

2020 LOCAL RULE REVISIONS
U.S. Bankruptcy Court, Eastern District of Missouri

Below are the proposed revisions to the Local Rules of the U.S. Bankruptcy Court for the Eastern District of Missouri that will become effective on December 1, 2020, if approved. The Local Rules with revisions are detailed below. These revisions regard:

1. Requiring amended petitions to be served on all parties;
2. Simplifying the language concerning when an application for a filing fee waiver will be denied;
3. Broadening the application of the option to enter into a stipulation to settle a Trustee’s Motion to Dismiss a Chapter 13 case for failure to make a plan payment;
4. Requiring Chapter 13 debtors who have let their auto insurance lapse within the last 12 months to prepay their auto insurance three months in advance;
5. Clarifying that a substitution of debtor’s counsel can be done through a joint Notice of Withdrawal of Counsel and Notice of Appearance when substitute counsel is part of the same law firm and counsel withdrawing;
6. Clarifying that all claims must be paid by the Trustee directly to creditors, except for those claims allowed by the Local Rules or the Court be paid directly by the debtor to the creditor;
7. Changing the title of Subsections A, B, and C in L.R. 3015-5 to better reflect what counsel must move for after filing a post confirmation amended plan;
8. Clarifying that an appellant shall file their designation of the record and statement of the issues on appeal within fourteen (14) days of filing their notice of appeal;
9. Clarifying that certificates of service must include a signature, whether or not the certificate is filed as part of a pleading or filed as a stand-alone document; and
10. Redefining “Expedited basis” or “emergency basis” as any hearing to be held less than twenty-one (21) days after the filing of the motion on which the hearing is requested.

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1. **L.R. 1002 – Case Commencement.** The change was made to require debtors to serve their Amended Petition on all parties. Subsection H will be added to L.R. 1002 regarding Case Commencement.

L.R. 1002 – Case Commencement.

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H. Service of Amended Petition.

Should there be cause for the debtor to file an Amended Petition, the Amended Petition must be served upon all creditors and parties to the case.

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2. **L.R. 1006 - Payment of Filing Fees in Installments or Waiver of Filing Fee.** The change was made to simplify the language concerning when an application for a filing fee waiver will be denied for compensating an attorney or petition preparer in connection with the case.

L.R. 1006 – Payment of Filing Fees in Installments or Waiver of Filing Fee

A. General Requirements.

All applications to pay filing fees in installments must be filed using a form in substantial conformity with Local Form 1. No proposed order should be submitted with the application. Fifty percent of the filing fee must be paid within 7 days of the filing of the petition if not paid when the petition is filed. The Court will not grant an application to pay the filing fee in installments if the debtor’s attorney has already been paid \$300 or more at the time the petition is filed or the debtor has paid a petition preparer in connection with the case. ~~Any application for a waiver of the filing fee will be denied if the debtor’s attorney receives compensation for work performed in connection with the debtor’s bankruptcy case or the debtor has paid a petition preparer in connection with the case.~~ Any application for a waiver of the filing fee will be denied if the debtor has paid a petition preparer or attorney in connection with the case.

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3. **L.R. 1017-1 – Motions to Dismiss.** The change was made to broaden the ability for debtors and the Trustee to enter into a stipulation to settle a Motion to Dismiss a Chapter 13 case for failure to make plan payments.

L.R. 1017-1 – Motions to Dismiss

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E. Amended Plan or Other Responses to the Chapter 13 Trustee’s Motion to Dismiss for Failure to Make Plan Payments.

To avoid dismissal on the Trustee’s motion to dismiss for failure to make plan payments, the debtor shall become current in plan payments to the Trustee. The debtor may become current by performing one of the following:

1. making payment to the Trustee;
2. entering into a stipulation with the Trustee ~~if the motion to dismiss is the first such motion;~~ (The stipulation shall propose extra monthly payments to cure the missed payments within 12 months ~~and the extra payments shall not exceed 25% of the regular monthly payment~~) or

3. filing an amended plan which cures the missed payments. Any amended plan shall follow the procedures for Chapter 13 plans outlined in these Rules and contain terms that address the missed payments as well as future plan payments.

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4. **L.R. 2015-2 – Duty of Debtor in Chapter 13 Case.** The change was made to require only debtors who have allowed their auto insurance to lapse in the last twelve (12) months to prepay at least three (3) months insurance on their vehicle.

L.R. 2015-2 – Duty of Debtor in Chapter 13 Case

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C. Insurance on Motor Vehicles in Chapter 13 Cases.

1. **Required Coverage.** The debtor in a Chapter 13 case shall maintain insurance on any motor vehicle on which a lien exists to secure a debt. Absent agreement between the debtor and the lienholder, the debtor shall:
 - a. prepay at least three (3) months insurance on the vehicle **if the debtor has allowed their insurance coverage on the vehicle to lapse within the previous twelve (12) months;** and
 - b. provide for the collision and comprehensive deductible to be \$500 and provide for the insurance policy to name the lienholder as a loss payee. If the security agreement or other contract requires a deductible lower than \$500, such contract will govern the amount of deductible the debtor is required to maintain during the bankruptcy case.
2. **Proof of Insurance Coverage.** The debtor in a Chapter 13 case shall provide the lienholder with proof of **3-months-prepaid** insurance providing full coverage from the date of the bankruptcy petition. **If the debtor has allowed their insurance policy to lapse within the twelve (12) months prior to the date of the bankruptcy petition, the debtor shall provide the lienholder with proof of three (3) months prepaid insurance providing full coverage from the date of the bankruptcy petition.** If the insurance policy lapses during the pendency of the case, the debtor is required to provide new proof of coverage, which shall include proof of **three (3) months prepaid insurance.** A copy of the policy or the policy declaration sheet and a copy of a receipt or similar payment statement from an insurance agent on company letterhead may be used as proof of coverage if the documents verify the terms of coverage and pre- payment of premiums.

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5. **L.R. 2091 – Withdrawal of Counsel.** The change was made to clarify that a substitution of debtor’s counsel can be done through a joint Notice of Withdrawal of Counsel and Notice of Appearance when substitute counsel is part of the same law firm and counsel withdrawing.

L.R. 2091 - Withdrawal of Counsel.

A. General Requirements.

1. Motion Necessary.

Except as provided in subsection (2), an attorney of record may withdraw from a main case, and/or adversary proceeding, only by order of the Court after service of a motion to withdraw on the client, any Trustee, and all entities having filed a request for notice. In Chapter 11 cases, the attorney shall also serve the motion to withdraw on the United States Trustee and any official committees. The motion shall list any pending matters and upcoming hearing dates that the client has in the main case and/or adversary proceeding. The motion shall be titled Motion to Withdraw as Counsel and may be ruled on without hearing.

2. **Notice Necessary ~~Motion Unnecessary.~~** ~~If a) an attorney representing any party other than the Debtor, a Trustee, or an official committee wishes to withdraw from a main bankruptcy case, and the attorney’s client does not have any matters pending associated with that case; or b) an attorney is being substituted pursuant to subsection (3), and the incoming and outgoing attorneys are of the same firm, a motion and order are not required. In such instances, the outgoing attorney shall file a notice of withdrawal titled Notice of Withdrawal of Counsel.~~

A notice of withdrawal is necessary if:

- a. an attorney representing any party other than the Debtor, a Trustee, or an official committee wishes to withdraw from a main bankruptcy case, and the attorney’s client does not have any matters pending associated with that case; or
- b. an attorney is being substituted pursuant to subsection (3), and the incoming and outgoing attorneys are of the same firm.

In such instances, a motion and order are not required, and the outgoing attorney shall file a notice of withdrawal titled Notice of Withdrawal of Counsel.

3. Substitution of Counsel.

- a. **Where a Motion to Withdraw is Necessary.** Where a motion to withdraw is necessary pursuant to subsection (1), the outgoing attorney shall file a motion to withdraw and the notice of appearance may be combined in a single document if

they are signed by the incoming and the outgoing attorneys, and the document is titled Motion to Withdraw as Counsel and Notice of Appearance.

- b. **Where a Notice of Withdrawal ~~Motion to Withdraw~~ is Necessary ~~Unnecessary~~.** Where a ~~notice of withdrawal motion to withdraw~~ is ~~necessary unnecessary~~ pursuant to subsection (2), the withdrawing attorney shall file a notice of withdrawal and the incoming attorney shall file a notice of appearance in that order. The notice of withdrawal and the notice of appearance may be combined in a single document if they are signed by the incoming and the outgoing attorneys and the document is titled Notice of Withdrawal of Counsel and Notice of Appearance.
- c. **Outgoing Attorney Unavailable.** If a client is unable to get the outgoing attorney to file the necessary motion or notice of withdrawal, the incoming attorney shall file a motion to substitute counsel setting forth the reason(s) why the requisite motion or notice of withdrawal was not filed by the outgoing attorney. Such a motion shall be titled Motion to Substitute Counsel and must be set for hearing on 7 days' notice to the client, any Trustee, the outgoing attorney, the United States Trustee, and all entities having filed a request for notice. The motion shall list any pending matters and upcoming hearing dates that the client has in the main case and/or adversary proceeding. Before filing any such motion, the incoming attorney shall have made a good-faith, thorough effort to locate and communicate with the outgoing attorney about the substitution, and such effort shall be detailed in the motion.
- d. **Disclosure of Compensation.** If not filed simultaneously with the motion to substitute as counsel, substitute counsel shall file a Disclosure of Compensation and Fee Election Form within fourteen (14) days after the motion is filed.

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- 6. **L.R. 3015-2 – Chapter 13 Plans – Plan Contents.** The change was made to clarify that all claims must be paid by the Trustee directly to creditors, except for those claims allowed by the Local Rules or the Court be paid directly by the debtor to the creditor.

L.R. 3015-2 – Chapter 13 Plans – Plan Contents

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D. Payments by the Debtor Directly to the Creditor.

~~The plan shall provide for all claims to be paid by the Trustee directly to creditors except as provided herein or as permitted by the Court. The following may be paid by the debtor directly to the holders of The plan may provide for the following claims to be paid by the debtor directly to the creditor:~~

- 1. Claims on the home in which the debtor resides, if the claim is for post-petition mortgage payments or post-petition mobile home payments.

2. Claims for child support arrearage if the arrearage was being paid pursuant to a pre-petition agreement and the child support creditor consents to continuation of the payment arrangement post-petition. Consent of the creditor shall be in writing, filed with the Court and served on the Trustee prior to the hearing on confirmation of the plan.

3. Lease payments related to any assumed executory contracts for real property.

7. **L.R. 3015-5 - Chapter 12 and 13 Plans - Post-Confirmation Amendments and Modifications.** The change was made to the titled of Subsection A, B, and C to better reflect what counsel seeks to do when filing such a motion, as the plan has already been amended when the motion is filed and counsel is moving to have the amended plan approved or confirmed.

L.R. 3015-5 - Chapter 12 and 13 Plans - Post-Confirmation Amendments and Modifications

A. Motion to ~~Approve or Confirm an Amended Plan~~ ~~Amend a Confirmed Plan~~.

A debtor who seeks to amend a confirmed plan shall do so by motion. Such a motion shall include a brief but specific statement of the reason for the amendment and shall identify all changes to the plan terms. In conjunction with the motion to amend, the debtor shall file an amended plan and either an amended budget or a statement that there has been no change in the debtor's income and expenses. Such statement or amended budget shall be signed by the debtor.

B. Service of Motion to ~~Approve or Confirm an Amended Plan~~ ~~Amend a Confirmed Plan~~.

1. **Generally.** The debtor shall serve a copy of the motion to amend, the amended plan and either an amended budget or statement that there has been no change in income or expenses on the Trustee and on all creditors and parties in interest. The debtor shall contact the Courtroom Deputy to have the motion to amend and the amended plan scheduled for hearing on the next confirmation calendar that is not sooner than 21 days after service of the motion to amend. The debtor shall send notice of the confirmation hearing to all parties served with the motion and amended plan. The date, time, and location of the confirmation hearing shall be stated in the caption of the amended plan.

2. **Limited Service.** Unless otherwise directed, service of the motion to amend a confirmed plan, the amended plan and either an amended budget or statement that there has been no change in income or expenses may be limited to the Trustee if the proposed amended plan meets either of the following criteria:

a. the proposed plan only changes the terms of the confirmed plan by increasing the amount of the plan payment or plan duration; or, in a Chapter 13 case,

b. the proposed plan:

i. changes 12 or fewer monthly payments;

ii. lowers the monthly plan payment by less than twenty-five percent of

- the existing plan payment;
- iii. is the first amendment to the debtor's first confirmed plan; and
- iv. does not waive any missed plan payments.

C. Objections to Motion to Approve or Confirm an Amended Plan ~~Amend a Confirmed Plan~~.

Objections to the debtor's motion to amend a confirmed plan and to the proposed amended plan shall be filed and served on the debtor (if unrepresented by an attorney), the debtor's attorney (if

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- 8. L.R. 8001 – Notice of Appeal and Election to Have Appeal Heard by District Court.** The change was made to clarify that an appellant shall file their designation of the record and statement of the issues on appeal within fourteen (14) days of filing their notice of appeal.

L.R. 8001 – Notice of Appeal and Filing Requirements and Election to Have Appeal Heard by District Court.

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C. Appeals to the District Court.

To appeal to the District Court, the appellant shall file with the **Clerk of the** Bankruptcy Court:

1. The notice of appeal and any election to have the appeal heard by the District Court in substantial conformity to Bankruptcy Official Form 417 A (along with a certificate of service);
2. The filing fee;
3. The U.S. District Court cover sheet (available on the Bankruptcy Court's web site or the District Court's web site); and
4. The party's designation of record and issues on appeal. **This shall be filed with the notice of appeal or within fourteen (14) days after the filing of the notice of appeal.**

All documents filed after the notice of appeal, **other than those documents listed above**, shall be filed with the District Court unless the Federal Rules of Bankruptcy Procedure direct otherwise.

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9. **L.R. 9004 – Format and Title of Filings.** The change has been made to clarify that each certificate of service, whether attached to a document or filed as its own document, must include the signature of the party serving the document.

L.R. 9004 – Format and Title of Filings

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D. Certificates of Service

All filings shall include, **or be accompanied by**, a certificate of service, **signed by the party serving the document**, identifying (i) each person or entity served with the filing; (ii) the date of service; and (iii) the manner of service.

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10. **L.R. 9013-2 – Expedited or Emergency Matters.** The change has been made to redefine “Expedited basis” or “emergency basis” as any hearing to be held less than twenty-one (21) days after the filing of the motion on which the hearing is requested in order to remain consistent with other provisions found in the Local Rules.

L.R. 9013 – Expedited or Emergency Matters.

A. Motion For Expedited or Emergency Hearing

A request for hearing on an expedited or emergency basis shall be made by written motion, setting forth the reason the matter should be considered on an expedited or emergency basis. The movant shall contact the Courtroom Deputy to obtain a hearing date and time. “Expedited basis” or “emergency basis” is defined as any hearing to be held less than **twenty-one (21) ~~14~~** days after the filing of the motion on which the hearing is requested.

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