.18.25 RESERVED

III. CHAPTER 13 TRUSTEE'S PAYMENT OF CLAIMS, SMALL DIVIDENDS, UNCLAIMED FUNDS AND ADMINISTRATIVE FEE ON UNCONFIRMED CASE

D-3.18.26 PAYMENT OF CLAIMS

- (a) Payment of claims shall be as provided for under the provisions of a confirmed plan or an order confirming a modified plan.
- (b) After confirmation of the plan, the trustee may commence payment on allowed secured claims which the debtor has scheduled as secured claims, or for which the plan provides specific monthly payments.
- (c) The trustee is not required to accumulate funds for any claim for which a proof of claim has not been filed.
- (d) The trustee shall not be required to make payments until after the time for filing claims has expired and the debtor has had twenty (20) days in which to file an objection to any claim which the debtor has not scheduled as secured or upon which specific monthly payments were not proposed by the debtor. Nothing herein shall prevent a creditor from filing a motion requesting the trustee to commence immediate payment on a claim.

D-3.18.27 SMALL DIVIDENDS AND UNCLAIMED FUNDS

- (a) Dividends which the trustee is unable to pay to an entity with an allowed claim because the trustee received notice from the United States Postal Service that the address of the entity is unknown shall become unclaimed funds and shall be accumulated and paid to the clerk in accordance with paragraphs of this rule.
- (b) When the trustee files the final report, any funds to be paid in accordance with this rule shall be paid to the clerk pursuant to 11 U.S.C. § 347(a). The trustee shall file with the clerk a list of the amount paid to the clerk for each entity, the last known address of the entity, and shall mail a copy of the filed list to the last known address of the entity.

D-3.18.28 THE CHAPTER 13 TRUSTEE'S ADMINISTRATIVE FEE ON UNCONFIRMED CASES

- (a) The trustee is authorized to charge an administrative fee of fifty dollars (\$50.00) in any case which is dismissed or converted prior to confirmation.
- (b) The trustee is authorized to charge the percentage fee authorized for trustee compensation and expenses on any unconfirmed case where the trustee is authorized to make disbursements prior to confirmation.

AMENDMENT # 1

TO: ATTORNEYS AND PUBLIC

FROM: MICHAEL D. WEBB, CLERK
UNITED STATES BANKRUPTCY COURT

RE: REVISION OF CHAPTER 13 LOCAL RULES FOR COLUMBUS AND DAYTON

This amendment contains revisions to the chapter 13 local Bankruptcy Rules for Columbus and Dayton. These revisions were adopted by the Bankruptcy Judges in those locations.

FILING INSTRUCTIONS FOR COLUMBUS CHAPTER 13:

Remove previous page:	Insert:	Dated:
-----	Amended General Order	2-19-92
-----	Appendix	-----
Table of Contents	Table of Contents	-----
Pages 1 - 7	Pages 1 - 7	2-19-92

FILING INSTRUCTIONS FOR DAYTON CHAPTER 13:

Remove previous page:	Insert:	Dated:
-----	Amended General Order	2-1-92
Page 1 & 2	Page 1 & 2	2-1-92
Page 5 & 6	Page 5 & 6	2-1-92
Page 11 & 12	Page 11 & 12	2-1-92
Page 15 & 16	Page 15 & 16	2-1-92

Any questions should be directed to the Clerk's Office personnel listed below:

Columbus - Keith Brown, Deputy in Charge 614-469-2087
Dayton - Kenneth Jordan, Operations Manager 513-225-7505

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION

General Order
No. 92-01

AMENDED GENERAL ORDER ADOPTING CHAPTER 13 RULES

At Columbus, in the Southern District of Ohio, on the 19th day
February, 1992.

The Court hereby orders that Local Bankruptcy Rules C-3.18.7
and C-3.18.13 (a) and (b) shall be amended as attached hereto.
Such amendments shall be effective as of the date of this General
Order and shall govern all bankruptcy cases and proceedings.

IT IS SO ORDERED.

Date: February 19, 1992

Donald E. Calhoun, Jr.
United States Bankruptcy Judge

Barbara J. Sellers
United States Bankruptcy Judge

R. Guy Cole, Jr.
United States Bankruptcy Judge

APPENDIX
LOCAL BANKRUPTCY RULES
COLUMBUS - CHAPTER 13

**LOCAL BANKRUPTCY RULES
COLUMBUS - CHAPTER 13**

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CHAPTER 13 RULES - COLUMBUS

C-3.18.1 EFFECTIVE DATE, APPLICABILITY AND SHORT FORM

(a) As a supplement to the Local Rules for the United States Bankruptcy Court for the Southern District of Ohio, and pursuant to LBR 3.19, these rules shall be effective for all cases filed under or converted to chapter 13 after August 1, 1991, and for all proceedings in chapter 13 cases pending on that date to the extent such application is just and practicable.

(b) These rules shall be cited as C-LBR 3.18.1 - 3.18.18.

C-3.18.2 SUPERSESION OF PRIOR ORDERS

These rules specifically supersede Local Superintendency Orders 82-01, 82-02, 82-03, 82-04, 83-03, 83-04, 84-01, 84-02, 84-03, 84-04, 85-02, and the Court's Chapter 13 Administrative Order of September 14, 1983.

C-3.18.3 NUMBER OF COPIES AND SERVICE OF PLAN, PLEADINGS AND OTHER PAPERS

(a) The number of copies for all initial filings required by Fed. R. Bankr. P. 1002, 1007(b)(2) and 3015, and any amendments thereto, shall be filed in the original plus three (3) copies.

(b) If the chapter 13 plan is not filed with the petition or within five (5) days thereafter, the attorney for the debtor shall serve a copy of the plan upon all parties in interest. Proof of such service must be supplied pursuant to LBR 5.0(b), (c), and (e).

(c) All pleadings and papers other than those set forth in subsection (a) of this rule shall be filed in the original plus one (1) copy and shall be served upon the trustee and all other affected parties in interest pursuant to LBR 5.0.

C-3.18.4 REPORTS AND OTHER FILINGS REQUIRED FOR DEBTOR ENGAGED IN BUSINESS

(a) Any chapter 13 debtor who is self-employed and who has employees or incurs trade debt in the production of income from such employment, in addition to the filings required by Fed. R. Bankr. P. 1007(b)(2) and 3015, must file with the clerk and serve upon the trustee:

(1) Copies of the federal tax returns of the debtor, and of any entity controlled by the debtor, for the three (3) tax years immediately preceding the year in which the

petition has been filed. These documents shall be filed no later than five (5) days prior to the meeting of creditors.

(2) A balance sheet reflecting the financial condition of the business at the date of the filing of the chapter 13 petition, and a profit and loss statement accrued from the date of the last issued profit and loss statement to that same date. Copies of any other balance sheets or profit and loss statements issued within the three (3) years immediately preceding the filing of the petition. These documents shall be filed no later than five (5) days prior to the meeting of creditors.

(3) Written reports of the business operations and financial condition of the debtor shall be filed initially five (5) days prior to the date set for the meeting of creditors and every ninety (90) days thereafter.

Such reports shall include a statement of operations of the business for the preceding period, including all receipts, all disbursements for indebtedness, contractual obligations incurred, and, if payments are made to employees, the amounts of deductions for withholding and social security taxes and the place where such amounts are deposited.

(b) New books of account shall be opened by the debtor as of the date of the filing of the petition herein, in which books of account shall be kept a proper account of earnings, expenses, receipts, disbursements and all obligations and transactions had in the operation of the business and the management, preservation and protection of the property of the business.

C-3.18.5 OBJECTIONS TO CONFIRMATION

Objections to confirmation of a plan must be in writing and must specifically set forth the statutory grounds upon which the objections are based. Unless the notice authorizes a different date, such objections must be filed with the court and served upon the trustee, the debtor and the debtor's attorney at least three (3) days prior to the meeting of creditors or ten (10) days prior to confirmation, whichever is later. Unless the court orders otherwise, objections to confirmation will be heard at the time of the hearing on confirmation.

C-3.18.6 INSURANCE

Unless otherwise ordered by the court or agreed to by the parties, all motor vehicles having a value in excess of \$1,000.00 and subject to valid liens must carry comprehensive and collision insurance. All motor vehicles driven during the pendency of a plan, whether or not subject to a lien, must carry liability insurance. All real estate, whether or not subject to a mortgage, must be insured for fire and extended coverage in an amount acceptable to the trustee or to any holder of a mortgage against that property. Required insurance shall be in effect at the time of confirmation and continue in effect throughout the plan.

C-3.18.7 ADMINISTRATION EXPENSES OTHER THAN FEES OF PROFESSIONALS

(a) Prescribed Fees for All Cases

In addition to the fees promulgated under authority of 28 U.S.C. §1930 and collected by the Clerk's Office at the time filings are made, and subject to the maximum percentage fee as set forth in 28 U.S.C. §586(e)(1)(B)(i), Chapter 13 debtors will be assessed noticing fees and claims processing fees pursuant to that same authority. The fee for each notice generated by the Trustee in cases filed under Chapter 13 of Title 11 of the United States Code, shall be fifty cents (\$.50) each. The fees shall be payable only from the estate and only to the extent there is an estate. The noticing fees will be assessed in all cases prior to the time the Final Report and Account is filed with the Clerk of the Bankruptcy Court. The total of those fees will be shown on the Trustee's Final Report and Account.

(b) Special Assessment for Dismissed or Converted Case

In lieu of the fees set forth in subsection (a), the Trustee is authorized to charge an administrative expense of \$40.00 in a consumer case and \$50.00 in a business case where no plan is confirmed. That amount may be periodically adjusted by amendment to this rule to reflect actual charges incurred and, for good cause may be specifically set in a different amount in unusual cases.

C-3.18.8 AMENDMENTS, APPRAISALS, AND OTHER FILINGS REQUIRED FOR CONFIRMATION

(a) For cases heard in Columbus, debtor's counsel shall file with the clerk all amendments, appraisals, stipulations, pleadings or other papers necessary to place the plan in a posture for confirmation at least seven (7) days prior to the hearing on confirmation of the plan.

(b) Proposed orders relating to confirmation shall be submitted to the court at least seven (7) days prior to the hearing on confirmation of the plan, or, at the latest, to the courtroom deputy at the hearing.

(c) Unless otherwise ordered by the court upon request by the debtor, or unless such property has been purchased within twelve (12) months of the order for relief under chapter 13, an acceptable appraisal must be filed with the clerk and served on the trustee for each parcel of real property owned by the debtor unless the plan proposes a 100% dividend for holders of allowed unsecured claimants.

C-3.18.9 CONSENT DOCKET

Cases which appear to the court to meet all statutory tests for confirmation and in which

no objections to confirmation have been filed may be placed on a consent docket and may be confirmed without actual presentations in each case. Such cases will be read into the record at the confirmation hearing, and it will be the duty of the debtors' attorneys, the trustee, or parties in interest to inform the court at that time of any existing bar to confirmation. Cases with pending objections will not be placed on the consent docket. Deficiencies in the plan, if correctly noted in the trustee's recommendation, must be cured in a manner which is evident upon review of the clerk's file, or the plan will not be scheduled on the consent docket.

C-3.18.10 FORM OF PRE-CONFIRMATION PAYMENTS

A debtor shall commence making the payments proposed under the plan by payment to the trustee on or before the date first set for the meeting of creditors. Such payment shall be in the amount proposed in the plan to be paid over the period of not less than one month, and shall be made only in the following form: money order, certified check, cashier's check, check drawn on an attorney's trust account, or in such other form as the trustee directs. Pursuant to 11 U.S.C. §1326(a)(1), payments must continue on a regular basis, at least monthly, from the date of that first payment until confirmation is granted or denied. All such payments will be held in trust pending confirmation.

C-3.18.11 MODIFICATIONS OF PLANS

(a) Pre-Confirmation Modifications

Any modification of a plan proposed prior to confirmation must be filed with the clerk at least seven (7) days prior to the hearing on confirmation. All such modifications shall be served upon the trustee and upon all adversely affected parties in interest pursuant to LBR 5.0.

(b) Post-Confirmation Modifications

Any modification of a plan proposed after confirmation must be filed with the clerk and served upon the trustee and all affected parties in interest, including, where appropriate, the debtor and the case attorney. Proof of such service must be supplied pursuant to LBR 5.0. All such proposed modifications will be treated as motions and shall conform to and be governed by LBR 5.4. Submission of orders related to such motions is governed by LBR 5.11.

When appropriate, proposed plan modifications shall include:

- (1) A paragraph that contains the modification with particular reference to the provisions of a confirmed plan that are being modified, including a specific statement of any proposed percentage to be paid to unsecured creditors and the approximate number of months required to complete payment of the proposed plan;

(2) A paragraph that sets forth the extent to which the proposed modification affects the rights of creditors or other parties in interest;

(3) A paragraph that states the date(s) of the confirmation order of the original plan and of any previous modified plans;

(4) If a motion to modify the plan proposes to decrease the dividend to unsecured creditors or to extend the length of the plan, a paragraph that sets forth the reason for the modification, including any change in circumstances since confirmation;

(5) If the motion to modify proposes to change the amount of each periodic payment to the plan, an attachment consisting of an amended monthly family budget;

(6) If the motion to amend or modify proposes to change the payment to holders of allowed unsecured claims from one hundred percent (100%) to any amount less than one hundred percent (100%), an attachment consisting of an appraisal of any real estate in which the debtor has an interest, if such appraisal was not previously filed in connection with confirmation.

(c) Modifications Proposed While a Motion to Dismiss is Pending

If the debtor proposes a plan modification subsequent to and during the pendency of a motion to dismiss the case, in addition to the requirements set forth in C-LBR 3.18.11(b), such modification must be filed and served at least ten (10) days prior to the scheduled hearing on the dismissal motion.

C-3.18.12 ALLOWANCE, STATUS AND DISTRIBUTION OF CLAIMS

(a) Proofs of Claim

The trustee shall not distribute funds to any claimant unless a proof of claim has been filed on behalf of such claimant or unless a claim has been otherwise allowed by order of the court.

(b) Claims of Newly Added Creditors

Any entity added to the schedule of creditors by amendment shall have ninety (90) days from the first date scheduled for the meeting of creditors or the date shown on the certificate of service of the amendment, whichever is later, within which to file a proof of claim.

(c) Supersession by Duplicate

A proof of claim which duplicates an earlier claim filed by the same entity, in the same amount, based upon the same transaction(s) with supporting documentation, and which is in all material aspects a "duplicate" claim, shall be deemed to supersede the earlier claim without need for a court order to that effect.

(d) Valuation of Real and Personal Property

Unless otherwise ordered by the court, stipulated between the parties, or evidenced by uncontested appraisal, real and personal property secured by valid liens shall be valued for purposes of 11 U.S.C. §506(a) at the lower of the claimant's representation on its proof of claim or the debtor's opinion as set forth in the chapter 13 statement. Any amount by which a proof of claim exceeds that valuation shall be allowed and treated as an unsecured claim unless otherwise subject to objection.

(e) Discount Factors

Holders of allowed secured claims rejecting the debtor's plan shall receive a discount factor equal to the market rate of interest for similar loans in the region as proposed by the debtor or ordered by the court. Claimants which do not specifically reject the treatment proposed in the plan for their claim shall be deemed to have accepted the plan.

(f) Interest

Interest shall be paid to holders of allowed unsecured claims when an estate is solvent. Such interest shall be the rate prescribed by 28 U.S.C. §1961(a) and currently certified by the Department of the Treasury at the time of confirmation.

C-3.18.13 ATTORNEY FEES AND EXPENSES

(a) Attorney fees for services already rendered and to be rendered by the debtor's attorney which are to be paid by the trustee from payments made by and on behalf of the debtor into the plan shall be allowed and paid without specific application to the extent of a fee not in excess of eight hundred fifty dollars (\$850.00). Such attorney fee shall be paid along with other secured or priority unsecured claims in the initial distributions as soon as funds are accumulated.

(b) Requests for fees and expenses in excess of eight hundred fifty dollars (\$850.00), or for allowance of fees and expenses incurred after confirmation, must be made pursuant to application. Said application must conform to LBR 4.4 and must include an itemization for all services and fees for which an award is requested, including fees and expenses included in the initial eight hundred fifty dollars (\$850.00) requested.

C-3.18.14 POST-PETITION SALES

All sales of personal or real property out of the ordinary course of the debtor's business or affairs shall be subject to the requirements of Fed. R. Bankr. P. 2002(c) and 6005, and LBR 3.4 and 6.2. Notices of proposed sales shall be sent by the debtor or the case attorney to the trustee and to any party with a retained lien against property proposed to be sold. The notice shall include the proposed disposition of the sale proceeds, and, if any sale proceeds are proposed to be retained by the debtor in an amount in excess of allowed exemptions, the notice of sale must also be sent to all parties in interest.

C-3.18.15 POST-PETITION CREDIT

Any post-petition extensions of credit sought by the debtor which aggregate in excess of five hundred dollars (\$500.00), shall be in the form of a motion subject to Fed. R. Bankr. P. 4001(c) and (d) and LBR 6.1. Such motions shall be served upon the trustee and all parties in interest unless the plan is a one hundred percent (100%) plan in which instances service may be only upon the trustee and upon any party retaining or being granted a lien against property in connection with such extension of credit.

C-3.18.16 PAYROLL DEDUCTIONS

In all plans funding shall be by payroll deduction unless otherwise agreed by the trustee or ordered by the court.

C-3.18.17 CONDUIT MORTGAGE PAYMENTS

In all plans in which a pre-petition arrearage exists for claims treated pursuant to 11 U.S.C. §1322(b)(5) as of the date of the bankruptcy filing and such arrearage is in excess of two months' payments under the terms of the applicable note or contract, unless otherwise ordered by the court, the payments maintained during the plan shall be made by the trustee.

C-3.18.18 SANCTIONS

(a) Unless good cause is shown, the failure to have all necessary amendments, appraisals, stipulations, proposed orders, pleadings or other papers timely filed or submitted, or the failure to perform any act required by these rules in a timely manner, in addition to the sanctions provided by LBR 1.4, may result in a decrease in the reasonable attorney fee allowed by the court for the services of the case attorney or such other action as is appropriate, including denial of confirmation and dismissal of the case.

(b) If confirmation is denied and the court grants time to file an amendment, pleading or other paper to put the plan in a posture for confirmation, the time granted to the debtor by the court shall commence from the date of the oral order issued at the confirmation hearing. If such amendment, pleading or other papers are not timely filed the case may be dismissed without further notice to the debtor or other parties in interest.

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION AT DAYTON**

**GENERAL ORDER ADOPTING AMENDMENTS TO LOCAL BANKRUPTCY RULES
DAYTON - EFFECTIVE FEBRUARY 1, 1992**

DATED AT DAYTON, OHIO this _____ day of January, 1992

The Court finds that, pursuant to Rule 9029 FRBP and LBR 3.18, Rules D-3.18.1(a) and D-3.18.5(a) shall be amended as follows, **effective February 1, 1992.**

D-3.18.1 ORIGINAL AND MODIFIED PLANS

- (a) The debtor shall file an original and two (2) copies of:
- (1) the voluntary petition,
 - (2) the schedules and statements as required by Rule 1007 of the Federal Rules of Bankruptcy Procedure,
 - (3) the plan, and
 - (4) Debtor's Proposed Method of Plan Payment which shall generally conform to Form 18.1(a).

D-3.18.5 ATTORNEY FEES FOR DEBTOR'S ATTORNEY

- (a) The attorney for the debtor shall make application to the court for a reasonable attorney fee to be allowed for services rendered and to be rendered in the case. The application shall generally conform to Form 18.5(a).

Applications for attorney fees not exceeding \$850.00 may be allowed in the confirmation order without hearing.

SO ORDERED

WILLIAM A. CLARK
United States Bankruptcy Judge

THOMAS F. WALDRON
United States Bankruptcy Judge

**LOCAL BANKRUPTCY RULES
DAYTON-CHAPTER 13**

I. INTRODUCTION TO DAYTON CHAPTER 13 RULES

D-3.18.0 DAYTON CHAPTER 13 RULES; SHORT TITLE; APPLICABILITY OF THE LOCAL RULES FOR THE SOUTHERN DISTRICT OF OHIO

(a) Pursuant to the Local Rules for the United States Bankruptcy Court for the Southern District of Ohio, LBR 3.19, the Bankruptcy Court at Dayton, Ohio, promulgates and adopts the following rules for the governing of chapter 13 proceedings in the Bankruptcy Court at Dayton, Ohio. These rules become effective January 1, 1991 and replace the rules which were originally effective August 1, 1987, and the amendments thereto which became effective May 1, 1989

(b) These chapter 13 rules shall be cited as Dayton Chapter 13 Rules and shall be abbreviated D-3.18._____.

(c) The Local Rules for the United States Bankruptcy Court for the Southern District of Ohio (LBR) shall be applicable in all chapter 13 Cases and proceedings in the Bankruptcy Court at Dayton, except to the extent that a particular rule, or a portion of a particular rule, is by its terms not applicable to a Chapter 13 case or proceeding.

II. FILING AND SERVICE REQUIREMENTS IN CHAPTER 13 CASES AND PROCEEDINGS

D-3.18.1 ORIGINAL AND MODIFIED PLANS

(a) The debtor shall file an original and two (2) copies of:

- (1) the voluntary petition,
- (2) the schedules and statements as required by Rule 1007 of the Federal Rules of Bankruptcy Procedure,
- (3) the plan, and
- (4) Debtor's Proposed Method of Plan Payment which shall generally conform to Form 18.1(a).

(b) The debtor shall, not later than the date first set for the meeting of creditors, file an appraisal of any real property in which the debtor has an interest if the Chapter 13 plan proposes to pay less than one hundred percent (100%) to unsecured claims.

(c) If a plan is not filed with the petition, the trustee shall serve the plan when filed on all scheduled creditors and entities the documents provided by D-3.18.13(a)(1)(i), the time fixed for objecting to valuation and confirmation, and the time for the hearing on objections to valuation and confirmation.

- (1) The trustee is authorized to charge as an administrative expense a notice fee and postage for the noticing required by this subparagraph (c) in an amount as generally authorized by the chapter 13 Guidelines issued by the Executive Office of the United States Trustee.

(d) Any motion to modify a confirmed Chapter 13 plan shall be filed in duplicate with the clerk and served on the trustee and shall include:

(1) A paragraph that contains the modification with particular reference to the provisions of the confirmed plan that are being modified, including a specific statement of the proposed percentage to be paid to unsecured creditors and the approximate number of months required to complete payment of the proposed plan;

(2) A paragraph that sets forth the extent to which the proposed modification affects the rights of creditors or other parties in interest;

(3) A paragraph that states the date(s) of the confirmation order of the original plan and the last confirmed modified plan;

(4) If the motion to modify the confirmed chapter 13 plan proposes to change the percentage to unsecured creditors on a compromise plan, or to extend the length of the plan a paragraph that sets forth the specific reason(s) for the modification, including specific and detailed changes in circumstances since confirmation;

(5) If the motion to modify a confirmed chapter 13 plan proposes to change the monthly payment to the plan, attachments consisting of a completed amended Name Address and Employment page and an amended Monthly Family Budget page on forms provided by the chapter 13 trustee. These attachments shall contain information accurate as of the date the motion is filed;

(6) If the motion to modify a confirmed chapter 13 plan proposes to change the payment to unsecured claims from one hundred percent (100%) to any amount less than one hundred percent (100%), an attachment consisting of an appraisal of any real estate in which the debtor has an interest.

(e) Chapter 13 plans which propose to pay less than one hundred percent (100%) to unsecured claims shall propose only whole number percentages. The trustee is authorized in his discretion to round any fractional percentage to a whole number.

(f) If a modified plan is filed after the filing of any objection to confirmation and before a plan is originally confirmed, the modified plan shall specifically list all prior objections and set forth what changes, if any, the modified plan proposes with regard to all prior objection(s) to all prior proposed plans.

(g) A modified plan may not be combined with any other motion.

D-3.18.2 AMENDMENTS TO SCHEDULES

(a) The addition of any creditor in a case shall be by amendment filed with the clerk and a file stamped copy served on the chapter 13 trustee. The amendment shall be by separate document and shall not be combined with a plan modification or any other document. Each added creditor shall be identified as a prepetition or postpetition creditor. Service of the amendment shall be as provided by D-3.18.13(f).

(b) Objections to confirmation of the original chapter 13 plan shall be by written motion filed with the clerk and served upon the debtor, the debtor's attorney, and the trustee, bearing a certificate of service dated not later than seven (7) days after the first scheduled date for the meeting of creditors, unless the notice to creditors of the filing of the petition and meeting of creditors authorizes a different date for filing objections to confirmation. If the debtor fails to attend any meeting of creditors the time to file an objection to confirmation shall be extended to seven (7) days following the meeting of creditors which is attended by the debtor, and if the last date to object to confirmation is less than seven (7) days before the date scheduled for the hearing on objections to confirmation, the hearing will be rescheduled.

(i) The motion objecting to confirmation shall include:

1. the specific number and letter section(s) of title 11 U.S.C. upon which the objection is grounded;
2. the specific alleged facts which support the objection to confirmation;
3. a complete legible copy of the movant's filed proof of claim, including all attachments;
4. a brief memorandum in support of the objection; and
5. a listing of all exhibits to be introduced and the names and addresses of all witnesses to be called at the confirmation hearing.

(ii) Counsel for all parties shall be prepared to present all witnesses, evidence and memoranda at the confirmation hearing.

(iii) All parties and their counsel shall conduct good faith settlement efforts in connection with objections to confirmation at the time of the meeting of creditors and thereafter.

(iv) The motion objecting to confirmation shall not be combined with any other motion or request for relief, including stay relief.

(c) After an objection to confirmation, if a modified plan is filed the objection will be deemed moot and any objections to the modified plan shall be filed as ordered by the court in the notice of the proposed modified plan.

(d) Objections to confirmation of a modified plan shall be, by written motion filed with the clerk and served upon the debtor, the debtor's attorney and the trustee within the time set forth in the notice or order.

(i) The motion objecting to confirmation of a modified plan shall include:

1. the specific number and letter section(s) of title 11 U.S.C. upon which the objection is grounded;

2. the specific alleged facts which support the objection to confirmation;
3. a complete legible copy of the movant's filed proof of claim, including all attachments; and
4. a brief memorandum in support of the objection;
5. a listing of all exhibits to be introduced and the names and addresses of all witnesses to be called at the confirmation hearing.

(ii) Counsel for all parties shall be prepared to present all witnesses, evidence and memoranda at the confirmation hearing.

(iii) All parties and their counsel shall conduct good faith settlement efforts in connection with objections to confirmation.

(e) Confirmation orders shall be prepared by the trustee. The clerk shall serve a copy of the filed confirmation order on the debtor and the debtor's attorney.

D-3.18.5 ATTORNEY FEES FOR DEBTOR'S ATTORNEY

(a) The attorney for the debtor shall make application to the court for a reasonable attorney fee to be allowed for services rendered and to be rendered in the case. The application shall generally conform to Form 18.5(a).

Applications for attorney fees not exceeding \$850.00 may be allowed in the confirmation order without hearing.

(b) Any consideration received prior to filing the bankruptcy by the attorney for the debtor for services related to the bankruptcy shall be disclosed on the appropriate schedules. The attorney for the debtor shall turn over any such consideration to the trustee at the first meeting of creditors.

If the case is dismissed without being confirmed, or is converted to another chapter under the Code without being confirmed, the funds shall be returned to the attorney, except for any administrative expense allowed the trustee for which no other funds are available from the case.

(c) The trustee shall pay fifty percent (50%) of the allowed attorney fees after confirmation of the plan and prior to any distributions in payment of claims. The trustee shall pay the remaining fifty percent (50%) of the allowed attorney fee in approximately twelve (12) equal monthly installments, except that if the case is dismissed or converted, the balance of the unpaid fee shall be paid to the extent funds are available in the case.

D-3.18.12 ADDRESSES AND REQUESTS FOR SERVICE OF NOTICE

(a) The chapter 13 trustee shall mail all notices to an entity at the address listed in the schedule of creditors. If, however, a different address is stated on a proof of claim filed by an entity, the address stated on the filed proof of claim shall be used; or, if an entity or an entity's authorized agent files a written request to receive notice, notice shall be mailed in accordance with the written request.

(1) A request by an entity's authorized agent to receive notices sent to all entities in a case shall be made by a written request filed with the clerk.

(2) A request by an entity's authorized agent to receive only the notices sent to an individual entity shall be made by a written request and filed with the clerk and shall contain the signed approval of the entity. Such a request shall also constitute a request that all payments due the entity be mailed to the authorized agent and, unless otherwise specifically ordered by the court, all future notices and the checks, from the trustee made payable to the entity, shall be mailed to the authorized agent and not to the entity.

(b) Any request under this rule must be made in each case in which the notice is sought and shall not include multiple case numbers.

(c) The addresses for notice pursuant to this rule shall be maintained by the trustee.

(d) The trustee, at his discretion, may provide notice to additional entities in any case or proceeding.

(e) All notices to the debtor shall be mailed to the address stated on the petition unless the debtor files with the clerk a written change of address.

D-3.18.13 SERVICE BY THE CHAPTER 13 TRUSTEE

(a) The trustee shall give the debtor, debtor's attorney, creditors and other entities originally scheduled by the debtor not less than twenty (20) days notice by first class mail of:

(1) the meeting of creditors pursuant to 11 U.S.C. § 341, and,

(i) the trustee shall attach to the notice a copy of the plan or a summary of the plan if the plan was filed with the petition, a blank proof of claim form, and a copy of, or a summary of, Dayton Chapter 13 Rules D-3.18.3-Objections To Valuation Of Personal Property D-3.18.4-Objections to Confirmation/ Confirmation Orders D-3.18.9-Proofs of Claim and D-3.18.10-Objection To the Allowance Or Disallowance Of Claims and a copy of the debtor's budget.

(2) a proposed sale, use, or lease of property, other than in the ordinary course of business, unless:

(i) the court authorizes another method of service,

- (ii) orders that no notice be made,
 - (iii) the plan provides for the sale, or
 - (iv) the proposed sale, or the sale or disposal is pursuant to D-3.18.8;
- (3) the notice of transferred claim(s) as provided by B.R. 3001(e)(2) and (4);
 - (4) the time fixed for filing objections to a proposed modification of a plan;
 - (5) the time fixed for motions objecting to or requesting a hearing on applications for compensation or reimbursement of expenses in excess of five hundred dollars (\$500.00);
 - (6) the time fixed for filing objections to conditional confirmation orders.
- (b) The trustee shall give the debtor, debtor's attorney, creditors and other entities originally scheduled by the debtor, not less than 25 days notice by first class mail of the time fixed for filing objections to, and the date of, the hearing on objections to confirmation of the plan.
- (c) The trustee shall give the debtor, debtor's attorney, creditors and other entities originally scheduled by the debtor, notice by first class mail of the order for relief, not more than twenty (20) days after the entry of such order.
- (d) The trustee shall give the debtor, debtor's attorney, creditors and other interested parties notice by first class mail of a final order dismissing a case, plan completion, and in completed cases the filing of the trustee's final report and account.
- (e) The trustee shall give notice of the filing of a proof of claim by the debtor, in the name of the creditor, to the creditor and the debtor.
- (f) The trustee shall give notice to any creditor added in a case by amendment pursuant to D-3.18.2(a). The notice shall include a statement setting forth:
- (1) the date the petition was filed,
 - (2) the date first scheduled for the meeting of creditors,
 - (3) whether the plan has been confirmed or not, and
 - (4) the last day in which the creditor shall file a proof of claim as established by D-3.18.9(a).
- (g) The trustee shall file with the clerk a certificate of service made pursuant to this rule or any other service the court orders the trustee to make.

(3) file with the court, and serve on the trustee, the creditor and any co-debtor, by the date first set for the meeting of creditors, a motion entitled **MOTION TO EXCLUDE LEASE DEBT FROM CHAPTER 13 PLAN**, and attach to the motion a copy of the lease and a copy of all other documents which will allow determination of the terms of the lease, including all deposits made, all amounts paid, and all remaining payments required under the terms of the lease.

(b) Unless otherwise ordered, objections to the Motion shall be heard at the confirmation hearing.

(c) If there is no objection filed within twenty (20) days after service of the Motion, the debtor may submit a proposed order excluding the lease.

D-3.18.17 DEBTOR'S FEDERAL INCOME TAX REFUNDS

(a) Unless otherwise ordered or provided by the debtor's confirmed plan, debtor's Federal tax refunds received by the trustee shall not be turned over to the debtor until the claim(s) filed by the IRS are paid by the trustee, as provided for by the plan.

(1) Nothing in this rule prohibits the debtor from consenting to the trustee applying the tax refund to payment of the IRS claim(s), or from consenting to the tax refund in whole or in part, being applied as payments provided for by the plan.

(2) If the case is either converted to another chapter under title 11, or is dismissed, prior to the payment of the IRS claim(s), the trustee may return the tax refund to the IRS.

D-3.18.18 CONVERSION FROM CHAPTER 13 TO CHAPTER 7

(a) A chapter 13 case shall be converted to chapter 7 without court order on the filing by the debtor of a notice of conversion. The debtor shall serve a file stamped copy of the notice on the chapter 13 trustee.

(b) If a joint case is divided into separate cases by conversion the clerk shall assign a new case number to the chapter 7 case.

D-3.18.19 CONVERSION FROM CHAPTER 7 TO CHAPTER 13

(a) A chapter 7 case, which has not been previously converted to chapter 7 under 11 U.S.C. §§ 1112, 1208, or 1307, shall be converted to chapter 13 by the filing of motion for an order of conversion and the entry of the order of conversion. The debtor shall serve the motion on the chapter 7 trustee, United States trustee, and the chapter 13 trustee.

(i) The motion for an order of conversion shall be signed by the debtor and the debtor's case attorney. It shall set forth the date of the commencement of the chapter 7 case, the name of the chapter 7 trustee and affirmatively state that the case has not been converted to chapter 7 under 11 U.S.C. §§ 1112, 1208, or 1307.

(ii) Within fifteen (15) days after entry of the order of conversion, the debtor shall file a plan and comply with D-3.18.1(a). The Voluntary Petition shall be captioned as an "Amended Voluntary Petition" and shall contain the case number assigned to the case by the clerk when the case was originally commenced.

(iii) The trustee shall make service, as provided by D-3.18.13, of the notices for the meeting of creditors, the time for filing objections to, and the date of, the hearing(s) on objections to valuation and to confirmation of the plan.

(b) If a joint case is divided into separate cases by conversion the clerk shall assign a new case number to the chapter 13 case.

D-3.18.20 PLAN PAYMENTS

(a) Except as otherwise ordered, all plan payments for plans filed on and after January 1, 1991, shall be by wage deduction.

(b) The debtor shall pay the first plan payment at the time of the meeting of creditors and continue to pay the proposed plan payments until otherwise ordered by the court or notified in writing by the trustee.

(c) The debtor may, in writing, authorize the trustee to commence the wage deductions before the plan is confirmed.

(d) Except as otherwise ordered, the confirmation order shall provide that the trustee may notify any entity from whom the debtor receives income from wages to pay all or any part of such income to the trustee as is necessary for the execution of the plan, or to cease payment of all or any part of such income to the trustee.

(e) If the debtor proposes to make plan payments other than by wage deduction, the debtor shall file an application setting forth with specificity the grounds for the proposed method of plan payments.

D-3.18.21 RESERVED

D-3.18.22 RESERVED

D-3.18.23 RESERVED

D-3.18.24 RESERVED

D-3.18.25 RESERVED