

**PART II.  
ELECTRONIC CASE FILING  
PROCEDURES  
(ECF)**

UNITED STATES DISTRICT COURT FOR THE  
UNITED STATES VIRGIN ISLANDS  
BANKRUPTCY DIVISION

**ECF Procedures**

**Adopted By the Court Pursuant to Local Rule 5005-1**

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**ECF PROCEDURE #1 SCOPE OF ELECTRONIC FILING**

These Procedures use the term “Electronic Filing System” or “ECF System” to refer to the Court’s system that receives documents filed in electronic form. The term “Filing User” is used to refer to those who have a Court-issued log-in and password to file documents electronically.

Except as otherwise provided by Order of Court, all cases and pleadings will be assigned to the Electronic Filing System. Except as expressly provided and in exceptional circumstances preventing a Filing User from filing electronically, all petitions, motions, memoranda of law, or other pleadings and documents required to be filed with the Court in connection with a case assigned to the Electronic Filing System must be electronically filed.

A paper copy of a motion for expedited hearing or an application for a temporary restraining order and any response shall be delivered to chambers. The front page of the pleading shall note that it is a courtesy copy. The filing party may call chambers to arrange for alternative transmission of the document.

In Chapter 7 cases, a paper copy of the voluntary bankruptcy petition, schedules and statements must be delivered by debtor’s attorney to the Chapter 7 trustee no more than five (5) business days after the documents are electronically filed with the Court.

Attorneys and others who are not Filing Users in the Electronic Filing System are required to electronically file pleadings and other papers in a case assigned to the System. Once registered, a

Filing User may withdraw from participation in the Electronic Filing System by providing the Clerk's Office with written notice of the withdrawal.

The Clerk shall provide reasonable alternative access during regular business hours for those who are not Filing Users to allow such persons to file documents electronically.

**ECF PROCEDURE #2 ELIGIBILITY, REGISTRATION, PASSWORDS**

Attorneys admitted to the bar of this Court (including those admitted pro hac vice), United States trustees and their assistants, private trustees, and others as the Court deems appropriate, may register as Filing Users of the Court's Electronic Filing System. Registration is in a form prescribed by the Clerk and requires the Filing User's name, address, telephone number, Internet e-mail address, and, in the case of an attorney, a declaration that the attorney is admitted to the bar of this Court.

If the Court in a particular case permits, a party to a pending action who is not represented by an attorney may register as a Filing User in the Electronic Filing System solely for purposes of the action. Registration is in a form prescribed by the Clerk and requires identification of the action as well as the name, address, telephone number and Internet e-mail address of the party. If, during the course of the action, the party retains an attorney who appears on the party's behalf, the attorney must advise the Clerk to terminate the party's registration as a Filing User upon the attorney's appearance.

Registration as a Filing User constitutes, in any case in which the Filing User has entered an appearance: (1) waiver of the right to receive notice by first class mail and consent to receive notice electronically; and (2) waiver of the right to service by personal service or first class mail and consent to electronic service, except with regard to service of a summons and complaint under Federal Rule of Bankruptcy Procedure 7004. Waiver of service and notice by first class mail applies to notice of the entry of an order or judgment under Fed.R.Bankr.P. 9022.

Once registration is completed, the Filing User will receive notification of the user log-in and password. Filing Users agree to protect the security of their passwords and immediately notify the Clerk if they learn that their password has been compromised. Users may be subject to sanctions for failure to comply with this provision.

**ECF PROCEDURE #3 CONSEQUENCES OF ELECTRONIC FILING**

Once received, electronic transmission of a document to the Electronic Filing System consistent with these Rules, together with the transmission of a Notice of Electronic Filing from the Court, constitutes filing of the document for all purposes of the Federal Rules of Bankruptcy Procedure and the Local Rules of this Court, and constitutes entry of the document on the docket kept by the Clerk under Fed.R.Bankr.P. 5003.

When a document has been filed electronically, the official record is the electronic recording of the document as stored by the Court, and the filing party is bound by the document as filed. Except in the case of documents filed first in paper form and subsequently submitted electronically under ECF Procedure No. 1, a document filed electronically is deemed filed at the date and time stated on the Notice of Electronic Filing from the Court.

Filing a document electronically does not alter the filing deadline for that document. Unless otherwise ordered, filing must be completed before midnight local time where the Court is located in order to be considered timely filed that day.

#### **ECF PROCEDURE #4      ENTRY OF COURT ORDERS**

All orders, decrees, judgments, and proceedings of the Court will be filed in accordance with these Procedures and the Local Rules, which will constitute entry on the docket kept by the Clerk under Fed.R.Bankr.P. 5003 and 9021. All signed orders will be filed electronically by the Court or Court personnel. Any order filed electronically without the original signature of a Judge has the same force and effect as if the Judge had affixed the Judge's signature to a paper copy of the order and it had been entered on the docket in a conventional manner.

A Filing User submitting a document electronically that requires a Judge's signature must promptly deliver the document in such form as the Court requires. Orders must be filed in compliance with the requirements specified by the Judge assigned the bankruptcy case or adversary proceeding. These requirements are published on the Court's Website at each Judge's web page.

#### **ECF PROCEDURE #5      ATTACHMENTS AND EXHIBITS**

Exhibits and other attachments to pleadings shall not exceed ten (10) pages in length. A summary not exceeding ten (10) pages may be filed for exhibits and attachments that are more than ten (10) pages in length. In lieu of the summary or in lieu of the entire document, a one-page Document and Loan History Abstract, Local Form No. 27. All abstracts, exhibits and exhibit summaries must be electronically filed, each as a separate attachment, to the docket entry to which they refer.

Attachments shall be filed as separate PDF files. Attachments shall include the case name and number and a brief description of the main document to which it relates at the top of the first page of the attachment. If the first page of the attachment does not have enough space available to include the case name and number and a brief description of the main document, then a cover sheet listing that information must be filed as the front page of the attachment.

Exhibits attached to the following pleadings are not subject to the ten-page limitation:  
Application for Compensation and Reimbursement, Trustee's Final Report and Account, Plan of Reorganization, and Disclosure Statement.

The party filing a pleading containing a summary of an exhibit or the Document and Loan History Abstract shall have a paper copy of the entire document at any hearing that is reasonably expected to pertain to the pleading. The party filing a pleading containing a summary or abstract shall, upon request of any party in interest, provide a copy of the entire exhibit. The copy may be provided in electronic format.

**ECF PROCEDURE #6      SEALED DOCUMENTS**

Documents ordered to be filed under seal must be filed as a paper document, not electronically, unless specifically authorized by the Court. A motion to file documents under seal should not contain confidential or privileged information and shall be filed electronically unless prohibited by law. The order of the Court authorizing the filing of documents under seal shall be filed electronically unless prohibited by law. A paper copy of the order authorizing the filing of documents under seal must be attached to the documents under seal and be delivered to the Clerk. Local Rule 5005-3 shall be followed when filing documents under seal.

In connection with the filing of any material in an action assigned to the Electronic Filing System, and subject to Procedures, Rules, Orders or statutes concerning the filing of documents under seal, any person may apply by motion for an order limiting electronic access to or prohibiting the electronic filing of certain specifically-identified materials on the grounds that such material is subject to privacy interests and that electronic access or electronic filing in the action is likely to prejudice those privacy interests. If the Court determines that access should be limited to certain matters, the Order (or a Notice thereof) shall be filed electronically.

**ECF PROCEDURE #7      PAPER RETENTION REQUIREMENTS**

Documents that are electronically filed and require original signatures other than that of the Filing User, such as the debtor, corporate officers, etc., must be maintained in paper form by the Filing User for six (6) years from the date of filing. Failure to maintain documents for the specified period shall subject the Filing User to sanctions including, without limitation, disgorgement of fees. On request of the Court, the Filing User must provide original documents for review.

This requirement also applies to any document for which statute, rule, or Court order requires an original signature. The signature of the debtor(s) authorizing the electronic filing of the bankruptcy case shall be accomplished by filing an original executed paper version of the Declaration Re: Electronic Filing, Local Form No. 1, within fifteen (15) days of the electronic filing of the petition. Both debtors must sign the authorization when a joint petition is filed.

The attorney representing the debtor must notify the Court forthwith if the debtor(s) fails to sign the declaration. The case shall be dismissed without prejudice when the Court is notified that the debtor has failed to sign the affidavit or when the affidavit is not filed within fifteen (15) days of the date the petition is filed.

## **ECF PROCEDURE #8      SIGNATURES**

The user log-in and password required to submit documents to the Electronic Filing System serve as the Filing User's signature on all electronic documents filed with the Court. They also serve as a signature for purposes of Fed.R.Bankr.P. 9011, the Federal Rules of Bankruptcy Procedure, the Local Rules of this Court, and any other purpose for which a signature is required in connection with proceedings before the Court.

Electronically filed documents must comply with Fed.R.Bankr.P. 9011 and set forth the name, address, telephone number and the attorney's state bar registration number, if applicable. In addition, the name of the Filing User under whose log-in and password the document is submitted must be preceded by an "/s/" and typed in the space where the signature would otherwise appear. Failure to comply with these requirements may result in the Court striking the unsigned document from the record.

No Filing User or other entity may knowingly permit or cause to permit a Filing User's password to be used by anyone other than an authorized agent of the Filing User.

When a settlement agreement or similar document that requires signatures from more than one party is filed electronically, the filing party must check the Judge's procedures on the Court's Website in order to determine if the Judge assigned to the case has specific instructions for filing a document of this nature. If the Judge assigned to the case does not have specific instructions, then the document bearing all the necessary signatures: (1) may be scanned; (2) may be filed in a PDF format provided that the filing user certifies that all parties whose signatures are required have consented to the document and endorsed the filing; or (3) in any other manner approved by the Court. Local Form No. 26, Settlement and Certification of Counsel, must be filed with the document attached.

An attorney's password and login may be revoked by the Court.

## **ECF PROCEDURE #9      SERVICE OF DOCUMENTS BY ELECTRONIC MEANS**

A. Requirement of Service of Notice that Pleading Has Been Filed: Each entity electronically filing a pleading or other document must serve all parties in interest with the Notice of Electronic Filing issued to the Filing User by the ECF system.

B. Electronic Notice of Filing: Electronic transmission of the Notice of Electronic Filing constitutes service of the filed document and notice that it has been filed.

C. Service by Other Means: The Filing User must serve parties in interest who have not received an electronic copy of the Notice of Electronic Filing in accordance with the Federal Rules of Bankruptcy Procedure. Such service must include the Notice of Electronic Filing and a copy of the document which was filed.

**ECF PROCEDURE #10 NOTICE OF COURT ORDERS AND JUDGMENTS**

Immediately upon the entry of an order or judgment in an action assigned to the Electronic Filing System, the Clerk will transmit to Filing Users in the case, in electronic form, a Notice of Electronic Filing. Electronic transmission of the Notice of Electronic Filing constitutes the notice required by Fed.R.Bankr.P. 9022. The Clerk or such other person as the Court or Rules may direct must give notice in paper form to a person who has not consented to electronic service in accordance with the Federal Rules of Bankruptcy Procedure.

**ECF PROCEDURE #11 TECHNICAL FAILURES**

A. A Filing User whose filing is made untimely as a result of a technical failure may seek appropriate relief from the Court.

B. Confirmation that ECF System is Inaccessible: If a Filing User is unable to access the ECF System due to technical inaccessibility resulting from a technical failure of the ECF system itself or the Court's server, the filing party must:

1. First obtain confirmation from the Clerk's Office that the ECF system is inaccessible.
2. Then contact the Courtroom Deputy of the Judge to whom the case is assigned and state the reason why an immediate filing is necessary. The Courtroom Deputy will advise the filing party whether filing should be made by other means.

**ECF PROCEDURE #12 PUBLIC ACCESS**

Any person or organization may access the Electronic Filing System through the Court's Internet site <http://www.vid.uscourts.gov/> by obtaining a PACER log-in and password. Anyone who has PACER access but who is not registered as a Filing User under these Procedures may retrieve docket sheets and documents but may not file documents.

Information posted on the System must not be downloaded for uses inconsistent with the privacy concerns of any person.

**ECF PROCEDURE #13 PDF FILES WITH FULL TEXT SEARCH CAPABILITY**

All documents filed electronically using the Court's Case Management/Electronic Case Filing System (CM/ECF) must be filed in a Portable Document Format (PDF). Documents must be filed in a format that allows the Court to perform a full text search, except that documents

received by the filing party from an outside source may be scanned into a PDF format and filed as a document that will not be fully text searchable.

#### **ECF PROCEDURE #14 CM/ECF ACCOUNTS FOR A LIMITED PURPOSE**

A password may be issued for the limited purpose of filing proofs of claim, notice requests, reaffirmation agreements, withdrawal of claims transfers of claims, and/or objections to transfer of claim on CM/ECF (a “limited password”). However, to be eligible for a limited password the applicant must be registered as a CM/ECF participant in another district or attend CM/ECF training provided by the Clerk. Parties who are not attorneys may receive a limited password.

A party’s use of the limited password for filing proofs of claim, notice requests, withdrawal of claims transfers of claims, and/or objections to transfer of claim (the “Limited Filing User”) on CM/ECF constitutes the Limited Filing Users signature on any document filed electronically. All documents filed by the Limited Filing User and all documents bearing the imaged signature of any signer on whose behalf the documents are filed must be maintained in accordance with ECF Procedure No. 7. Limited Filing Users may only file documents signed by the Limited Filing User or a member of the firm employing the Limited Filing User (the “Firm”).

The Limited Filing User and a representative of the Firm must complete a Limited Filing User Registration Form and Agreement in order to receive a limited password. The Limited Filing User must complete an evaluation with the Clerk prior to obtaining a login and password to CM/ECF. The Firm is responsible for electronic filings made by the Limited Filing User.

Except as otherwise specified in this Procedure, a Limited Filing User and his Firm must follow the Bankruptcy Code, Federal Rules of Bankruptcy Procedure, Local Rules, forms, and Procedures promulgated by the United States Bankruptcy Court for the United States Virgin Islands when filing electronically.

When filing a proof of claim, the Limited Filing User must add the correct mailing address to the creditor matrix if the current address is incorrect.

A transfer of a claim for which a proof of claim has been filed shall state the claim number, as shown in the Claims Register, for the transferred claim. A transfer of claim shall be filed in accordance with the Clerk’s Procedures. If a proof of claim has not been filed by the transferor, please note that on the transfer of claim.

The Limited Filing User shall file documents on behalf of a third party only with the express authorization of the entity on whose behalf the document is being filed.

When the Limited Filing User signs the document, the name of the Limited User under whose log-in and password the document is submitted must be preceded by an “/s/” and typed in the space where the signature would otherwise appear on a document. The Limited Filing User must comply with the signature requirements of ECF Procedure #8.



By using the limited login and password, the Limited Filing User is certifying that: (A) the Limited Filing User is authorized to file the document(s) on behalf of the Firm; (B) the Firm is the same entity stated on the Limited Filing User's application to use CM/ECF; (C) the Firm has the authority to file documents as an agent when filing documents on behalf of an entity other than the Firm.

The Limited Filing User and a representative of the Firm must notify the Clerk immediately when the Limited Filing User is no longer an employee of the Firm, ceases being an agent of the Firm, or no longer has authority to file documents on the Firm's behalf.

The Limited Filing User shall not receive electronic notification of documents and docket activity.

The Limited Filing User and Firm must provide two additional contacts in the event the Limited Filing User is not available to communicate with the Clerk on filing issues.

The Clerk may terminate the Limited Filing User's login and password without prior notice when the Clerk deems such action necessary.

#### **ECF PROCEDURE #15    Payment of Filing Fees**

All fees must be paid by Check, Money Order or Cash. Certain pleadings require fees be paid by two separate checks or money orders. Please see [www.vid.uscourts.gov](http://www.vid.uscourts.gov) under Court Fees for a list of all fees that must be paid by two separate checks or money orders. All Checks and Money Orders are to be made payable to the Clerk of the Court.

Payment is required to complete the process of filing a document electronically. If payment is not received by the close of the next business day, the court will take necessary action which may include striking the pleading from the record.

**PART III.**  
**CHAPTER 13 PROCEDURES**

## Chapter 13 Procedures

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- Procedure #9 - Notice of Monthly Payment Changes
- Procedure #10 - Proofs of Assignment-Secured and Priority Claims
- Procedure #11 - Service on Chapter 13 Trustee
- Procedure #12 - Meeting of Creditors
- Procedure #13 - Continued Conciliation Conferences
- Procedure #14 - Wage Order in Chapter 13 Cases
- Procedure #15 - Sale Of Property Without Publication

The Chapter 13 Procedures Section is specifically related to Chapter 13 Procedures, however, it should be understood that the Local Bankruptcy Rules apply even when not specifically cited here. In the event of a conflict between these local bankruptcy rules and the Chapter 13 Procedures, the Chapter 13 Procedures shall control. Final interpretation of these Procedures remains with the Court.

### Procedure #1 – Business Cases Procedures

A. The Debtor engaged in business in a Chapter 13 case shall:

1. keep current and pay when due any debt which arose on or after the entry of the order for relief, including any business related utility bills and excluding debt for rent of any business related property, adequate protection to a secured creditor or post petition mortgage payments. Rent for business related property, adequate protection payments and post petition mortgage payments shall be added to the plan payment and paid to the Chapter 13 Trustee, who will distribute those payments to the creditors as designated in the plan.

2. submit to the local office of the Department of Revenue of the United States Virgin Islands a certified or cashier's check in full payment of the following taxes as follows:

- a. any USVI sales tax collected shall be remitted together with the proper tax returns no later than the end of the fifth business day

following the last day of each month in which such sales taxes were required to be collected; and

b. all employer withholding tax (personal income tax) shall be remitted together with the proper tax returns no later than the end of the second business day after the payment of wages to employees;

3. submit no later than the last day of the month following the end of the quarter to the local office of the USVI, Department of Labor, in accordance with the filing and payment provisions of the USVI Unemployment Laws, tax returns together with a certified or cashier's check in full payment of the following taxes: employer contributions due pursuant to USVI Unemployment Compensation Law.

4. submit or provide to the trustee not later than 15 days before the date first set for the first meeting of creditors a paper copy of any and all tax returns required under applicable law (or, at the election of the debtor, a transcript of such return) for the four years before the commencement of the case. If a tax return was not filed, the debtor shall submit an affidavit or declaration under penalty of perjury with the trustee not later than 15 days before the date first set for the first meeting of creditors which informs the trustee that a tax return is not available and the reason.

B. Reports in Chapter 13 Business Cases

A Chapter 13 debtor engaged in business shall:

1. timely file all required tax returns with the applicable taxing bodies before the §341 meeting of creditors;

2. serve on the Chapter 13 Trustee a Chapter 13 Business Case Questionnaire on a form substantially in compliance with Local Form No. 5 at least fifteen (15) days prior to the first date set for the meeting of creditors;

3. serve on the Chapter 13 Trustee and others as ordered by the Court a report of operations no later than the fifteenth day of the month covering the preceding month. The monthly reports of operations shall not be filed with the Court.

C. Contents of Reports

1. The initial report of operations shall include a statement of the name and location of each depository or place of investment holding funds of the estate and the applicable account number(s).

2. In addition to the information required by Fed.R.Bankr.P. 2015, all statements of operations shall contain a cumulative list of all debts which have arisen and indicate which have been paid and which remain unpaid since the order for relief was entered.

**Procedure #2 – Claims and Objections to Claims**

A. The creditor's account number must be conspicuously stated on the claim form.

B. A claim filed by a secured creditor shall identify the collateral. A holder of a claim secured by the debtor's personal residence must separately state the following: arrearage, late fees, attorney's fees and foreclosure costs incurred through the date of filing of the debtor's bankruptcy petition, principal balance, applicable interest rate and amount of the regular monthly payment. Any postpetition arrearage must be separately stated and itemized.

C. All claims arising out of the rejection of executory contracts must be filed and served on the Chapter 13 Trustee and the debtor or debtor's attorney, if represented, by the later of the claims bar date or thirty (30) days after the date of rejection. Executory contracts may be rejected in the confirmed plan.

D. No deficiency shall be paid to a creditor following the consensual relinquishment of collateral unless the creditor files and serves on the Chapter 13 Trustee, the debtor and debtor's attorney, if represented, a notice of intention to collect a deficiency within thirty (30) days after the effective date of the surrender.

E. If an amended proof of claim is filed after the deadline for filing claims such claim must be served by the creditor on the Chapter 13 Trustee and the debtor and debtor's attorney, if represented. All objections to the amended proof of claim must be filed and served within fifteen (15) days.

F. Failure of a creditor to file a claim provided for in the confirmed plan shall inure to the benefit of the allowed unsecured creditors. The Chapter 13 Trustee shall increase the percentage to be paid accordingly, provided that payments shall not exceed 100 percent of the total amount of the allowed unsecured claims (plus interest if provided in the plan for such claims). Distributions to unsecured creditors shall be made on a pro rata basis as calculated by the Chapter 13 Trustee.

G. The Chapter 13 Trustee is authorized to amend monthly payments to mortgage holders where required by floating interest rates or changes in the insurance and tax escrow payments, provided that the mortgage company has given notice to the debtor and trustee and the debtor has not filed and served an objection within fifteen (15) days.

H. If a secured creditor obtains relief from the automatic stay, the Chapter 13 Trustee shall suspend distributions to all creditors with claims secured by the collateral released from the automatic stay, following the Chapter 13 Trustee's receipt of notice of the grant of relief. However, the Chapter 13 Trustee shall continue to make distributions to the remaining creditors in accordance with the terms of the plan.

I. The debtor or debtor's attorney if represented, shall review the proofs of claim filed and file objections to any disputed claims within ninety (90) days of the claims bar date. Absent an objection, the proof of claim will govern as to the classification and amount of the claim.

**Procedure #3 - Fee Applications in Chapter 13 cases**

A. The maximum fee for Chapter 13 cases is presumed to be \$2,500. The maximum fee may be adjusted by the Court periodically. Whenever debtor's counsel fees exceed the \$2,500 limit (plus filing fees), the Court requires a fee application to be filed in accordance with the Court Procedures Manual. The \$2,500 maximum fee includes any retainer received.

B. The \$2,500 limit contemplates that the debtor(s) will be interviewed by an attorney, that accurate and complete schedules will be prepared, that the debtor(s) will be briefed on the Chapter 13 process, that all documents will be explained and that the attorney will file a Chapter 13 plan that meets with the requirements of Local Form No. 10 and that is capable of confirmation.

C. The fee also contemplates that the counsel will attend the first Meeting of Creditors and all hearings, and will remain counsel of record until the case is either completed or dismissed, unless the Court has issued an order discharging the attorney as counsel of record.

D. Counsel is expected to file all motions and objections contemplated in the confirmed plan in a timely fashion. Counsel is also expected to file and complete representation without additional charge to the debtor(s) for the duration of the Chapter 13 case.

E. Counsel shall enter into a written fee agreement, which may provide for future fees in the event of future complications. To the extent those fees exceed \$2,500 total, the attorney must still file a fee application. Additional fees may be paid through the Chapter 13 plan.

F. Nothing in this rule shall preclude additional fees being awarded by the court after the filing of a fee application.

**Procedure #4 – Interim Confirmation Order; Adequate Protection Payments; Distribution Under Plans**

A. Upon the filing of a petition under Chapter 13 an automatic standing Interim Confirmation Order will authorize the Trustee to make disbursements, from funds received from the debtor, within 30 days from the Order for relief, to lessors pursuant to lease contracts and to secured creditors on contracts for which debtor elects to provide adequate protection payments and to post petition payments on obligations pursuant to 11 USC §1326(a)(1). Trustees distributions will be made only when debtor has filed with the Court and served the Trustee and all creditors and parties in interest with a proposed chapter 13 Plan accompanied with a **Notice of Post Petition Payments** listing the lessors and/or secured creditors that will be paid together with their names and the addresses where payments must be sent, the account number(s) and the date(s) payments are due and the amount(s) to be paid.

B. This standing Interim Order of Confirmation will remain in effect until a Final Confirmation Order is issued or until the case is dismissed or converted to another chapter, if that occurs, before a final Confirmation Order is issued.

C. Trustee's distributions under this Interim Confirmation Order are subject to the current trustee fee fixed by the Attorney General pursuant to 28 U.S.C. §586(e).

D. On motion by the debtor, for cause shown, the court may allow debtor to make direct payments to these same lessors and/or creditors.

E. The distribution of any proceeds pursuant to a confirmed plan shall be mailed to the address of the creditor as designated pursuant to Fed.R.Bankr.P. 2002(g).

F. Unless otherwise ordered the Trustee will not make distribution, under an Interim or Final Confirmation Order, to any creditor or party in interest, unless a timely claim is filed and allowed pursuant to 11 U.S.C. §501, 502, 503 and Fed. R. Bankr. P. Rules 3001, 3002(c), 3004 and/or 3005.

1. Unsecured and priority claims: A late filed general unsecured or priority claim will participate in the distribution under an Interim or Final Confirmation Order, subordinated to those claims timely filed and provided for in the plan, unless an objection is filed within 15 days after service or the late filed claim. If an objection is filed, trustee will reserve funds for the claim until an order is entered allowing or disallowing the claim.

2. Secured Claims: A late filed secured claim that is included in the plan will participate in distributions under an Interim or Final Confirmation Order from the next distribution made by the Trustee after the Proof of Claim is filed and served and until the plan base is met or the claim is paid the amount provided in the plan, whichever occurs first.

A late filed secured claim will not be paid if an objection is filed within 15 days after service of the late filed claim; however, Trustee will reserve funds for the claim until an order is entered allowing or disallowing the claim.

G. In the event of a conversion or dismissal following the confirmation of a plan, the Chapter 13 Trustee shall distribute all funds received prior to the effective date of the conversion or dismissal, in accordance with the terms of the confirmed plan.

#### **Procedure #5 - Additional Requirements**

In all cases where the debtor owns real estate or operates a business, a search of public records in the territorial location in which the debtor owns real estate or conducts business shall be conducted in advance of the filing of the petition. Verification of that search shall be made by the debtor's attorney through a statement filed with the bankruptcy schedules.

#### **Procedure #6 - Motions to Dismiss or Convert**

A. Content of Motion. A motion to dismiss a voluntary petition shall set forth the basis in law and reasons for the dismissal. The motion shall also set forth whether any arrangement or agreement has been made with any creditor or other person in connection with such motion to dismiss and the terms thereof.

B. List of Creditors. Any motion by a debtor for dismissal of a voluntary petition shall be accompanied by a list containing the name and complete mailing address of any creditor not previously scheduled, including any creditor who has extended credit since the date of filing of the petition and who remains unpaid at the time of the motion. If there is no such creditor, the motion shall so state.

#### **C. Procedures With Respect to Motions to Dismiss or Convert**

1. A motion filed by a party other than the debtor to convert or dismiss a Chapter 13 case shall be scheduled initially for a hearing before the presiding judge.

2. Upon the filing by the Chapter 13 Trustee of a Certificate of Default Recommending Dismissal of Case based upon plan payment defaults, the debtor shall file and serve a written response accompanied by documentation that at least one full plan payment was sent to the Chapter 13 Trustee's lock box after the date of the Certificate of Default.

a. The debtor's failure to respond in accordance with the requirement of the order will result in the dismissal of the case without a hearing.



b. The response must set forth in detail the basis for denial of the Chapter 13 Trustee's request for dismissal and any prospective plan changes designed to cure the existing default. Proof of one full plan payment must be attached to any response, including an amended or modified plan. The payment must be in the amount provided in the amended or modified plan.

c. If the response proposes that additional payments will be made prior to the hearing scheduled on the motion, verification of such payments must be made to the Court contemporaneously with delivery of payment to the Chapter 13 Trustee.

d. If the response indicates that the plan payment is to be increased in order to cure existing default(s), the new payment must be identified in the response and an amended or modified plan that adjusts the plan payment shall be filed together with the response and served on all parties in interest.

e. If the response expresses the debtor's intent to amend or modify the plan, the amended or modified plan shall be filed along with the response and served on all parties in interest. Upon the filing of the amended or modified plan, the Court shall cancel the hearing previously set for consideration of the Chapter 13 Trustee's request for dismissal and a conciliation conference and plan confirmation hearing will be scheduled. If the debtor fails to make any plan payment prior to the conciliation conference and plan confirmation hearing, on Supplemental Certificate of Default filed and served by the Chapter 13 Trustee the case will be dismissed and the hearing cancelled. The conciliation conference date, time and location may be set in the order that sets the hearing on the Trustee's request to dismiss the case.

**Procedure #7 - Postconfirmation Matters**

A. Notwithstanding any provision in a Chapter 13 plan revesting property of the estate in the debtor, all sales of real and personal property shall be conducted in accordance with the Federal Rules of Bankruptcy Procedure and Local Rules. The notice of sale must state the proposed disposition of sale proceeds.

B. Any postpetition extensions of credit sought by the debtor shall be in the form of a motion subject to the Federal Rules of Bankruptcy Procedure and Local Rules. Such motion shall be served on the Chapter 13 Trustee and all parties in interest.

C. A motion seeking real estate/mortgage financing shall include the following information:

1. identity of the property that is subject to the financing;
2. identity of the source of funds;
3. a description of the terms of the financing including:
  - a whether it will be the first mortgage on the subject property;
  - b the amount of principal borrowed;
  - c the interest rate;
  - d the term of the loan and its amortization schedule;
  - e the amount of the monthly payment; and
  - f all other material terms of the financing agreement;
4. whether the new mortgage financing is to be incorporated into the existing plan or is designed to complete payments under the plan;
5. the status of plan payments at the time that the motion is filed;
6. if a discharge is sought through the financing, whether the provisions of 11 U.S.C. §1328 are met;
7. the date the loan is expected to close; and
8. the effect on the plan of the transaction.

D. A motion seeking approval of motor vehicle financing shall include the following:

1. the type and cost of vehicle being purchased;
2. the source of funds;
3. the terms of financing, including:
  - a. the principal borrowed;
  - b. the interest rate;
  - c. the term of the loan and its amortization schedule;
  - d. the amount of the monthly payment; and
  - e. all other material terms of the financing agreement;
4. how the new payment will be incorporated into the Chapter 13 plan;

5. the status of plan payments at the time the motion is filed;
6. whether any further plan modification is necessary;
7. the date the loan is expected to close;
8. if the treatment of other creditors will be changed as a result of this financing, a statement of the rationale and underlying facts in support of that change;
9. if the plan payment is to be changed as a result of the financing, sufficient facts to demonstrate the feasibility of the plan amendment;
10. whether the standards of 11 U.S.C. §1325(b) are met; and
11. whether and when an amended or modified plan will be filed.

**Procedure #8 - Pleading Special Matters in Motions**

In Chapter 13 cases a motion for relief from stay shall include:

1. an itemized statement of the prepetition default and the amount necessary to cure as of the bankruptcy filing date;
2. a separate itemized statement of the postpetition defaults;
3. an attachment in the form of a Document and Loan History Abstract (Local Form # 27);
4. a statement of the fair market value of the collateral and the basis of the opinion;
5. whether the debtor has equity in the property
6. identification of the original holder of the obligations secured by the mortgage or other security interest and every subsequent transferee including the movant and whether the movant is the holder of that obligation or an agent of the holder; and
7. all other grounds for relief.

**Procedure #9 - Notice of Monthly Payment Changes**

All notices of post petition monthly payment changes must be served on the debtor, debtor's counsel and the Trustee. This applies not only to the mortgage changes but to any monthly distribution made through the plan by the Trustee. The Trustee will not implement and the Court will not enforce a default order increasing the periodic plan payment without the affirmative consent of the Trustee. Default orders shall set a 15 day deadline that requires the debtor to propose an amended plan containing the payment change or to certify that the existing plan payment is sufficient. Any amended plan containing the changed payment shall include the following statement: "The new postpetition monthly payment payable to \_\_\_\_\_ is effective \_\_\_\_\_."

The Chapter 13 Trustee is not liable for late fees that may accrue during the term of the plan. The debtor's counsel (or debtor if pro se) will be responsible for proposing an amended plan including the increased monthly payment if the monthly payment change results in the under-funding of the plan. In the event that the monthly payment change does not result in the under-funding of the plan, debtor's counsel (or debtor if pro se) must file a declaration that he has reviewed the existing plan, recomputed the plan payment, and finds that the existing payment is sufficient to fund the plan even with the new debt added. The declaration filed to indicate that the plan remains adequately funded to pay the new postpetition monthly payment shall include the following statement: "The new postpetition monthly payment payable to \_\_\_\_\_ is \$ \_\_\_\_\_, effective \_\_\_\_\_."

**Procedure #10 - Proofs of Assignment-Secured and Priority Claims**

A. Whenever the Trustee receives notice from an assignor or transferee that a claim has been transferred or whenever the Trustee receives a returned check or any other statement from the creditor indicating that the account has been paid in full, assigned or that the recipient being paid is not owed the claim, the Trustee will promptly place all funds intended for that creditor on reserve.

B. No funds will be distributed to any purported assignee or transferee without a transferred proof of claim filed in accordance with Fed.R.Bankr.P. 3001 (e) and notice issued in accordance therewith by the Clerk of Bankruptcy Court, with an opportunity to object.

C. The transferred proof of claim shall contain sufficient information as to instruct the Chapter 13 Trustee and debtor as to the case number, the claim to be paid, the nature of the collateral supporting the claim and the appropriate address for payment. The assignee or transferee shall attach all assignments and authorizations for loan service applicable to the transfer in order to support the claim. The debtor, debtor's counsel and the trustee shall all be served with copies of the transfer.

### **Procedure #11 - Service on Chapter 13 Trustee**

Filers shall not serve the Chapter 13 trustee with a paper copy of any document filed with the Court including hearing notices. The Clerk sends an electronic file to the Chapter 13 trustee each day that contains documents filed in all cases in which the Chapter 13 trustee is a party. The Chapter 13 trustee does not receive e-mails of case activity by means of the Court's electronic filing system. Filing Users should disregard the statement on the Notice of Electronic Filing that indicates that the Chapter 13 trustee will not receive electronic notification.

### **Procedure #12 – Meeting of Creditors – Timing of Documents and Information to Trustee**

The debtor(s) shall provide the Trustee, at least 7 days before the date set for the §341 meeting of creditors the following:

1. Proof of Current Monthly Income [11 USC §101-10A] – Wage Earner - Pay stubs for the six months prior to the petition date or certification by employer for the same period. A summary describing the gross income and the detailed deductions must be included with the pay stubs.
2. Proof of Current Monthly Income [11 USC §101-10A] – Self Employed – In lieu of a pay stub the self employed debtor shall provide the Trustee, for the period of six months prior to the petition date, copies of bank account statements and copies of an affidavit or declaration under penalty of perjury from debtor indicating his income and explaining the non existence of a bank account and/or credit card statements. (This procedure does not modify debtor's duty to comply with 11 USC §521(a)(1)(B)(iv) or to request a waiver from the Court.)
3. If Debtor is Above the Median Income – debtor shall provide the Trustee documentation demonstrating actual expenses claimed as deductions in Form B22C over the applicable IRS Tables of Expenses.
4. Copy of any and all Income Tax Returns required under applicable law (or, at the election of the debtor, a transcript of such returns) for all taxable periods ending during the (4) four year period ending on the date of the filing of the petition. If a return was not filed, the debtor shall submit statement with the trustee within the same period, which informs the trustee that a tax return is not available and the reason.
5. Domestic Support Obligation Claim Holders – In accordance with LBR 1007-5, debtors in Chapter 13 who are subject to a Domestic Support Obligation, shall, provide name, address and phone numbers for all Domestic Support Obligation claim holders. If residing outside USVI also the name, address and phone number of related DSO Agency.

6. DSO Certification of Current Post Petition Payments – DSO Agency or equivalent Certification that debtor is current on her/his post petition DSO payment obligations
7. The information required in this Procedure is necessary for the Trustee compliance with 11 USC §1302(b)(1), hence debtor's failure to provide the same will amount to a failure to comply with his/her duty to the Trustee under 11 USC §521(a)(3) and may also constitute cause under 11 USC §1307(c) for the dismissal or conversion of the case to another chapter.

#### **Procedure #13 - Continued Conciliation Conferences**

A. If the Chapter 13 trustee determines during the initial conciliation conference that a continuance is necessary, the trustee shall announce to the parties in attendance the time, date, and location of the rescheduled Chapter 13 conciliation conference.

B. The case docket shall reflect the time, date, and location of any rescheduled Chapter 13 conciliation conference date that is continued by the Chapter 13 trustee during the conference. Generally, parties must review the case docket to determine if an entry has been made rescheduling the conciliation conference. Attorneys filing electronically in a case shall receive in electronic form a Notice of Electronic Filing from the Clerk that includes the docket entry reflecting the continued time, date and location of the conciliation conference.

C. This procedure will apply only to plan conciliation conferences continued at the 341 meeting. The deadline for filing objections to the plan will appear in the docket entry.

#### **Procedure #14 - Wage Orders in Chapter 13 Cases**

A. Standard Wage Attachment Motion and Order: When the Standing Chapter 13 Trustee or the Chapter 13 debtor files a motion for a wage attachment order, the motion must substantially conform to the Ex Parte Motion for Order to Pay Trustee Pursuant to Wage Attachment Local Form No. 11 and include an Order to Pay Trustee Pursuant to Wage Attachment.

B. Single Debtor: When a bankruptcy case is filed by one debtor, "Motion No. WO-1" shall be included in the caption of the Motion for Wage Attachment and the proposed order. Any motion to amend shall include "Motion No. WO-1" in the caption.

C. Joint Debtors: When a joint case is filed, the name of the debtor whose wages are to be attached shall be stated in the caption of the motion and in the proposed order. "Motion No. WO-1" shall be included in the caption of the first joint debtor requesting a wage attachment. "Motion No. WO-2" shall be included in the caption of a subsequent motion requesting a wage attachment filed by the other joint debtor.

D. Amendments of Motions for Wage Attachment:

1. Any motion to amend a wage attachment must be at the original motion number for the first or second joint debtor (WO-1 or WO-2) and shall be marked "Amended Motion for Wage Attachment" in the caption.

2. Any motion to amend the amount of the wage deduction shall request only an increase in the amount to be attached.

E. More than One Employer: If a debtor has more than one employer, separate wage attachment motions and proposed orders granting the requested relief must be filed for each employer from whom wages are to be attached. A motion naming more than one employer as a respondent will be dismissed without prejudice for failure to comply with this Local Rule.

F. Calculation of Dollar Amount of the Attachment: If the payroll period is unknown, use monthly basis. If the payroll period is known, calculate as follows:

Weekly (52 pays/year)	amount to be attached multiplied by 12 then divided by 52 (round upwards)
Biweekly (26 pays/year)	amount to be attached multiplied by 12 then divided by 26 (round upwards)
Semi-monthly (24 pays/year)	amount to be attached divided by 2 (round upwards)

**Procedure #15 - Sale Of Property Without Publication**

The publication requirement (GCP #3.F.2) will be waived and a private sale permitted when sufficient funds from the sale will be designated to the payment of 100% of the allowed claims. A stipulation signed by debtor's counsel and the Chapter 13 trustee to sell property without publication shall be served on all parties in interest including the creditors and lien holders.