IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF ALABAMA
WESTERN DIVISION

In re:	)	
	)	
Western Division Administrative Order	)	Administrative Order No. 20-11
Regarding Adequate Protection Payments and	)	(Western Division Only)
Monthly Fixed Payments in Chapter 13 Cases	)	

WESTERN DIVISION ADMINISTRATIVE ORDER REGARDING ADEQUATE PROTECTION PAYMENTS AND MONTHLY FIXED PAYMENTS IN CHAPTER 13 CASES

(A) Capitalized Terms. Capitalized terms used herein and not otherwise defined have the meanings ascribed to them in Western Division Administrative Order No. 20-03 ("AO 20-03").

(B) Applicability. This administrative order ("AO 20-11") applies in all Chapter 13 Cases filed in the Western Division on or after the date hereof (August 25, 2020) (the "Effective Date"). AO 20-11 also applies in any pending Chapter 13 Case in which the hearing on Confirmation of the Debtor(s)' Plan is scheduled (or rescheduled) for a date that is on or after the Effective Date. In the event a Chapter 13 Case is transferred from the Western Division to another division within the District (or to another district) prior to Confirmation, AO 20-11 shall cease to apply in the Chapter 13 Case. AO 20-11 shall not be given preclusive effect in the event a creditor, or other party in interest, timely objects to Confirmation (or to a Plan modification proposed post-Confirmation) or in the event the Debtor(s), a creditor, the Trustee, or any other party in interest moves for relief from a provision of AO 20-11.

(C) Authority. AO 20-11 is authorized by Rule 9029 of the Federal Rules of Bankruptcy Procedure and Local Rules 1001-1 and 3015-1.

(D) Part III.A of AO 17-07 Superseded. If AO 20-11 applies to a Chapter 13 Case by operation of part (B) hereof, then parts E and F of AO 20-11 supersede and replace part III.A of AO 17-07.

(E) Pre-Confirmation Adequate Protection Payments. The Trustee is authorized to make the adequate protection payments provided for by a Plan (or order) prior to Confirmation, so long as the creditor has properly filed a proof of claim. The Trustee also is authorized to collect the Trustee's percentage fee on pre-Confirmation adequate protection payments.

(F) Adequate Protection Stop Date; Monthly Fixed Payment Start Date. If a Plan (or order) provides for adequate protection payments to a creditor in respect of a claim that is separately classified by the Debtor(s)' Plan, but the Plan (or order) does not specify when adequate protection payments to the creditor shall cease, the Trustee shall stop accruing adequate protection

payments on the subject claim (and start accruing monthly fixed payments on the claim) on the date that is the *later of* (1) the date that monthly fixed payments to the creditor in respect of the claim are to begin under the Debtor(s)' Plan (*see*, *e.g.*, Local Form Plan § 3.2 and § 3.3) (the "Fixed Payment Start Date"), and (2) the date of the Confirmation order.[1] If a Plan provides that monthly fixed payments on a claim shall begin "at confirmation" or "upon confirmation" or "after confirmation", then the date of the Confirmation order shall be considered the Fixed Payment Start Date. The court may require an amended Plan to clarify an ambiguous Fixed Payment Start Date. Absent the affected creditor's consent, and notwithstanding part III.E of AO 17-07, an amended Plan is required to advance a Fixed Payment Start Date or to delay a Fixed Payment Start Date beyond the date of the Confirmation order.[2]

DONE AND ORDERED this the 25th day of August, 2020.

JENNIFER H. HENDERSON
UNITED STATES BANKRUPTCY JUDGE

[1] Although the Trustee shall begin accruing monthly fixed payments (and stop accruing adequate protection payments) on this date, disbursements of monthly fixed payments (or adequate protection payments) to the creditor may be delayed by virtue of the applicable payment sequence (*see generally* AO 20-03, pt. E) and the monies on hand at the time of each disbursement by the Trustee.

[2] If a Plan (or order) does not state how the Trustee is to apply adequate protection payments made in respect of a creditor's claim, then the policies and procedures of the Trustee serving in the Chapter 13 Case shall control the application of adequate protection payments to the claim. Likewise, if a Plan (or order) does not specify how the Trustee is to accrue or pay interest on a secured claim, then the policies and procedures of the Trustee serving in the Chapter 13 Case shall control how interest is accrued on the claim and how monthly fixed payments on the claim are applied.

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF ALABAMA
WESTERN DIVISION

In Re:	)	
	)	
(Second) Western Division Administrative	)	
Order Regarding (I) Attorney's Fees Under	)	Administrative Order No. 20-03
§ 4.3 of the Local Form Plan, and (II) the	)	(Western Division Only)
Sequence of Payments Under Part 7 of the	)	
Local Form Plan	)	

(SECOND) WESTERN DIVISION ADMINISTRATIVE ORDER REGARDING (I) ATTORNEY'S FEES UNDER § 4.3 OF THE LOCAL FORM PLAN AND (II) THE SEQUENCE OF PAYMENTS UNDER PART 7 OF THE LOCAL FORM PLAN

(A) Applicability. This administrative order ("AO 20-03") applies in all chapter 13 bankruptcy cases (each, a "Chapter 13 Case") filed in the Western Division (the "Western Division") of the United States Bankruptcy Court for the Northern District of Alabama (the "District") on or after the date hereof (February 10, 2020). AO 20-03 also applies in any pending Western Division Chapter 13 Case in which the hearing on confirmation (hereinafter referred to as "Confirmation") of the Debtor(s)'[1] chapter 13 plan or amended plan (hereinafter referred to as a "Plan") is scheduled (or rescheduled) for a date that is more than 30 days after the date hereof (i.e., after March 11, 2020). In the event a Chapter 13 Case is transferred from the Western Division to another division within the District (or to another district) prior to Confirmation, AO 20-03 shall cease to apply in the Chapter 13 Case. The provisions of AO 20-03 shall not be given preclusive effect in the event a creditor, or other party in interest, timely objects to Confirmation (or to Plan modification proposed post-Confirmation) or in the event the Debtor(s), creditor, Trustee,[2] or other party in interest moves for relief from a provision of AO 20-03.

(B) Authority. AO 20-03 is authorized by Rule 9029 of the Federal Rules of Bankruptcy Procedure (the "Bankruptcy Rules") and Local Rules 1001-1 and 3015-15. (*See also* Local Form Plan[3] § 4.3 and pt. 7).

(C) AO 17-07 Superseded and Replaced, in Part. If AO 20-03 applies to a Chapter 13 Case by operation of part A hereof (or court order),[4] then (1) AO 20-03 supersedes and replaces parts I and II of Western Division Administrative Order No. 17-07 ("AO 17-07"); (2) the reference in § 4.3 of the Debtor(s)' Plan to the "applicable administrative order regarding fees entered in the

[1] As used herein, the term "Debtor(s)" refers to the debtor(s) in a Chapter 13 Case.
[2] As used herein, the term "Trustee" refers to the chapter 13 trustee serving in a Chapter 13 Case.
[3] As used herein, the term "Local Form Plan" refers to the local form chapter 13 plan adopted by the District in accordance with Bankruptcy Rule 3015.1. (*See* Local Rule 3015-1.) Citations to the Local Form Plan are provided for illustrative purposes and refer to the version of the Local Form Plan in effect as of the date hereof.
[4] In any Western Division Chapter 13 Case in which a Plan has been confirmed but not completed, the Debtor(s) may request, by motion, to modify the Plan to make AO 20-03 the applicable administrative order under § 4.3 or part 7 of the Plan (each, a "Motion to Substitute AO 20-03"). Motions to Substitute AO 20-03 may be granted if, after notice and opportunity for hearing, no interested party objects.

division where the case is pending" shall refer to AO 20-03, not AO 17-07 (*see* Local Form Plan § 4.3); (3) the reference, in part 7 of the Debtor(s)' Plan, to the "administrative order for the division in which this case is pending" shall refer to AO 20-03, not AO 17-07 (*see* Local Form Plan pt. 7); and (4) subpart III.B of AO 17-07 shall not apply. Except as otherwise set forth herein, and unless ordered otherwise, part III of AO 17-07 shall continue to apply in Chapter 13 Cases to which AO 20-03 is made applicable by operation of part A hereof (or court order), and capitalized terms used in subpart III of AO 17-07 that are defined in subparts I and II of AO 17-07 shall continue to have the meanings ascribed to them in subparts I and II of AO 17-07.

(D) Payment of Compensation Under § 4.3 of the Local Form Plan

(1) Allowance of Compensation and Compensation Payment Period. Whether allowed by the order confirming the Debtor(s)' Plan or by separate order, the term "Compensation" (as used herein) refers to compensation awarded the Debtor(s)' attorney in a Chapter 13 Case[5] that is to be paid from disbursements by the Trustee under § 4.3 of the Debtor(s)' confirmed Plan (if any).[6] As used herein, "Compensation Period" refers to the date of Confirmation through and including the date of the post-Confirmation distribution by the Trustee that pays the Compensation (if any) in full.

(2) The AO Compensation Option. This part (D)(2) of AO 20-03 is deemed incorporated (by reference) in a Plan if the Debtor(s) select the option, in § 4.3 of the Plan, to pay the balance of the requested Debtor(s)' attorney fee "in accordance with any applicable administrative order regarding fees entered in the division where the case is pending" (the "AO Compensation Option"). (*See* Local Form Plan § 4.3.) If the AO Compensation Order is selected in a Plan (and the Plan is confirmed), then, during the Compensation Period, the Trustee shall disburse to the Debtor(s)' attorney, in payment of the Compensation, the balance of the Regular Funds (as said term is hereinafter defined) received by the Trustee that remain after the Trustee disburses any payments having a higher rank in the applicable sequence of payments (the "AO Compensation Payments").

(3) The Plan Compensation Option. In lieu of selecting the AO Compensation Option, the Debtor(s), in § 4.3 of their Plan,[7] may provide for the Trustee to pay all or a portion of the Compensation from monies on hand at the time of Confirmation and/or grant the Debtor(s)' attorney a Monthly Fixed Payment (as said term is hereinafter defined) on the unpaid balance of the Compensation (the "Plan Compensation Payments").

(E) Sequence of Payments Under Part 7 of the Local Form Plan

(1) Default Payment Sequence for Regular Funds. Unless otherwise

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[5] AO-20 does not apply to compensation awarded to the Debtor(s)' special counsel, if any.

[6] If, post-Confirmation, the Debtor(s)' bankruptcy counsel is allowed compensation not provided for by § 4.3 of the Debtor(s)' Plan ("Additional Compensation"), the order allowing the Additional Compensation may increase the Compensation being paid under § 4.3 of the Plan by the amount of the Additional Compensation. (*See generally* Local Rule 2016-1(l)-(n).)

[7] Nothing herein is intended to preclude the Debtor(s) from including a non-standard Plan provision (in part 9 of the Debtor(s)' Plan), specifying how the Debtor(s)' bankruptcy counsel is to be compensated.

ordered, the Trustee shall make monthly disbursements of the funds received by the Trustee under § 2.1, § 2.2, or § 2.3 of a Plan (collectively, the "Regular Funds") in accordance with the following sequence of payments (the "Default Payment Sequence"):

(a) First, the Trustee shall collect the percentage fee(s) *then due* the Trustee from the Regular Funds, until paid in full. (*See, e.g.,* Local Form Plan § 4.1.)

(b) Second, if the Plan proposes to pay the Chapter 13 Case filing fee (the "Filing Fee") through the Plan, the Trustee shall disburse the Filing Fee installment payments *then due* to the clerk of court, until paid in full. (*See, e.g.,* Local Form Plan § 4.2; *see also* Local Rule 1006-1.)

(c) Third, the Trustee shall disburse adequate protection payments and Pre-Confirmation Conduit Payments[8] payable to creditors with allowed claims,[9] if any, until the adequate protection payments and Pre-Confirmation Conduit Payments *then due* are paid in full. (*See, e.g.,* Local Form Plan § 2.5, § 3.1, § 3.2, § 3.3, and pt. 9.)

(d) Fourth, the Trustee shall disburse the AO Compensation Payments payable to the Debtor(s)' attorney, if any, until the *entire Compensation* is paid in full or (alternatively) disburse the Plan Compensation Payments payable to the Debtor(s)' attorney, if any, until the amounts *then due* are paid in full. (*See, e.g.*, Local Form Plan § 4.3.)

(e) Fifth, the Trustee shall disburse Current Installment Payments[10] on long-term secured debts provided for by the Plan for which the Trustee is the disbursing agent, if any, until the Current Installment Payments *then due* are paid in full. (*See, e.g.,* Local Form Plan § 3.1 and pt. 9.)

(f) Sixth, the Trustee shall disburse Current Installment Payments on assumed, unexpired leases and executory contracts provided by the Plan for which the Trustee is the disbursing agent, if any, until the Current Installment Payments *then due* are paid in full. (*See, e.g.,* Local Form Plan § 6.1 and pt. 9.)

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[8] The term "Pre-Confirmation Conduit Payments" refers to regular, periodic payments owed by the Debtor(s) that (A) first become due postpetition and pre-Confirmation, (B) are to be paid by the Debtor(s) to a creditor through disbursements by the Trustee under the Debtor(s)' Plan, and (C) are authorized by the operative Plan (or court order) to be disbursed by the Trustee pre-Confirmation. If the operative Plan or a court order provides for Pre-Confirmation Conduit Payments, the Trustee is authorized to make the Pre-Confirmation Conduit Payments, provided the creditor has properly filed a proof of claim. The Trustee also is authorized to collect the Trustee's percentage fee on Pre-Confirmation Conduit Payments at the time of disbursement. Nothing herein should be construed as requiring Debtor(s) to propose Pre-Confirmation Conduit Payments.

[9] If the court enters an order providing for pre-Confirmation adequate protection payments to a creditor and, after entry of the order, the Debtor(s) file an amended Plan that proposes to alter the amount of the court-ordered adequate protection payments, the Trustee shall continue to pay the court ordered amount unless and until such amended Plan is confirmed.

[10] As used herein, the term "Current Installment Payments" refers regular, periodic payments owed by the Debtor(s) that first become due postpetition (other than Pre-Confirmation Conduit Payments) that are to be paid by the Debtor(s) to a creditor while the Debtor(s)' Chapter 13 Case is pending, either by disbursements made by the Trustee to the creditor under the Debtor(s)' Plan or by payments made directly to the creditor by the Debtor.

(g) Seventh, the Trustee shall disburse Current Installment Payments on long-term unsecured debts provided for by the Plan for which the Trustee is the disbursing agent, if any, until the Current Installment Payments *then due* are paid in full. (*See, e.g.,* Local Form Plan § 5.4 and pt 9.)

(h) Eighth, the Trustee shall disburse the Monthly Fixed Payments[11] payable to holders of allowed claims being paid through the Plan *with* interest (including any allowed arrearage claims being paid through the Plan *with* interest), if any, until the amounts *then due* are paid in full. (*See, e.g.,* Local Form Plan § 3.2, § 3.3, § 3.4, § 5.5,[12] and pt. 9.)

(i) Ninth, the Trustee shall disburse the Monthly Fixed Payments payable to holders of allowed claims being paid through the Plan *without* interest (including any allowed arrearage claims being paid through the Plan *without* interest), if any, until the amounts *then due* are paid in full. (*See, e.g.,* Local Form Plan § 3.1, § 4.4, § 4.5, § 5.4, § 5.5, § 6.1, and pt. 9.)

(j) Tenth, the Trustee shall disburse the amounts to be paid to holders of allowed priority claims for domestic support for which no Monthly Fixed Payment is granted, if any, until paid in full.[13] (*See, e.g.,* Local Form Plan § 4.5.)

(k) Eleventh, the Trustee shall disburse the amounts to be paid to holders of other allowed priority unsecured claims separately classified by the Plan but for which no Monthly Fixed Payment is granted, if any, until paid in full. (*See, e.g.,* Local Form Plan § 4.4.)

(l) Twelfth, the Trustee shall disburse the amounts to be paid to holders of allowed nonpriority unsecured claims separately classified by the Plan but for which no Monthly Fixed Payment is granted, if any, until paid in full. (*See, e.g.,* Local Form Plan § 5.5.)

(m) Thirteenth, the Trustee shall disburse the amounts to be paid to holders of allowed nonpriority unsecured claims not separately classified by the Plan, if any, until paid in full. (*See, e.g.,* Local Form Plan § 5.1, § 5.2, and § 5.3.)

(2) Alternate Payment Sequence for Regular Funds. If the Debtor(s) in a Chapter 13 Case wish to propose an alternate sequence of payments for Regular Funds (an "Alternate Payment Sequence"), the Debtor(s) may do so in part 9 of their Plan (for non-standard provisions) or file (and serve on the Matrix[14]) a separate motion to establish the sequence of payments for Regular Funds. The court will require that the Debtor(s)' Plan or motion describe any Alternate Payment Sequence with specificity, and the Alternative Payment Sequence will not

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[11] As used herein, the term "Monthly Fixed Payments" refers to equal, monthly payments granted to a creditor under the Debtor(s) Plan to pay the creditor's allowed claim on the terms of the Plan. Current Installment Payments are not considered Monthly Fixed Payments.

[12] In § 5.5 of the Debtor(s)' Plan, the Debtor(s) may grant a Monthly Fixed Payment to the holder of a separately classified, nonpriority unsecured claim under the column headed "Treatment."

[13] Debtor(s) are encouraged, but not required, to grant Monthly Fixed Payments to holders of priority claims for domestic support.

[14] As used herein, "Matrix" refers to the official creditor mailing matrix for a Chapter 13 Case, which is accessible via the court's electronic filing system.

take effect until approved by court order (after sufficient notice and opportunity for hearing). As such, notwithstanding a Plan's inclusion of an Alternate Payment Sequence, pre-Confirmation disbursements by the Trustee, if any, shall be made in accordance with the Default Payment Sequence until the Plan is confirmed (or a separate order approving the Alternate Payment Sequence is entered).

(3) Disbursements Proportionate Within Sequence Position. If, on a disbursement date, the available Regular Funds are not enough for the Trustee to make all payments to creditors then due under the Debtor(s)' Plan (collectively, the "Due Payments"), the Trustee shall allocate the Regular Funds in accordance with the applicable sequence of payments. If, on a disbursement date, the available Regular Funds are not enough for the Trustee to make all Due Payments having the same rank in the applicable payment sequence, the Trustee shall disburse the Regular Funds allocable to such rank on a proportionate basis.

(4) Distribution Sequence for Additional Funds. Unless otherwise ordered, the Trustee shall disburse funds received by the Trustee pursuant to § 2.4 or part 9 of a Plan (collectively, "Additional Plan Funds"), if any, in the distribution sequence specified by the Plan.[15] (*See* Local Form Plan § 2.4 and pt. 9.) If the Plan does not include a sequence of payments for Additional Plan Funds, Additional Plan Funds received by the Trustee shall be held pending further order of the court. If the Trustee receives funds other than under a Plan, the Trustee shall hold the funds pending further order of the court and may file a motion for authority to disburse such funds.

(5) Disbursements Less than $15.00. The Trustee is authorized, but not required, to disburse any payment to a creditor that is less than $15.00.[16]

(6) Objecting to the Sequence of Payments Proposed by a Plan. If the Trustee, a creditor, or other interested party opposes the sequence of payments proposed in the Debtor(s)' Plan (whether it is the Default Payment Sequence incorporated by reference in part 7 or an Alternate Payment Sequence specified in part 9), the party must timely file an objection to Confirmation in the Debtor(s)' Chapter 13 Case.

DONE AND ORDERED this the 10th day of February, 2020.

JENNIFER H. HENDERSON
UNITED STATES BANKRUPTCY JUDGE

[15] If the Debtor(s)' Plan provides for Additional Plan Funds in § 2.4, the Debtor(s) may include a sequence of payments for such funds in § 2.4. `

[16] *See* Fed. R. Bankr. P. 3010(b). Pursuant to Bankruptcy Rule 3010(b), funds not distributed shall accumulate and shall be paid whenever the accumulation aggregates $15.00 (and any funds remining disbursed with the final payment).

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF ALABAMA
WESTERN DIVISION

In re:	)	
	)	
Western Division Administrative Order	)	Administrative Order No. 20-01
Regarding Negative Notice	)	(Western Division Only)
	)	

WESTERN DIVISION ADMINISTRATIVE ORDER REGARDING NEGATIVE NOTICE

(A) Purpose of Order; Applicability. The purpose of this administrative order (the "Order") is to supplement the Local Rules of the United States Bankruptcy Court for the Northern District of Alabama (the "Local Rules") and the administrative order(s) applicable in the Western Division of the United States Bankruptcy Court for the Northern District of Alabama (the "Western Division") by establishing negative notice procedures for certain requests for relief not addressed by the Local Rules or other administrative order(s). The Order applies in bankruptcy cases filed or pending in the Western Division on or after the date of the Order.

(B) Matters Authorized to Be Considered on Negative Notice in the Western Division. The presiding judge in the Western Division has approved (and may hereafter approve) certain form motions that may be considered by the court on negative notice, provided the court-approved forms are utilized in the manners prescribed therein (the "Western Division Negative Notice Forms"). The Western Division Negative Notice Forms shall be posted on the court's website, www.alnb.uscourts.gov, and may be supplemented or otherwise amended by the presiding judge(s) from time to time. The presiding judge in the Western Division also has established a list (the "Western Division Negative Notice List") of other motions, objections, applications, and filings requesting relief (each, a "Request") that may be considered by the court under the below-described negative notice procedure (the "Negative Notice Procedure"). The Western Division Negative Notice list shall be posted on the court's website, www.alnb.uscourts.gov, and may be supplemented or otherwise amended by the presiding judge(s) from time to time. If permitted by a presiding judge, other matters not specified on the Western Division Negative Notice List may be considered by the court using the Negative Notice Procedure. The presiding judge also may enter any order on negative notice, in the judge's sole discretion.

(C) Negative Notice Procedure.

(1) Manner of Service. Each Request filed pursuant to the Negative Notice Procedure shall:

(a) be served in the manner and on the parties specified by the applicable provision(s) of the Federal Rules of Bankruptcy Procedure (the "Rules"), the Local Rules, and any applicable court orders;

(b) attach a certificate of service that complies with the provisions of Local Rule 9013-3;

(c) attach a proposed order that complies with the below set forth requirements (see subpart four of this part C) (each, a "Proposed Order"); and

(d) contain a negative notice legend prominently displayed on the face of the first page of the Request that is substantially in the following form and inserts the correct time for filing responses (see subpart two of this part C):

NOTICE OF OPPORTUNITY TO OBJECT AND REQUEST HEARING
Pursuant to Western Division Administrative Order No. 20-01, the court will consider the relief requested in this paper without further notice or hearing unless a party in interest files a response within [number] days from the date set forth on the attached certificate of service, plus an additional three days for service if any party was served by U.S. Mail. If you oppose the relief requested in this paper, then, within the time allowed, you must file a response with the clerk of court electronically (or by hand delivery or mail to the clerk's office at 2005 University Boulevard, Room 2300, Tuscaloosa, Alabama 35401), and you must serve a copy of your response on all appropriate persons. If you file and serve a response within the time permitted, the court will schedule and notify you of a hearing. If you do not file a response within the time permitted, the court will consider that you do not oppose the relief requested in the paper; the court may deem admitted the allegations set forth in the paper; the court will proceed to consider the paper without further notice or hearing; and the court may grant the relief requested.

(2) Time for Filing Responses. For the purpose of completing the negative notice legend, the number of days during which parties may respond (that is to be placed in the "[number]" field of the negative notice legend) shall be at least 21 days, except as otherwise set forth on the Western Division Negative Notice List, plus an additional three days for service if any party was served by U.S. Mail.

(3) Hearings. In the event a party in interest files a response to a Request (each, a "Response") within the time permitted in the negative notice legend for the Request, as computed under Rules 9006(a) and (f), the court will schedule a hearing on the Request and the Response on notice to the attorney(s) for the filer(s) of the Request and the Response, any unrepresented filer, and others as may be appropriate.

(4) Consideration Without a Hearing. If no Response is filed within the time permitted in the negative notice legend for a Request, as computed under Rules 9006(a) and (f), the court will consider the matter in chambers without further notice or hearing upon the submission by the filer of a Proposed Order (this submission requirement is an addition to the

requirement that a Proposed Order be attached to and filed with the Request). Proposed Orders shall be submitted in Microsoft Word format to the presiding judge's e-orders e-mail address (or otherwise in accordance with procedures hereafter implemented by the Western Division, or the United States Bankruptcy Court for the Northern District of Alabama, for the submission of Proposed Orders). The filer of a Request may submit a Proposed Order immediately after the Request is filed. The filer of a Request shall submit a Proposed Order within three days after expiration of the response period. If the filer of a Request fails to submit a Proposed Order within this time, the court may enter an order denying, disapproving, or overruling the Request, without prejudice, for lack of prosecution, or notice the Request for hearing. In addition to any other requirements, each Proposed Order shall recite that:

(a) the motion, objection, application, or other request for relief was served upon all interested parties with the Western Division Administrative Order No. 20-01 negative notice legend informing the parties of their opportunity to respond;

(b) no party filed a response within the time permitted; and

(c) the court therefore considers the matter to be unopposed.

(5) ***Court May Schedule a Hearing Even if No Response is Filed.*** Nothing in the Order or the Negative Notice Procedure established hereby precludes the court from conducting a hearing on a Request, even if no Response is filed within the time permitted.

DONE AND ORDERED this the 17th day of January, 2020.

JENNIFER H. HENDERSON
UNITED STATES BANKRUPTCY JUDGE

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF ALABAMA
WESTERN DIVISION

In Re:	)	
	)	
Western Division Administrative Order	)	
Regarding (I) Attorney's Fees Under § 4.3 of the	)	Administrative Order No. 17-07
Local Form Plan, (II) the Sequence of Payments	)	(Western Division Only)
Under Part 7 of the Local Form Plan, and (III)	)	
Other Chapter 13 Requirements and Procedures	)	
	)	

WESTERN DIVISION ADMINISTRATIVE ORDER REGARDING (I) ATTORNEY'S FEES UNDER § 4.3 OF THE LOCAL FORM PLAN, (II) THE SEQUENCE OF PAYMENTS UNDER PART 7 OF THE LOCAL FORM PLAN, AND (III) OTHER CHAPTER 13 REQUIREMENTS AND PROCEDURES

This administrative order (this "Order") applies in all chapter 13 cases filed in the Western Division (the "Western Division") of the United States Bankruptcy Court for the Northern District of Alabama (the "District") on or after December 1, 2017, the effective date of the local form chapter 13 plan adopted by the District in accordance with Rule 3015.1 of the Federal Rules of Bankruptcy Procedure (the "Local Form Plan"). The Order also applies in any Western Division chapter 13 case in which chapter 13 debtor(s) (individually or together, a "Debtor") file a chapter 13 plan in the form of the Local Form Plan (a "Plan"), regardless of when the case was filed. Additionally, effective immediately, part III.E, parts III.H through III.V, and the final sentence of part III.A of the Order apply in all Western Division chapter 13 cases. In the event a case is transferred from the Western Division to another division within the District (or to another district) prior to confirmation of a Plan, the Order shall cease to apply in the case. The provisions of the Order shall not be given preclusive effect in the event a creditor or other party in interest timely objects to confirmation of a Plan or to any proposed modification to a Plan. Subject to the foregoing, and pursuant to § 4.3 and part 7 of the Local Form Plan, Rules 3015, 9006, and 9029 of the Federal Rules of Bankruptcy Procedure (the "Rules"), and Rule 102 of the Federal Rules of Evidence, it is ORDERED as follows:

I. Payment of Attorney's Fees Under § 4.3 of the Local Form Plan

A. The Administrative Order Fee Option. Part I.A of this Order is deemed incorporated, by reference, in a Plan if the Debtor selects the option, in § 4.3 of the Plan, to pay the balance of the requested Debtor's attorney fee "in accordance with any applicable administrative order regarding fees entered in the division where the case is pending" (the "Administrative Order Fee Option"). (*See* Local Form Plan § 4.3.) If the Administrative Order Fee Option is selected in the Plan, the fee allowed the Debtor's attorney that is payable from the Debtor's estate (the "Fee"), if any, shall be paid as follows, unless otherwise ordered:

1. Beginning with the first post-confirmation distribution made by the chapter 13 trustee serving in the case (the "Trustee") through and including the *earliest* to occur of the (1) the distribution that pays the Fee in full, (2) the Trustee's distribution for the month preceding the month in which fixed payments are to commence under the terms of the Plan, and (3) the Trustee's distribution for the sixth month after the confirmation hearing (the "Initial Fee Period"),[1] the Trustee shall pay to the Debtor's attorney the balance of the Regular Plan Payments (as said term is hereinafter defined) received by the Trustee that remain after the Trustee disburses the amounts set forth in subparagraphs 1, 2, and 3 of part II.A of this Order (the "Initial Fee Payments").

2. After the Initial Fee Period, if the Fee has not been paid in full, the Trustee shall pay to the Debtor's attorney the balance of the Regular Plan Payments (as said term is hereinafter defined) received by the Trustee that remain after payment of the amounts set forth subparagraphs 1, 2, 3, and 5 of part II.A of this Order (the "Residual Fee Payments"). The Residual Fee Payments shall continue until the Fee is paid in full.

[1] If the Administrative Order Fee Option is selected by a Plan, fixed payments to secured creditors, if any, must begin *no later than* the seventh month following confirmation. The month in which fixed payments are to begin under the Plan is referred to herein as the "Fixed Payment Commencement Date."

B. The Plan Fee Option. In lieu of selecting the Administrative Order Option, the Debtor, in § 4.3 of the Plan, may provide for payment of all or a portion of the Fee to the Debtor's attorney at confirmation of the Plan (the "Fee at Confirmation") and grant the Debtor's attorney a monthly fixed payment on the unpaid balance of the Fee (the "Fee Balance"). This option is referred to herein as the "Plan Fee Option." Unless otherwise ordered, the Fee at Confirmation and fixed payments to the Debtor's attorney on the Fee Balance shall be paid by the Trustee, post-confirmation, from Regular Plan Payments received by the Trustee in accordance with the sequence of payments set forth in part II.A of this Order; *provided, however*, in the event the Trustee receives insufficient Regular Plan Payments to pay the Fee at Confirmation in full prior to the Fixed Payment Commencement Date, the portion of the Fee at Confirmation that remains unpaid as of the Fixed Payment Commencement Date (the "Fee Deficiency") shall not be paid under subparagraph 4 of part II.A. Instead, the Fee Deficiency shall be paid from the Regular Plan Payments received by the Trustee that remain after payment of the amounts set forth subparagraphs 1, 2, 3, and 5 of part II.A of this Order (the "Fee Deficiency Payments").

II. Sequence of Payments Under Part 7 of the Local Form Plan

A. Regular Plan Payments. Unless otherwise ordered, the Trustee shall disburse payments received by the Trustee under §§ 2.1, 2.2, or 2.3 of a Plan (collectively, the "Regular Plan Payments") in the following sequence:

1. The Trustee shall collect the percentage fee currently due from all Regular Plan Payments at the time that funds are disbursed, until the fee then due is collected in full. (*See* Local Form Plan § 4.1.)

2. If the Plan proposes to pay the chapter 13 case filing fee (the "Filing Fee") through the Plan, the Trustee shall then disburse the Filing Fee installment payments currently due to the clerk of court, until the amounts then due are paid in full. (*See* Local Form Plan § 4.2; Local Rule 1006-1.)

3. The Trustee shall then disburse post-petition adequate protection payments to creditors with allowed claims, if any, as provided in the Debtor's most recent Plan, until the amounts then due are paid in full. (*See, e.g.,* Local Form Plan §§ 2.5, 3.2, and 3.3; *see also* Local Form Plan part 9.)

4. The Trustee shall then disburse the Initial Fee Payments payable to the Debtor's attorney under part I.A of this Order, if any, or the Fee at Confirmation payable to the Debtor's attorney under part I.B of this Order, if any. (*See* Local Form Plan § 4.3; *see also supra* parts I.A.1 and I.B.)

5. The Trustee shall then disburse the following amounts proportionately until the amounts that are then currently due are paid in full:

   a. The current installment payments to be disbursed by the Trustee, if any, including amounts currently due and any unpaid arrearages (*see* Local Form Plan §§ 3.1, 5.4, and 6.1); and

   b. The monthly fixed payments on allowed secured claims, if any, including any amounts currently due and any unpaid arrearages (*see* Local Form Plan part 3); and

   c. The monthly fixed payments to the Debtor's attorney for the Fee Balance, if any, including any amounts currently due and any unpaid arrearages (*see* Local Form Plan § 4.3; *see also supra* part I.B); and

   d. The monthly fixed payments on other priority unsecured claims and § 503(b) administrative expenses, if any, including any amounts currently due and any unpaid arrearages (*see, e.g.,* Local Form Plan §§ 4.4, 4.5).

The monthly fixed payments identified in this subparagraph 5 of part II.A that are due pursuant to the Plan but are unpaid shall accrue proportionately, based upon the amount of each fixed payment awarded, and shall be paid proportionately by the Trustee on a pro rata

basis from available funds on hand.[2]

6. The Trustee shall then disburse the Residual Attorney Fee Payments or Fee Deficiency Payments payable to the Debtor's attorney, if any, until paid in full. (*See* Local Form Plan § 4.3; *see also* supra parts I.A.2 and I.B.)

7. The Trustee shall then disburse the amounts to be paid to holders of nonpriority unsecured claims not separately classified by the Plan, if any, on a pro rata basis until paid in full. (*See* Local Form Plan part 5.)

B. Claim Proceeds. Unless otherwise ordered, the Trustee shall disburse proceeds of claim(s), cause(s) of action, lawsuit(s), settlement(s), or judgment award(s) ("Claim Proceeds") received by the Trustee pursuant to § 2.4 of a Plan ("Committed Claim Proceeds") in the sequence specified by the Plan, if any. (*See* Local Form Plan § 2.4, part 9;[3] *see also id.* at § 5.2.[4]) If the Plan does not include a sequence of payment for Committed Claim Proceeds, Committed Claim Proceeds received by the Trustee shall be held pending further

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[2] For example, if a Plan provides for fixed payments in the amount of $200.00 to a secured car creditor, $200.00 to a secured mortgage creditor, and $100.00 to the Debtor's attorney for the Fee Balance, and, after the Fixed Payment Commencement Date, the Trustee receives a partial Regular Plan Payment in the amount of $100.00, the Trustee shall disburse, after collecting the Trustee's fee of not more than 10 percent of the disbursements to the creditors ($9.09), approximately $36.36 to the secured car creditor, approximately $36.36 to the secured mortgage creditor, and approximately $18.18 to the Debtor's attorney. The foregoing scenario assumes the Filing Fee was paid in full prior to the Fixed Payment Commencement Date.

[3] For example, in § 2.4, the Plan may provide: "Non-exempt proceeds of estate causes of action that remain after satisfaction of any and all attorneys' fees and expenses, lien claims, and subrogation claims payable therefrom shall be disbursed in the following sequence: (1) in payment of the percentage fee currently due the Trustee, (2) pro rata to holders of nonpriority unsecured claims not separately classified by the Plan up to 100 percent of the total allowed amount of such claims, (3) in the sequence specified by part II.A of Administrative Order No. 17-07, and (4) the balance, if any, to the Debtor(s)." Or, the Plan may specify a different sequence of payments in § 2.4 (or part 9). The aforementioned sequence is provided for illustrative purposes only and shall not be given preclusive effect in the event a creditor or other party in interest objects to confirmation of a Plan that includes this sequence of payments.

[4] Notably, for "Base" plans, the Local Form Plan provides that Committed Claim Proceeds will be disbursed, like Regular Plan Payments, in accordance with the sequence of payments set forth in part II.A of this Order. (*See* Local Form Plan § 5.2.)

order of the court; provided, however, if all Trustee payments to creditors contemplated by the Plan have been paid in full (referred to herein as "Plan Completion"), the Trustee shall disburse the Committed Claim Proceeds in the following sequence:

1. The Trustee shall collect the percentage fee currently due from Committed Claim Proceeds at the time that such funds are disbursed, until the fee then due is collected in full. (*See* Local Form Plan § 4.1.)
2. The Trustee shall then disburse the amounts necessary to satisfy unpaid compensation awards, subrogation claims, or lien claims payable from the Committed Claim Proceeds, if any.[5]
3. The Trustee shall then disburse, on a pro rata basis, the amounts necessary to pay holders of allowed nonpriority unsecured claims not separately classified by the Plan (the "General Unsecureds"), if any, 100 percent of the total allowed amount of such claims (a "100% General Unsecured Distribution"). (*See* Local Form Plan § 5.3.)
4. Any Committed Claim Proceeds that remain after both Plan Completion and a 100% General Unsecured Distribution occur shall be refunded to the Debtor, and, unless otherwise ordered, the Trustee shall not collect a percentage fee on any such disbursement to the Debtor.

III. Other Chapter 13 Requirements and Procedures

A. Adequate Protection Payments. If a Plan provides for adequate protection payments to a creditor, such adequate protection payments shall continue until the Fixed Payment Commencement Date, unless the Plan expressly provides otherwise or otherwise ordered. The Trustee is authorized to make the adequate protection payments proposed to be made to a creditor in a Plan prior to confirmation, so long as

[5] Often, such awards and claims are paid directly by special counsel or a settlement administrator, pursuant to an order on a motion to approve compromise. Further, the Debtor, in § 2.4 of the Plan, may exclude from the Committed Claim Proceeds the amounts necessary to satisfy compensation awards or subrogation/lien claims.

the creditor has properly filed a proof of claim.[6]

B. Fixed Payment Commencement Date. If a Plan provides for fixed payments to a creditor, the Plan must conspicuously and clearly identify the Fixed Payment Commencement Date. For purposes of this requirement, it shall be sufficient to identify the month following confirmation in which fixed payments are to commence (e.g., "the 7th month after confirmation"). If the Plan states that fixed payments will begin "at confirmation" or "upon confirmation," the Fixed Payment Commencement Date shall be the date of the first, post-confirmation distribution by the Trustee.

C. Identification and Vesting of Committed Claim Proceeds. If, in § 2.4 of a Plan, the Debtor checks the box indicating that the Debtor will make additional payment(s) to the Trustee from Claim Proceeds, the Debtor shall include, in the space provided, a description of the Committed Claim Proceeds. For purposes of example only, the Plan may provide that "the Debtor shall pay to the Trustee all non-exempt proceeds of estate causes of action that remain after satisfaction of any and all attorneys' fees and expenses, lien claims, and subrogation claims payable therefrom." Alternatively, the Plan may propose to pay proceeds of "pre-petition" or "scheduled" causes of action. A reference to "estate" causes of action will be deemed to include any and all causes of action comprising property of the estate at the time of the confirmation hearing, as well as any and all post-confirmation causes of action that become property of the estate under 11 U.S.C. § 1306(a). Unless the Plan expressly provides otherwise[7] or otherwise ordered—and notwithstanding the entry of a discharge order in, or the closing of, the Debtor's case—the Committed Claim Proceeds shall not vest in the Debtor at confirmation but shall remain property of the Debtor's estate until each of the following occurs: (1) Plan Completion, and (2) a 100% General Unsecured Distribution; provided, however, if the

[6] This Order and the Local Form Plan supersede and replace Western Division Administrative Order No. 09-04.

[7] Checking the box in part 8 of a Plan to provide that "[p]roperty of the estate will vest in Debtor(s)...[u]pon plan confirmation" is not sufficient for purposes of this requirement.

Debtor's case is dismissed or converted prior to the Trustee's receipt or disbursement of all Committed Claim Proceeds, then 11 U.S.C. § 348[i] or 11 U.S.C. § 349 shall govern whether any Committed Claim Proceeds remain property of the Debtor's estate.

D. Additional Distributions to General Unsecureds from Committed Claim Proceeds. Unless the Plan expressly states otherwise or otherwise ordered, Trustee disbursements of Committed Claim Proceeds to General Unsecureds, if any, shall be in addition to the amount(s) proposed to be paid to General Unsecureds in § 5.2 of the Plan, if any, up to a 100% General Unsecured Distribution (each, an "Additional Unsecured Disbursement"). (*See* Local Form Plan §§ 2.4 and 5.2 and part 9.) It shall not be necessary to modify the Plan in the event of an Additional Unsecured Disbursement. The Trustee may, instead, (1) file in the Debtor's case, and serve on all creditors, a notice of any higher percentage or increased pot amount that General Unsecureds will be entitled to receive (upon Plan Completion) as result of the Additional Unsecured Disbursement, and (2) update the Trustee's interim statement (and the Trustee's final report if the Additional Unsecured Disbursement is made after the filing of the final report) to reflect the Additional Unsecured Disbursement and any corresponding increase to the pot or percentage.[8] If disbursements of Committed Claim Proceeds to priority unsecured creditors will enable more of the Debtor's disposable income to be paid to General Unsecureds, the Trustee (or an unsecured creditor) typically must to move to modify the Plan to increase the amount to be paid to General Unsecureds.[9]

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[8] This is not necessary for "Base" Plans or "100% Repayment" Plans. (*See* Local Form Plan § 5.2.)

[9] If the Plan is a "Base" Plan, such a motion is not required. Further, the Debtor may consent to entry of order that increases the pot or percentage to be paid to General Unsecureds, in which case a motion may not be necessary. If a post-confirmation modification to increase the pot or percentage to be paid to General Unsecureds is agreed to by the Debtor and is feasible, it may be approved, without further notice or opportunity to object, pursuant to Rule 3015(g) (without prejudice to the right of the Trustee or any unsecured creditor to move to further increase the pot or percentage).

E. Limited Notice of Certain Pre-Confirmation Plan Modifications. At or prior to the hearing to consider confirmation of a Plan or amended Plan (the "Confirmation Hearing"), the Debtor, or the Debtor's attorney, and the Trustee may make the Plan modifications described in this part III.E (each, a "Trustee Report Modification") by notation on the Trustee's confirmation report and recommendation (the "Trustee Report"),[10] so long as (1) the Trustee Report is signed by the Debtor, or the Debtor's attorney, and the Trustee, or the Trustee's attorney, and (2) the signed Trustee Report is filed in the Debtor's case prior to entry of the confirmation order.[11] Each of the following is considered a Trustee Report Modification: (1) an increase to the Debtor's Regular Plan Payments; (2) an increase to a monthly fixed payment provided for by the Plan (other than an increase to a monthly fixed payment on a Fee Balance); (3) a modification to bring forward (but not to delay) the Fixed Payment Commencement Date; (4) an increase to an adequate protection payment provided for by the Plan; (5) a modification to the treatment of a separately classified claim that is consented to by the claimholder (a "Consensual Treatment Modification"); (6) an increase to the percentage or pot amount proposed to be paid to General Unsecureds (but not a change from a percentage to a pot amount or from a pot amount to a percentage); (7) an agreed reduction to a Fee; (8) an agreed reduction to a Fee at Confirmation; (9) an agreed reduction to a monthly fixed payment on a Fee Balance; (10) the Debtor's agreement to pay to the Trustee, under § 2.4, all non-exempt proceeds of *estate* causes of action, *scheduled* causes of action, or *pre-petition* causes of action that remain after satisfaction of any and all attorneys' fees and expenses, lien claims, and subrogation claims payable therefrom (provided all known causes of action are scheduled and no sequence of payments for Committed Claim Proceeds is added); and (11) other Plan modifications that do not adversely or materially affect non-consenting creditors or parties in interest and are

[10] The Trustee's Report may be referred to as the Trustee's 341 meeting "bench sheet."

[11] If the signed Trustee Report is not filed prior to the Confirmation Hearing, the court may require that the Trustee, the Trustee's attorney, or the Debtor's attorney announce the modification(s) to the Plan made on the Trustee Report on the record of the Confirmation Hearing.

approved by the court. All Trustee Report Modifications shall be summarized in the proposed, confirmation order submitted by the Trustee's office; provided, however, a Consensual Treatment Modification may be memorialized by a separate consent order approved by the Debtor (or the Debtor's attorney), the Trustee (or the Trustee's attorney), and the affected creditor (a "Consent Order Modification") and need not be memorialized in the confirmation order.[12] Any Trustee Report Modifications not summarized in the confirmation order will not be binding under 11 U.S.C. § 1327 unless separately evidenced by a Consent Order Modification. The Debtor is not required to file an amended Plan (each, an "Amended Plan") for a Trustee Report Modification or Consent Order Modification unless the court orders otherwise at the Confirmation Hearing. Unless otherwise ordered, because no creditors or other parties in interest are adversely or materially affected by Trustee Report Modifications or Consent Order Modifications, and for purposes of the efficiency of the court's consumer bankruptcy dockets, notice of Trustee Report Modifications and Consent Order Modifications is limited as described in this part III.E, and the applicable notices period(s) set forth in Rule 2002 are reduced accordingly, pursuant to Rule 9006(c); provided, however, objections to Trustee Report Modifications and Consent Order Modifications may be made (1) in writing at any time prior to the Confirmation Hearing, (2) orally at the Confirmation Hearing, or (3) within 14 days after the entry of the confirmation order or consent order, as applicable, by filing a motion to alter or amend the confirmation order or consent order pursuant to Rule 59(e) of the Federal Rules of Civil Procedure, as made applicable by Rule 9023.

F. Filing and Service of the Plan. If the Plan is filed with the Debtor's petition, the clerk's office will serve the Plan with the notice of commencement of the Debtor's case on the Trustee and all creditors and parties in interest identified on the official mailing matrix for the case (collectively, the "Service

[12] If the consent order memorializing a Consent Order Modification is not entered on the docket of the case prior to the Confirmation Hearing, the court may require that the attorney for the Debtor or the affected creditor announce the terms of the Consent Order Modification on the record of the Confirmation Hearing.

Parties"). Pursuant to Local Rule 3015-1(b), if the Plan is not filed with the petition, the Debtor, or the Debtor's attorney, must serve the Plan on the Service Parties and attach a certificate of service evidencing the same to the Plan (a "Matrix Certificate of Service"). The Debtor, or the Debtor's attorney, should include all creditors and parties in interest (e.g., codebtors, utilities, etc.) on the official mailing matrix to ensure proper notice of the Plan and the Confirmation Hearing. Regardless of when the Plan is filed, if the Plan includes any of the following provisions (each, a "Rule 7004 Service Provision"), the Debtor must serve the Plan on the affected creditor or party in interest (each, an "Affected Party") in the manner provided for service of a summons and complaint by Rule 7004 and file a separate certificate of service that substantially complies with the certificate of service found at the court's website at http://www.alnb.uscourts.gov/forms/all-forms/localrules_forms (a "Supplemental Certificate of Service"):[13] (1) a provision that seeks to limit the amount of a secured claim which may result in partial or no payment at all to the secured creditor, whether set out in § 3.2 or part 9 of the Plan; (2) a request, in § 3.4, to avoid, in whole or in part, a judicial lien or nonpossessory, nonpurchase-money security interest; or (3) a non-standard provision, in part 9, that requires Rule 7004 service of the Plan on the Affected Party (a "7004 Non-Standard Provision"). A request, in part 9, to value surrendered collateral (such as a request to surrender collateral in full satisfaction of the Affected Party's entire claim or to limit the amount of the Affected Party's unsecured deficiency claim to the total claim less the retail value of the surrendered collateral) is considered a 7004 Non-Standard Provision, and service of the Plan on the Affected Party must be made in accordance with Rule 7004 and evidenced by a Supplemental Certificate of Service. A Supplemental Certificate of Service must also be filed (regardless of when the Plan is filed) if the Plan proposes to grant a creditor relief from the codebtor stay of 11 U.S.C. § 1301 (such as in § 3.5) (a "Codebtor Relief Provision") to evidence service of the Plan containing the Codebtor Relief Provision on all affected codebtors. A Supplemental Certificate of Service is not a substitute for a Matrix Certificate of

[13] The Supplemental Certificate of Service should be attached to and filed with the Plan.

Service, and if the Debtor, or the Debtor's attorney, fails to file the Plan with the petition, both a Matrix Certificate of Service and a Supplemental Certificate of Service must be filed with the Plan.

G. Filing and Service of Amended Plans; Deadline for Objecting to Amended Plans. If the Debtor files an Amended Plan, the Debtor shall serve the Amended Plan on all Service Parties and attach a Matrix Certificate of Service evidencing the same to the Amended Plan. If the Amended Plan includes a Rule 7004 Service Provision or a Codebtor Relief Provision, then service of the Amended Plan must comply with Local Rule 3015-1 and part III.F hereof, and the requisite Supplemental Certificate of Service must be attached to and filed with the Amended Plan. After an Amended Plan is filed, the court typically will enter an order fixing the deadline for filing objections to the Amended Plan, on not less than 21 days' notice to all Service Parties.[14] The court will not confirm an Amended Plan before any court ordered objection deadline expires, nor will the court confirm an Amended Plan before holding a hearing to consider each timely filed objection to the Amended Plan.

H. Amended Plan Payments. If the Debtor files an Amended Plan prior to the Confirmation Hearing, the Regular Plan Payments that come due after the date the Amended Plan is filed must be made in the amount stated in the Amended Plan, which may be higher or lower than the amount stated in the original Plan. If successive Amended Plans are filed, any Regular Plan Payment that comes due must be made in the amount stated in the most recently filed Amended Plan.

I. Requests to Continue the First Setting of a Confirmation Hearing. Subject to court approval, the first setting of the Confirmation Hearing in a case (the "Original Confirmation Hearing") may be continued before the scheduled date and time thereof, *if, and only if,* the Original Confirmation Hearing can be rescheduled to a date that (1) is not later than 45 days after the date of the 341 meeting of creditors and (2)

[14] If a Confirmation Hearing is not scheduled when the Debtor files an Amended Plan, the court will not enter such an order. Instead, the clerk's office will notice a hearing to consider confirmation of the Amended Plan on 28 days' notice to all Service Parties.

is not sooner than 30 days[15] after the date of the order continuing the Original Confirmation Hearing.

J. Continuances of Confirmation Hearings Generally. If a request for a continuance of a Confirmation Hearing is made and approved in advance of the scheduled date and time of the Confirmation Hearing, the court will enter an order and notice of rescheduled hearing that provides notice to all Service Parties of the date and time of the rescheduled Confirmation Hearing. So long as the Service Parties received at least 28 days' notice of the Original Confirmation Hearing and the Original Confirmation Hearing was convened, the Confirmation Hearing may be continued on *less than* 28 days' notice to the Service Parties. The Confirmation Hearing also may be convened and rescheduled by announcement on the record of the Confirmation Hearing, without further notice.[16]

K. Extension of Confirmation Objection Deadline for Objections Based on Unanticipated Claims. If any of the following types of claims is filed in a Debtor's case on or after expiration of the deadline for filing objections to confirmation (each, an "Unanticipated Claim"), the objection deadline is deemed extended, for cause, to the date and time of the Confirmation Hearing for any objection to confirmation based on an Unanticipated Claim by a party other than the holder, servicer, or filer of the Unanticipated Claim: (1) a secured or priority claim that is not provided for by the Plan (or Amended Plan); (2) with respect to claims that are separately classified by the Plan (or Amended Plan), a claim that exceeds the amount listed by the Plan (or Amended Plan), creating a feasibility issue; or (3) with respect to General Unsecureds, a claim that exceeds the amount listed in the Debtor's schedules, creating a feasibility issue.

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[15] Rule 2002(b) requires 28 days' notice of the hearing to consider confirmation of a chapter 13 plan. Two days is added to allow for service of the order by the Bankruptcy Noticing Center.

[16] To the extent the Rule 2002(b) notice requirements apply to adjournments of the Confirmation Hearing after the court has convened Original Confirmation Hearing, the requirements are hereby reduced/limited on the terms of paragraph III.J, for cause, to facilitate confirmation within a reasonable period of time. *See* Rule 9006(c).

L. Confirmation Hearings. Excepting cases in which the 341 meeting of creditors is conducted in Jasper, Alabama,[17] Confirmation Hearings typically are scheduled for 1:30 p.m. (the "1:30 Docket") and 1:45 p.m. (the "1:45 Docket") on Tuesdays.[18] The 1:30 Docket shall be for Original Confirmation Hearings only. If the Original Confirmation Hearing is continued in accordance with part III.I hereof, it will remain on the 1:30 Docket. All other continued Confirmation Hearings will be set on the 1:45 Docket (or on a different date and time to be heard with other pending matters).

M. Cases Recommended for Confirmation. If the Trustee recommends a Plan or Amended Plan for confirmation and, on or before the second business day before the Confirmation Hearing (the "Recommendation Deadline"), the Trustee files a Trustee Report in the case that memorializes any Trustee Report Modifications and states the Trustee's recommendation (a "Trustee Recommendation"),[19] both the Debtor and the Debtor's attorney are excused from appearing for the Confirmation Hearing (so long as there are no pending objections to confirmation or other matters set). If a Trustee Recommendation is not filed on or before the Recommendation Deadline, the Debtor's attorney (or, if the Debtor is not represented by an attorney, the Debtor) is required to appear for the Confirmation Hearing unless (1) the Trustee and any party that has objected to confirmation have agreed that the Trustee may orally request a continuance of the Confirmation Hearing on the record; or (2) there are no pending objections to confirmation, and the Trustee has confirmed that he or she will orally recommend confirmation. The court may collectively call cases recommended for confirmation at the beginning of each confirmation docket in lieu of calling each such case

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[17] The Trustee conducts 341 meetings in two locations—Tuscaloosa, Alabama and Jasper, Alabama. Confirmation hearings in Jasper cases are typically set for hearing at 1:30 p.m. on the third Thursday of the month.

[18] A Western Division planning calendar (the "Planning Calendar"), which lists upcoming docket dates and times, is available on the court's website (www.alnb.uscourts.gov) on the information page for Judge Jennifer H. Henderson.

[19] If there are no Trustee Report Modifications, the Trustee Report may take the form of a text entry on the docket of the case that notes the Trustee Recommendation, rather than a separate document.

individually. Whether called individually or collectively, the court will convene the Confirmation Hearing in each case, and, if the court does not confirm a case that the Trustee has recommended for confirmation, the court will reschedule the Confirmation Hearing to permit the Debtor or the Debtor's attorney an opportunity to address any impediments to confirmation.

N. Added Creditors. If the Debtor's attorney amends any schedule to include an additional creditor, the Debtor's attorney shall promptly serve the Plan or Amended Plan, as well as any order fixing a deadline for objections to such Plan or Amended Plan, on the added creditor and file proof of service evidencing the same. If the added creditor is affected by a Rule 7004 Service Provision, the certificate of service must substantially comply with the Supplemental Certificate of Service. The clerk's office will notify the added creditor of the date and time of the 341 meeting of creditors and the date and time of the Confirmation Hearing. If an added creditor receives less than 28 days' notice of the Confirmation Hearing or less than 21 days' notice of the deadline for filing objections to the operative Plan or Amended Plan, the Debtor's attorney (or, if the Debtor is not represented by an attorney, the Debtor) shall notify the court on the record of the Confirmation Hearing.

O. Dismissal Prior to Confirmation; Allowance of Administrative Expenses. If a case is dismissed prior to confirmation, the Trustee shall disburse monies on hand in the following sequence: (1) in payment of any administrative expenses of the Trustee allowed under paragraphs (1)(A), (2), and (6) of 11 U.S.C. § 503(b), (2) pro rata to holders of other allowed administrative expenses under 11 U.S.C. § 503(b), and (3) the balance, if any, to the Debtor.[20] Unless otherwise ordered, and subject to objection, if dismissal of a case occurs prior to confirmation, then (1) if the disclosure of compensation for the Debtor's attorney so provides, the Debtor's attorney is allowed an administrative expense in the amount of $1,000.00 or in the amount of the Fee, whichever is less, pursuant to 11 U.S.C. § 503(b), and (2) the unpaid balance of the Filing

[20] *See* 11 U.S.C. § 1326(a)(2); 11 U.S.C. § 503(b).

Fee, if any, is allowed as an administrative expense pursuant to 11 U.S.C. § 503(b). The Trustee, the Debtor, and all other parties in interest shall have 14 days from the date of the order dismissing the case to object to any administrative expenses allowed by this subpart. The Debtor's attorney may file a fee application for any fees sought over $1,000.00, but such fee application must be filed within 14 days of the order of dismissal. The Trustee shall have 14 days from the date of the order dismissing the case to file an application for allowance of any administrative expense(s) of the Trustee. The court retains jurisdiction, pursuant to 11 U.S.C. § 349, to consider any timely objections and applications filed pursuant to this subpart.

P. Trustee Interim Statements. In connection with any hearing or determination in a case, and unless a party in interest objects, the court shall deem admitted into evidence the Trustee's interim statement for the case (each, an "Interim Statement") and the facts that can be readily determined from the Interim Statement, without requiring the Trustee to formally offer and authenticate the Interim Statement. It is the practice of the undersigned to print an Interim Statement (in the form used by the Trustee) one to four business days in advance of any hearing in a case (for review prior to and during the hearing). The court also routinely prints and reviews Interim Statements (in the form used by the Trustee) to ascertain whether or not Debtors have complied with orders of the court setting deadlines for payments to the Trustee. Any party in interest that objects to the court reviewing or deeming admitted an Interim Statement may file a written objection in the case or orally object on the record of any hearing, and part III.P of this order shall not be given preclusive effect in the event an interested party timely raises an objection to the court's review or admission (deemed or otherwise) of an Interim Statement.

Q. Hearing Dockets. The clerk's office maintains a court calendar at www.alnb.uscourts.gov/court-calendar, which displays upcoming hearings (by date, judge, and location). The court's daily hearing docket, listing all matters set for hearing that day (each, a "Hearing Docket"), may be generated and printed by accessing the above-reference link. In advance of a hearing date, the Hearing Docket will be numbered. Ordinarily, for each time slot, matters are grouped and organized (oldest to newest) by

case number. Although cases typically are called (by docket number and Debtor name) in the number order listed on the Hearing Docket, the court may hear matters out of order.

R. Hearings on Motions to Dismiss; Post-Confirmation Increases to Regular Plan Payments. Typically, the court sets two hearing times each month for hearings on motions to dismiss chapter 13 cases (each, a "Dismissal Docket").[21] The first Dismissal Docket is for initial hearings on motions to dismiss, and the second Dismissal Docket is for continued hearings on motions to dismiss. The Trustee is authorized to self-calendar and self-notice hearings on Trustee motions to dismiss. With limited exceptions, the Trustee shall notice a pre-confirmation motion to dismiss a chapter 13 case for the date and time of the Confirmation Hearing and a post-confirmation motion to dismiss for the date and time of a Dismissal Docket. A *Consent to Action at Hearing on Trustee's Motion to Dismiss* (a "Consent to Action") for the Western Division is available on the court's website (www.alnb.uscourts.gov). The attorney for a Debtor is expected to appear for the hearing on any motion to dismiss the Debtor's case (or make arrangements for another attorney to appear) unless a duly executed Consent to Action is timely filed in the case. If, in a Consent to Action or orally on the record of a dismissal hearing, the Trustee, the Debtor, or the Debtor's attorney requests that the court increase the amount of the Debtor's Regular Plan Payments so that the Debtor's case remains feasible, the court may order the Regular Plan Payment amount increased, without providing creditors an opportunity to object or request a hearing. In such instances, the applicable notice period(s) are reduced for cause, pursuant to Rules 3015(b) and 9006(c), as no creditors are adversely or materially affected.

S. Consensual Requests for Continuances,[22] Requests to Vacate Hearings on Settled Matters, and Requests to Grant Motions by Consent. With the exception of hearings on Trustee motions to dismiss (*see* part III.R hereof), (1) requests to continue hearings by consent, (2) requests to vacate hearings

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[21] Refer to the Planning Calendar for the dates of the court's dismissal dockets.

[22] Non-consensual requests for continuances must be made by motion and will only be granted for good cause shown.

from Hearing Dockets (i.e., requests to cancel hearings) on the basis of settlement, and (3) requests to grant motions by consent of all interested parties in advance of a scheduled hearing, may be requested by e-mail to the courtroom deputy. A request to continue a hearing will be considered consensual if: (1) in the case of a Confirmation Hearing or a hearing on a motion/application noticed to all creditors (e.g., a motion to modify plan, to approve compromise, etc.), the Debtor, movant (if any), all responding parties, and the Trustee consent, or (2) in the case of a hearing on a motion/objection that seeks relief against a particular party (e.g., an objection to claim, motion to value, motion for relief, etc.), the Debtor, the movant/objector, the party against whom relief is sought, and the Trustee consent. All such e-mails requests should: (1) be sent to crdeputyjhh@alnb.uscourts.gov, (2) include in the subject line, or in the body of the e-mail, the name of the Debtor, the case number, the hearing date and time, and, if known, the Hearing Docket number(s), and (3) copy all consenting/settling parties or their counsel. When an e-mail address is not available for a consenting party (or their counsel), the party submitting the e-mail request to the courtroom deputy may mail, fax, or hand deliver a copy of the e-mail request to said party (or counsel), in which case the body of the e-mail should indicate that a copy was transmitted to the party (or counsel) and state the method of transmission (e.g., cc: [PARTY/COUNSEL NAME] via facsimile to [FAX NUMBER]). Although there is no deadline for submitting such consensual requests to the courtroom deputy, if a request is not received in time for the clerk's office/courtroom deputy to enter an order (continuing the hearing or granting the motion by consent) or courtroom deputy note (reflecting that the matter is settled and the hearing cancelled), the hearing will not be vacated from the Hearing Docket, and an attorney for one of the parties must appear for the hearing to report the settlement or request the continuance or consented to relief. Hearing Dockets are typically printed and placed in the courtroom no later than 30 minutes prior to the time of the first hearing for the day. No hearings will be vacated after the Hearing Docket is printed and placed in the courtroom. Attorneys are encouraged to submit all such consensual requests by noon the business day before the hearing, if possible, to allow sufficient time for the clerk's office/courtroom deputy to enter any necessary orders/courtroom

deputy notes.

T. **Settlement of Chapter 13 Motions for Relief from Stay and Codebtor Stay.** If, in an e-mail advising the courtroom deputy that a motion for relief from the stay and the codebtor stay is settled and requesting that the hearing thereon be vacated from the Hearing Docket, the requesting attorney affirmatively represents that the Trustee, the Debtor, and the affected codebtor(s) are in agreement, the courtroom deputy may vacate the hearing from the Hearing Docket and enter a courtroom note that the matter is settled. As set forth above in part III.S, the attorney sending the e-mail should copy counsel for all other parties on the e-mail, as well as any unrepresented parties. If an e-mail address is unavailable for an unrepresented party, the text of the e-mail should indicate that a copy of the e-mail was delivered to the party and state the method of transmission (e.g., cc: [NAME], codebtor, by U.S. mail to [ADDRESS]). If the settling parties are unable to confirm whether or not a codebtor consents to the terms of a settlement agreed to by the Debtor, the hearing on the motion will only be vacated if the parties indicate in the e-mail that the order will unconditionally deny the request for codebtor relief. If the order will include a conditional denial of the request for codebtor relief or a grant of the request for codebtor relief and the parties do not represent that the codebtor consents, the court will hold the hearing to call for the codebtor, and counsel for one of the settling parties will need to appear for the hearing.

U. **Requirements for Proposed Orders**. Each proposed order should identify the person that prepared the order. Additionally, for consent orders, all consenting parties or their attorneys should sign the proposed order (electronic signatures for attorneys are acceptable; handwritten signatures are required for unrepresented parties);[23] provided, however, in lieu of a signature block for an unrepresented party, the proposed order may include the following statement: "[INSERT NAME], attorney for the [INSERT PARTY, e.g., "debtor"], represents to the court that [INSERT NAME], the [INSERT PARTY, e.g., "codebtor"],

[23] If a handwritten signature is required, the signed order should be submitted in .pdf format and an unsigned version submitted in Word or WordPerfect format.

consents to the entry of this agreed order." The order should include the signature of the attorney making the representation. Proposed orders should be submitted in Word or WordPerfect format to ordersjhh@alnb.uscourts.gov, with all consenting parties copied on the submission.

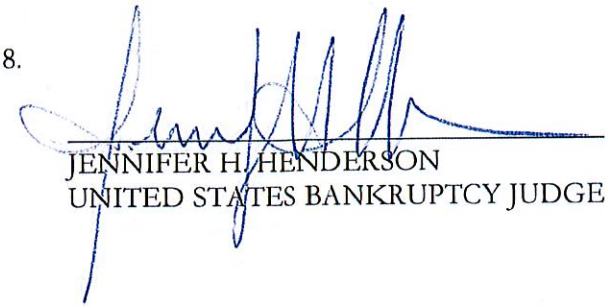
V. Ex Parte Communications. All parties should respect the prohibition against ex parte communication (Rule 9003(a)) and avoid communications concerning matters other than procedural or scheduling matters. Emails should not be used to communicate with chambers staff regarding a case. Communication with a law clerk or judicial assistant is deemed to be communication with the judge.

DONE this the 29th day of November, 2017.

JENNIFER H. HENDERSON
UNITED STATES BANKRUPTCY JUDGE

[i] On October 30, 2018, the court updated this Order to correct a typographical error in the original, replacing "347" with "348."

DONE this the 30th day of October, 2018.



JENNIFER H. HENDERSON
UNITED STATES BANKRUPTCY JUDGE