

**United States Bankruptcy Court
Eastern and Western Districts of Arkansas**

In re

REPEAL OF INTERIM RULES

General Order No. 32

WHEREAS, the Committee on Rules of Practice and Procedure of the Judicial Conference of the United States approved the Interim Rules and recommended that bankruptcy courts adopt the Interim Rules to provide uniform procedures for implementing the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005 (“BAPCPA”);

WHEREAS, the United States Bankruptcy Court for the Eastern and Western Districts of Arkansas (“the Court”) adopted the Interim Rules and modifications thereto via General Orders 25, 26, and 30;

WHEREAS, new bankruptcy rules and amendments to the Bankruptcy Rules will take effect December 1, 2008, and these new and amended rules will supersede the Interim Rules;

WHEREAS, the Administrative Office of the United States Courts has recommended that bankruptcy courts ensure that local rules or orders adopting the Interim Rules are repealed or sunset when the new rules go into effect; accordingly, it is hereby

ORDERED that General Order 30 is **REVOKED**. It is further

ORDERED that General Order 26 is **REVOKED** and that General Order 13 remains **REVOKED**. It is further

ORDERED that General Order 25 is **REVOKED**, except for Interim Rule 5012 contained therein, which remains in effect until such time as a final rule is promulgated and effective. It is further

ORDERED that the following is hereby adopted:

1. Adequate Protection Payments. All adequate protection payments which shall become payable on or after October 17, 2005, pursuant to the requirements of 11 U.S.C. § 1326(a)(1)(B) and (C), shall be paid as follows:

a) The Debtor shall pay directly to the lessor all payments scheduled in a lease of personal property for that portion of the obligation that becomes due after the order for relief. Absent a timely objection to confirmation of the Debtor’s proposed plan, the Debtor is presumed to have made these payments as required by 11 U.S.C. §1326(a)(1)(B).

- b) If the Chapter 13 Plan provides for a §1326(a)(1)(C) preconfirmation adequate protection payment to a creditor holding an allowed claim secured by personal property to the extent that the claim is attributable to the purchase of such property by the Debtor for that portion of the obligation that becomes due after the order for relief is entered, said payment shall be paid through the Chapter 13 Trustee and not directly to the creditor. If no adequate payment is designated in the proposed plan, the payment amount shall be the amount of the proposed plan payment to said secured creditor.
- c) The Debtor's Plan shall separately identify, by creditor name, address, account number, and monthly payment amount, each creditor entitled to receive adequate protection payments pursuant to 11 U.S.C. §1326(a)(1)(B) and (C).
- d) The Chapter 13 Trustee shall distribute pre-confirmation adequate protection payments to any creditor identified by the Debtor's Plan and for which a proof of claim has been filed, as soon as practicable after receipt of said payment from the Debtor.
- e) Even if a party in interest objects to the amount of the proposed pre-confirmation adequate protection payment, pursuant to 11 U.S.C. §1326(a)(3), the Chapter 13 Trustee shall continue to make such payments in accordance with the Plan unless the Court orders otherwise.
- f) All pre-confirmation adequate protection payments paid through the Chapter 13 Trustee shall be subject to the Chapter 13 Trustee's statutory percentage fee set by the United States Trustee, and the Chapter 13 Trustee shall collect such fee at the time of the distribution of the adequate protection payment to the claimant.

2. Rental Payments. To establish uniformity in the procedure for the deposit of rent by Debtors and transmittal of rent to Lessors under 11 U.S.C. §§ 362(l)(1)(B) and 362(l)(5)(D), rent payments shall be paid as follows:

- a) Any deposit of rent made by or on behalf of a Debtor, pursuant to 11 U.S.C. § 362(l)(1)(B), must be in the form of a **certified check or money order payable to the order of the Lessor**, and delivered to the Clerk of Court upon filing of the Petition and the Certification made under 11 U.S.C. § 362(l)(1)(A);
- b) The Debtor must file a copy of the judgment for possession together with the Petition; and
- c) Upon the Clerk's receipt of a **certified check or money order payable to the order of the Lessor**, with a copy of the judgment for possession, tendered by a Debtor pursuant to 11 U.S.C. § 362(l)(1), the Clerk is directed to promptly transmit the certified check or money order to the Lessor, by certified mail/return receipt requested, to the address listed on the Petition.

3. Payment of Filing Fee.

- a) All filing fees in all cases filed under Title 11 in this Court, if paid in installments pursuant to Bankruptcy Rule 1006(b), must be paid in full on or before the date first set for the §341(a) meeting, unless otherwise ordered by the Court. If any fee is not paid as provided herein, the case will be dismissed.
- b) The Court, after notice and a hearing, shall approve or disapprove the Debtor's

application to waive payment of the filing fee as soon as practicable after the case is filed.

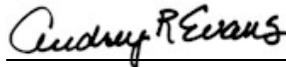
4. Filing Additional Documents.

Debtors who file a voluntary petition under Chapter 7 or Chapter 13 are not required to file with the Court the additional documents required by 11 U.S.C. § 521(a)(1)(B)(iv) (regarding payment advices or evidence of payment, (v) (regarding a statement of the amount of monthly net income), and (vi) (regarding a statement disclosing reasonably anticipated increases in income or expenditures). Upon request in writing made by the United States Trustee, the case Trustee, the Chapter 13 Trustee, or any other party in interest, a bankruptcy Debtor shall provide copies of the excluded documents to the requesting party without further order of this Court or formal discovery request, unless the production of these documents is excused by protective order. Failure to provide the documents required by this paragraph may be grounds for dismissal after a notice and a hearing.

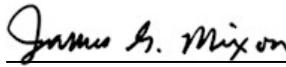
IT IS FURTHER ORDERED that this General Order shall become effective as of **December 1, 2008**

Dated: November 24, 2008

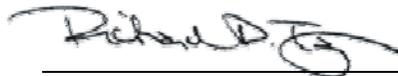
FOR THE COURT



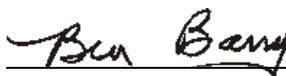
AUDREY R. EVANS
CHIEF U.S. BANKRUPTCY JUDGE



JAMES G. MIXON
U.S. BANKRUPTCY JUDGE



RICHARD D. TAYLOR
U.S. BANKRUPTCY JUDGE



BEN T. BARRY
U.S. BANKRUPTCY JUDGE