

CHAPTER 13 TRUSTEE POLICIES AND PROCEDURES

BROWN

KERNS

MANEY

BEGINNING OF CASE; MEETING OF CREDITORS			
Contacting the Trustee Office; Website.			
– General Information	www.chapter13.info	www.dcktrustee.com	www.maney13trustee.com
– Debtor access	www.ndc.org	www.ndc.org (preferred source for debtor case information)	www.ndc.org
– Debtor and creditor attorney access. Credentials issued by trustee office.	www.ndc.org	www.13network.com	www.trustee13.com

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Making Plan Payments.	<p>Russell Brown, Trustee P.O. Box 52548 Phoenix, AZ 85072-2548</p> <p>Cashier's Check or Money Order only.</p> <p>Online bill payments accepted through www.TFSBillpay.com only.</p>	<p>Payments should be sent to: Dianne C. Kerns Trustee P.O. Box 366 Memphis, TN 38101-0366</p> <p>Plan payments must begin 30 days following the filing of the petition. Cashier's Check or Money Order only. Online bill payments should be available by the end of the year.</p>	<p>Payments should be sent to: Edward J. Maney, Lockbox P.O. Box 53304 Phoenix, AZ 85072-33404</p> <p>Plan payments must begin 30 days following the filing of the petition. Cashier's Check or Money Order only. Online bill payments accepted through www.TFSBillpay.com only.</p>
Documents typically requested by Trustee to be provided before the meeting of creditors (no self employed debtor).	Trustee's questionnaire, most recently filed income tax returns, two post-petition paystubs, and for any financial account the statements for the petition month and month before.	Trustee's questionnaire, most recently filed income tax returns, two post petition paystubs, bank statements covering the petition date.	Trustee's questionnaire, most recently filed income tax returns, two post-petition paystubs, bank statements covering the petition date.

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Documents requested by Trustee at or by the meeting of creditors (self-employed debtor).	Business income tax returns, if filed separately from individual, bank statements. Self employment questionnaire and business case questionnaire possible.	Trustee business questionnaire, business tax returns, if filed separately from individual, bank statements, profit and loss statements, affidavit of no trade debt (if applicable).	Trustee business questionnaire, Business income tax returns, if filed separately from individual, bank statements, balance sheet covering the date of filing if separate business entity.
Continuance of meeting of creditors for debtor. L.R. 2003-1.	Liberally granted but could depend on whether creditor has notified will be appearing, or prior case filing. Do not contact the Court for a continuance, but a waiver of appearance requires a motion and court order.	Liberally granted but could depend on whether creditor has notified will be appearing, or prior case filing. Contact the trustee for continuance, do not file motion to continue with the court.	Liberally granted but could depend on whether creditor has notified will be appearing, or prior case filing. Contact the trustee for continuance, do not file motion to continue with the court.
Representation of debtor at meeting of creditors by other attorney.	Unless exigent circumstance, notice of appearance filed and Rule 2016(b) disclosure if paid for appearance.	Discouraged unless exigent circumstance, notice of appearance filed and Rule 2016(b) disclosure if paid for appearance.	Unless exigent circumstance, notice of appearance filed and Rule 2016(b) disclosure if paid for appearance.
Remote appearance by debtor attorney.	Video (preferred) or telephonic appearance allowed for a MOC distant from the county of office presence or exigent circumstances.	Not allowed. If debtor cannot appear, file a motion to waive appearance in advance of the scheduled MOC.	Not allowed. If debtor cannot appear, file a motion to waive appearance.

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Waiver of debtor appearance.	No objection for exigent circumstances. Waiver for mere debtor convenience generally gets an objection. Trustee requires copies of debtor's driver's license and social security card and affidavit from attorney attesting to the debtor's identity and the authenticity of the documents.	No objection for exigent circumstances. Waiver for mere debtor convenience generally gets an objection. Trustee requires copies of debtor's driver's license and social security card and affidavit from attorney attesting to the debtor's identity and the authenticity of the documents.	No objection for exigent circumstances. Waiver for mere debtor convenience generally gets an objection. Trustee requires copies of debtor's drivers license and social security card and affidavit from attorney attesting to the debtor's identity and the authenticity of the documents.
Self employed versus engaged in business.	Other factors besides trade credit include: employees, lease, retail location, service versus product business. Monthly business operating statement to be filed by self- employed debtors.	A debtor is engaged in business if self-employed and incurs trade credit in the production of income. 11 U.S.C. Sec. 1304(a). Monthly profit and loss statements required along with Business Operating statement. Self-Employed debtors (no trade debt) must file monthly profit and loss statements and affidavit confirming that they do not incur trade debt.	Other factors besides trade credit include: employees, lease, retail location, service versus product business.
Tax refund for prepetition period.	Generally to be turned over to the Trustee as nonexempt funds. Sometimes debtor to keep if exigent circumstance and reasonably necessary.	Generally to be turned over to the Trustee as nonexempt funds. Frequently debtor to keep if exigent circumstance and reasonably necessary.	Generally to be turned over to the Trustee as nonexempt funds. Sometimes debtor to keep if exigent circumstance and reasonably necessary.

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Document transmission to Trustee.	Mail, fax or email to relevant person.	Mail, fax or email (mail@dcktrustee.com). Trustee requires the original signed soc with wet signatures	The Trustee has a new document filing system which is the preferred method of getting supporting documents to the Trustee. Contact the trustee office to sign up for the servie. Mail, fax or email accepted but not encouraged. Trustee requires the original signed soc with wet signatures.

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PRECONFIRMATION			
Model Plan 13-2 Required? G.O. 104, L.R. 2084-4, Form 2084-2.	Yes. Keep the Varying Provisions relevant and to a minimum.	Yes, per General Order 104 and Local Rule 2084-4. Trustee will not stipulate to confirmation if form is not used. Keep Varying Provisions relevant and to a minimum.	Yes, per General Order 104 and Local Rule 2084-4. Trustee will not stipulate to confirmation if form is not used.
Post-petition year tax refunds	If refunds are projected, the refunds might have to be turned over or plan payments increased.	Case-by-case review at the time of the recommendation.	The trustee will inform the debtor in his recommendation whether the net tax refunds will be turned over. Case by case review at the time of the recommendation.
Direct payment of vehicle debt	Trustee generally objects to direct payment of vehicle or other non-mortgage debts. Some exceptions to objection based on amount or type of debt, when to be paid off, unusual circumstances.	Trustee generally objects to direct payment of vehicle or other non-mortgage debts. Some exceptions to objection based on amount or type of debt, when to be paid off, unusual circumstances.	Trustee generally objects to direct payment of vehicle or other non-mortgage debts. Some exceptions to objection based on amount or type of debt, when to be paid off, unusual circumstances.

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Adequate protection payments personal property. L.R. 2084-6.	Follow Local Rule 2084-6.	Follow Local Rule 2084-6	Follow Local Rule 2084-6.
Recovery of preferential transfers.	Trustee will pursue such transfers unless the plan meets the best interests of creditors test and each transferee signs the trustee's waiver of statute of limitations.	Debtor to pursue such transfers unless the plan meets the best interest of creditors test and each transferee signs the trustee's waiver of statute of limitation.	Trustee will pursue such transfers unless the plan meets the best interests of creditors test and the transferee signs the trustee's waiver of statute of limitations.
Post-petition payment of student loan.	Generally will get an objection.	Generally no objection by the trustee.	Generally will get an objection.
Preferential treatment of student loan.	Generally will get an objection.	May draw an objection.	Generally will get an objection.

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Post-petition payment of 401(k) loan.	Generally no objection, but might get an objection if incurred close to the petition date. Payments of such loans usually no objection, but an increase in the plan payment might be required.	Generally no objection, but might get an objection if incurred close to the petition date. Payments of such loans usually no objection, but an increase in the plan payment is required.	Generally no objection, but might get an objection if incurred close to the petition date. Payments of such loans usually no objection, but an increase in the plan payment might be required.
401(k) loan repayment	The Trustee will require the plan payments to increase if the loan is paid off during the term of the plan.	The Trustee will require the plan payments to increase if the loan is paid off during the term of the plan.	The Trustee will require the plan payments increase if the loan is pay with the term of the plan
Preferential treatment of other nondischargeable debt (other than SL).	Generally will get an objection.	Generally will draw an objection.	Generally will get an objection.
Preferential treatment of codebt.	Trustee might not object, but depends on amount and money diverted away from unsecured nonpriority claims. Verify codebt.	Trustee generally does not object. Verification of the co-debt required.	Trustee does not object. Verification of the co-debt required.

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Post-petition mortgage payments included in the plan payment.	No. Debtors to make direct payment of post-petition mortgage payments generally.	Required by Standing Order: Conduit Mortgage Payments, to be paid through the plan if the mortgage is in default in any amount or becomes in default at any time during the plan. See www.azb.uscourts.gov and www.dcktrustee.com . Must seek and obtain an order excusing compliance if not paid through the plan.	No. Debtors to make direct payment of post-petition mortgage payments generally.
Amended Plan – when required. L.R. 2084-8(b).	Substantial change of treatment to creditors or large reduction in payback to unsecured claims, including reduction in plan payments.	Encouraged whenever a change is made. Required if there is a material change in treatment as defined by Local Rule 2084-8(b).	Substantial change of treatment to creditor or large reduction in payback to unsecured claims, including reduction in plan payments.
Property of the estate post-confirmation.	Might require the order confirming plan to state that nonexempt property remains property of the estate.	No position.	Might require the order confirming plan to state that nonexempt property remains property of the estate.
Secured creditor, no proof of claim.	Trustee would require verification of the secured debt and security interest. SOC language authorizing the trustee to pay when no claim is filed.	POC required except for preconfirmation mortgage conduit payments contingent upon compliance with the documentation covered by the Standing Order: Conduit Mortgage Payments.	Trustee would require verification of the secured debt and security interest and language in the SOC authorizing the trustee to pay when no claim is filed.

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Unsecured creditor, untimely filed proof of claim.	Trustee will file an objection to the claim, but has made an exception for DSO and creditors who did not get proper notice of filing.	Generally Trustee will file an objection to the claim, but has made an exception for DSO and creditors who did not get notice of filing.	Generally Trustee will file an objection to the claim, but has made an exception for DSO and creditors who did not get notice of filing.
Mortgage claim arrears different from plan amount (non-stripped lien).	Unless the lien is being reclassified as unsecured/stripped, the amount of arrearage in the allowed proof of claim is the amount to be cured, unless an objection to the claim is sustained. The Trustee will not stipulate to confirmation unless the POC and the SOC are consistent.	Unless the lien is being reclassified as unsecured/stripped, the amount of arrearage in the proof of claim is the amount to be cured, unless an objection to the claim is sustained. The Trustee will not stipulate to confirmation unless the POC and the SOC are consistent.	Unless the lien is being reclassified as unsecured/stripped, the amount of arrearage in the proof of claim is the amount to be cured, unless an objection to the claim is sustained.
Non-mortgage claim different from plan amount.	Secured creditor must timely file an objection to confirmation.	Secured creditor must timely file an objection to confirmation.	Secured creditor must timely file an objection to confirmation.
Standard SOC submission letter?	The letter is not a standard form, but it must reference each recommendation item or paragraph.	Yes. The Trustee will return any SOC not accompanied by a cover letter addressing each item from the plan evaluation. Trustee also requires that the Notice of Submitting SOC be filed on ECF and that the SOC be attached as an exhibit. See www.dcktrustee.com forms and downloads. This allows for transparency for all parties.	Yes. The Trustee will return any PSOC not accompanied by a cover letter.

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Return of PSOC by trustee.	The trustee will send an email or letter stating reasons soc was rejected. Docket entry made to give notice of rejection.	Trustee will file on the docket a standard return of SOC stating the reasons for the return. If multiple returns, EWH requires the trustee to set a hearing.	The trustee will send an email or letter stating reasons soc was rejected.
Might Trustee sell nonexempt property?	Yes.	No.	Yes.
Form stipulated order confirming plan required?	Yes. Visit www.chapter13.info for forms. Use the required format and put the applicable information in it. Review the court docket and claims register before submitting.	Yes. See www.dcktrustee.com forms and downloads.	Yes, form can be found on website www.maney13trustee.com . All administrative, secured, priority claims, and executory contacts and unexpired leases and surrendered property to be listed.
Preconfirmation incurring of debt.	Trustee will require Court approval.	Trustee will require Court approval.	Trustee will require Court approval.

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POST-CONFIRMATION			
Post-confirmation tax returns.	Usually three post-petition years, including separately filed business returns.	Usually three post-petition years, including separately filed business returns.	Usually the duration of plan unless under median income then three post-petition years, including separately filed business returns.
Notice or report of confirmation of plan.	Notice of Allowed Claims and Post-Confirmation Report	Trustee Report of Allowed Claims.	Notice of Allowed Claims and Post-Confirmation Report
Incurring new mortgage debt.	Usually will give approval after documents provided. Might need amended Schedules I and J.	Usually will give approval after documents provided. Might need amended Schedules I and J.	Usually will give approval after documents provided. Might need amended Schedules I and J.
Incurring new non-mortgage debt.	Usually will give approval after documents provided. Might need amended Schedules I and J. Vehicle payment no more than \$385.	Usually will give approval after documents provided. Might need amended Schedules I and J.	Usually will give approval after documents provided. Might need amended Schedules I and J. Vehicle payment no more than \$385.

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Disbursement – timing.	Disbursement is near the end of each month. AP payments are included in the regular disbursement.	Regular disbursement is on the first business day of the month. This includes pre- and post-confirmation AP and mortgage conduits. Pre-writes (disbursements in cases dismissed or converted pre-confirmation) generally occur the last week of the month. Disbursements generally commence on the first disbursement date following the court signing the SOC.	Disbursement at the beginning of each month. Pre-Confirmation AP paid on or about the 21th of each month. Post-Confirmation AP payments are included in the regular disbursement.
Plan completion notice.	A Notice of Completed Plan is filed.	A Notice of Completed Plan is filed.	A Notice of Completed Plan is filed.
Annual report.	Mailed in October. Not filed with Court.	Mailed in May. Not filed with Court. Upon request, electronic version provided to counsel.	Mailed in June. Not filed with Court.

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Plan payment delinquency. L.R. 2084-15.	MTD filed after three months delinquent. Debtor to resolve within 35 days.	MTD filed after two months delinquent. Debtor to resolve within 30 days. Debtors and attorneys are requested to check the status of payments on the available websites. The Trustee does not negotiate in formal catch up plans. If the conditions that caused dismissal are resolved, trustee liberally has no objection to reinstatement. However, if the debtor wants to reinstate for purpose of conversion, trustee might not stipulate to reinstatement if a final report was filed or other issue present (DSO information not provided, substantial income).	MTD filed after three months delinquent. Debtor to resolve within 30 days.
Reinstatement of case. L.R. 2084-16.	If the conditions that caused dismissal are resolved, trustee liberally has no objection to reinstatement. However, if the debtor wants to reinstate for purpose of conversion, trustee might not stipulate to reinstatement if a final report was filed or other issue present (DSO information not provided, substantial income).	If the conditions that caused dismissal are resolved, trustee liberally has no objection to reinstatement. However, if the debtor wants to reinstate for purpose of conversion, trustee might not stipulate to reinstatement if a final report was filed or other issue present (DSO information not provided, substantial income).	If the conditions that caused dismissal are resolved, trustee liberally has no objection to reinstatement. However, if the debtor wants to reinstate for purpose of conversion, trustee might not stipulate to reinstatement if a final report was filed or other issue present (DSO information not provided, substantial income).