

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF TEXAS

United States District Court
Southern District of Texas
ENTERED

DEC 20 2007

Michael N. Milby, Clerk
By Deputy Clerk *Thonda Newton*

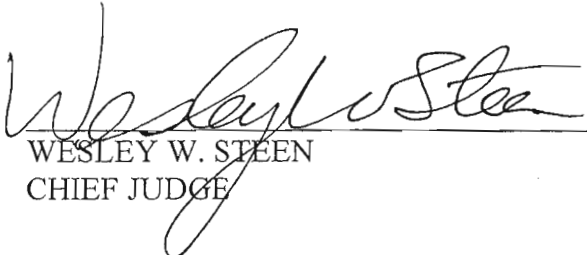
IN RE: §
§
ADOPTION OF AMENDMENTS TO § GENERAL ORDER NO. 2007-4
BANKRUPTCY LOCAL RULES 1007(d); §
2016(c)(1); 4001(e); and 4001(f)(4). §

ORDER

The Court earlier proposed amending Local Rules of Bankruptcy Procedure 1007(d), 2016(c)(1), 4001(e) and 4001(f)(4), and posted them for public comment. The proposed amendments having now been approved by the Judicial Council of the Fifth Circuit, through its Rules Committee, the Court adopts the attached amended rules.

These amendments are effective January 1, 2008.

Signed this 20th day of December, 2007.


WESLEY W. STEEN
CHIEF JUDGE

Attachment: Amended Rules 1007(d);
2016(c)(1); 4001(e); and 4001(f)(4).

Amended BLR 1007(d).

- (d) In all Chapter 13 Cases, the debtor must file with the plan:
 - (1) If the debtor is a wage or salary employee, the debtor must file a wage order with service on the Trustee; or
 - (2) If the debtor is not a wage or salary employee, the debtor must complete the information for the submission of an electronic funds transfer order providing that funds may be drafted by the Trustee; or
 - (3) If the debtor feels there are extraordinary circumstances justifying an exception to (1) or (2) above, file a motion to allow direct payment of funds to the Trustee.

Amended BLR 2016 (c) (1).

Fixed fee agreements must be filed within 20 days of the petition date and be in the form promulgated from time-to-time by the Bankruptcy Court.

Amended BLR 4001(e).

(e) In each chapter 13 case, the Court will issue an order that authorizes the use of estate vehicles under § 363 and provides adequate protection to the holders of liens on the vehicles.

(1) The adequate protection order will require the debtor to (i) maintain insurance on the vehicle in the amount required by the debtor(s) pre-petition contract; (ii) provide proof of insurance to the lien holder; and (iii) enter into a wage order or EFT Order not later than 15 days after the petition date.

(2) As additional adequate protection, the lien holder will be given an administrative claim, with priority under § 507(b), in an amount equal to 1.25% of the value of the vehicle for each 30 days that elapses from the date of the adequate protection order. For example, if the vehicle is valued at \$10,000, a § 507(b) adequate protection claim in the amount of \$125 will accrue each month. In the event of a dismissal or conversion of the chapter 13 case, the trustee will distribute the proceeds in accordance with § 1326(a)(2). This will result, in most cases, in payments being made in the following order of priority:

(A) First, to the vehicle lien holders in the amount of the adequate protection reserve;

(B) Second, to debtor's counsel for unpaid fees for which an application is filed on or before 20 days after entry of the order of dismissal and that have been allowed by court order;

(C) Third, to the debtor (directly and not through counsel).

(D) Payments under paragraph "1" shall be made following the expiration of 10 days of entry of the dismissal order, unless the dismissal order is stayed.

(3) The debtor or any other party in interest may object to the adequate protection order not later than 30 days after entry of the court's order. The objecting party must state the date that the hearing will be conducted, which date will be the next chapter 13 panel after the expiration of 15 days from the date of the objection. The objection must be served on the debtor, the debtor's counsel, the chapter 13 trustee, and any party holding security interest in the vehicle. The objecting party must attend the hearing and present evidence in support of the objection.

(4) For purposes of valuation in the absence of any objection, the vehicle value will be determined as of the date of the filing of the chapter 13 petition and will be equal to the average wholesale and retail value listed by NADA (without options or mileage adjustments). In determining the principal amount due to the lien holder under the plan, the § 507(b) payments will be (i) deducted from the value of the vehicle, if the value of

the vehicle is less than the lien; and (ii) applied to interest if the value of the vehicle is greater than the lien. If the value of the vehicle is less than the lien, interest will begin to accrue on the confirmation date .

(5) The adequate protection order will not provide protection to a vehicle lender if the debtor voluntarily surrenders the vehicle by delivering the vehicle to the vehicle lender within 30 days of the petition date.

(6) If a debtor proposes to make direct, post-petition payments to a lender on a vehicle loan that was not in default as of the petition date, no additional adequate protection payments are required, unless otherwise ordered by the Court. If a debtor defaults on direct payments, the debtor must make a cash payment to the lien holder at or before the time of any plan modification. The cash payment must equal or exceed 1.25% of the vehicle's value (determined in the manner set forth in paragraph 4 above) for each one month of missed direct payments.

Amended BLR 4001(f)(4).

Prior to filing a Consumer Lift Stay Motion, the movant must attempt to contact the debtor(s)' counsel to discuss whether an agreement can be reached utilizing the court's agreed order forms. If such an agreement can be reached, the parties may submit a Motion for Entry of Agreed Order under FRBP 4001. Conferences may be attempted by telephone or by e-mail. In all conferences, movant's counsel must provide a contact person with a direct telephone number for future discussions. The motion may be filed by the movant if settlement is not concluded in writing within two (2) business days of the initial attempt to confer.