

UNITED STATES DISTRICT & BANKRUPTCY COURTS
DISTRICT OF IDAHO

STEPHEN W. KENYON
CLERK OF COURT
208.334.1976



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September 17, 2017

NOTICE FOR PUBLIC COMMENT

The United States Bankruptcy Court's Local Rules Committee invites the public to review and provide comment on the proposed changes to the Bankruptcy Court's Local Rules 2002.2, 2002.3, 2002.5, 4003.2, 5005.1, 5005.2 and new 2002.6.

Additionally, the local chapter 13 plan form has undergone substantial changes to comply with revised Fed. R. Bankr. P. 3015 and new Fed. R. Bankr. P. 3015.1. Copies of the revised rules and plan are attached to this notice.

These proposed local rules will go into effect December 1, 2017. The new chapter 13 form plan will be required in all chapter 13 cases as of December 1, 2017 for initial plan filings as well as amended plans.

You can obtain a copy of the local rules by going to the following URL: http://idd.uscourts.gov/bankruptcy/forms_fees_rules/Rules.cfm. There will also be a paper copy provided for reference at the United States Courthouses in Boise, Coeur d'Alene, and Pocatello. If you are unable to access the website, or not able to travel to a courthouse location, please call Kirsten Wilkinson, Chief Deputy of Operations at (208) 334-9464.

All public comments are due by Friday, October 13th at 5:00 p.m. (MST). Please send your comments by email to local_rulesBK@id.uscourts.gov, or by mail at the following address:

United States Bankruptcy Court, District of Idaho
Attn: Kirsten Wilkinson, Chief Deputy of Operations
550 West Fort Street #400
Boise, ID 83724

The Court will work with the chapter 13 trustees to conduct education and training sessions for chapter 13 practitioners to discuss the new rule and form changes. Please watch the Court's website for future information.

If you have any questions, please send them to local_rulesBK@id.uscourts.gov, or call (208) 334-9464.

LOCAL BANKRUPTCY RULE 2002.2
NOTICE AND HEARING

(a) **Applicability.**

All contested matters under Fed. R. Bankr. P. 9014, all motions under Fed. R. Bankr. P. 9013, and all other matters requiring or with provision for a hearing under the Bankruptcy Code or Federal Rules of Bankruptcy Procedure, shall be subject to the following requirements and conditions, in addition to other and further requirements as may be imposed by rule or applicable law.

(b) **Notice.**

- (1) By whom given. Except for notices specified in Fed. R. Bankr. P. 2002(a)(1), (a)(7), (b)~~(23)~~~~chapter 13~~ only, (e) and (f), all notices shall be given by the party requesting an order or other relief.
- (2) To whom given.
 - (A) "Notice," as used in this rule shall mean notice by mail or electronic means to all creditors, equity security holders, trustees and indenture trustees, the debtor, the chairman of any committee appointed in the case, U.S. Trustee and any other parties in interest. A different method or less inclusive notice may be given only if allowed by the Bankruptcy Code or Federal Rules of Bankruptcy Procedure, or if authorized by a judge.
 - (B) The addresses of notices shall be in accordance with Fed. R. Bankr. P. 2002(g) and 11 U.S.C. § 342.
 - (i) A Master Mailing List of names and addresses, as filed with the court, and updated in accordance with Rule 2002(g), and 11 U.S.C. § 342 may be downloaded from PACER which can be accessed from the court's website at www.id.uscourts.gov.
 - (ii) Required notice to all creditors is presumed to be appropriate if sent to all entries on the Master Mailing List, which has been provided by the clerk.
 - (iii) Notices sent by the clerk, BNC, or some other person or entity as the court may direct, pursuant to 11 U.S.C. §§ 341(a), 342(a) and (b), and Fed. R. Bankr. P. 2002, that are determined undeliverable will be forwarded to the debtor's attorney (or debtor if *pro se*). Any notice, other than a § 341(a) meeting of creditors, or a copy of the final order of discharge, which is returned to the court, shall be destroyed after processing.

- (3) Proof of Service. After giving notice, the moving party shall file within five (5) days of the notice, a certificate of mailing with a list of the persons and their addresses to whom the notice was sent. If notice to all creditors is required, the certificate of service must certify mailing (or other services) on all parties included on the Master Mailing List described in subdivision (b)(2)(B) of this rule.

(c) **Objection.**

If the notice provides for the filing of an objection, a party objecting to an act or the entry of an order shall file with the clerk and serve on the moving party, a written objection within the time set forth in the notice. The objection shall state, with specificity, the grounds therefor.

(d) **When hearing is not required.**

A request for an order under Fed. R. Bankr. P. 9013, where only notice and an opportunity for a hearing are required, may proceed with the service of a motion/application complying with this Local Bankruptcy Rule.

- (1) Form of Disclosure. The following language must be placed immediately below the caption of the motion/application:

Notice of Motion for [name of motion or application] and Opportunity to Object and for a Hearing

No Objection. The Court may consider this request for an order without further notice or hearing unless a party in interest files an objection within [____] days of the date of service of this notice.

If an objection is not filed within the time permitted, the Court may consider that there is no opposition to the granting of the requested relief and may grant the relief without further notice or hearing.

Objection. Any objection shall set out the legal and/or factual basis for the objection. A copy of the objection shall be served on the movant.

Hearing on Objection. The objecting party shall also contact the court's calendar clerk to schedule a hearing on the objection and file a separate notice of hearing.

- (2) Time of Negative Noticing. The minimum number of days under this Local Rule will be 14 days unless another notice period is applicable under the Federal Rules of Bankruptcy Procedure or the Local Bankruptcy Rules.
- (3) Statement of No Objection. To obtain the requested order if no objection is filed within the applicable notice period, the movant shall file a *Statement of No Objection* and a proposed Order. The statement shall contain the Bankruptcy Court docket number for the initial motion/application sent under subsection (d) of this Rule, any related certificate of service, and a certification that no objection has been received to the requested relief.
- (4) Hearing on Objection. If the objecting party does not schedule a hearing as provided in the notice, the moving party may set the matter for a hearing.

(e) **Hearing.**

- (1) By moving party. Counsel for the party who desires or is required to set a matter for hearing shall be responsible for contacting the calendar clerk and obtaining a date for such hearing. Unless the moving party obtains a hearing date and properly files and serves the notice the matter will not be heard. Counsel obtaining a hearing date shall be responsible for providing notice to all parties as provided by this rule.
- (2) By objecting party. If a party objects to an act or the entry of an order and the matter is not previously set for hearing, counsel for the objecting party shall be responsible for contacting the calendar clerk and obtaining a hearing date, as provided in subdivision (e)(1) of this rule and notifying the moving party and all other parties as required by this rule.
- (3) Any party requesting a hearing date from the calendar clerk (or in open court) shall file the notice of hearing and related pleadings at least seven (7) days prior to the scheduled hearing date. Failure to do so may result in the hearing being removed from the calendar.

(f) **Vacation or continuance of hearing.**

A hearing may be vacated or continued for good cause by approval of the court:

- (1) On a judge's own motion;
- (2) Upon submission, prior to hearing, of an agreed order resolving the matter endorsed by the parties or their counsel of record;
- (3) Upon agreement of the parties, set forth in writing and filed no later than the day before the scheduled hearing, and for good cause shown, or, if settled later than the day before the hearing, upon an agreement read into the record at the time of the hearing by counsel for one of the parties; or

- (4) On the request of a party after notice to all opposing parties filed and served at least three (3) days prior to the scheduled hearing, accompanied by an affidavit stating the grounds for such request, unless a judge for cause shown waives the requirements of this rule.

Related Authority:

11 U.S.C. § 102(1), 704, 1112, 1324, 1514,
Fed. R. Bankr. P. 2002, 5008, 9006, 9007, 9008, 9013, 9014, 9036
LBR 9004.1

Advisory Committee Notes:

Note that subdivision (b)(1) requires a party to serve notice in certain circumstances where previously the clerk provided notice.

Subdivision (e) reflects current practice and emphasizes the necessity of setting matters through the calendar clerk. Subdivision (e)(3) requires the filing of supporting pleadings. Upon request of a party, a hearing may be heard by video conference. Parties must request and obtain approval for a video conference hearing by calling the calendaring department at (208) 334-9343.

Subdivision (f) is designed to cure problems presently encountered by the court where counsel vacates a hearing without advising the court and/or opposing counsel.

2008 Advisory Committee Notes: It is the intent of the Committee that the text box containing the required notice under 2002.2(d)(1) be placed **in** the motion/application immediately below the caption and immediately before the substantive allegations of that motion/application.

The time permitted for filing an objection under the negative notice procedure is the time period required for notice by the applicable rules or local rules relating to the motion or application. If no specific time is otherwise provided in the rules or local rules, a minimum of 14 days notice must be given.

The procedures for the following motions/applications are specifically governed by other local rules and 2002.2(d) does not apply:

- Relief from the Automatic Stay. [LBR 4001.2]
- Confirmation of Chapter 13 Plans. [LBR 2002.3]
- Objection to Claims. [LBR 3007.1]

The following matters are addressed by other local rules as to substantive requirements, who is to receive service, and/or the time in which to respond or object. However, if the movant/applicant

wants an order without a hearing, these motions/applications are also subject to LBR 2002.2(d)'s requirement of disclosure and statement of no objection.

- Examinations [2004.1]
- Employment of Professionals. [LBR 2014.1]
- Objections to Exemptions. [LBR 4003.1]
- Motions to Avoid Liens. [LBR 4003.2]
- Sale of Property of the Estate. [LBR 2002.1]

**LOCAL BANKRUPTCY RULE 2002.3
FILING AND SERVICE OF PLANS**

(a) **Chapter 13 cases.**

- (1) The BNC, or some other person or entity as the court may direct, will send plans filed with the petition in chapter 13 cases with the § 341(a) notice to creditors. In such cases, and provided all other schedules and statements are also filed with the petition, ~~the accelerated confirmation process of LBR 2002.5 shall apply, and~~ the notice of the § 341(a) meeting of creditors issued by the BNC shall advise creditors of the confirmation hearing date.
- (2) In all cases where the plan is not filed with the petition, the debtor shall be responsible for sending copies of the chapter 13 plan and notice of hearing on confirmation to all creditors and parties in interest. Such notice must comply with Fed. R. Bankr. P. 2002 and 3015, and must be served at least 28 days prior to the initial confirmation hearing. ~~In such cases, the notice of the § 341(a) meeting issued by the BNC shall advise creditors of the confirmation hearing date. Such cases will not be subject to the accelerated confirmation procedures of LBR 2002.5.~~ The debtor shall immediately after serving the creditors with the plan, file proof of service with the clerk of the court.

(b) **Other cases.**

In all chapter 11 and 12 cases, the debtor or plan proponent shall give notice of the hearing on confirmation of the plan. The debtor or plan proponent shall send copies of the plan, with such notice, to all creditors and parties in interest prior to the hearing date set for confirmation of the plan. In chapter 11 cases, except if governed by 11 U.S.C. § 1125(f) and Fed. R. Bankr. P. 3017.1, the debtor or plan proponent shall also send copies of the order approving disclosure statement and notice of the confirmation hearing, together with a copy of the disclosure statement, plan, ballot, and any amendments or addenda to the original plan or disclosure statement.

Related Authority:

11 U.S.C. §§ 1125(f), 1128, 1224, 1324,
Fed. R. Bankr. P. 2002(a), 2002(b), 3015, 3017
LBR 2002.5, 3018.1, 3020.1

Advisory Committee Notes:

Unless the court provides otherwise, to comply with 11 U.S.C. § 1324(b) (providing, in part, chapter 13 confirmation hearings may not be held sooner than 20 days and no later than 45 days from the § 341(a) meeting) and with Fed. R. Bankr. P. 2002(b) (requiring 28 days notice of

confirmation hearing), a debtor scheduling a confirmation hearing date under subdivision (a)(2) must ensure that an appropriate date is obtained and notice of hearing is issued.

In addition to the requirements of this rule, plan proponents in chapter 11 cases are required by LBR 3018.1 to file ballots and a written summary of the ballots and by LBR 3020.1 to file a preconfirmation report.

**LOCAL BANKRUPTCY RULE 2002.5
FILING AND CONFIRMATION OF CHAPTER 13 PLAN**

~~(a) — Chapter 13 plan and schedules filed with petitions~~

~~(1) — Applicability.~~

~~When the chapter 13 plan and all other schedules and statements are filed with the bankruptcy petition, as identified in LBR 2002.3, an accelerated confirmation process is available provided the requirements set forth herein in subpart (a) are satisfied.~~

~~(2) — Notice to creditors.~~

~~The BNC shall send to the debtor, debtor's attorney, the trustee, and all creditors and parties in interest, a notice that advises them of the provisions of this rule. This notice shall be sent at the same time as, and may be incorporated within, the notice of the § 341(a) meeting of creditors. The clerk shall schedule a confirmation hearing date, in the event an actual hearing is required under this rule, and provide notice of the date on the notice of the § 341(a) meeting of creditors.~~

~~(3) — Objections to confirmation of the plan.~~

~~Any objection to the confirmation of the plan must be in writing and filed with the clerk, the trustee, debtor, and debtor's attorney prior to or on the date of the scheduled § 341(a) meeting of creditors, or within seven (7) days thereafter. An objection to confirmation must set forth with specificity the grounds for objection and is governed by Fed. R. Bankr. P. 9014.~~

~~(4) — Confirmation of plan without objection.~~

~~Where no objection to confirmation of a chapter 13 plan is filed within the time limits established by this rule, then a judge, without hearing, may enter an order confirming the plan.~~

~~(b) — Chapter 13 plan and schedules not filed with petition.~~

~~(1) — Objections to confirmation of the plan.~~

~~When the chapter 13 plan and all other schedules and statements are not filed with the petition, as identified in LBR 2002.3, any objections to confirmation of the plan must be in writing and filed with the clerk, the trustee, debtor and debtor's attorney no later than seven (7) days prior to the time set for the confirmation hearing. An objection to confirmation must set forth with specificity the grounds for objection and is governed by Fed. R. Bankr. P. 9014.~~

~~(2) — Notice of hearing~~

~~When the chapter 13 plan and all statements are not filed with the petition, as identified in LBR 2002.3, the notice of hearing of confirmation required by LBR 2002.3(a) shall state that any objection to the confirmation of the plan must be in writing and filed with the clerk, the trustee, debtor and debtor's attorney no later than seven (7) days prior to the time set for the confirmation~~

~~hearing. If the hearing is set by the debtor with a plan filed and noticed after the petition is filed, the date of the confirmation hearing must be in compliance with 11 U.S.C. § 1324(b).~~

~~(3) — Confirmation of plan without objection~~

~~Where no objection to confirmation of plan is filed within the time limits established by this rule, then a judge, without hearing, may enter an order confirming the plan.~~

~~(e)(a)~~ Amendment of plans

The proposed plan may be amended anytime prior to confirmation to resolve an objection. Such amendment must be included in an amended plan or in the order for confirmation. Where a timely objection has been made, the plan will not be confirmed until the objecting party has withdrawn such objection or a hearing is held or the parties reach an agreement as stipulated to in the order of confirmation. Where the amendment does not affect any other party in interest, a judge may confirm the plan as amended without notice or a hearing. Where the amendment would affect another party in interest, the plan as amended must be mailed to each affected party at least twenty-eight (28) days prior to the date set for hearing on confirmation of the plan with a notice providing twenty-one (21) days to object to the amendment. If no objection is ~~made within the time allowed~~ filed and served at least seven (7) days before the date set for hearing, a judge may confirm the plan as amended without a hearing.

~~(d) — Unresolved Objections to Confirmation.~~

~~Where an objection to a proposed chapter 13 plan cannot be resolved by an amendment to the proposed plan, or where the trustee does not recommend confirmation, the court shall hold a confirmation hearing to resolve the objection, or the objecting party(s) and trustee have endorsed the confirmation order.~~

~~(e)(b)~~ Standard chapter 13 plan and order.

The debtor shall use the standard approved chapter 13 plan and order for this district with such alterations as may be appropriate in a particular case. ~~If the debtor provides additions, deletions, or other modifications, the debtor shall provide at the beginning of the plan or order a notice that the chapter 13 plan or order contains deviations, and the deviations shall be clearly identified.~~ If the debtor is represented by an attorney, the plan or any amended plan shall be signed by the attorney at the time it is filed and shall be signed by the debtor prior to the confirmation hearing. If the debtor is not represented by an attorney, the plan shall be signed by the debtor at the time it is filed. If either the plan or any amended plan is further amended and the amendments are contained in the order confirming the plan, the proposed order confirming the plan shall be signed by the debtor, the debtor's attorney, the trustee, and any other party in interest affected by the amendments.

Related Authority:

11 U.S.C. §§ 1302, 1322, 1323, 1324, 1325
Fed. R. Bankr. P. 2002, 3015, 3015.1
Model Chapter 13 Plan

Advisory Committee Notes:

~~The process of confirmation as structured under this rule is designed to protect interests of objecting creditors, while allowing accelerated confirmation of plans and payment to creditors in the large majority of chapter 13 cases where there are no objections or where objections can be readily resolved. The notice and timing requirements under the Federal Rules of Bankruptcy Procedure make the accelerated confirmation process appropriate only in those cases where the plan is filed with the petition, and the clerk is able to issue notice. In all other cases, t~~The debtor must file the plan within fourteen (14) days of the petition. *See* Fed. R. Bankr. P. 3015(b), ~~and~~ The debtor shall also provide copies of the plan and notice of confirmation hearing to all creditors and parties in interest, in compliance with Fed. R. Bankr. P. 2002 and 3015, and these local rules.

LBR 2002.6 (NEW)
PAYMENT OF CHAPTER 7 ADMINISTRATIVE EXPENSES

Pursuant to 11 U.S.C. § 503, and consistent with Fed. R. Bankr. P. 2002(a)(6), a chapter 7 trustee may move the court for an order authorizing the trustee to pay an administrative expense not exceeding \$1,000 to any one entity or person by serving the motion on the debtor, debtor's counsel, the U.S. Trustee and any other party requesting notice in the bankruptcy case. The trustee shall account for the payment of such fees and expenditures in the trustee's Final Report. Where the motion was not served on all creditors and parties in interest, creditors and parties in interest may file an objection to allowance of the administrative expense on or before the deadline to object to the trustee's Final Report.

Related Authority:

11 U.S.C. §§ 102(1) and 503
Fed. R. Bankr. P. 2002
LBR 2002.2

Advisory Committee Notes:

In the interest of minimizing delay and additional administrative expenses to the bankruptcy estate, LBR 2002.6 was added to address the extent of the "notice and a hearing" requirement set forth in 11 U.S.C. § 503(b) when the trustee seeks payment of modest administrative expenses from estate funds.

LOCAL BANKRUPTCY RULE 4003.2
AVOIDANCE OF LIENS ON EXEMPT PROPERTY

(a) **Specificity.**

All 11 U.S.C. § 522(f) lien avoidance motions or requests pursuant to a chapter 12 or chapter 13 plan shall contain a specific description of the lienholder's interest to be avoided including, where applicable, the instrument number and the recording governmental unit. The motion shall also specify the statutory exemption that is impaired and the creditor's name.

Further, all attendant orders shall specifically describe the avoided lienholder's interest, the extent that the lien is avoided, and the statutory basis for the impairment. If the avoided interest is represented by a recorded document, the order shall further provide the type of recorded instrument avoided, its date of recording, the recording governmental unit, and recording instrument number.

(b) **Nature of relief.**

The language contained in such motions or requests to avoid lien and attendant orders should be substantially identical to the language of 11 U.S.C. § 522(f).

(c) **Notice.**

Notice of such a motion or request to avoid a lien pursuant to 11 U.S.C. § 522(f) need be given only to the trustee and to the creditor claiming the lien.

Related Authority:
11 U.S.C. § 522(f)
Fed. R. Bankr. P. 4003(d), 9014

Advisory Committee Notes:

Many 11 U.S.C. § 522(f) lien avoidance motions, requests, and orders are factually incomplete, vague, or ambiguous. Additionally, the court has found that many of the proposed orders granting relief improperly recite that the lien is absolutely "void," rather than avoided "to the extent that such lien impairs an exemption to which the debtor would have been entitled."

Debtor's counsel may want to consider:

- (1) attaching accurate and legible copies of all documents evidencing the lienholder's interest to be avoided, and the basis of perfection of any lien or security interest;
- (2) attaching copies of recorded documents, if any documents are recorded with the county recorder, secretary of state, or other lawfully designated recording agency; and
- (3) describing specifically the property upon which the lien is claimed and to be avoided.

**LOCAL BANKRUPTCY RULE 5005.1
VENUE**

~~(a) **Hearings and meetings.**~~

~~Bankruptcy Court hearings and § 341(a) meetings are regularly scheduled in Boise, Coeur d'Alene, Moscow, Pocatello, Twin Falls, and Jerome.~~

~~(b) **Filing of pleadings and papers.**~~

~~All pleadings, motions, and other pertinent papers may be filed with the office of the clerk of court in Boise, Pocatello, and Coeur d'Alene. When a judge is sitting elsewhere in the district, such papers may be filed with the deputy clerk at such place.~~

Related Authority:
28 U.S.C. § 156
Fed. R. Bankr. P. 5005

Advisory Committee Notes:

~~Hearings and § 341(a) meetings are held in various sites depending upon the county of the debtor's residence or principal place of business. Certain hearings may be heard by video conference—see Advisory Committee Notes of LBR 2002.2~~

~~The court's and U.S. Trustee's designation of counties within each area is as follows:~~

~~**Eastern Calendar** (Pocatello):~~

~~—Matters before the court and § 341(a) meeting of creditors: Federal Building & U.S. Courthouse, 801 E. Sherman, Pocatello, Idaho~~

~~Bannock, Bear Lake, Bingham, Bonneville, Butte, Caribou, Clark, Custer, Franklin, Fremont, Jefferson, Lemhi, Madison, Oneida, Power, Teton.~~

~~**South Central Calendar** (Twin Falls or Jerome, as set forth in the Rules):~~

~~—Matters before the court and chapter 13 § 341(a) meeting of creditors: Snake River Adjudication District Court, 253 3rd Ave N, Twin Falls, Idaho~~

~~—Section 341(a) meeting of creditors (except chapter 13): Jerome County Courthouse, 300 N Lincoln, Jerome, Idaho.~~

~~Blaine, Camas, Cassia, Gooding, Jerome, Lincoln, Minidoka, Twin Falls.~~

Southern Calendar (Boise):

~~— Matters before the court: James A. McClure Federal Building & U.S. Courthouse, 550 W Fort St, 5th Floor, Boise, Idaho~~

~~— Section 341(a) meeting of creditors: Office of U.S. Trustee, URS Central Plaza, 720 Park Blvd., Suite 210, Boise, Idaho~~

~~Ada, Adams, Boise, Canyon, Elmore, Gem, Owyhee, Payette, Valley, Washington (and referred Malheur County, Oregon cases).~~

Central Calendar (Moscow):

~~— Matters before the court and § 341(a) meeting of creditors: Federal Building & U.S. Courthouse, 220 E 5th St, Moscow, Idaho~~

~~Clearwater, Idaho, Latah, Lewis, Nez Perce.~~

Northern Calendar (Coeur d'Alene):

~~Matters before the court and § 341(a) meeting of creditors: Federal Building & U.S. Courthouse, 6450 N. Mineral Dr, Coeur d'Alene, Idaho~~

~~Benewah, Bonner, Boundary, Kootenai, Shoshone.~~

LOCAL BANKRUPTCY RULE 5005.2
DOCUMENTS FOR FILING OR ADMINISTERING

(a) **Petitions.**

At the time of filing, documents may be reviewed for format and legibility; correct size of paper (8 ½ x 11) for scanning purposes- and signatures.

If filed in paper by pro se litigants, documents must be affixed by a fastener (i.e., paper clip,) and NOT staples.

(b) **No filing fee or an inappropriate amount submitted; and facsimile pleadings.**

The clerk has been given authority by General Order to refuse to accept or file:

- (1) Any facsimile pleadings mailed or faxed to the clerk which do not comply with General Order 201, or
- (2) Any petition or pleading not accompanied by the required filing fee under 28 U.S.C. § 1930.

(c) **General format of papers presented for filing.**

- (1) Except for proposed orders submitted to the court, Official Forms under Rule 9009, and Idaho Form Chapter 13 Plan, starting 1 inch from the top of the first page, the following information must appear in the upper left-hand corner of the first page of each paper presented for filing, except that in multiparty actions or proceedings, reference may be made to the signature page for the complete list of parties represented:
 - (A) Name of the attorney (or if in propria persona, of the party);
 - (B) E-mail address;
 - (C) Idaho State Bar Number (if applicable);
 - (D) Office mailing address;
 - (E) Telephone number;
 - (F) Facsimile number; and
 - (G) Specific identification of the party represented by name and interest in the litigation (i.e., debtor, creditor, plaintiff, defendant, etc.).
- (2) Any pleading, motion or other paper presented for filing must be submitted in 12 to 14 font, with the exception of forms, exhibits, attachments or other documents which cannot be converted to this font.

- (3) (A) Following the counsel identification, a caption in the following form should appear:

UNITED STATES BANKRUPTCY COURT

DISTRICT OF IDAHO

In Re)	
)	
[Debtor Name])	Case Number:
)	
Debtor)	Chapter Number:
)	
)	

[Designation of Character of Paper]

- (B) In completing the form of caption, insert in place of bracketed material the debtor(s) name and designation of character of paper. When completing the case number, include three letter suffix indicating the assigned judge (*i.e.*, 07-00001-TLM or 07-00001-JDP)

Related Authority:

28 U.S.C. § 1930

Fed. R. Bankr. P. 2016, 5005, 9009

LBR 1002.1, 1006.1, 1006.2, 1007.1, 1009.1, 4001.2, 5007.1, 5010.1, 7003.1, 9004.1, 9004.2

District of Idaho General Order nos. 97, 154, 187, 201

[Official Form 16A](#)

Advisory Committee Notes:

The procedures on facsimile filing are governed by District of Idaho [General Order 201](#), that is available on the court's website, or you may call the local clerk's office.

With respect to the format for adversary captions, refer to LBR 7003.1.

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: _____ District of _____
(State)

Case number _____
(If known)

Check if this is an amended plan, and list below the sections of the plan that have been changed.

**Idaho Form
 Official Form
 113**

Chapter 13 Plan

12/17

Part 1: Notices

To Debtors: This form sets out options that may be appropriate in some cases, but the presence of an option on the form does not indicate that the option is appropriate in your circumstances or that it is permissible in your judicial district. Plans that do not comply with local rules and judicial rulings may not be confirmable.

In the following notice to creditors, you must check each box that applies.

To Creditors: Your rights may be affected by this plan. Your claim may be reduced, modified, or eliminated.

You should read this plan carefully and discuss it with your attorney if you have one in this bankruptcy case. If you do not have an attorney, you may wish to consult one.

If you oppose the plan's treatment of your claim or any provision of this plan, you or your attorney must file an objection to confirmation at least 7 days before the date set for the hearing on confirmation, unless otherwise ordered by the Bankruptcy Court. The Bankruptcy Court may confirm this plan without further notice if no objection to confirmation is filed. See Bankruptcy Rule 3015. In addition, you may need to file a timely proof of claim in order to be paid under any plan.

The following matters may be of particular importance. **Debtors must check one box on each line to state whether or not the plan includes each of the following items. If an item is checked as "Not Included" or if both boxes are checked, the provision will be ineffective if set out later in the plan.**

1.1	A limit on the amount of a secured claim, set out in Section 3.2, which may result in a partial payment or no payment at all to the secured creditor	<input type="checkbox"/> Included	<input type="checkbox"/> Not included
1.2	Avoidance of a judicial lien or nonpossessory, nonpurchase money security interest, set out in Section 3.4	<input type="checkbox"/> Included	<input type="checkbox"/> Not included
1.3	Nonstandard provisions, set out in Part 8	<input type="checkbox"/> Included	<input type="checkbox"/> Not included
1.4	<u>Discharge: Debtor 1 is eligible for discharge of debts</u>	<input type="checkbox"/> Eligible	<input type="checkbox"/> Not eligible
	<u>Discharge: Debtor 2 is eligible for discharge of debts</u>	<input type="checkbox"/> Eligible	<input type="checkbox"/> Not eligible

Part 2: Plan Payments and Length of Plan

2.1 No later than thirty (30) days after the date the bankruptcy petition is filed, Debtor(s) will commence making regular payments to the trustee

2.1 Debtor(s) will make regular payments to the trustee as follows:

\$ _____ per _____ for _____ months

[and \$ _____ per _____ for _____ months.] *Insert additional lines if needed.*

The Applicable Commitment Period is _____ months.

~~If fewer than 60 months of payments are specified, additional monthly payments will be made to the extent necessary to make the payments to creditors specified in this plan. Debtor(s) may not pay off this plan in less than the Applicable Commitment Period term of the plan without notice to interested parties and an opportunity for hearing before the Court unless the plan pays all allowed unsecured creditors claims in full.~~

2.2 Regular payments to the trustee will be made from future income in the following manner:

Check all that apply.

- Debtor(s) will make payments pursuant to a payroll deduction order.
- Debtor(s) will make payments directly to the trustee.
- Other (specify method of payment): _____.

~~Debtor(s) acknowledge that if the Debtor(s) is/are ever more than thirty (30) days delinquent on any payment due under this Section 2.21, upon request of the Trustee, or request of the Debtor(s) at any time, a wage payroll deduction order to Debtor(s)' employer may immediately be issued.~~

2.3 Income tax refunds.

Check one.

- Debtor(s) will retain any income tax refunds received during the plan term.
- ~~Debtor(s) will supply the trustee with a copy of each income tax return filed during the plan term within 14 days of filing the return and will turn over to the trustee all income tax refunds received during the plan term. Debtor(s) project income tax refunds during the term of this plan. During the Applicable Commitment Period, Debtor(s) will turn over to Trustee all net income tax refunds. At any time during the term of the plan, Debtor(s) shall be entitled to use a tax refund to pay income taxes due any other income taxing authority and/or reasonable tax return preparation fees, unless already budgeted. ; however, Upon a stipulation between the Trustee and the Debtor(s), approved by an order of the Court, the Debtor(s) may retain, in whole or in part, certain net income tax refunds during the term of the plan to facilitate the terms of this plan or to meet other reasonable and necessary needs of the Debtor(s).~~

Debtor(s) will treat income tax refunds as follows:

2.4 Additional payments.

Check one.

- None. If "None" is checked, the rest of § 2.4 need not be completed or reproduced.
- Debtor(s) will make additional payment(s) to the trustee from other sources, as specified below. Describe the source, estimated amount, and date of each anticipated payment.

2.5 The Trustee, for cause, may defer not more than two monthly payments per calendar year and not more than four payments over the term of the plan, without further notice to parties or a hearing before the Court.

Part 3: Treatment of Secured Claims

3.1 Maintenance of payments and cure of default, if any.

Check one.

- None.** If "None" is checked, the rest of § 3.1 need not be completed or reproduced.
- The debtor(s) will maintain the current contractual installment payments on the secured claims listed below, with any changes required by the applicable contract and noticed in conformity with any applicable rules. These payments will be disbursed either by the trustee or directly by the debtor(s), as specified below. Any existing arrearage on a listed claim will be paid in full through disbursements by the trustee, with interest, if any, at the rate stated. Unless otherwise ordered by the court, the amounts listed on a proof of claim filed before the filing deadline under Bankruptcy Rule 3002(c) control over any contrary amounts listed below as to the current installment payment and arrearage. In the absence of a contrary timely filed proof of claim, the amounts stated below are controlling. If relief from the automatic stay is ordered as to any item of collateral listed in this paragraph, then, unless otherwise ordered by the court, all payments under this paragraph as to that collateral will cease, and all secured claims based on that collateral will no longer be treated by the plan. **The final column includes only payments disbursed by the trustee rather than by the debtor(s).**

Name of creditor	Collateral	Current installment payment (including escrow)	Amount of arrearage (if any)	Interest rate on arrearage (if applicable)	Monthly plan payment on arrearage	Estimated total payments by trustee
_____	_____	\$ _____	\$ _____	_____ %	\$ _____	\$ _____
		Disbursed by:				
		<input type="checkbox"/> Trustee				
		<input type="checkbox"/> Debtor(s)				
_____	_____	\$ _____	\$ _____	_____ %	\$ _____	\$ _____
		Disbursed by:				
		<input type="checkbox"/> Trustee				
		<input type="checkbox"/> Debtor(s)				

Insert additional claims as needed.

3.2 Request for valuation of security, payment of fully secured claims, and modification of undersecured claims. Check one.

- None.** If "None" is checked, the rest of § 3.2 need not be completed or reproduced.
- The remainder of this paragraph will be effective only if the applicable box in Part 1 of this plan is checked.**
- The debtor(s) request that the court determine the value of the secured claims listed below. For each non-governmental secured claim listed below, the debtor(s) state that the value of the secured claim should be as set out in the column headed *Amount of secured claim*. For secured claims of governmental units, unless otherwise ordered by the court, the value of a secured claim listed in a proof of claim filed in accordance with the Bankruptcy Rules controls over any contrary amount listed below. For each listed claim, the value of the secured claim will be paid in full with interest at the rate stated below.

The portion of any allowed claim that exceeds the amount of the secured claim will be treated as an unsecured claim under Part 5 of this plan. If the amount of a creditor's secured claim is listed below as having no value, the creditor's allowed claim will be treated in its entirety as an unsecured claim under Part 5 of this plan. Unless otherwise ordered by the court, the amount of the creditor's total claim listed on the proof of claim controls over any contrary amounts listed in this paragraph.

The holder of any claim listed below as having value in the column headed *Amount of secured claim* will retain the lien on the property interest of the debtor(s) or the estate(s) until the earlier of:

- (a) payment of the underlying debt determined under nonbankruptcy law, or
- (b) discharge of the underlying debt under 11 U.S.C. § 1328, at which time the lien will terminate and be released by the creditor.

For each creditor listed in this section 3.2 the debtor(s) will serve notice on such creditor as required in Bankruptcy Rule 7004 and file a proof of service with the court. Request for valuation of security in which creditors that are governmental units hold an interest must be made consistent with Rule 3012(e).

Name of creditor	Estimated amount of creditor's total claim	Collateral	Value of collateral	Amount of claims senior to creditor's	Amount of secured claim	Interest rate	Monthly payment to creditor	Estimated total of monthly payments

Debtor _____

Case number _____

_____	\$ _____	_____	\$ _____	\$ _____	_____ %	\$ _____	\$ _____
_____	\$ _____	_____	\$ _____	\$ _____	_____ %	\$ _____	\$ _____

Insert additional claims as needed.

3.3 Secured claims excluded from 11 U.S.C. § 506.

Check one.

None. If "None" is checked, the rest of § 3.3 need not be completed or reproduced.

The claims listed below were either:

- (1) incurred within 910 days before the petition date and secured by a purchase money security interest in a motor vehicle acquired for the personal use of the debtor(s), or
- (2) incurred within 1 year of the petition date and secured by a purchase money security interest in any other thing of value.

These claims will be paid in full under the plan with interest at the rate stated below. These payments will be disbursed either by the trustee or directly by the debtor(s), as specified below. Unless otherwise ordered by the court, the claim amount stated on a proof of claim filed before the filing deadline under Bankruptcy Rule 3002(c) controls over any contrary amount listed below. In the absence of a contrary timely filed proof of claim, the amounts stated below are controlling. **The final column includes only payments disbursed by the trustee rather than by the debtor(s).**

Name of creditor	Collateral	Amount of claim <u>Date of contract</u>	Interest rate	Monthly plan payment	Estimated total payments by trustee
_____	_____	\$ _____ _____	_____ %	\$ _____ Disbursed by: <input type="checkbox"/> Trustee <input type="checkbox"/> Debtor(s)	\$ _____
_____	_____	\$ _____ _____	_____ %	\$ _____ Disbursed by: <input type="checkbox"/> Trustee <input type="checkbox"/> Debtor(s)	\$ _____

Insert additional claims as needed.

3.4 Lien avoidance.

Check one.

None. If "None" is checked, the rest of § 3.4 need not be completed or reproduced.

The remainder of this paragraph will be effective only if the applicable box in Part 1 of this plan is checked.

The judicial liens or nonpossessory, nonpurchase money security interests securing the claims listed below impair exemptions to which the debtor(s) would have been entitled under 11 U.S.C. § 522(b). Unless otherwise ordered by the court, a judicial lien or security interest securing a claim listed below will be avoided pursuant to § 522(f) and Bankruptcy Rule 4003(d) to the extent that it impairs such exemptions upon entry of the order confirming the plan. The amount of the judicial lien or security interest that is avoided will be treated as an unsecured claim in Part 5 to the extent allowed. The amount, if any, of the judicial lien or security interest that is not avoided will be paid in full as a secured claim under the plan. **For each creditor listed in this section 3.4 the Debtor(s) will serve notice on such creditor as required in Bankruptcy Rule 7004 and file a proof of service with the court.** See 11 U.S.C. § 522(f) and Bankruptcy Rule 4003(d). *If more than one lien is to be avoided, provide the information separately for each lien.*

Information regarding judicial lien or security interest	Calculation of lien avoidance	Treatment of remaining secured claim
Name of creditor _____	a. Amount of lien \$ _____	Amount of secured claim after avoidance (line a minus line f) \$ _____
	b. Amount of all other liens \$ _____	
Collateral _____	c. Value of claimed exemptions + \$ _____	Interest rate (if applicable) _____ %
	d. Total of adding lines a, b, and c \$ _____	
Lien identification (such as judgment date, date of lien recording, book and page number) _____ _____	e. Value of debtor(s)' interest in property - \$ _____	Monthly payment on secured claim \$ _____
	f. Subtract line e from line d. \$ _____	
Extent of exemption impairment (Check applicable box):		Estimated total payments on secured claim \$ _____
<input type="checkbox"/> Line f is equal to or greater than line a. The entire lien is avoided. (Do not complete the next column.) <input type="checkbox"/> Line f is less than line a. A portion of the lien is avoided. (Complete the next column.)		

Insert additional claims as needed.

3.5 Surrender of collateral.

Check one.

None. If "None" is checked, the rest of § 3.5 need not be completed or reproduced.

The debtor(s) elect to surrender to each creditor listed below the collateral that secures the creditor's claim. The debtor(s) request that upon confirmation of this plan the stay under 11 U.S.C. § 362(a) be terminated as to the collateral only and that the stay under § 1301 be terminated in all respects. Any allowed unsecured claim resulting from the disposition of the collateral will be treated in Part 5 below.

Name of creditor	Collateral
_____	_____
_____	_____

Insert additional claims as needed.

3.6 Adequate Protection Payments.

Check one.

- ~~None. If "None" is checked, the rest of § 3.6 need not be completed or reproduced.~~
- ~~No later than thirty (30) days after the date the bankruptcy petition is filed, the tTrustee shall commence making adequate protection payments on allowed claims to the following cCreditor(s) until confirmation.~~
- ~~No later than thirty (30) days after the date the bankruptcy petition is filed, the dDebtor(s) shall commence making payments on allowed claims of secured creditors, in an amount sufficient to provide adequate protection, directly to the cCreditor(s) until confirmation. The payments made under this subsection shall reduce the amount owed under the plan. The dDebtor(s) shall timely provide the tTrustee evidence of such payments, including the amount and date of the payments.~~

Name of creditor	Collateral	Adequate Protection Payment

3.7 Post-Petition Real Property Tax Payments.

Check one.

- ~~None. If "None" is checked, the rest of § 3.7 need not be completed or reproduced.~~
- ~~Real property taxes are being paid through escrow by Ddebtor(s)' mortgage holder.~~
- ~~Real property taxes are pabeing paid bydirectly by the Ddebtor(s).~~

Part 4: Treatment of Fees and Priority Claims

4.1 General

Trustee's fees and all allowed priority claims, including domestic support obligations other than those treated in § 4.5, will be paid in full without post-petition interest.

4.2 Trustee's fees

Trustee's fees are governed ~~by statute and may change during the course of the case but are estimated to be _____% of plan payments; and during the plan term, they are estimated to total \$ _____ and paid as provided by 28 U.S.C. § 586.~~

4.3 Attorney's fees

Check one.

- ~~Debtor(s)' attorney has elected to charge a fixed fee pursuant to the Model Retention Agreement, Local Rule 2016.1, of \$ _____ (not to exceed \$43,500), exclusive of costs. Said attorney has received \$ _____ prior to the filing hereof and is to be paid the remaining amount in monthly payments over the initial _____ months of distribution or in such longer period as is required to allow the tTrustee to make the set monthly installments as set forth in this plan.~~
- ~~Fees and costs to the dDebtor(s)' attorney in an amount to be proven and allowed by the cCourt but not to exceed \$ _____, payable in equal monthly installments over the initial _____ months of distribution. This is in addition to the fee retainer paid pre-petition (\$ _____) and any sums allowed in any previous orders. The balance of the fees owed to the attorney for the debtor(s) is estimated to be \$ _____.~~

4.4 Priority claims other than attorney's fees and those treated in § 4.5.

Check one.

- ~~None. If "None" is checked, the rest of § 4.4 need not be completed or reproduced.~~
- ~~The debtor(s) estimate the total amount of other priority claims to be _____ payable in equal monthly installments over the term of the plan. -~~
- ~~The debtor(s) estimate the total amount of other priority claims to be _____ payable as funds become available after set monthly installments pursuant to the plan are made.~~

4.5 Domestic support obligations assigned or owed to a governmental unit and paid less than full amount.

Check one.

None. If "None" is checked, the rest of § 4.5 need not be completed or reproduced.

The debtor(s) is/are current on domestic support obligations and will continue to make post-petition payments pursuant to the support order.

Allowed unsecured claims for domestic support obligations allowed under 11 U.S.C. § 507(a)(1)(A), which are estimated to be \$ _____, shall be paid in equal monthly installments over the term of the plan. The debtor(s) will continue to make post-petition payments pursuant to the support order.

Allowed unsecured claims for domestic support obligations allowed under 11 U.S.C. § 507(a)(1)(B) shall be paid in equal monthly installments over the term of the plan. The allowed priority claims listed below are based on a domestic support obligation that has been assigned to or is owed to a governmental unit and will be paid less than the full amount of the claim under 11 U.S.C. § 1322(a)(4). This plan provision requires that payments in § 2.1 be for a term of 60 months; see 11 U.S.C. § 1322(a)(4).

Name of creditor	Amount of claim to be paid
_____	\$ _____
_____	\$ _____

Insert additional claims as needed.

By signing and submitting this plan, the debtor(s) certify that all post-petition domestic support obligations have been paid in full since the date of filing this case and will be paid in full at the time of the confirmation hearing. Debtor(s) acknowledge that timely payment of such post-petition domestic support obligations is a condition of plan confirmation pursuant to 11 USC § 1325-(a)(8).

Part 5: Treatment of Nonpriority Unsecured Claims

5.1 Nonpriority unsecured claims not separately classified.

Allowed nonpriority unsecured claims that are not separately classified will be paid, pro rata from. ~~If more than one option is checked, the option providing the largest payment will be effective. Check all that apply.~~

~~The sum of \$ _____.~~

~~_____% of the total amount of these claims, an estimated payment of \$ _____.~~

~~The funds remaining after disbursements have been made to all other creditors provided for in this plan.~~

If the estate of the debtor(s) were liquidated under chapter 7, ~~priority and~~ nonpriority unsecured claims would be paid approximately \$ _____. ~~Regardless of the options checked above, payments on allowed~~ ~~priority and~~ nonpriority unsecured claims will be made in at least this amount.

5.2 Maintenance of payments and cure of any default on nonpriority unsecured claims. Check one.

- None.** If "None" is checked, the rest of § 5.2 need not be completed or reproduced.
- The debtor(s) will maintain the contractual installment payments and cure any default in payments on the unsecured claims listed below on which the last payment is due after the final plan payment. These payments will be disbursed either by the trustee or directly by the debtor(s), as specified below. The claim for the arrearage amount will be paid in full as specified below and disbursed by the trustee. The final column includes only payments disbursed by the trustee rather than by the debtor(s).

Name of creditor	Current installment payment	Amount of arrearage to be paid	Estimated total payments by trustee
_____	\$ _____ Disbursed by: <input type="checkbox"/> Trustee <input type="checkbox"/> Debtor(s)	\$ _____	\$ _____
_____	\$ _____ Disbursed by: <input type="checkbox"/> Trustee <input type="checkbox"/> Debtor(s)	\$ _____	\$ _____

Insert additional claims as needed.

5.3 Other separately classified nonpriority unsecured claims. Check one.

- None.** If "None" is checked, the rest of § 5.3 need not be completed or reproduced.
- The nonpriority unsecured allowed claims listed below are separately classified and will be treated as follows

Name of creditor	Basis for separate classification and treatment	Amount to be paid on the claim	Interest rate (if applicable)	Estimated total amount of payments
_____	_____	\$ _____	_____ %	\$ _____
_____	_____	\$ _____	_____ %	\$ _____

Insert additional claims as needed.

Part 6: Executory Contracts and Unexpired Leases

6.1 The executory contracts and unexpired leases listed below are assumed and will be treated as specified. All other executory contracts and unexpired leases are rejected. Check one.

- None.** If "None" is checked, the rest of § 6.1 need not be completed or reproduced.
- Assumed items.** Current installment payments will be disbursed either by the trustee or directly by the debtor(s), as specified below, subject to any contrary court order ~~or rule~~. Arrearage payments will be disbursed by the trustee. ~~The final column includes only payments disbursed by the trustee rather than by the debtor(s).~~

Name of creditor	Description of leased property or executory contract	Current installment payment	Amount of arrearage to be paid	Treatment of arrearage (Refer to other plan section if applicable)	Estimated total payments by trustee
_____	_____	_____	_____	_____	_____

Debtor _____

Case number _____

_____	_____	\$ _____	\$ _____	_____	\$ _____
		Disbursed by:			
		<input type="checkbox"/> Trustee		_____	
		<input type="checkbox"/> Debtor(s)			
_____	_____	\$ _____	\$ _____	_____	\$ _____
		Disbursed by:			
		<input type="checkbox"/> Trustee		_____	
		<input type="checkbox"/> Debtor(s)			

Insert additional contracts or leases as needed.

Part 7: Vesting of Property of the Estate

7.1 Property of the estate will vest in the debtor(s) upon

Check the applicable box:

- plan confirmation.
- entry of discharge.
- other: _____.

Part 8: Nonstandard Plan Provisions

8.1 Check "None" or List Nonstandard Plan Provisions

None. If "None" is checked, the rest of Part 8 need not be completed or reproduced.

Under Bankruptcy Rule 3015(c), nonstandard provisions must be set forth below. A nonstandard provision is a provision not otherwise included in the [Idaho Official Form 113 Chapter 13 Plan](#) or deviating from it. Nonstandard provisions set out elsewhere in this plan are ineffective unless noted in this Part 8.

The following plan provisions will be effective only if there is a check in the box "Included" in § 1.3.

Part 9: Signature(s):

9.1 Signatures of Debtor(s) and Debtor(s)' Attorney

If the Debtor(s) do not have an attorney, the Debtor(s) must sign below; otherwise the Debtor(s) signatures are optional. ~~[RM1]~~ The attorney for the Debtor(s), if any, must sign below.

X _____

Signature of Debtor 1

Executed on _____
MM / DD / YYYY

X _____

Signature of Debtor 2

Executed on _____
MM / DD / YYYY

X _____

Signature of Attorney for Debtor(s)

Date _____
MM / DD / YYYY

By filing this document, the Debtor(s), if not represented by an attorney, or the Attorney for Debtor(s) also certify(ies) that the wording and order of the provisions in this Chapter 13 plan are identical to those contained in Official Idaho Form 113 Chapter 13 Plan, other than any nonstandard provisions included in Part 8.

Exhibit: Total Amount of Estimated Trustee Payments

The following are the estimated payments that the plan requires the trustee to disburse. If there is any difference between the amounts set out below and the actual plan terms, the plan terms control.

- a. **Maintenance and cure payments on secured claims** *(Part 3, Section 3.1 total)* \$ _____
- b. **Modified secured claims** *(Part 3, Section 3.2 total)* \$ _____
- c. **Secured claims excluded from 11 U.S.C. § 506** *(Part 3, Section 3.3 total)* \$ _____
- d. **Judicial liens or security interests partially avoided** *(Part 3, Section 3.4 total)* \$ _____
- e. **Fees and priority claims** *(Part 4 total)* \$ _____
- f. **Nonpriority unsecured claims** *(Part 5, Section 5.1, highest stated amount)* \$ _____
- g. **Maintenance and cure payments on unsecured claims** *(Part 5, Section 5.2 total)* \$ _____
- h. **Separately classified unsecured claims** *(Part 5, Section 5.3 total)* \$ _____
- i. **Trustee payments on executory contracts and unexpired leases** *(Part 6, Section 6.1 total)* \$ _____
- j. **Nonstandard payments** *(Part 8, total)* + \$ _____

Total of lines a through j

\$ _____
