

**Chapter 13 Quarterly Newsletter  
March 2017****1. National Form Plan**

Effective December 1, 2017, it is expected that the Northern District of Ohio will begin using the National Form Plan. The plan would be mandatory for all cases filed on or after December 1, 2017.

Attached to this newsletter is a copy of the form for the National Form Plan and some of the committee notes which provide relevant explanation for some of the items.

Counsel may find it useful to review the plan and to work with their computer vendors to make sure that they are ready to use the plan for their cases filed on or after December 1, 2017.

**2. Attorney Fees on Dismissed and Converted Cases**

Given trends in case law following Harris v. Viegelahn, 138 S.Ct. 1829 (2015), all funds being held by the Chapter 13 Trustee when a case is converted or dismissed will be returned to the debtor.

This is a change from the current Administrative Order 12-3 which allows a carve out for attorney fees on cases converted and dismissed.

Although the vast majority of cases will not have funds on hand that is why the case is either dismissing or converting, in a few cases there are funds on hand where funds accumulated through the debtor's payments but pending issues with creditors were not able to be resolved during the pendency of the Chapter 13 plan.

If counsel believe they are entitled to attorney fees being held by the Trustee when a case is dismissed or converted, counsel should immediately file a fee application with the court.

**3. No Look Attorney Fees**

Pursuant to Administrative Order 12-03, counsel are generally provided a no look attorney fee in the amount of \$4,000 provided certain criteria and services are provided.

Additionally, Administrative Order 12-03 has a list of standard items for post confirmation work provided by counsel and the no look fee amount for this work.

Recently, some counsel have begun requesting the \$4,000 and then when filing for post-petition work, they do not want to follow the fee schedule listed in the administrative order. Please be advised that counsel must decide when filing a case whether they are going to follow Administrative Order 12-03 or are going to opt out and file an

itemization. If counsel opts out of the no look fee, counsel must file an itemization for all work they do in the case.

Counsel may not have the no look fee for the initial \$4,000 and then opt out for post-petition work. Counsel must either completely follow the no look fee amounts or opt out of the no look fee amounts.

A listing of post-petition work and the fee amounts are as follows:

<b>Services</b>	<b>Fee</b>
Post-confirmation Plan Modification	Up to \$350
Motion to Buy, Sell or Refinance Real Property	Up to \$350
Motion to Incur Debt (or Motions to Borrow)	Up to \$200
Defense of additional Motions for Relief from Stay	Up to \$350
Motions to Distribute Insurance Proceeds	Up to \$350
Motion to Reinstate the Automatic Stay	Up to \$200
Adversary Proceeding to Strip Junior Mortgage Liens	Up to \$500
Mortgage Modification	Up to \$500
Motion to Deem Mortgage Current	Up to \$350

#### **4. Motions for Relief**

The Trustee would ask that creditors who are preparing motions and orders for relief include language on whether or not the Trustee is to pay or not pay the claim. In some cases, counsel are preparing orders granting relief from stay but are silent on how to pay or not pay the claim. The Trustee will oppose motions and orders which do not specifically say how the claim is paid. Generally, the Trustee does not take a position in relief from stay orders but the Trustee needs clarity and needs the wording “the Trustee is to pay or not to pay” depending on the agreement of the parties or, the intent of the moving party on an order granted by default.

#### **5. Objection to Claims**

Additionally, The Trustee would ask that all orders on objections to claims also make clear on whether it is the moving parties intent to have the Trustee pay the claim or not pay the claim. Some debtor’s counsel are preparing orders having their objection to claim sustained but the order is silent and does not include any wording on how the Trustee is to process the claim. For the record, the Trustee needs clarity and needs counsel to state expressly whether the Trustee will pay the claim or will not pay the claim.

## **6. Cramming Down Interest Rates**

Please be advised that if counsel are going to cram down interest rates pursuant to In Re Till v, SCS Credit, 541 W.S. 465 (2004) and ask the Trustee to reamortize interest that has been paid to reduce the principal amount, the motion and order must specifically state that the Trustee is to reamortize the interest back to the date of the filing of the claim.

It has long been the Trustee's policy that the Trustee will not seek the return of funds should the reamortization result in overpayment of the principal. If counsel wishes those funds back it is counsel's responsibility to pursue those funds.

If counsel does not request in the motion and order to reamortize the interest, the Trustee will pay the approved interest from the date that the Court approves the order but will have no authority to conduct any reamortization.

## **7. Property Taxes as a Conduit Payment**

The Trustee would ask counsel to consider having the debtor's property taxes as a conduit payment similar to mortgages through the Chapter 13 plan.

In many cases where the property taxes are not being paid through the mortgage, the debtor has the responsibility for paying the property taxes directly. The debtor(s) have a stipend in the monthly budget to pay for the post-petition property taxes. However, in a growing number of cases, the post-petition property taxes are not made on time causing post-petition tax claims. These post-petition claims cause feasibility issues if the county chooses to file a claim for the post-petition property tax. There are also concerns that the debtor was allowed the stipend but the funds were not used to pay the property taxes.

While some counsel worry that paying the property taxes through the plan would be subject to the ordinary and standard trustee administration fee, please remember that most of the counties in the area sell delinquent property taxes which can legally charge up to 18% interest on the tax in addition to charging fees and expense. The trustee administration fee is less than half of the 18% rate and there are no additional fees and expenses charged by the Trustee.

## **8. Reinstating Cases**

Recently, there has been an increase in the request to reinstate cases after a motion to dismiss has been filed by the Trustee and the motion has been granted by the Court.

It would be easier both for the debtors and for counsel that if there is a resolution to the Trustee's motion to dismiss that the resolution be addressed prior to the case being dismissed. The Akron trusteeship has often worked with counsel and generally when a short adjournment is necessary for counsel to amend the plan or provide new wage information to get the plan back on track, that information or request for short

adjournment should be provided to the Chapter 13 office prior to the case being dismissed.

### **9. Personal Financial Management Course**

Please note that the next in person Personal Financial Management Course will be held on Thursday, June 8, 2017, at the Chapter 13 office located at PNC Bank Building, 140 South Main Street (corner of Main Street and Bowery Street), Suite 2020 (20<sup>th</sup> floor), Akron, Ohio 44308.

The class will be offered from 9:30 AM to 11:30 AM. The morning class is to accommodate debtors who may work the second or third shift. Parking is available in the building park deck for a nominal charge.

The Chapter 13 office also sponsors an internet version of the Personal Financial Management Course through the Trustee Education Network at no cost to the debtor. The course is available in both English and Spanish and can be accessed through the Chapter 13 webpage at [www.chapter13info.com](http://www.chapter13info.com) under the Financial Management Course box.

Please find attached to this newsletter a flyer for the June 8, 2017, class for counsel to share with their clients.

### **10. Mortgage Modification**

Generally the Trustee does not take a position either in favor or opposition to mortgage modifications negotiated by the parties.

However, the Trustee would ask counsel to review these modifications. Recently, there have been modifications where the debtor was only \$10,000 or less in arrearage but once charges and interest is calculated there is an additional 10 to 15 years added to the loan, but the monthly payment was only reduced around \$150.

In the above case, it may be better for the debtor to cure the arrearage through the plan and decline the modification.

**SAVE THE DATE  
WHITE-WILLIAMS SEMINAR  
HARTVILLE KITCHEN  
APRIL 21, 2017**

## National Form Plan

**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.

\_\_\_\_\_  
 \_\_\_\_\_

**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

**Part 2: Plan Payments and Length of Plan**

**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.*

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.

**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): \_\_\_\_\_.

**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) 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 total amount of estimated payments to the trustee provided for in §§ 2.1 and 2.4 is \$ \_\_\_\_\_.**

**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.

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

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

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.

**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 postpetition 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 \$\_\_\_\_\_.

**4.3 Attorney's fees**

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 \_\_\_\_\_.

**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 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.*

**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. 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, nonpriority unsecured claims would be paid approximately \$\_\_\_\_\_. Regardless of the options checked above, payments on allowed 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
_____	_____	\$ _____ 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 Official Form or deviating from it. Nonstandard provisions set out elsewhere in this plan are ineffective.

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. The attorney for the Debtor(s), if any, must sign below.*

Ū \_\_\_\_\_  
Signature of Debtor 1

Ū \_\_\_\_\_  
Signature of Debtor 2

Executed on \_\_\_\_\_  
MM / DD / YYYY

Executed on \_\_\_\_\_  
MM / DD / YYYY

Ū \_\_\_\_\_  
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 Form 113, other than any nonstandard provisions included in Part 8.**

# Exhibit: Total Amount of Estimated Trustee Payments

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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**

\$ _____
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### Committee Note

Official Form 113 is new and is the required plan form in all chapter 13 cases, except to the extent that Rule 3015(c) permits the use of a Local Form. Except as permitted by Rule 9009, alterations to the Official Form are not permitted. As the form explains, spaces for responses may be expanded or collapsed as appropriate, and sections that are inapplicable do not need to be reproduced. Portions of the form provide multiple options for provisions of a debtor's plan, but some of those options may not be appropriate in a given debtor's situation or may not be allowed in the court presiding over the case. Debtors are advised to refer to applicable local rulings. Nothing in the Official Form requires confirmation of a plan containing provisions inconsistent with applicable law.

*Part 1.* This part sets out warnings to both debtors and creditors. For creditors, if the plan includes one or more of the provisions listed in this part, the appropriate boxes must be checked. For example, if Part 8 of the plan proposes a provision not included in, or contrary to, the Official Form, that nonstandard provision will be ineffective if the appropriate check box in Part 1 is not selected.

*Part 2.* This part states the proposed periodic plan payments, the estimated total plan payments, and sources of funding for the plan. Section 2.1 allows the debtor or debtors to propose periodic payments in other than monthly intervals. For example, if the debtor receives a paycheck every week and wishes to make plan payments from each check, that should be indicated in § 2.1. If the debtor proposes to make payments according to different "steps," the amounts and intervals of those payments should also be indicated in § 2.1. Section 2.2 provides for the manner in which the debtor will make regular payments to the trustee. If the debtor selects the option of making payments pursuant to a payroll deduction order, that selection serves as a request by the debtor for entry of the order. Whether to enter a payroll deduction order is determined by the court. See Code § 1325(c). If the debtor selects the option of making payments other than by direct payments to the trustee or by a payroll deduction order, the alternative method (*e.g.*, a designated third party electronic funds transfer program) must be specified. Section 2.3 provides

for the treatment of any income tax refunds received during the plan term.

*Part 3.* This part provides for the treatment of secured claims.

The Official Form contains no provision for proposing preconfirmation adequate protection payments to secured creditors, leaving that subject to local rules, orders, forms, custom, and practice. A Director's Form for notice of and order on proposed adequate protection payments has been created and may be used for that purpose.

Section 3.1 provides for the treatment of claims under Code § 1322(b)(5) (maintaining current payments and curing any arrearage). For the claim of a secured creditor listed in § 3.1, an estimated arrearage amount should be given. A contrary arrearage or current installment payment amount listed on the creditor's timely filed proof of claim, unless contested by objection or motion, will control over the amount given in the plan.

In § 3.2, the plan may propose to determine under Code § 506(a) the value of a secured claim. For example, the plan could seek to reduce the secured portion of a creditor's claim to the value of the collateral securing it. For the secured claim of a non-governmental creditor, that determination would be binding upon confirmation of the plan. For the secured claim of a governmental unit, however, a contrary valuation listed on the creditor's proof of claim, unless contested by objection or motion, would control over the valuation given in the plan. *See* Bankruptcy Rule 3012. Bankruptcy Rule 3002 contemplates that a debtor, the trustee, or another entity may file a proof of claim if the creditor does not do so in a timely manner. *See* Bankruptcy Rules 3004 and 3005. Section 3.2 will not be effective unless the appropriate check box in Part 1 is selected.

Section 3.3 deals with secured claims that under the so-called "hanging paragraph" of § 1325(a)(5) may not be bifurcated into secured and unsecured portions under Code § 506(a), but it allows for the proposal of an interest rate other than the contract rate to be applied to payments on such a claim. A contrary claim amount listed on the creditor's timely filed proof of claim, unless contested by

objection or motion, will control over the amount given in the plan. If appropriate, a claim may be treated under § 3.1 instead of § 3.3.

In § 3.4, the plan may propose to avoid certain judicial liens or security interests encumbering exempt property in accordance with Code § 522(f). This section includes space for the calculation of the amount of the judicial lien or security interest that is avoided. A plan proposing avoidance in § 3.4 must be served in the manner provided by Bankruptcy Rule 7004 for service of a summons and complaint. *See* Bankruptcy Rule 4003. Section 3.4 will not be effective unless the appropriate check box in Part 1 is selected.

Section 3.5 provides for elections to surrender collateral and requests for termination of the stay under § 362(a) and § 1301 with respect to the collateral surrendered. Termination will be effective upon confirmation of the plan.

*Part 4.* This part provides for the treatment of trustee's fees and claims entitled to priority status. Section 4.1 provides that trustee's fees and all allowed priority claims (other than those domestic support obligations treated in § 4.5) will be paid in full. In § 4.2, the plan lists an estimate of the trustee's fees. Although the estimate may indicate whether the plan will be feasible, it does not affect the trustee's entitlement to fees as determined by statute. In § 4.3, the form requests a statement of the balance of attorney's fees owed. Additional details about payments of attorney's fees, including information about their timing and approval, are left to the requirements of local practice. In § 4.4, the plan calls for an estimated amount of other priority claims. A contrary amount listed on the creditor's proof of claim, unless changed by court order in response to an objection or motion, will control over the amount given in § 4.4. In § 4.5, the plan may propose to pay less than the full amount of a domestic support obligation that has been assigned to, or is owed to, a governmental unit, but not less than the amount that claim would have received in a chapter 7 liquidation. *See* §§ 1322(a)(4) and 1325(a)(4) of the Code. This plan provision requires that the plan payments be for a term of 60 months. *See* § 1322(a)(4).

*Part 5.* This part provides for the treatment of unsecured claims that are not entitled to priority status. In § 5.1, the plan may propose to pay nonpriority unsecured claims in accordance with several options. One or more options may be selected. For example, the plan could propose simply to pay unsecured creditors any funds remaining after disbursements to other creditors, or it could also provide that a defined percentage of the total amount of unsecured claims will be paid. In § 5.2, the plan may propose to cure any arrearages and maintain periodic payments on long-term, nonpriority unsecured debts pursuant to § 1322(b)(5) of the Code. In § 5.3, the plan may provide for the separate classification of nonpriority unsecured claims (such as co-debtor claims) as permitted under Code § 1322(b)(1).

*Part 6.* This part provides for executory contracts and unexpired leases. An executory contract or unexpired lease is rejected unless it is listed in this part. If the plan proposes neither to assume nor reject an executory contract or unexpired lease, that treatment would have to be set forth as a nonstandard provision in Part 8.

The Official Form contains no provision on the order of distribution of payments under the plan, leaving that to local rules, orders, custom, and practice. If the debtor desires to propose a specific order of distribution, it must be contained in Part 8.

*Part 7.* This part defines when property of the estate will revert in the debtor or debtors. One choice must be selected—upon plan confirmation, upon entry of discharge the case, or upon some other specified event. This plan provision is subject to a contrary court order under Code § 1327(b).

*Part 8.* This part gives the debtor or debtors the opportunity to propose provisions that are not otherwise in, or that deviate from, the Official Form. All such nonstandard provisions must be set forth in this part and nowhere else in the plan. This part will not be effective unless the appropriate check box in Part 1 is selected. *See* Bankruptcy Rule 3015(c).

*Part 9.* The plan must be signed by the attorney for the debtor or debtors. If the debtor or debtors are not

represented by an attorney, they must sign the plan, but the signature of represented debtors is optional. In addition to the certifications set forth in Rule 9011(b), the signature constitutes a certification that the wording and order of Official Form 113 have not been altered, other than by including any nonstandard provision in Part 8.

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### Changes Made After Publication and Comment

- Part 1 (Notices). The following language was added to the Notice to Debtors: “Plans that do not comply with local rules and judicial rulings may not be confirmable.”
- Part 2. Subpart 2.3 (Income tax refunds) was expanded to include all income taxes, not just federal, and a more open-ended response option was added.
- Part 3. In subpart 3.1 (Maintenance of payments and cure of default, if any), “if any” was inserted after “cure of default” and “amount of arrearage.” Language was added to limit postpetition changes in the payment amount to those that are properly noticed pursuant to Rule 3002.1, and the provision now specifies that the trustee will make any arrearage payments. A sentence was added to cover the situation in which a secured creditor does not file a timely proof of claim.
- Changes were made in subpart 3.2 (Request for valuation of security . . .) to clarify that the lien of a secured creditor is released at discharge only as to the debtor’s or the estate’s interest in the collateral and only if the debt secured by the property is discharged.
- In subpart 3.3 (Secured claims excluded from 11 U.S.C. § 506), a sentence was added to provide that if the secured creditor does not file a timely proof of claim, the plan’s statement of the amount of the claim will control.
- Subpart 3.4 (Lien avoidance) was changed to recognize the court’s authority to provide an

effective date for a lien avoidance other than the date the confirmation order is entered. A change was also made to clarify that a claim for which a lien is avoided will be treated as an unsecured claim only to the extent that the claim is allowed.

- Subpart 3.5 (Surrender of collateral) was changed from providing for the debtor's consent to termination of the stay to providing that the debtor requests that the stay be terminated upon confirmation.
- Part 4. Subpart 4.1 (General) was changed to clarify that domestic support obligations that have not been assigned will be treated under the general provision for payment in full of the priority amount. "Postpetition" was inserted before "interest."
- In subpart 4.2 (Trustee's fees), language was added to specify that the amount of the trustee's fees is determined by statute and may vary over time.
- In subpart 4.5 (Domestic support obligations assigned or owed to a governmental unit. . .), a reminder was inserted that § 1322(a)(4) requires that the debtor's disposable income for 60 months be devoted to the plan if the plan provides for less than full payment of assigned domestic support obligations.
- Part 5. Subpart 5.1 (General) and subpart 5.3 were deleted. In the subpart that is now 5.2 (Maintenance of payments and cure of any default on nonpriority unsecured claims), clarifying explanations were added, including a statement that the trustee will make payments on any arrearages being cured.
- Part 6 (Executory contracts and unexpired leases). In subpart 6.1, the columns were rearranged to a more logical order, and the heading of the second column was changed to include executory contracts.

A statement was added that the trustee will disburse arrearage payments.

- Part 7 of the published form (Order of distribution of Trustee Payments) was deleted. Subsequent parts were renumbered.
- New Part 7 (Vesting of Property of the Estate). The option of property vesting in the debtor upon the closing of the case was changed to vesting upon the “entry of discharge.”
- New Part 8 (Nonstandard Plan Provisions). A sentence explaining the meaning of “nonstandard provision” was added, along with a statement that nonstandard provisions placed elsewhere in the plan are ineffective.
- New Part 9 (Signatures). A statement was added after the signatures certifying that the plan is identical in wording and order of provisions to Official Form 113, except for any nonstandard provisions placed in Part 8.
- Exhibit: Total Amount of Estimated Trustee Payments. The wording of the introductory explanation was revised, and a sentence was added to clarify that payment amounts specified in the plan control over the amounts listed in the Exhibit. An entry was added for payments under any Part 8 nonstandard provisions.
- Committee Note. The Committee Note was revised in accordance with the changes in the plan.
- A number of technical and formatting changes were made.

### **Summary of Public Comment**

Summaries of the comments submitted in response to the publication of Official Forms 113 are set forth in Appendix B.

**Personal Financial Management Course**  
**Thursday June 8, 2017**

Phone: 330.762.6335  
Fax: 330.762.7072  
Web: [www.chapter13info.com](http://www.chapter13info.com)

Office Of  
**The Chapter 13 Trustee**  
Keith L. Rucinski, Trustee

One Cascade Plaza  
Suite 2020  
Akron, Ohio 44308

### Personal Financial Management Instructional Course

The Chapter 13 Office also sponsors a free online course. Please see our website for more information: [www.chapter13info.com](http://www.chapter13info.com).

Pursuant to the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005, all people filing for bankruptcy after October 17, 2005, must take a Personal Financial Management Instructional Course in order to earn a discharge of their case. A discharge means a successful completion of the plan and creditors paid through the plan may not seek further payment from you. This course is in addition to the Credit Counseling Course that you took to file your Chapter 13 case. If you have already taken both courses you should contact your attorney to be sure course certificates are filed correctly with the Bankruptcy Court.

The Chapter 13 Office in Akron, Ohio will be offering the Personal Financial Management Instruction Course on **Thursday, June 8, 2017**, at the Chapter 13 Office located at, PNC Bank Building, One Cascade Plaza (Corner of Main and Bowery St.) 140 S. Main St. Suite 2020 (20<sup>th</sup> floor), Akron, Ohio 44308. Pickup of course materials and seating for the class begins at 9:00 a.m. The course runs from **9:30 a.m. to 11:30 a.m.** A parking deck is located underneath the building in the Cascade Parking Garage. **You must register for the course! You may do so by calling 330-475-7500, or by email to [edclass@ch13akron.com](mailto:edclass@ch13akron.com). PLEASE MAKE SURE TO LEAVE YOUR NAME AND CASE NUMBER WHEN CALLING TO MAKE YOUR RESERVATION. Space is limited so please make your reservation as soon as possible. The deadline to register for the class is June 5<sup>th</sup>, 2017. A photo I.D. will be necessary in order to take the course. If you require a Sign Language interpreter send your request to [edclass@ch13akron.com](mailto:edclass@ch13akron.com). The instructor will be Keith Rucinski. Mr. Rucinski is a CPA and Attorney and serves as Trustee for the Chapter 13 Office. For the past decade he has taught college courses and has been a frequent speaker at local and national seminars.**

This course is only being offered to individuals who have filed Chapter 13 with the U.S. Bankruptcy Court in Akron, Ohio. The course is being offered without regard to an individual's ability to pay. There is no cost to individuals for taking the course sponsored by the Chapter 13 Office.

***You are not required to take this course through the Chapter 13 office, but you must take a course which has been certified by the U.S. Department of Justice – U.S. Trustee Program. The other course providers may charge you a fee. The Chapter 13 Office in Akron does not pay or receive fees or other consideration for the referral of debtor students to or by the provider.***

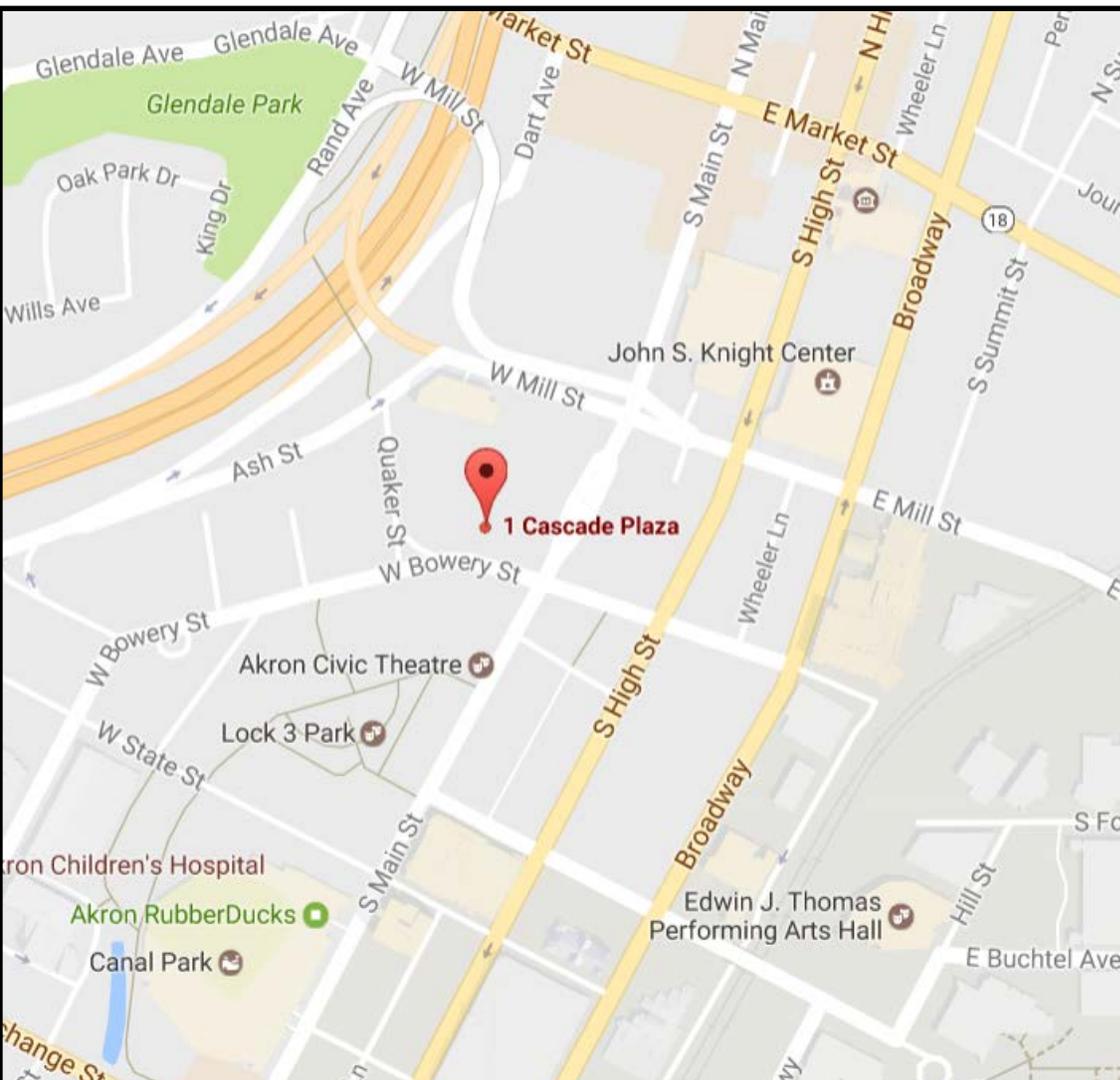
Upon completion of the course the Chapter 13 Office in Akron will provide participants a certificate of course completion. This certificate must be filed with the U.S. bankruptcy Court in Akron, Ohio in order to earn a discharge in your case.

# PNC Center

is located at 1 Cascade Plaza (140 S. Main St)  
Akron Oh, 44308 in Downtown Akron, OH

- From Cleveland: Interstate I-77 south, take exit 21C to merge onto Interbelt/Martin Luther King Jr Fwy E/OH 59 E towards Downtown Akron. Turn right at S. Main Street.
- From Canton: From I-77 North take the OH-59 W exit towards Perkins St/M.L.King Jr Blvd & FWY. Turn left at Perkins St and Continue on M.L. King Jr Blvd. Turn left at S. Main St.

Convenient Parking for PNC Center is located in the Cascade Parking Garage.



\*\*\*\*A PHOTO ID IS  
REQUIRED FOR  
ATTENDANCE TO THE  
SEMINAR\*\*\*\*  
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