

**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.

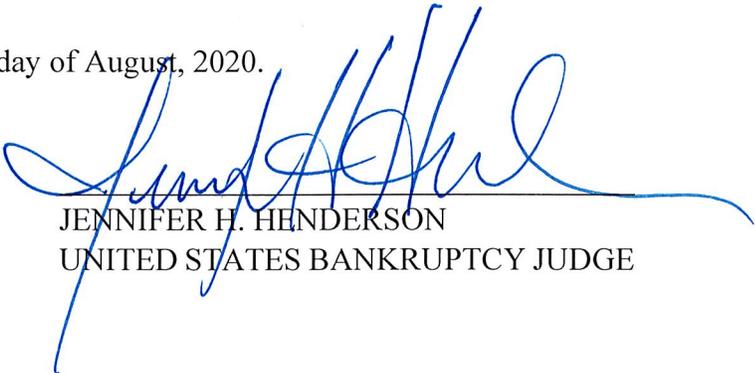
**(D) Part III.A of AO 17-07 Superseded.** If AO 20-11 applies to a Chapter 13 Case by operation of part (B) hereof, then parts E and F of AO 20-11 supersede and replace part III.A of AO 17-07.

**(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.<sup>1</sup> 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.<sup>2</sup>

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



JENNIFER H. HENDERSON  
UNITED STATES BANKRUPTCY JUDGE

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<sup>1</sup> 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.

<sup>2</sup> 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.