



UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF ALABAMA
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Notice

Proposed Revised Local Rules Available for Public Comment

(Comment Period Ends November 13, 2015)

Issued October 13, 2015

The United States Bankruptcy Court for the Northern District of Alabama announces the posting of proposed revised Local Rules 1006-1, 4001-1, 4002-1, and 5081-1 for public comment. Redline versions illustrating the revisions are as follows:

To provide for case filing fees to be paid through the chapter 13 plan, we suggest the following revision to Local Rule 1006-1:

RULE 1006-1 **PAYMENT OF FILING FEE IN INSTALLMENTS**

(a) **Fees Owed from Previous Case.** If a debtor files an application to pay case filing fees in installments and the debtor owes an unpaid fee from a previous case filed within five calendar years, the Court will deny the application and allow the debtor fourteen days from the petition date to pay the entire filing fee. If the entire filing fee is not paid, the Court may dismiss the case without a hearing. An order denying the debtor's application will be entered on the CM/ECF docket report of the case.

(b) **Minimum Installment Initial Payments.** In all cases where subdivision (a) does not apply, a debtor's application to pay the case filing fee in installments may be approved, without a hearing, only if it complies with the following requirements:

(1) a minimum payment of twenty-five percent of the total case filing fee shall be paid within 30 days of the petition date;

(2) installments shall be paid not less often than every 30 days;

(3) the number of installments shall not exceed four, and the final installment shall be due not later than 120 days from the petition date; and

(4) no installment shall be less than twenty-five percent of the total case filing fee unless a lesser amount will pay the filing fee in full. ~~when filing an application to pay filing fees in installments, the debtor must pay a minimum initial installment payment of twenty-five percent of the total filing fee owed within thirty days of the petition date in accordance with Local Rule 5081-1(a).~~

(c) **Cases Filing Fees Paid Through a Chapter 13 Trustee ~~on or After October 1, 2013.~~**

(1) For chapter 13 cases filed on or after ~~December~~ October 1, 201~~53~~3, a debtors may pay the chapter 13 case filing fee through the trustee assigned to the case if the debtor's chapter 13 plan so provides if each of the following requirements is met:

(A) the debtor files an application to pay the case filing fee in installments that complies with subparagraph (b) of this Local Rule and is granted by the Court;

(B) the debtor signs and files with the application to pay the filing fee in installments Local Form 1006-1(c), acknowledging and agreeing to the trustee's collection of the statutory percentage fee on any filing fee installments made through the chapter 13 trustee's office;

(C) the debtor's chapter 13 plan specifies that the chapter 13 trustee shall make all case filing fee installment payments to the Clerk of Court; and

(D) the debtor's chapter 13 plan provides for monthly plan payments in amounts sufficient to enable the chapter 13 trustee to timely pay all installments of the case filing fee to the Clerk of Court, as well as the trustee's percentage fee for said payments.

(2) If the debtor is represented by an attorney, Local Form 1006-1(c) must be signed both by the debtor and by the debtor's attorney. If the chapter 13 case is a joint case, both debtors must sign Local Form 1006-1(c). ~~must pay installment payments through CM/ECF consistent with Local Rule 5081-1(a) and not through a chapter 13 trustee. For chapter 13 cases filed prior to and that are pending on October 1, 2013, debtors may continue to pay filing fees by installments through a chapter 13 trustee.~~

(3) If a debtor signs Local Form 1006-1(c) and files the form in the debtor's chapter 13 case, the standing chapter 13 trustee assigned to the case is authorized to remit filing fee installment payments to the Clerk of Court, both before and after confirmation, from the payments made by the debtor to the trustee. In such cases, the trustee shall remit payment of each filing fee installment to the Clerk of Court electronically in the month sufficient funds become available to pay the installment, or in the following month. The trustee is authorized to pay the trustee's percentage fee at the time of each remittance of a chapter 13 case filing fee installment to the Clerk of Court, whether the remittance is made pre-confirmation or post-confirmation.

(4) Only chapter 13 case filing fees may be paid through the debtor's chapter 13 plan. No other fees payable to the Clerk of Court are permitted to be paid through a debtor's chapter 13 plan.

(Eff. 12/01/2015~~3~~)

To provide for a technical amendment to incorporate Administrative Order 15-01, we suggest the following revision to Local Rule 4001-1:

RULE 4001-1

RELIEF FROM AUTOMATIC STAY

(a) **General.** A motion for relief from the automatic stay or from the codebtor stay is a contested matter governed by Bankruptcy Rule 9014.

(b) **Notice, Service of Motion and Hearing.** Upon the filing of such a motion, the preliminary hearing will be consolidated with the final hearing unless the Court orders otherwise. The clerk's office or some other person as the Court may direct must prepare a notice of such hearing and transmit a copy of the notice to the following:

- the movant;
- the debtor or the debtor in possession;
- the Trustee;
- any committee appointed in the case, or, if no committee is appointed and it is a chapter 9 or 11 case, then on all creditors; and
- any other entity as the Court may direct.

The movant must serve a copy of the motion upon all of the aforesaid parties and attach a certificate of service to the motion. The hearing will be a final evidentiary hearing, and parties must be prepared for trial.

(c) **Fact Summary Sheet** ~~for Eastern, Southern, and Western Divisions~~. For a motion for relief from stay, a motion for relief from the codebtor stay, a motion to renew a relief from stay motion, or a motion for adequate protection filed in a chapter 7 or 13 case ~~in the Eastern, Southern, and Western Divisions~~, the movant must complete and file a fact summary sheet. The fact summary sheet must substantially comply with the fact summary sheet form found on this Court's website at www.alnb.uscourts.gov/localforms.cfm. The movant must file and serve the

fact summary sheet completed in full at least 14 days prior to the first hearing date on the motion. The movant must ensure that, when the fact summary sheet is filed, it is filed as a separate event using the proper event from CM/ECF, not as an attachment to the motion. To file the fact summary sheet, the movant must select "Bankruptcy," "Miscellaneous," and "Fact Summary for Motion for Relief from Stay." The movant will serve the fact summary sheet using CM/ECF. If the movant does not fully complete, timely file, and properly serve the fact summary sheet, the Court may continue, dismiss, or deny the motion.

(Eff. ~~127~~/ 1/ 201~~50~~)

To provide for (i) a technical amendment because of renaming and re-numbering Official Forms and (ii) an update in the timing of the payment of fees, we suggest the following revision to Local Rule 4002-1:

RULE 4002-1 **DEBTOR'S DUTIES**

Upon conversion of a case by an individual debtor to a case under chapter 7, the debtor must within 14 days of the conversion:

- If the original bankruptcy case was filed on or after October 17, 2005, file a ~~C~~chapter 7 Statement of Your Current Monthly Income (122A-1) and Chapter 7 Means-Test Calculation (~~122A-2~~~~Official Form 22A~~) that is effective as of the conversion date;
- File a statement of compensation regarding compensation paid to professionals during the chapter 13 case, compensation paid for the conversion of the chapter 13 case, and any compensation for the chapter 7 case pursuant to Section 329; and
- File a Summary of Your Assets and Liabilities and Certain Statistical Information (106Sum) ~~Schedules and Statistical Summary of Certain Liabilities and Related Data~~ (~~Official Form 6~~) pursuant to 28 U.S.C. § 159.; and
- ~~Pay the conversion fee to the clerk's office.~~

(Eff. ~~127~~/ 1/ 201~~50~~)

To provide for initial filing fees to be paid through the chapter 13 plan, we suggest the following revision to Local Rule 5081-1:

RULE 5081-1 **FORM OF PAYMENT OF FEES**

(a) **Payment of Fees Electronically.** All documents requiring a fee that are filed electronically via CM/ECF must be paid electronically by the filer, with the limited exception that a chapter 13 trustee may electronically pay chapter 13 case filing fee installments on behalf of a debtor who has satisfied all requirements of Local Rule 1006-1(c).

(b) **Other Fees Outside of CM/ECF.** For transactions outside of CM/ECF (e.g., requests for copies or certification of documents), payment of fees can be made by certified check, cashier's check, money order, or by check drawn on the account of any officer of the estate or an attorney admitted to practice before this Court. All forms of payment must be drawn to the order of "Clerk, U.S. Bankruptcy Court." Cash payments are not accepted.

(c) **Chapter 11 Quarterly Fees.** Quarterly fees in chapter 11 cases pursuant to 28 U.S.C. §1930(a) must be paid electronically via CM/ECF by the filer.

(Eff. ~~120~~/1/201~~53~~)

To provide for case filing fees to be paid through the chapter 13 plan, we suggest the following new Local Form 1006-1(c):

Fill in this information to identify your case:

Debtor 1 _____
First Name Middle Name Last Name

Debtor 2 _____

(Spouse, if filing) First Name Middle Name Last Name

United States Bankruptcy Court for the Northern District of Alabama

Case number _____
(If known)

Local Form 1006-1(c)

Notice of Intent to Pay Chapter 13 Case Filing Fee through Chapter Plan

By signing here, you state that you understand, acknowledge, and agree that:

- You have the option to pay your chapter 13 case filing fee installments directly to the Clerk of Court, but you have elected to pay the filing fee through your chapter 13 plan pursuant to Local Rule 1006-1(c).
- You must timely pay each installment of your chapter 13 case filing fee to the office of the standing chapter 13 trustee in the division where your case is filed in accordance with the terms of your chapter 13 plan and any order entered in respect of your application to pay the case filing fee in installments. If you do not timely make any payment when it is due, your bankruptcy case may be dismissed.
- Pursuant to 28 U.S.C. § 586, the chapter 13 trustee shall be entitled to collect a percentage fee (not to exceed ten percent) on any filing fee installment payments made through the office of the chapter 13 trustee.
- If your case is dismissed before the chapter 13 trustee remits payment of your entire chapter 13 case filing fee to the Clerk of Court, the chapter 13 trustee shall apply any monies on hand on the date of dismissal in the following order: (1) the chapter 13 trustee shall remit payment to the Clerk of Court for the unpaid balance of the chapter 13 case filing fee; (2) the chapter 13 trustee shall apply the funds on hand to the trustee's costs of administration, including in payment of any percentage fee owed to the trustee in respect of the filing fee payments made by the trustee to the Clerk of Court; (3) the chapter 13 trustee shall pay any other administrative expenses approved to be paid by order of the Court; and (4) the remaining monies, if any, shall be disbursed to you.
- If your case is converted before the chapter 13 trustee remits payment of your entire chapter 13 case filing fee to the Clerk of Court, the chapter 13 trustee shall return any monies on hand as of the date of conversion to you, and you will be responsible for paying the balance of the case filing fee owed.

x _____
Signature of Debtor 1

x _____
Signature of Debtor 2

x _____
Your attorney's name and signature, if you used one

Date _____
MM / DD / YYYY

Date _____
MM / DD / YYYY

Date _____
MM / DD / YYYY

These proposed revised Local Rules are available for public comment beginning October 13, 2015, and ending November 13, 2015, at 4:30 p.m. Please share any comments with the Court by sending an email to localrules@alnb.uscourts.gov by November 13, 2015, at 4:30 p.m.