

RULES OF BANKRUPTCY PROCEDURE

TITLE VII CHAPTER XIII RULES

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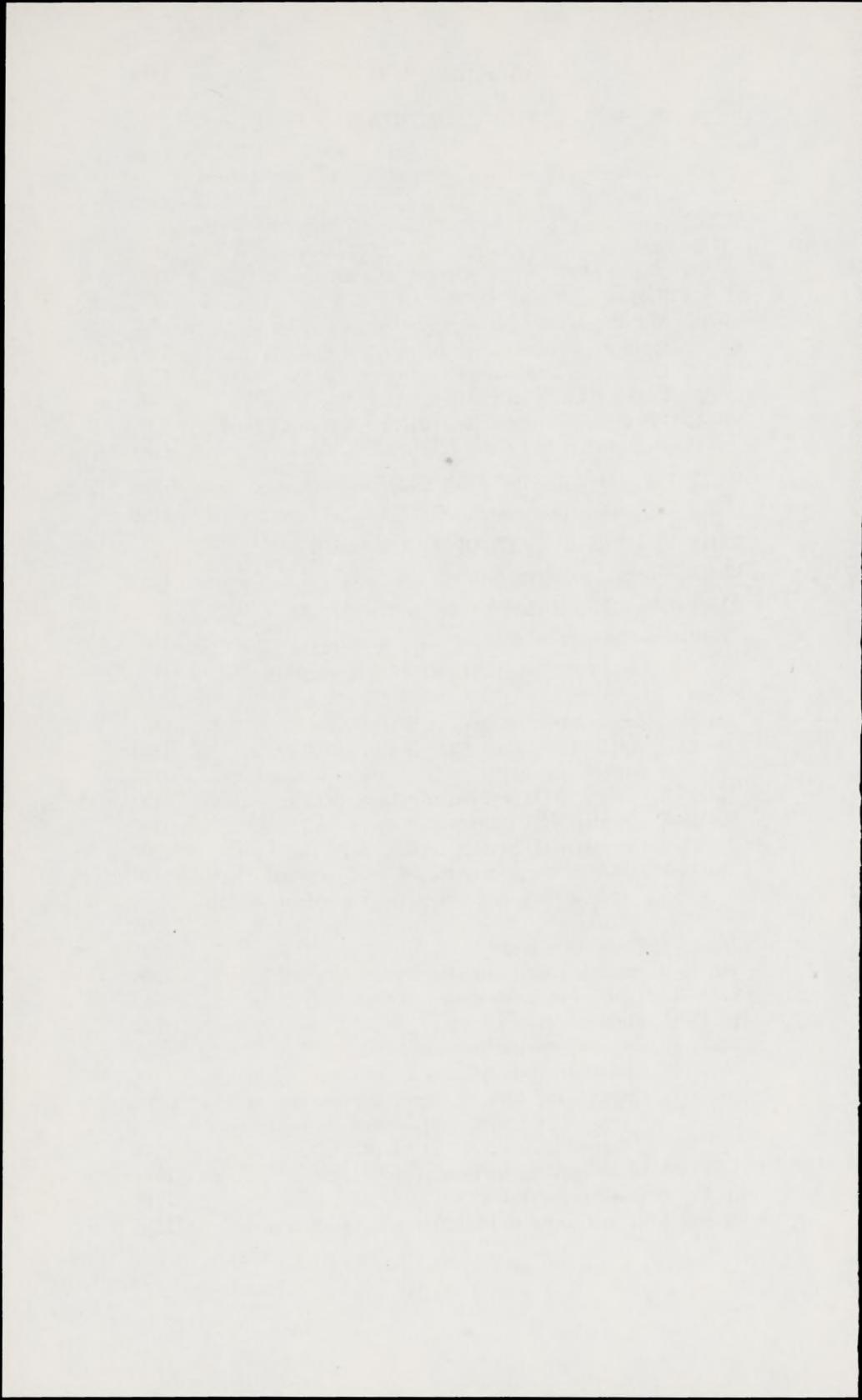
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TITLE VII

CHAPTER XIII RULES

Rule 13-1. Scope of Chapter XIII Rules and forms; short title.

The rules and forms in this Title VII govern the procedure in courts of bankruptcye in cases under Chapter XIII of the Bankruptcy Act. These rules may be known and cited as the Chapter XIII Rules. These forms may be known and cited as the Official Chapter XIII Forms.

Rule 13-2. Meanings of words in bankruptcy rules when applicable in Chapter XIII case.

The following words and phrases used in the Bankruptcye Rules made applicable in Chapter XIII cases by these rules have the meanings herein indicated, unless they are inconsistent with the context:

- (1) "Bankrupt" means "debtor."
- (2) "Bankruptcye" or "bankruptcye case" means "Chapter XIII case."
- (3) "Receiver," "trustee," "receiver in bankruptcye," or "trustee in bankruptcye" means the "trustee" in the Chapter XIII case.

PART I. PETITION AND PROCEEDINGS RELATING THERETO

Rule 13-101. Commencement of Chapter XIII case.

A Chapter XIII case is commenced by filing a petition with the court seeking relief under Chapter XIII of the Act.

Rule 13-102. Reference of cases; withdrawal of reference and assignment.

(a) *Reference.*—Upon the filing of a petition the clerk shall refer the case forthwith to a referee or, if a local rule so provides, to more than one referee concurrently. Thereafter all proceedings in the case shall be before the

referee except as otherwise provided by subdivision (b) of this rule, by Rule 13-407 (c), by Bankruptcy Rule 920, by § 2a (15) of the Act when a complaint seeks an injunction to restrain a court, by § 43c of the Act when the office of the referee is vacant, and by the provisions in the Act and Part VIII of the Bankruptcy Rules governing appeals from judgments of the referee.

(b) *Withdrawal of reference and assignment.*—The district judge may, at any time, for the convenience of parties or other cause, withdraw a case in whole or in part from a referee and either act himself or assign the case or part thereof to another referee in the district.

Rule 13-103. Original petition.

An original petition under Chapter XIII of the Act shall conform substantially to Official Form No. 13-1. An original and 2 copies of the petition shall be filed, unless a different number of copies is required by local rule.

Rule 13-104. Petition in pending bankruptcy case.

If a bankruptcy case is pending by or against the debtor, any petition under Chapter XIII shall be filed therein and may be filed before or after adjudication. Such petition shall conform substantially to Official Form No. 13-4. An original and 2 copies of the petition shall be filed, unless a different number of copies is required by local rule. The filing of the petition shall act as a stay of adjudication or of administration of the estate in bankruptcy. The Chapter XIII case shall be deemed originally commenced as of the date of the filing of the petition in the pending bankruptcy case.

Rule 13-105. Caption of petition.

The caption of every petition shall comply with Bankruptcy Rule 904 (b). In addition the caption shall include the name and social security number of the debtor and all other names used by him within 6 years before the filing of the petition.

Rule 13-106. Filing fees.

(a) *General requirement.*—Unless the petition is filed under Rule 13-104 and the filing fees have been paid or their payment in installments has been ordered pursuant to Bankruptcy Rule 107, and except as otherwise provided in subdivision (b), every petition shall be accompanied by the prescribed filing fees.

(b) Payment of filing fees in installments.

(1) *Application for permission to pay filing fees in installments.*—A petition shall be accepted for filing by the clerk of the district court if accompanied by an application signed by the petitioner for permission to pay all or a part of the filing fees in installments. The application shall state that the applicant is unable to pay the filing fees except in installments, the proposed terms of such installment payments, and that the applicant has paid no money and transferred no property to his attorney for services in connection with the Chapter XIII case or any pending bankruptcy case. The application shall be filed in duplicate, one copy for the clerk and one for the bankruptcy judge.

(2) *Action on application.*—At or prior to the first meeting of creditors, if any part of the filing fees remains unpaid, the court after a hearing may make an order permitting payment of the filing fees in installments under the plan or otherwise to the clerk of the district court, and fixing the number of installments and the amount and date of payment of each installment. The number of installments permitted shall not exceed 4, and the final installment shall be payable not later than 4 months after the filing of a petition under Rule 13-103 or Rule 13-104. For cause shown, however, the court may extend the time for payment of any installment to a date not later than 6 months after the date of filing of such petition.

(3) *Postponement of attorney's fees.*—Where payment of filing fees in installments is authorized the debtor shall

make no payment and transfer no property to his attorney. Any award of compensation to the attorney for services in connection with the Chapter XIII case or any pending bankruptcy case shall be governed by Bankruptcy Rule 219 and shall be paid pursuant to Rule 13-309.

Rule 13-107. Chapter XIII statement.

(a) *Chapter XIII statement required.*—The debtor shall file with the court a Chapter XIII Statement prepared in the manner prescribed by Official Form No. 13-5. The number of copies of the statement shall correspond to the number of copies of the petition required by these rules.

(b) *Time limits.*—The Chapter XIII Statement shall be filed with the petition or within 10 days thereafter. On application, the court may grant up to 10 additional days for filing the statement; any further extension may be granted only for cause shown and on such notice as the court may direct.

Rule 13-108. Verification of petitions and Chapter XIII statements.

All petitions, Chapter XIII Statements, and amendments thereto shall be verified.

Rule 13-109. Amendments of petitions and Chapter XIII statements.

A petition or a Chapter XIII Statement may be amended as a matter of course at any time before the case is closed. The court may, on application or motion of any party in interest or on its own initiative, order any petition or statement to be amended. Every amendment under this rule shall be filed in the same number as required of the original paper, and the court shall give notice of the amendment to such persons as it may designate.

*Rule 13-110. Venue and transfer.**(a) Proper venue.*

(1) *Single petitions.*—A single petition may be filed pursuant to Rule 13-103 in the district where the petitioner has his principal place of employment, residence, or domicile. A single petition filed pursuant to Rule 13-104 shall be filed with the court in which the bankruptcy case is pending.

(2) *Joint petitions.*—A joint petition authorized by Rule 13-111 (a) and filed pursuant to Rule 13-103 may be filed in a district of proper venue for either petitioner under paragraph (1) of this subdivision. A joint petition authorized by Rule 13-111 (a) and filed pursuant to Rule 13-104 may be filed in a court in which either petitioner is a bankrupt in a pending bankruptcy case.

(b) Transfer of cases; dismissal or retention when venue improper.

(1) *When venue proper.*—Although a petition is filed in accordance with subdivision (a) of this rule, the court may, after hearing on notice to the petitioner or petitioners and such other persons as it may direct, in the interest of justice and for the convenience of the parties, transfer the case to any other district. The transfer may be ordered at or before the first meeting of creditors either on the court's own initiative or on motion of a party in interest but thereafter only on a timely motion.

(2) *When venue improper.*—If a petition is filed in a wrong district, the court may, after hearing on notice to the petitioner or petitioners and such other persons as it may direct, dismiss the case or, in the interest of justice and for the convenience of the parties, retain the case or transfer it to any other district. Such an order may be made at or before the first meeting of creditors either on the court's own initiative or on motion of a party in interest but thereafter only on a timely motion. Notwithstanding the foregoing, the court may without a hearing retain a case filed in a wrong district if no objection is raised.

(c) *Procedure when petitions involving the same debtor are filed in different courts.*—If petitions commencing Chapter XIII cases or a Chapter XIII case and any other case under the Act are filed in different districts, by or against the same debtor, the court in which the first petition is filed shall, after hearing on motion and notice to the petitioners and such other persons as the court may designate, determine the court in which the case should proceed as a Chapter XIII case in the interest of justice and for the convenience of the parties. The proceedings on the other petitions shall be stayed by the courts in which such petitions have been filed until such determination is made. Thereafter all the courts in which petitions have been filed shall proceed in accordance with the determination.

(d) *Reference of transferred cases.*—A case transferred under this rule shall, in accordance with Rule 13-102 (a), be referred by the clerk of the district court to which it has been transferred.

Rule 13-111. Joint proceedings of husband and wife.

(a) *Joint petitions.*—A husband and wife eligible to file single petitions may file a joint petition pursuant to Rule 13-103 or, if a petition in bankruptcy has been filed by or against either or both of them, in a pending bankruptcy case pursuant to Rule 13-104.

(b) *Joint administration.*—If a joint petition is filed pursuant to subdivision (a) of this rule the court shall, or if single petitions by a husband and wife are pending in the same court, the court may order a joint administration of the estates and, while protecting the rights of the parties under the Act, may make such other orders, including the appointment of a single trustee, as may tend to avoid unnecessary costs and delay.

Rule 13-112. Dismissal or conversion to bankruptcy without confirmation of plan; evidence of title.

(a) *Voluntary dismissal or conversion to bankruptcy;*

dismissal or conversion for want of prosecution, nonpayment of filing fees, or denial of confirmation.—On application of the debtor to dismiss the case or to convert it to bankruptcy at any time prior to confirmation, or for want of prosecution or nonpayment of any installment of the filing fees as ordered pursuant to Rule 106 and after hearing on notice to the debtor, or if no plan is confirmed, the court shall—

(1) if the petition was filed pursuant to Rule 13-104, enter an order directing that the bankruptcy case proceed; or

(2) if the petition was filed pursuant to Rule 13-103, enter an order dismissing the case or, with the written consent of the debtor, enter an order adjudicating him a bankrupt.

(b) *Distribution of payments.*—If a case is dismissed under this rule without payment in full of the filing fees, any payments made shall be distributed in the same manner and proportions as if the filing fees had been paid in full.

(c) *Notice of dismissal to creditors.*—Promptly after entry of an order of dismissal under this rule, notice thereof shall be given to creditors in the manner provided in Rule 13-203. To enable the court to give such notice, the debtor, if he has not already filed a Chapter XIII Statement, shall file a list of all his creditors with their addresses within the time fixed by the court. If the debtor fails to file such list the court may by order provide for the preparation of the list in such manner as may be appropriate.

(d) *Effect of dismissal.*—Unless the order specifies to the contrary, dismissal of a case under this rule is without prejudice. A certified copy of the order of dismissal under this rule shall constitute conclusive evidence of the re vesting of the debtor's title to his property.

PART II. PLAN AND PROCEEDINGS RELATED THERETO;
NOTICES TO CREDITORS; CREDITORS' MEETINGS;
TRUSTEES; EXAMINATIONS; ATTORNEYS
AND ACCOUNTANTS

Rule 13-201. Filing of plan.

(a) *Time for filing plan; identification of plans.*—The debtor may file a plan with his petition. If a plan is not filed with the petition it shall be filed within 10 days thereafter and such time shall not be further extended except for cause shown and on such notice to such persons as the court may direct. Each plan filed and any other plans for which acceptances of creditors are solicited must be appropriately identified.

(b) *Provision of copies.*—The debtor, if required by the court, shall promptly furnish a sufficient number of copies to enable the court to include a copy of the plan with each notice of the first meeting of creditors pursuant to Rule 13-204 (a)(1).

Rule 13-202. Acceptance or rejection of plan.

(a) *Time for acceptance or rejection; effect of failure to accept or reject.*—At any time prior to the conclusion of the first meeting of creditors each creditor filing a claim may file with the court his acceptance or rejection of the plan or summary thereof which accompanies the notice of first creditors' meeting and, upon failure to do so, any creditor filing a claim shall be deemed to have accepted such plan. For cause shown at any time before the court determines that the plan or any modification thereof has been accepted by the number and amount of creditors required for confirmation, the court may allow any creditor who has filed an acceptance or a rejection to change or withdraw it. An acceptance or rejection may be included in a creditor's proof of claim. Acceptances may be obtained by the debtor before or after the filing of the petition and may be filed by him with the court on behalf of the accepting creditors.

(b) *Form of acceptance or rejection.*—An acceptance or rejection of a plan shall be in writing, shall identify the plan accepted or rejected, and shall be signed by the creditor.

(c) *Acceptance or rejection by partially secured creditor.*—A creditor whose claim has been allowed in part as a secured claim and in part as an unsecured claim shall be entitled to accept or reject a plan in both capacities unless his secured claim is not dealt with by the plan, in which event he shall be entitled to accept or reject only as an unsecured creditor.

Rule 13-203. Notices to creditors and the United States.

(a) *Ten-day notices to all creditors.*—Except as provided in subdivision (e) of this rule, the court shall give all creditors, including creditors secured by estates in real property or chattels real, at least 10 days' notice by mail of (1) a meeting of creditors and (2) the hearing on confirmation of a plan.

(b) *Other notices to all creditors.*—The court shall give notice by mail to all creditors, including creditors secured by estates in real property or chattels real, of (1) the dismissal of the case pursuant to Rule 13-112 or 13-215; (2) the time fixed, if any, for filing rejections of a modification of a plan pursuant to Rule 13-212; (3) the time fixed, if any, for filing a complaint objecting to the debtor's discharge pursuant to Rule 13-404 (b)(1); (4) the order of discharge as provided in Rule 13-404 (e); (5) the waiver, denial, or revocation of a discharge as provided in Rule 13-406; and (6) the time allowed for filing a complaint to determine the dischargeability of a debt pursuant to § 17c (2) of the Act as provided in Rule 13-407 (a)(2).

(c) *Addresses of notices.*—All notices to which a creditor is entitled under these rules shall be addressed to the creditor as he or his duly authorized agent may direct in a request filed with the court or delivered to the trustee; otherwise, to the creditor at the address shown

in the Chapter XIII Statement or, if a different address is stated in a proof of claim duly filed, then at the address so stated.

(d) *Notices to the United States.*—Copies of notices required to be mailed to all creditors under these rules shall be mailed (1) to the district director of internal revenue for the district in which the case is pending and (2) whenever the Chapter XIII Statement or any other paper filed in the case discloses a debt to the United States other than one for taxes, to the United States attorney for the district in which the case is pending and, if disclosed by the filed papers, to the department, agency or instrumentality of the United States through which the debtor became so indebted.

(e) *Notice by publication.*—If the court finds that it is impracticable to give notice to creditors by mail as provided in this rule or that it is desirable to supplement such notice, the court may order publication thereof.

(f) *Caption.*—The caption of every notice given under this rule shall comply with Rule 13-105.

Rule 13-204. Meetings of creditors.

(a) *First meeting.*

(1) *Date and place.*—Promptly after the filing of a plan the court shall call a first meeting of creditors, but if there is an application or motion to dismiss or to convert to bankruptcy under Rule 13-112, or an appeal from or a motion to vacate an order entered under that rule, the court may delay fixing a date for such meeting. A copy or a summary of the last filed plan and a form of proof of claim containing provision for acceptance or rejection of the plan shall accompany the notice of the meeting. The notice shall state that any secured claim not filed on or before the first date set for the first meeting of creditors or within such extended time as the court may fix will not be treated as a secured claim for purposes of voting and distribution and that any creditor filing a claim who has not filed a written acceptance or

rejection of the plan pursuant to Rule 13-202 prior to the conclusion of the first meeting of creditors shall be deemed to have accepted the plan. The meeting may be held at a regular place for holding court or at any other place within the district more convenient for the parties in interest.

(2) *Agenda*.—The bankruptcy judge shall preside over the transaction of all business at the first meeting of creditors, including the examination of the debtor. He shall, when necessary, allow and disallow claims, determine which claims are unsecured and which are secured and to what extent, which claims have voted for and against acceptance of the plan, and may rule on confirmation of the plan pursuant to Rule 13-213 if notice of the hearing on confirmation was included in the notice of the meeting.

(b) *Special meetings*.—The court may call a special meeting of creditors on application or on its own initiative.

Rule 13-205. Appointment and qualification of trustees.

(a) *Standing trustees*.

(1) *Appointment*.—Whenever in their judgment the number of Chapter XIII cases is sufficient to make such appointment feasible, the referees shall appoint one or more standing trustees to whom all Chapter XIII cases shall be assigned without further order. The referees may terminate the appointment of a standing trustee at any time.

(2) *Qualification*.—Every standing trustee shall, before entering upon the performance of his official duties and within 5 days after his appointment or within such further time as the referees may permit, qualify by filing a blanket bond in favor of the United States, conditioned on the faithful performance of his official duties in all cases. Unless otherwise provided by local rule, the order appointing the standing trustee, the bond, and the order approving the bond, shall be filed with the clerk of the court.

(b) *Appointment of trustee where no standing trustee.*

(1) *Appointment.*—Where no standing trustee has been appointed, or in any case for cause shown, the court shall appoint a trustee at the time of, or prior to, confirmation of a plan, and shall immediately notify the trustee of his appointment. The court shall also inform him as to how he may qualify, including the penal sum of his bond, if required, and shall require him forthwith to notify the court of his acceptance or rejection of the office.

(2) *Qualification.*—Every trustee appointed under this subdivision (b) shall, before entering upon the performance of his official duties and within 5 days after his appointment, qualify by filing a bond in favor of the United States, conditioned on the faithful performance of his official duties, or by giving such other security as may be approved by the court. The court may authorize a blanket bond in favor of the United States conditioned on the faithful performance of official duties by a trustee in more than one case or by more than one trustee. A trustee for whom a blanket bond has been filed shall qualify by filing his acceptance of his appointment in lieu of the bond. Unless otherwise provided by local rule, a bond given under this subdivision (b) shall be filed with the referee.

(c) *Amount of bond and sufficiency of surety.*—The referees appointing a standing trustee under subdivision (a) of this rule shall determine the amount of his bond and the sufficiency of his sureties or may authorize the bond to be secured by securities designated in Title 6, U. S. C., § 15, which securities shall be deposited in the custody of a Federal Reserve Bank or branch thereof designated by the referees and shall be subject to the order of the referees. The court shall determine the amount of the bond and the sufficiency of the surety for each bond filed under subdivision (b) of this rule.

(d) *Eligibility.*—A trustee shall have no interest adverse to the estate and shall be competent to perform

the duties of his office. If an individual, he shall have a residence or office in the state in which the court appointing him sits or in any adjacent state, and, if a corporation, it shall be authorized by its charter or by law to act as trustee and have an office in the state in which the court appointing it sits.

(e) *Proceeding on bond.*—A proceeding on the bond of a trustee may be brought by any party in interest in the name of the United States for the use of the person injured by the breach of the condition. No proceeding shall be brought on a trustee's bond more than 2 years after his discharge in a particular case.

(f) *Evidence of qualification.*—Whenever evidence of the qualification of a standing trustee or any other trustee who has filed a blanket bond is required, the court may certify that he has been designated as a trustee in a particular case. Such a certificate, or a certified copy of the order approving the bond or other security given by any other trustee under this rule, shall constitute conclusive evidence of his appointment and qualification.

Rule 13-206. Examination.

(a) *Examination on Application.*—Upon application of any party in interest, the court may order the examination of any person. The application shall be in writing unless made during a hearing or examination or unless a local rule otherwise provides.

(b) *Examination of debtor at first meeting.*—At the first meeting of creditors, the court shall publicly examine the debtor or cause him to be examined and may permit any party in interest to examine the debtor.

(c) *Bankruptcy judge to preside.*—The bankruptcy judge shall preside at any examination under subdivision (b) of this rule.

(d) *Scope of examination.*—The examination under subdivisions (a) and (b) of this rule may relate only to the acts, conduct, or property of the debtor, or to any

matter which may affect the administration of the debtor's estate, or to his right to discharge.

(e) *Compelling attendance for examination and production of documentary evidence.*—The attendance of any person for examination and the production of documentary evidence may be compelled in accordance with the provisions of Bankruptcy Rule 916 by the use of a subpoena for a hearing or trial.

(f) *Place of examination of debtor.*—Without issuing a subpoena, the court may for cause shown and on such terms as it may impose order the debtor to be examined under subdivision (a) of this rule at any place it designates, whether within or without the district wherein the case is pending.

(g) *Mileage.*—A person other than a debtor shall not be required to attend as a witness under this rule unless his lawful mileage and fee for one day's attendance shall be first tendered to him. If the debtor resides over 100 miles from the place of examination when he is required to appear for an examination under subdivision (a) of this rule, he shall be tendered mileage allowed by law to a witness for any distance over 100 miles from his residence at the date of the filing of the first petition commencing a case under the Act, or his residence at the time he is required to appear for examination, whichever is the lesser.

Rule 13-207. Employment and compensation and reimbursement of attorneys and accountants governed by bankruptcy rules.

The employment of attorneys and accountants for the trustee and the authorization of the trustee to act as an attorney or accountant for the estate shall be governed by Bankruptcy Rule 215. The compensation and reimbursement of expenses of such an attorney or accountant for an estate and the compensation and reimbursement of the debtor's attorney shall be governed by Bankruptcy Rule 219.

Rule 13-208. Duty of trustee to keep records, make reports, and furnish information.

A trustee shall: (1) file a complete inventory of the property of the debtor if and as the court directs; (2) keep a detailed record of all receipts, including the source or other identification of each receipt, and of all disbursements; (3) forthwith file with the court notices of creditors' addresses delivered to the trustee pursuant to Rule 13-203 (c); (4) furnish information concerning the estate and its administration when reasonably requested by a party in interest, except as otherwise directed by the court; and (5) file a final report and account containing or incorporating by reference a detailed statement of receipts and disbursements.

Rule 13-209. Compensation or reimbursement of trustees.

(a) *Application for compensation or reimbursement.*—A trustee, other than a standing trustee, seeking compensation for services and any trustee seeking reimbursement of necessary expenses from the estate shall file with the court an application setting forth a detailed statement of (1) the services rendered and expenses incurred and (2) the amounts requested. An application for compensation shall include a statement by the applicant as to what payments have theretofore been made or promised to him for services rendered or to be rendered in any capacity whatsoever in connection with the case, the source of the compensation so paid or promised, whether any compensation he has previously received has been shared and whether an agreement or understanding exists between the applicant and any other person for the sharing of compensation received or to be received for services rendered in or in connection with the case, and the particulars of any such sharing of compensation or agreement or understanding therefor, except that the details of any agreement by the applicant for the sharing of his compensation as a member or

regular associate of a firm of lawyers or accountants shall not be required.

(b) *Factors in allowing compensation.*—The compensation allowable by the court to a standing or other trustee for services rendered in the administration of the debtor's estate shall be reasonable, and in making allowances the court shall give due consideration to the nature, extent, and value of the services rendered as well as to the conservation of the estate and the interests of the creditors. The compensation allowed by the Act to a standing or other trustee shall be in full compensation for the services performed by him as required by the Act and by these rules, but shall not be deemed to cover expenses necessarily incurred in the performance of his duties and allowed upon the settlement of his accounts. Additional compensation may be allowed for legal or other services not required of him by the Act or by these rules, but only if such services were authorized by order of the court before they were rendered.

(c) *Restriction on sharing of compensation.*—Except as herein provided, a standing or other trustee rendering services in a Chapter XIII case or in connection with such a case shall not in any form or guise share or agree to share the compensation paid or allowed him from the estate for such services with any other person, nor shall he share or agree to share in the compensation of any other person rendering services in a case under the Act or in connection with such a case. This rule does not prohibit an attorney or accountant from sharing his compensation as trustee with a member or regular associate of his firm, or from sharing in the compensation received by his firm or by any other member or regular associate thereof. If a person violates this subdivision, the court may deny him compensation, may hold invalid any transaction subject to examination under Rule 13-210 to which he is a party, or may enter such other order as may be appropriate.

Rule 13-210. Examination of debtor's transactions with his attorney.

(a) *Disclosure of compensation paid or promised to attorney for debtor.*—Every attorney for a debtor, whether or not he applies for compensation, shall file with the court on or before the first date set for the first meeting of creditors, or at such other time as the court may direct, a statement setting forth the compensation paid or promised him for the services rendered or to be rendered in connection with the case, the source of the compensation so paid or promised, and whether the attorney has shared or agreed to share such compensation with any other person. The statement shall include the particulars of any such sharing or agreement to share by the attorney, but the details of any agreement for sharing of his compensation with a member or regular associate of his law firm shall not be required.

(b) *Payment or transfer to attorney in contemplation of bankruptcy or Chapter XIII case.*—On motion by any party in interest, or on the court's own initiative, the court may examine any payment of money or any transfer of property by the debtor, made directly or indirectly and in contemplation of the filing of a petition under the Act by or against him, to an attorney for services rendered or to be rendered.

(c) *Payment or transfer to attorney, or agreement therefor, after case commenced.*—On motion by any party in interest, or on the court's own initiative, the court may examine any payment of money or any transfer of property, or any agreement therefor, by the debtor to an attorney after the filing of the first petition commencing a case under the Act, whether the payment or transfer is made or is to be made directly or indirectly, if the payment, transfer, or agreement therefor is for services in any way related to such case.

(d) *Invalidation of unreasonable payment, transfer, or obligation.*—Any payment, transfer, or obligation exam-

ined under subdivision (b) or (c) of this rule shall be held valid only to the extent of a reasonable amount as determined by the court. The amount of any excess found to have been paid or transferred under subdivision (b) or (c) may be recovered and returned to the debtor and any obligation found to be excessive under subdivision (c) may be cancelled to the extent of the excess.

Rule 13-211. Removal of trustee; substitution of successor.

(a) *Removal for cause.*—On application of any party in interest or on the court's own initiative and after hearing on notice, the court may remove a trustee from a case for cause and appoint a successor.

(b) *Substitution of successor.*—When a trustee dies, resigns, is removed, or otherwise ceases to hold office during the pendency of a Chapter XIII case, his successor is automatically substituted as a party in any pending action, proceeding, or matter without abatement.

Rule 13-212. Modification of plan before confirmation.

The debtor may file a modification of the plan which accompanies, or a summary of which accompanies, the notice of the first meeting of creditors at any time before the plan is confirmed. The debtor may also submit with the modification written acceptances thereof by creditors. If the court finds that the modification does not materially and adversely affect the interest of any creditor who has not in writing accepted it, the modification shall be deemed accepted by all creditors who have accepted or are deemed to have accepted the plan. Otherwise, the court shall enter an order that the plan as modified shall be deemed to have been accepted by any creditor who accepted or is deemed to have accepted the plan and who fails to file with the court within such reasonable time as shall be fixed in the order a written rejection of the modification. Notice of such order, accompanied by a copy or a summary of the proposed modification,

shall be given to creditors in the manner specified in Rule 13-203 and to other parties in interest at least 10 days before the time fixed in such order for filing rejections of the modification. The debtor shall, if required by the court, furnish a sufficient number of copies of the modification to enable the court to transmit a copy with each such notice.

Rule 13-213. Confirmation of plan; payment order; evidence of title.

(a) *Confirmation of plan.*—After hearing on notice to the debtor and to all creditors in the manner specified in Rule 13-203, which hearing may occur at the first meeting of creditors, the court shall rule on confirmation of the plan unless, for cause shown, the court grants a reasonable extension of time for filing written objections to confirmation and sets a later date for hearing on confirmation. Objections to confirmation of the plan may be filed in writing at any time prior to confirmation. An objection to confirmation on the ground that the debtor has committed any act or failed to perform any duty which would be a bar to the discharge of a bankrupt is governed by Part VII of the Bankruptcy Rules. Any other objection is governed by Bankruptcy Rule 914. If no objection is timely filed the court may find, without taking proof, that the debtor has not committed any act or failed to perform any duty which would be a bar to the discharge of a bankrupt and that the plan has been proposed and its acceptance procured in good faith and not by any means, promises, or acts forbidden by law. An order of confirmation shall substantially comply with Official Form No. 13-15.

(b) *Payment order.*—An order of confirmation or a separate payment order shall specify, if not specified in the confirmed plan, the amount of payments to be made under the plan and shall specify either the manner in which such payments are to be made by the debtor or the manner in which such payments are to be obtained

from the employer of the debtor. Such order directed to an employer may be enforced or implemented in the manner provided for the enforcement of judgments or, in an appropriate case, by injunction or contempt proceedings.

(c) *Evidence of title.*—A certified copy of the plan, and of the order confirming the plan, shall constitute conclusive evidence of the revesting of the debtor's title to his property.

Rule 13-214. Modification of plan after confirmation; revocation of confirmation.

(a) *Modification of plan after confirmation.*—At any time during the period of a confirmed plan providing for extension, on application of any party in interest and after hearing on notice to such parties as the court may designate, the court may increase or reduce the amount of any of the installment payments provided for by the plan or extend or shorten the time for such payments, or otherwise modify the confirmation or payment order, where it finds that the circumstances of the debtor so warrant or require, or may alter the amount of the distribution to any creditor provided for by the plan to the extent necessary to take account of any payment to or satisfaction of such creditor outside the plan.

(b) *Revocation of confirmation.*—Any party in interest may, at any time within 6 months after a plan has been confirmed, file a complaint pursuant to the Act to revoke the confirmation as procured by fraud. When such a complaint is filed the court shall reopen the case if necessary and conduct a hearing on notice to all parties in interest. The procedure shall be governed by Part VII of the Bankruptcy Rules. If the confirmation is revoked—

(1) The court may dispose of the case pursuant to subdivision (a) of Rule 13-215; or

(2) The court may receive proposals of the debtor to modify the plan. Thereafter, the procedure for modifica-

tion and for confirmation of a plan as modified shall follow Rules 13-212 and 13-213, except that acceptance of the plan shall not be required by any creditor who has participated in the fraud and such creditor shall not be counted in determining the number and amount of the claims of creditors whose acceptance is required. If a modified plan is not confirmed, the court shall dispose of the case pursuant to subdivision (a) of Rule 13-215.

Rule 13-215. Dismissal or conversion to bankruptcy after confirmation of plan.

(a) Voluntary dismissal or conversion to bankruptcy after confirmation; dismissal or conversion for default or upon revocation of confirmation or termination of plan.—After confirmation, (A) on application of the debtor to dismiss the case or to convert it to bankruptcy, or (B) on application of any party in interest if a debtor defaults in any of the terms of the plan or in the payment of any installment of the filing fees due after confirmation, or if confirmation is revoked for fraud and a modified plan is not confirmed pursuant to Rule 13-214 (b)(2), or if the plan terminates by reason of the happening of a condition specified therein, the court shall reopen the case if necessary and—

(1) if the petition was filed pursuant to Rule 13-103 and if confirmation has been revoked for fraud chargeable to the debtor, the court shall enter an order dismissing the case or adjudicating the debtor a bankrupt; or

(2) in any other case in which the petition was filed pursuant to Rule 13-103, the court shall enter an order dismissing the case or, with the written consent of the debtor, shall enter an order adjudicating him a bankrupt; or

(3) in any case in which the petition was filed pursuant to Rule 13-104, the court shall enter an order directing that the bankruptcy case proceed.

(b) If a case is dismissed under this rule without payment in full of the filing fees, any payments made shall

be distributed in the same manner and proportions as if the filing fees had been paid in full.

(c) *Notice of dismissal to creditors.*—Promptly after entry of an order of dismissal under this rule, notice thereof shall be given to creditors in the manner provided in Rule 13-203.

(d) *Effect of dismissal.*—Unless the order specifies to the contrary, dismissal of a case under this rule on the ground of fraud is with prejudice and dismissal on any other ground is without prejudice. A certified copy of the order of dismissal under this rule shall constitute conclusive evidence of the revesting of the debtor's title to his property.

PART III. CLAIMS AND DISTRIBUTION TO CREDITORS

Rule 13-301. Proof of claim.

(a) *Form and content; who may execute.*—A proof of claim shall consist of a statement in writing setting forth a creditor's claim and setting forth facts showing that such claim is free from any charge forbidden by applicable law. Except as provided in Rules 13-303 and 13-304, a proof of claim shall be executed by the creditor or by his authorized agent. Except as provided in Rule 13-303, a proof of claim shall conform substantially to Official Form No. 13-9.

(b) *Evidentiary effect.*—A proof of claim executed and filed in accordance with these rules shall constitute *prima facie* evidence of the validity and amount of the claim, but any creditor may be required by the court to establish, by affidavit or in such other manner as the court may require before allowance of the claim, that it is free from any charge forbidden by applicable law.

Rule 13-302. Filing proof of claim.

(a) *Manner of filing.*—In order for his claim to be allowed, every creditor, including the United States, any

state, or any subdivision thereof, must file a proof of claim in accordance with this rule, except as provided in Rules 13-303, 13-304, and 13-305.

(b) *Place of filing.*—A proof of claim shall be filed in the place prescribed by Bankruptcy Rule 509.

(c) *Claim founded on a writing; perfection of security interests.*—When a claim, or an interest in property of the debtor securing the claim, is founded on a writing, the original or a duplicate shall be filed with the proof of claim unless the writing has been lost or destroyed. If lost or destroyed, a statement of the circumstances of the loss or destruction shall be filed with the claim. If a security interest is claimed, the proof of claim shall be accompanied by satisfactory evidence that the security interest has been perfected.

(d) *Transferred claim.*

(1) *Unconditional transfer before proof filed.*—If a claim has been unconditionally transferred before proof of the claim has been filed, the proof of such claim may be filed only by the transferee. If such claim has been transferred after the filing of the first petition commencing a case under the Act, it shall be supported by (A) a statement of the transferor acknowledging the transfer and stating the consideration therefor or (B) a statement of the transferee why it is impossible to obtain such a statement from the transferor.

(2) *Unconditional transfer after proof filed.*—If a claim has been unconditionally transferred after proof thereof has been filed, proof of the terms of the transfer shall be filed, and the court shall immediately notify the original claimant by mail of the filing of such proof of transfer and that objection thereto, if any, must be made within 10 days of the mailing of the notice or within such further time as the court may allow. If the court finds, after hearing if necessary, that the claim has been unconditionally transferred, it shall make an order substituting the transferee for the original claimant.

If it does not so find, the court shall make such order as may be appropriate.

(3) *Transfer of claim for security before proof filed.*—If a claim has been transferred for security before proof of the claim has been filed, the transferor or transferee or both may file a proof of claim for the full amount. The proof shall be supported by a statement setting forth the terms of the transfer and, if the claim was so transferred after the filing of the first petition commencing a case under the Act, by (A) a statement of the transferor acknowledging the transfer and stating the consideration therefor, or (B) a statement of the transferee why it is impossible to obtain such a statement from the transferor. If either the transferor or the transferee files a proof of claim, the court shall immediately notify the other by mail that he may join in the claim so filed. If both transferor and transferee file proofs of the same claim, the proofs shall be consolidated. After hearing if necessary, the court shall make such orders respecting allowance and voting of the claim, payment of dividends thereon, and participation in the plan and in the administration of the estate as may be appropriate.

(4) *Transfer of claim for security after proof filed.*—If a claim has been transferred for security after proof thereof has been filed, proof of the terms of the transfer shall be filed, and the court shall immediately notify the original claimant by mail of the filing of such proof of transfer and that objection thereto, if any, must be made within 10 days of the mailing of the notice or within such further time as the court may allow. After hearing if necessary, the court shall make such orders respecting allowance and voting of the claim, payment of dividends thereon, and participation in the plan and in the administration of the estate as may be appropriate.

(e) *Time for filing.*

(1) *Secured claims.*—A secured claim, whether or not listed in the Chapter XIII Statement, must be filed on

or before the first date set for the first meeting of creditors in the Chapter XIII case unless the court, on application before the expiration of that time and for cause shown, shall grant a reasonable, fixed extension of time. Any claim not properly filed by the creditor within such time shall not be treated as a secured claim for purposes of voting and distribution in the Chapter XIII case.

(2) *Unsecured claims.*—Unsecured claims, whether or not listed in the Chapter XIII Statement, must be filed within 6 months after the first date set for the first meeting of creditors in the Chapter XIII case, except as follows:

(A) On application before the expiration of such period and for cause shown, the court may grant a reasonable, fixed extension of time for the filing of a claim by the United States, a state, or a subdivision thereof.

(B) In the interest of justice the court may grant an infant or incompetent person without a guardian up to an additional 6 months for filing a claim.

(C) A claim which arises in favor of a person or becomes allowable because of a judgment for the recovery of money or property from such person or because of a judgment denying or avoiding a person's interest in property may be filed within 30 days after such judgment becomes final, but if the judgment imposes a liability which is not satisfied, or a duty which is not performed, within such period or such further time as the court may permit, the claim shall not be allowed.

(f) *Claims filed in superseded bankruptcy case.*—Where the petition is filed pursuant to Rule 13-104, all claims filed in the superseded bankruptcy case shall be deemed filed in the Chapter XIII case if amended, within the time specified in subdivision (e)(1) of this rule for secured claims, or within the time specified in subdivision (e)(2) of this rule for other claims, as appropriate, to conform to paragraph 4 of Official Form No. 13-9 or No. 13-10, as appropriate.

Rule 13-303. Filing of claims by debtor or trustee.

If a creditor fails to file his claim on or before the first date set for the first meeting of creditors in the Chapter XIII case, the debtor or the trustee may execute and file a proof of such claim on Official Form No. 13-10 in the name of the creditor. Such claim shall be treated as a filed claim only for purposes of allowance and distribution. The court shall forthwith mail notice of such filing to the creditor and to the debtor if the claim is filed by the trustee, or to the trustee if the claim is filed by the debtor. The creditor may nonetheless file a proof of claim pursuant to Rule 13-302, which proof when filed shall supersede the proof filed by the debtor or trustee.

Rule 13-304. Claim by codebtor.

A person who is or may be liable with the debtor, or who has secured a creditor of the debtor, may, if the creditor fails to file his claim on or before the first date set for the first meeting of creditors, file a proof of claim pursuant to Rule 13-302, including an acceptance or rejection of the plan or any modification thereof, in the name of the creditor, if known, or if unknown, in his own name. No distribution shall be made on the claim except on satisfactory proof that the original debt will be diminished by the amount of the distribution. The creditor may nonetheless file a proof of claim pursuant to Rule 13-302 and, at any time before the court determines that the plan or any modification thereof has been accepted by the number and amount of creditors required for confirmation, an acceptance or rejection of the plan or any modification thereof. Such proof of claim and such acceptance or rejection shall supersede the proof of claim and the acceptance or rejection filed pursuant to the first sentence of this rule. In the event the creditor files a claim and does not file a timely acceptance or rejection of the plan, any acceptance or rejection filed by the codebtor shall be deemed made on the creditor's behalf.

Rule 13-305. Post-petition claims.

Notwithstanding Rule 13-302 (e), the court may at any time while a case is pending permit the filing of a proof of claim for the following:

(1) Claims for taxes owing to the United States, or to any state, or any subdivision thereof, at the time of the filing of the petition under Rule 13-103 or 13-104 which had not been assessed prior to the date of confirmation of the plan, but which are assessed within one year after the date of the filing of such petition.

(2) Claims for taxes owing to the United States, or to any state, or any subdivision thereof, after the filing of the petition under Rule 13-103 or 13-104 and which are assessed while the case is pending; and

(3) On such terms as the court may prescribe, claims incurred by the debtor after the filing of a petition under Rule 13-103 or 13-104 for property or services needed to assure proper performance under the plan by the debtor, provided that, when feasible, prior court approval of the incurring of the claim has been obtained.

Rule 13-306. Withdrawal of claim.

A creditor may withdraw a claim as of right by filing a notice of withdrawal, except as provided in this rule. If, after a creditor has filed a claim, an objection is filed thereto or a complaint is filed against him in an adversary proceeding, or the court has directed him to establish that the claim is free from any charge forbidden by law, or the creditor has accepted the plan or otherwise has participated significantly in the case or has received a dividend, he may not withdraw the claim save on application or motion with notice to the debtor and trustee, and on order of the court containing such terms and conditions as the court deems proper.

Rule 13-307. Objections to and allowance of claims; valuation of security.

(a) *Trustee's and debtor's duty to examine and object to claims.*—The trustee and the debtor shall examine

proofs of claim and the trustee shall object to the allowance of improper claims, unless no purpose would be served thereby.

(b) *Allowance when no objection made.*—Subject to the provisions of subdivision (d) of this rule, a claim filed in accordance with Rule 13-302, 13-303, or 13-304 shall be deemed allowed unless objection is made by a party in interest or unless the court directs the creditor to establish that the claim is free from any forbidden charge pursuant to Rule 13-301 (b).

(c) *Objection to allowance.*—An objection to the allowance of a claim shall be in writing. A copy of the objection and notice of a hearing thereon shall be mailed or delivered to the claimant, the trustee, and the debtor. If an objection to a claim is joined with a demand for relief of the kind specified in Rule 13-701, the proceeding thereby becomes an adversary proceeding.

(d) *Secured claims.*—If a secured creditor files a claim, the value of the security interest held by him as collateral for his claim shall be determined by the court. The claim shall be allowed as a secured claim to the extent of the value so determined and as an unsecured claim to the extent it is enforceable for any excess of the claim over such value. For the purposes of this subdivision the court may appoint an appraiser in the manner specified by and subject to the limitations of Bankruptcy Rule 606.

Rule 13-308. Reconsideration of claims.

Within 10 days of the entry of an order allowing or disallowing a claim against the estate, a party in interest may move for reconsideration. If the motion is granted, the court may after hearing on notice make such further order as may be appropriate.

Rule 13-309. Priority payments; dividends; surplus funds.

(a) *Priorities.*

(1) *First payment.*—In advance of or at the time of payment of the first dividend to creditors under the plan there shall be paid, out of money paid in by or for the debtor, in the following order:

(A) any installment of filing fees ordered to be paid pursuant to Rule 13-106 (b)(2) and then due under such order;

(B) the actual and necessary costs and expenses incurred by the trustee;

(C) the additional fee prescribed for the referees' salary and expense fund and the trustee's commission;

(D) a reasonable fee to the attorney for the debtor for professional services actually theretofore rendered by such attorney in connection with the Chapter XIII case;

(E) where the petition is filed pursuant to Rule 13-104, the costs and expenses of administration and the fees of the superseded bankruptcy case;

(F) other debts entitled to priority under, and in the order prescribed by, § 64a of the Act.

(2) *Subsequent payments.*—In advance of or at the time of payment of any subsequent dividend to creditors there shall be paid, out of money paid in by or for the debtor, in the following order:

(A) any installment of filing fees ordered to be paid pursuant to Rule 13-106 (b)(2) and then due under such order;

(B) any actual and necessary costs and expenses incurred by the trustee and not previously paid;

(C) the additional fee prescribed for the referees' salary and expense fund and the trustee's commission, to the extent that either has not been previously paid;

(D) a reasonable fee to the attorney for the debtor for professional services actually theretofore rendered by such attorney in connection with the Chapter XIII case and not previously paid.

(3) *Waiver.*—A person entitled to priority of payment under paragraph (1) or (2) of this subdivision (a) may

waive such priority by failing to reject a plan providing for such waiver within the time specified in Rule 13-202 (a) or by other waiver, but any other payment which such person receives in lieu thereof must be provided for in the plan or otherwise approved by the court.

(b) *Dividends.*

(1) *Payment.*—Except as otherwise provided in the plan, dividends to creditors shall be paid as promptly as practicable in such amounts and at such times as the court may order. Dividend checks shall be made payable and mailed to each creditor whose claim has been allowed, unless a power of attorney authorizing another person to receive dividends has been executed and filed in accordance with Bankruptcy Rule 910. In that event, unless a local rule or court order provides otherwise, dividend checks shall be made payable to the creditor and to such other person and shall be mailed to such other person.

(2) *Small dividends.*—The court may by local rule or order direct that no dividend for less than \$15 shall be distributed by the trustee to any creditor, but dividends not distributed because of such rule or order shall accumulate and shall be paid whenever such accumulation aggregates \$15. Any accumulated balance shall be paid with the final dividend.

(c) *Surplus funds.*—Except as provided in Rule 13-310, any funds remaining in the estate on consummation of the plan shall be returned to the debtor.

Rule 13-310. Unclaimed funds.

Sixty days after the distribution of the final dividend, the trustee shall stop payment of all checks then unpaid and file with the clerk of the district court a list of the names and addresses, so far as known, of the persons entitled to such payments and the amounts thereof. The unclaimed funds shall thereupon be deposited in the registry of the United States district court and shall be withdrawn as provided in Title 28, U. S. C., § 2042.

PART IV. THE DEBTOR: DUTIES AND BENEFITS

Rule 13-401. Petition as automatic stay of actions against debtor and of lien enforcement.

(a) *Stay of actions and lien enforcement.*—A petition filed under Rule 13-103 or Rule 13-104 shall operate as a stay of the commencement or continuation of any action against the debtor, or the enforcement of any judgment against him, or of any act or the commencement or continuation of any court proceeding to enforce any lien against his property, or of any court proceeding for the purpose of rehabilitation of the debtor or the liquidation of his estate.

(b) *Duration of stay.*—Except as it may be deemed annulled under subdivision (c) or may be terminated, annulled, modified, or conditioned by the bankruptcy court under subdivision (d), (e) or (f) of this rule, the stay shall continue until the case is closed, dismissed, or converted to bankruptcy or the property subject to the lien is, with the approval of the court, abandoned or transferred.

(c) *Annulment of stay.*—At the expiration of 30 days after the first date set for the first meeting of creditors, the stay provided by this rule other than a stay against lien enforcement shall be deemed annulled as against any creditor whose claim has not been listed in the Chapter XIII Statement and who has not filed his claim by that time.

(d) *Relief from stay.*—On the filing of a complaint by a creditor who has timely filed his claim or who is secured by an estate in real property or chattels real seeking relief from a stay provided by this rule, the bankruptcy court shall, subject to the provisions of subdivision (e) of this rule, set the trial for the earliest possible date, and it shall take precedence over all matters except older matters of the same character. The court may, for cause shown, terminate, annul, modify, or condition such stay.

A party seeking continuation of a stay against lien enforcement shall show that he is entitled thereto.

(e) *Ex parte relief from stay.*—Upon the filing of a complaint by a creditor who has timely filed his claim or who is secured by an estate in real property or chattels real seeking relief from a stay provided by this rule against any act or the commencement or continuation of any court proceeding to enforce any lien, or any proceeding for the purpose of rehabilitation of the debtor or liquidation of his estate, relief may be granted without written or oral notice to the trustee or the debtor if (1) it clearly appears from specific facts shown by affidavit or by a verified complaint that immediate and irreparable injury, loss, or damage will result to the plaintiff before the trustee or the debtor can be heard in opposition, and (2) the plaintiff's attorney certifies to the court in writing the efforts, if any, which have been made to give the notice and the reasons supporting his claim that notice should not be required. The party obtaining relief under this subdivision shall give written or oral notice thereof as soon as possible to the trustee and to the debtor and, in any event, shall forthwith mail to such persons a copy of the order granting relief. On 2 days' notice to the party who obtained relief from a stay provided by this rule without notice, or on such shorter notice to that party as the court may prescribe, the trustee or the debtor may appear and move its reinstatement, and in that event the court shall proceed to hear and determine such motion as expeditiously as the ends of justice require.

(f) *Availability of other relief.*—Nothing in this rule precludes the issuance of, or relief from, any stay, restraining order, or injunction when otherwise authorized.

Rule 13-402. Duties of debtor.

In addition to performing other duties prescribed by these rules, the debtor shall (1) attend and submit to an examination at the first meeting of creditors and at

such other times as ordered by the court; (2) attend at the hearing on confirmation of a plan and the hearing on a complaint objecting to his discharge, if any, and, if called as a witness, testify with respect to the issues raised; (3) if the court directs, file a statement of the executory contracts, including unexpired leases, to which he is a party; (4) cooperate with the trustee in the preparation of an inventory, the examination of proofs of claim, and the administration of the estate; and (5) comply with all orders of the court.

Rule 13-403. Exemptions.

A debtor shall claim his exemptions in the Chapter XIII Statement required to be filed by Rule 13-107.

Rule 13-404. Grant or denial of discharge.

(a) *Where debtor has completed performance.*—On completion by the debtor of all payments under the plan, the court shall forthwith grant the debtor his discharge unless he has filed a waiver under Rule 13-405.

(b) *Where debtor has not completed performance.*

(1) *Application and notice.*—A debtor who has not completed his payments under the plan may by application request a discharge under § 661 of the Act. On the filing of such application the court shall fix a time for the filing of a complaint objecting to the debtor's discharge and shall give at least 30 days' notice of the time so fixed to all creditors in the manner provided in Rule 13-203 and to the trustee. The court may for cause, on its own initiative or on application by any party in interest, extend the time for filing a complaint objecting to discharge.

(2) *Grant of discharge.*—On expiration of the time fixed for filing a complaint objecting to discharge, the court shall forthwith grant the discharge if no complaint objecting to discharge has been filed and if satisfied, after hearing on notice to the debtor, that the debtor's failure to complete payments was due to circumstances for which

he could not justly be held accountable, unless the debtor has filed a waiver under Rule 13-405.

(3) *Applicability of Part VII of bankruptcy rules.*—A proceeding commenced by a complaint objecting to discharge is governed by Part VII of the Bankruptcy Rules.

(c) *Order of discharge.*—An order of discharge shall conform substantially to Official Form No. 13-16.

(d) *Registration in other districts.*—An order of discharge that has become final may be registered in any other district by filing in the office of the clerk of the district court of that district a certified copy of the order and when so registered shall have the same effect as an order of the court of the district where registered and may be enforced in like manner.

(e) *Notice of discharge.*—Within 45 days after an order of discharge becomes final, the court shall mail a copy of such order to the persons specified in subdivision (b)(1) of this rule.

Rule 13-405. Waiver of discharge.

Any debtor may waive his right to discharge by a writing filed with the court.

Rule 13-406. Notice of nondischarge.

If a waiver of discharge is filed, or if an order is entered denying or revoking a discharge, the court shall, within 30 days after the filing of the waiver or the entry of the order, give notice thereof by mail to all creditors in the manner provided in Rule 13-203.

Rule 13-407. Determination of dischargeability of a debt; judgment on nondischargeable debt; jury trial.

(a) *Proceeding to determine dischargeability.*

(1) *Persons entitled to file complaint; time for filing in ordinary case.*—A debtor or any creditor may file a complaint with the court to obtain a determination of the dischargeability of any debt. Except as provided in

paragraph (2) of this subdivision, the complaint may be filed at any time, and a case may be reopened without the payment of an additional filing fee for the purpose of filing a complaint under this rule.

(2) *Time for filing complaint under § 17c (2) of the Act; notice of time fixed.*—On or before the completion by a debtor of payments under a plan, or on application by a debtor for a discharge under § 661 of the Act, the court shall make an order fixing a time for the filing of a complaint to determine the dischargeability of any debt pursuant to § 17c (2) of the Act and shall give at least 30 days' notice of the time so fixed to all creditors in the manner provided in Rule 13-203 and to the trustee. The court may for cause, on its own initiative or on application of any party in interest, extend the time fixed under this paragraph.

(b) *Claim and demand for judgment on nondischargeable debt.*—If his claim has not yet been reduced to judgment, the creditor shall include in a complaint or answer filed under subdivision (a) of this rule a statement of his claim and a demand for judgment on the debt as provided in § 17c (3) of the Act.

(c) *Jury trial.*—Either party may demand a trial by jury of any issue triable of right by a jury by serving on the other party and filing a demand therefor in writing at any time after the filing of a complaint under this rule and not later than 10 days after the service of the last pleading directed to such issue. Such demand may be indorsed on a pleading of the party. In his demand the party shall specify the issues which he wishes to be so tried. If he has demanded trial by jury for only some of the issues so triable of right, any other party, within 10 days after service of the demand or such lesser time as the court may order, may serve a demand for trial by jury of any other issues so triable of right in the proceeding. The trial of an issue for which a jury trial has

been demanded shall be placed on the jury calendar of the district court when it is ready for trial unless (1) the bankruptcy judge determines after hearing on notice that the issue is not triable of right by a jury or (2) a local rule of court provides otherwise. Issues not triable of right by a jury may be tried by the bankruptcy judge, and motions and applications in the proceeding other than those necessarily incidental to and made during the course of the jury trial may be determined by the bankruptcy judge. The failure of a party to serve and file a demand in accordance with this rule constitutes a waiver by him of trial by jury. Rules 47-51 of the Federal Rules of Civil Procedure apply to a jury trial under this subdivision.

(d) *Applicability of Part VII of Bankruptcy Rules.*—A proceeding commenced by a complaint filed under this rule is governed by Part VII of the Bankruptcy Rules.

PART V. COURTS OF BANKRUPTCY; OFFICERS AND PERSONNEL; THEIR DUTIES

Rule 13-501. Administrative matters.

Part V of the Bankruptcy Rules applies in Chapter XIII cases.

PART VI. PROPERTY OF THE ESTATE

Rule 13-601. Burden of proof as to validity of post-petition transfer.

Any person asserting the validity of a transfer under § 70d of the Act shall have the burden of proof.

Rule 13-602. Accounting by prior custodian of property of the estate.

(a) *Accounting required.*—Any receiver or trustee appointed in proceedings not under the Act, assignee for the benefit of creditors, or agent, required by the Act to deliver property in his possession or control to the trustee,

shall promptly file a written report and account with the bankruptcy court with respect to the property of the estate and his administration thereof.

(b) *Examination of administration.*—On the filing of the report and account required by subdivision (a) of this rule and after an examination has been made into the superseded administration, the court shall determine the propriety of such administration, including the reasonableness of all disbursements.

Rule 13-603. Money of the estate: Deposit and disbursement.

(a) *Deposits; interest.*—The trustee shall deposit all money received by him in a designated depository, either in a checking account or, if authorized by the court, in an interest-bearing account or deposit, and, if authorized by the court, may deposit the funds of more than one estate in the same account or deposit.

(b) *Withdrawals and disbursements.*—The trustee shall withdraw and disburse money of the estate only by check or other method approved by the court.

Rule 13-604. Rejection of executory contracts.

When a motion is made for the rejection of an executory contract, including an unexpired lease, other than as part of the plan, the court shall set a hearing on notice to the parties to the contract and to such other persons as the court may designate.

Rule 13-605. Abandonment of property.

After hearing on such notice as the court may direct and on approval by the court the trustee may abandon any property.

Rule 13-606. Redemption of property from lien or sale.

On application by the trustee or debtor and after hearing on such notice as the court may direct, the court may authorize the redemption of property from a lien or

from a sale to enforce a lien in accordance with applicable law.

Rule 13-607. Prosecution and defense of proceedings by trustee.

The trustee may, with or without court approval, prosecute or enter his appearance and defend any pending action or proceeding by or against the debtor, or commence and prosecute any action or proceeding in behalf of the estate, before any tribunal.

Rule 13-608. Preservation of voidable transfer.

Whenever any transfer is voidable by the trustee, the court may determine, in an adversary proceeding in which are joined persons claiming interests or rights in the property subject to the transfer, whether the transfer shall be avoided only or shall be preserved for the benefit of the estate.

Rule 13-609. Proceeding to avoid indemnifying lien or transfer to surety.

If a lien voidable under § 67a of the Act has been dissolved by the furnishing of a bond or other obligation and the surety thereon has been indemnified by the transfer of, or the creation of a lien upon, nonexempt property of the debtor, the surety shall be joined as a defendant in any proceeding to avoid the indemnifying transfer or lien. Such proceeding is governed by Part VII of the Bankruptcy Rules. If an order is entered for the recovery of indemnifying property in kind or for the avoidance of an indemnifying lien, the court, on motion by any party in interest, shall ascertain the value of such property or lien; if such value is less than the amount for which such property or lien is indemnity, the surety may elect to retain the property or lien on payment of the value so ascertained to the trustee or debtor, as the case may be, within such time as the court shall fix.

PART VII. ADVERSARY PROCEEDINGS

Rule 13-701. Adversary proceedings.

(a) *Adversary proceedings.*—Part VII of the Bankruptcy Rules governs any proceeding instituted by a party before a bankruptcy judge in a Chapter XIII case to (1) recover money or property other than a proceeding under Rule 13-210 or Rule 13-602, (2) determine the validity, priority, or extent of a lien or other interest in property, (3) sell property free of a lien or other interest for which the holder can be compelled to take a money satisfaction, (4) object to or revoke a discharge, (5) obtain an injunction, (6) obtain relief from a stay as provided in Rule 13-401, (7) object to confirmation of a plan on the ground that the debtor has committed any act or failed to perform any duty which would be a bar to the discharge of the bankrupt, (8) revoke the confirmation of a plan, or (9) determine the dischargeability of a debt. Such a proceeding shall be known as an adversary proceeding.

(b) *Reference in Bankruptcy Rules.*—As applied in Chapter XIII cases, the reference in Bankruptcy Rule 741 to “a complaint objecting to the bankrupt’s discharge” shall be read to include also a reference to “a complaint objecting to the confirmation of a plan on the ground that the debtor has committed any act or failed to perform any duty which would be a bar to the discharge of a bankrupt.”

PART VIII. APPEAL TO DISTRICT COURT

Rule 13-801. Appeal to district court.

Part VIII of the Bankruptcy Rules applies in Chapter XIII cases except that Rule 802 (c) thereof shall read as follows:

“(c). *Extension of time for appeal.*—The referee may extend the time for filing the notice of appeal

by any party for a period not to exceed 20 days from the expiration of the time otherwise prescribed by this rule. A request to extend the time for filing a notice of appeal must be made before such time has expired, except that a request made after the expiration of such time may be granted on a showing of excusable neglect if the judgment or order is not a judgment or order under Rule 13-213 confirming a plan or is not a judgment or order under Rule 13-112 or Rule 13-215 dismissing a Chapter XIII case or converting a Chapter XIII case to bankruptcy."

PART IX. GENERAL PROVISIONS

Rule 13-901. General provisions.

Part IX of the Bankruptcy Rules applies in Chapter XIII cases except that:

- (1) The references to various rules in Rule 906 (b) shall also include references to Rules 13-106 (b)(2) and 13-302 (e).
- (2) The references to various rules in Rule 906 (c) shall also include references to Rules 13-203 (a), 13-302 (e), 13-404 (b)(1), and 13-407 (a)(2).
- (3) The exception in Rule 910 (c) for "the execution and filing of a proof of claim" shall be read to include also "the execution and filing of an acceptance or a rejection of a plan" and the reference to Official Forms in that rule shall include also a reference to Official Form 13-8.
- (4) The reference in Rule 913 (b) to "a dischargeable debt" shall be read as "a debt which is or will be provided for by the plan."
- (5) The reference in Rule 919 (a) to "notice to the creditors as provided in Rule 203 (a) and to such other persons as the court may designate" shall be read as "such notice to such persons as the court may designate."
- (6) The reference in Rule 922 (b) to Rule 102 shall be read as a reference to Rule 13-102.

(7) The reference in Rule 924 to the time allowed by § 15 of the Act for the filing of a complaint to revoke a discharge shall be read to include also a reference to the time allowed by § 671 of the Act for the filing of a complaint to revoke the confirmation of a plan.



OFFICIAL CHAPTER XIII FORMS

[NOTE. These official forms should be observed and used, with such alterations as may be appropriate to suit the circumstances. See Bankruptcy Rule 909, made applicable by Rule 13-901.]

FORM No. 13-1

ORIGINAL PETITION UNDER CHAPTER XIII

United States District Court

for the District of

In re

..... Bankruptcy No.

Debtor, Soc. Sec. No.

[include here all names used
by debtor within last 6 years]

ORIGINAL PETITION UNDER CHAPTER XIII

1. Petitioner's post-office address is

.....
2. Petitioner has his principal place of employment [or his residence or his domicile] within this district.

3. No bankruptcy case initiated on a petition by or against petitioner is now pending.

4. Petitioner is qualified to file this petition and is entitled to the benefits of Chapter XIII of the Bankruptcy Act.

5. Petitioner is insolvent [or unable to pay his debts as they mature].

6. A copy of petitioner's proposed plan is attached [or Petitioner intends to file a plan pursuant to Chapter XIII of the Act].

Wherefore petitioner prays for relief under Chapter XIII of the Act.

Signed:,
Attorney for Petitioner.

Address:,

.....
[Petitioner signs if not represented by attorney.]

.....,
Petitioner.

State of
County of } ss.

I, the petitioner named in the foregoing petition, do hereby swear that the statements contained therein are true according to the best of my knowledge, information, and belief.

.....,
Petitioner.

Subscribed and sworn to before me on

.....,
.....
.....
[Official character]

[Unless further time is granted by the court there must be filed with this petition or within 10 days thereafter both a Chapter XIII Statement (Official Form No. 13-5) pursuant to Rule 13-107 and a Chapter XIII Plan (Official Form No. 13-6) pursuant to Rule 13-201.]

FORM No. 13-2

APPLICATION TO PAY FILING FEES IN INSTALLMENTS

[Caption, other than designation, as in Form No. 13-1]

APPLICATION TO PAY FILING FEES IN INSTALLMENTS

1. Applicant is filing herewith a petition under Chapter XIII of the Act.

2. He is unable to pay \$..... [or all] of the filing fees except in installments.

3. He proposes that such fees be paid to the clerk of the district court upon the following terms:

.....
.....
.....
4. He has paid no money and transferred no property to his attorney for services in connection with this case or with any pending bankruptcy case, and he will make no payment or transfer to his attorney for such services.

Wherefore applicant prays that he be permitted to pay \$.....
[or all] of the filing fees in installments.

Dated:

Signed:,
Applicant.

Address:,
.....

FORM NO. 13-3

ORDER FOR PAYMENT OF FILING FEES
IN INSTALLMENTS

[Caption, other than designation, as in Form No. 13-1]

ORDER FOR PAYMENT OF FILING FEES
IN INSTALLMENTS

The application of the debtor for permission to pay the filing fees in this case in installments having been heard:

It is ordered that the debtor pay the filing fees still owing, namely, \$....., as follows:

.....
.....
It is further ordered that all payments be made at the office of the clerk of the United States District Court located at
....., that the debtor shall pay no money and shall transfer no property to his attorney, that his attorney shall accept no money or property from the debtor for services in connection with this case or any pending bankruptcy case, and that any award of compensation to the attorney for services in connection with this case and any pending bankruptcy case shall be governed by Rule 13-309 and Bankruptcy Rule 219.

Dated:

.....,
Bankruptcy Judge.

FORM No. 13-4

CHAPTER XIII PETITION IN PENDING BANKRUPTCY CASE

[Caption, other than designation, as in Form No. 13-1]

CHAPTER XIII PETITION IN PENDING BANKRUPTCY CASE

1. Petitioner's post-office address is

2. Petitioner is the bankrupt in Bankruptcy No., pending in this court.

3. Petitioner is qualified to file this petition and is entitled to the benefits of Chapter XIII of the Bankruptcy Act.

4. Petitioner is insolvent [or unable to pay his debts as they mature].

5. A copy of petitioner's proposed plan is attached [or Petitioner intends to file a plan pursuant to Chapter XIII of the Act].

Wherefore petitioner prays for relief under Chapter XIII of the Act.

Dated:

Signed:,
Attorney for Petitioner.

Address:,

[Petitioner signs if not represented by attorney.]

....., Petitioner.

State of..... }
County of..... } ss.

I,, the petitioner named in the foregoing petition, do hereby swear that the statements contained therein are true according to the best of my knowledge, information, and belief.

....., Petitioner.

Subscribed and sworn to before me on

.....,

[Official character]

[Unless further time is granted by the court there must be filed with this petition or within 10 days thereafter both a Chapter XIII Statement (Official Form No. 13-5) pursuant to Rule 13-107 and a Chapter XIII Plan (Official Form No. 13-6) pursuant to Rule 13-201.]

FORM No. 13-5

CHAPTER XIII STATEMENT

[Caption, other than designation, as in Form No. 13-1]

CHAPTER XIII STATEMENT

[Each question should be answered or the failure to answer explained. If the answer is "none," this should be stated. If additional space is needed for the answer to any question, a separate sheet, properly identified and made a part hereof, should be used and attached.

The term, "original petition," as used in the following questions, shall mean the original petition filed under Rule 13-103 or, if the petition is filed under Rule 13-104 in a pending bankruptcy case, shall mean the bankruptcy petition by or against you which originated the pending bankruptcy case.

This form must be completed in full whether a single or a joint petition is filed. When information is requested for "each" or "either spouse filing a petition" it should be supplied for both when a joint petition is filed.]

1. *Name and residence.*

a. Give full name.

Husband

Wife

b. Where does each spouse filing a petition now reside?

(1) Mailing address

Husband

Wife

(2) City or town

Husband

Wife

(3) Telephone number

Husband

Wife

c. What does each spouse filing a petition consider his or her residence, if different from that listed in b, above?

Husband

Wife

2. *Occupation and income.*

a. Give present occupation of each spouse filing a petition. (If more than one, list all for each spouse filing a petition.)

Husband

Wife

.....

b. What is the name, address, and telephone number of present employer (or employers) of each spouse filing a petition? (Include also any identifying badge or card number with employer.)

Husband

.....

Wife

.....

c. How long has each spouse filing a petition been employed by present employer?

Husband

.....

Wife

.....

d. If either spouse filing a petition has not been employed by present employer for a period of 1 year, state the name of prior employer(s) and nature of employment during that period.

Husband

.....

.....

Wife

.....

.....

e. Has either spouse filing a petition operated a business, in partnership or otherwise, during the past 3 years? (If so, give the particulars, including names, dates, and places.)

Husband

.....

.....

Wife

.....

.....

f. Answer the following questions for each spouse whether single or joint petition is filed unless spouses are separated and a single petition is filed:

(1) Is your current pay period:

Husband Wife

(a) Weekly

(b) Semi-monthly

(c) Monthly

(d) Other (specify)

(2) What are your gross wages, salary or commissions per pay period?

Husband *Wife*

(3) What are your payroll deductions per pay period for:

Husband *Wife*

(a) Payroll taxes (including social security)

(c) Credit union.....

(d) Union dues.....

(e) Other (specify).....

(4) What is your take-home pay per pay period?

Husband *Wife*

(5) Is your employment subject to seasonal or other change?

Husband *Wife*

(6) What was the amount of your gross income for the last calendar year?

Husband *Wife*

(7) Has either of you made any wage assignments or allotments? (If so, indicate which spouse's wages assigned or allotted, the name and address of the person to whom assigned or allotted, and the amount owing, if any, to such person. If allotment or assignment is to a creditor, his claim should also be listed in Item 11a.)

3. *Dependents.* (To be answered for each spouse whether single or joint petition is filed unless spouses are separated and a single petition is filed.)

a. Does either of you pay [or receive] alimony, maintenance, or support? If so, how much per month? For whose support? (Give name, age, and relationship to you.) Husband
Wife

Wife :.....

b. List all other dependents, other than present spouse, not listed in a, above. (Give name, age, and relationship to you.)

Husband

Wife

4. *Budget.*

a. Give estimated average future monthly income for each spouse whether single or joint petition is filed unless spouses are separated and a single petition is filed.

(1) Husband's monthly take-home pay.....
 (2) Wife's monthly take-home pay.....
 (3) Other monthly income (specify).....

Total

b. Give estimated average future monthly expenses of family (not including debts to be paid under plan), consisting of:

(1) Rent or home mortgage payment (include lot rental for trailer).....
 (2) Utilities (Electricity, Heat, Water, Telephone).....
 (3) Food

(4) Clothing

(5) Laundry and cleaning.....
 (6) Newspaper, periodicals, and books (including school books).....
 (7) Medical and drug expenses.....
 (8) Insurance (not deducted from wages)
 (a) Auto,
 (b) Other

(9) Transportation (not including auto payments to be paid under plan).....
 (10) Recreation

(11) Club and union dues (not deducted from wages)

(12) Taxes (not deducted from wages)

(13) Alimony, maintenance, or support payments..
(14) Other payments for support of dependents not
 living at home.....
(15) Other (specify)
.....
.....
.....

Total 100000

c. Excess of estimated future monthly income (last line of Item 4a, above) over estimated future expenses (last line of Item 4b, above)

d. Total amount to be paid each month under plan..

5. *Payment of attorney.*

a. How much have you agreed to pay or what property have you agreed to transfer to your attorney in connection with this case?

b. How much have you paid or what have you transferred to him?

6. *Tax refunds.* (To be answered for each spouse whether single or joint petition is filed unless spouses are separated and a single petition is filed.)

To what tax refunds (income or other), if any, is either of you, or may either of you be, entitled? (Give particulars, including information as to any refunds payable jointly to you or any other person. All such refunds should also be listed in Item 13b.)

7. *Bank accounts and safe deposit boxes.* (To be answered for each spouse whether single or joint petition is filed unless spouses are separated and a single petition is filed.)

a. Does either of you currently have any bank or savings and loan accounts, checking or savings? (If so, give name and address of bank, nature of account, current balance, and name and address of every other person authorized to make withdrawals from the account. Such accounts should also be listed in Item 13b.)

b. Does either of you currently keep any safe deposit boxes or other depositories? (If so, give name and address of bank or other depository, name and address of every other person who has a right

of access thereto, and a brief description of the contents thereof, which should also be listed in Item 13b.)

.....

.....

8. *Prior bankruptcy.*

What proceedings under the Bankruptcy Act have previously been brought by or against either spouse filing a petition? (State the location of the bankruptcy court, the nature and number of each proceeding, the date when it was filed, and whether a discharge was granted or refused, the proceeding was dismissed, or a composition, arrangement, or plan was confirmed.)

.....

.....

9. *Foreclosures, executions, and attachments.* (To be answered for each spouse whether single or joint petition is filed unless spouses are separated and a single petition is filed.)

a. Is any of the property of either of you, including real estate, involved in a foreclosure proceeding, in or out of court? (If so, identify the property and the person foreclosing.)

.....

.....

b. Has any property or income of either of you been attached, garnished, or seized under any legal or equitable process within the 4 months immediately preceding the filing of the original petition herein? (If so, describe the property seized, or person garnished, and at whose suit.)

.....

.....

10. *Repossessions and returns.* (To be answered for each spouse whether single or joint petition is filed unless spouses are separated and a single petition is filed.)

Has any property of either of you been returned to, repossessed, or seized by the seller or by any other party, including a landlord, during the 4 months immediately preceding the filing of the original petition herein? (If so, give particulars, including the name and address of the party getting the property and its description and value.)

.....

.....

.....

.....

11. **Debts.** (To be answered for each spouse whether single or joint petition is filed.)

a. **Secured debts.** List all debts which are or may be secured by real or personal property. Indicate in sixth column, if debt payable in installments, the amount of each installment, the installment period (monthly, weekly, or yearly) and number of installments in arrears, if any. Indicate in last column whether husband or wife solely liable, whether you are jointly liable.)

b. *Unsecured debts.* List all other debts, liquidated and unliquidated, including taxes, attorneys' fees and court claims.

12. *Codebtors.* (To be answered for each spouse whether single or joint petition is filed.)

a. Are any other persons liable, as cosigners or in any other manner, on any of the debts of either of you or are either of you so liable on the debts of others? (If so, give particulars, indicating which spouse liable and including names of creditors, nature of debt, names and addresses of codebtors, and their relationship, if any to you.)

.....
.....
.....
.....
.....

b. If so, have such codebtors made any payments on such debts? (Give name of each codebtor and amount paid by him.)

.....
.....
.....
.....
.....

c. Have either of you made any payments on such debts? (If so, specify total amount paid to each creditor, whether paid by husband or wife, and name of codebtor.)

.....
.....
.....
.....
.....

13. *Property.* (To be answered for each spouse whether single or joint petition is filed.)
a. *Real property.* List all real property owned by either of you at date of filing of original petition herein. (Indicate in last column whether owned solely by husband or wife, or jointly.)

b. *Personal property.* List all other property owned by either of you at date of filing of original petition herein.

Present market value	Amount of mortgage or other security interest (without deduction for mortgage or other security interest on this property)	Name of mortgagee or other secured creditor	Value claimed exempt, if any	Owned solely by husband or wife, or jointly
Location of property if not at debtor's residence	Name of any co-owner other than spouse			
Description				
Autos [give year and make]				
Household goods				
Personal effects				
Other (specify)				

[To be signed and verified by both spouses when joint petition is filed.]

State of }
County of } ss.

I, do hereby swear that
I have read the answers contained in the foregoing statement, con-
sisting of sheets, and that they are true and complete to
the best of my knowledge, information, and belief.

.....,

Husband.

Subscribed and sworn to before me on

.....,

.....
[Official character]

I, do hereby swear that
I have read the answers contained in the foregoing statement, con-
sisting of sheets, and that they are true and complete to
the best of my knowledge, information, and belief.

.....,

Wife.

Subscribed and sworn to before me on

.....,

.....
[Official character]

Attorney for Debtor(s):

.....,

Name

.....

Address

FORM No. 13-6

CHAPTER XIII PLAN

[Caption, other than designation, as in Form No. 13-1]

CHAPTER XIII PLAN

1. The future earnings of the debtor are submitted to the super-
vision and control of the court and the debtor [or the debtor's

employer] shall pay to the trustee the sum of \$..... weekly [or semi-monthly or monthly].

2. From the payments so received, the trustee shall make disbursement as follows:

a. The priority payments required by Rule 13-309 (a).

b. After the above payments, dividends to secured creditors whose claims are duly proved and allowed as follows:

.....
.....
.....
.....
.....
.....
.....
.....

c. Subsequent to [or pro rata with] dividends to secured creditors, dividends to unsecured creditors whose claims are duly proved and allowed as follows:

.....
.....
.....
.....
.....
.....
.....
.....

3. [If applicable] The following executory contracts of the debtor are rejected:

.....
.....
.....
.....
.....

4. Title to the debtor's property shall vest in the debtor on confirmation of a plan [or upon dismissal of the case after confirmation pursuant to Rule 13-215 or upon closing of the case pursuant to Bankruptcy Rule 514].

Dated:

.....,
Debtor.

Acceptances may be mailed to

.....,
.....
[Post-office address]

FORM No. 13-7

ORDER FOR FIRST MEETING OF CREDITORS AND RELATED ORDERS, COMBINED WITH NOTICE THEREOF AND OF AUTOMATIC STAY

[Caption, other than designation, as in Form No. 13-1]

ORDER FOR FIRST MEETING OF CREDITORS AND RELATED ORDERS, COMBINED WITH NOTICE THEREOF AND OF AUTOMATIC STAY

To the debtor, his creditors, and other parties in interest:

..... of *....., having filed a petition on stating that he desires to effect a plan under Chapter XIII of the Bankruptcy Act, it is ordered, and notice is hereby given, that:

1. The first meeting of creditors shall be held at, on, at o'clock ... m.
2. The debtor shall appear in person before the court at that time and place for the purpose of being examined.
3. The hearing on confirmation of the plan shall be held at the first meeting [*or at*, on at o'clock ... m. *or at a date to be later fixed at the first meeting.*]

You are further notified that:

The meeting may be continued or adjourned from time to time by order made in open court, without further written notice to creditors.

Creditors may file written objections to confirmation at any time prior to confirmation.

Creditors holding secured claims must, unless an extension of time is granted, file their claims on or before the date above set for the first meeting of creditors and all such creditors who fail to do so will not be treated as secured creditors for purposes of voting and distribution in the Chapter XIII case. At the meeting unsecured creditors may also file their claims, and all creditors may examine the debtor as permitted by the court, and transact such other business as may properly come before the meeting. In order to have his claim allowed for the purpose of voting and distribution, a creditor must file a claim, whether or not he is included in the list of creditors filed by the debtor. Where the Chapter XIII petition is filed in a pending bankruptcy case, claims filed in the bankruptcy case must be timely amended pursuant to Rule 13-302 (f). Claims which are not filed within 6 months after the date above set for the first meet-

**State post-office address.*

ing of creditors will not be allowed except as otherwise provided by law.

Any creditor filing a claim who has not filed a written acceptance or rejection of the plan pursuant to Rule 13-202 prior to the conclusion of the first meeting of creditors, in his proof of claim or otherwise, will be deemed to have accepted the plan.

The filing of the petition by the debtor above named operates as a stay of the commencement or continuation of any action against the debtor, of the enforcement of any judgment against him, of any act or the commencement or continuation of any court proceeding to enforce any lien on the property of the debtor, and of any court proceeding for the purpose of rehabilitation of the debtor or the liquidation of his estate, as provided by Rule 13-401.

A claim and an acceptance or rejection of the plan may be filed in the office of the undersigned bankruptcy judge on an official form prescribed in a proof of claim.

Dated:

.....,
Bankruptcy Judge.

FORM No. 13-8

POWER OF ATTORNEY

[Caption, other than designation, as in Form No. 13-1]

POWER OF ATTORNEY

To of *....., and of *.....:

The undersigned claimant hereby authorizes you, or any one of you, as attorney in fact for the undersigned and with full power of substitution, to receive dividends and in general to perform any act not constituting the practice of law for the undersigned in all matters arising in this case.

Dated:

Signed:

[If appropriate] By

as

Address:

[If executed by an individual] Acknowledged before me on
.....

*State post-office address.

[If executed on behalf of a partnership] Acknowledged before me on, by, who says that he is a member of the partnership named above and is authorized to execute this power of attorney in its behalf.

[If executed on behalf of a corporation] Acknowledged before me on, by, who says that he is of the corporation named above and is authorized to execute this power of attorney on its behalf.

.....
.....
[Official character]

FORM No. 13-9

PROOF OF CLAIM; ACCEPTANCE OR REJECTION OF PLAN

[Caption, other than designation, as in Form No. 13-1]

PROOF OF CLAIM; ACCEPTANCE OR REJECTION OF PLAN

1. [If claimant is an individual claiming for himself] The undersigned, who is the claimant herein, resides at *.....

[If claimant is a partnership claiming through a member] The undersigned, who resides at *....., is a member of, a partnership composed of the undersigned and, of *....., and doing business at *....., and is authorized to make this proof of claim [if appropriate, and to accept or reject the plan] on behalf of the partnership.

[If claimant is a corporation claiming through an authorized officer] The undersigned, who resides at *....., is the of, a corporation organized under the laws of, and doing business at *....., and is authorized to make this proof of claim [if appropriate, and to accept or reject the plan] on behalf of the corporation.

[If claim is made by agent] The undersigned, who resides at *....., is the agent of, of *....., and is authorized to make this proof of claim [if appropriate, and to accept or reject the plan] on behalf of the claimant.

*State post-office address.

2. The debtor was, at the time of the filing of the petition initiating this case, and still is indebted [or liable] to this claimant in the sum of \$.....

3. The consideration for this debt [or ground of this liability] is as follows:

4. This claim consists of \$..... in principal amount and \$..... in additional charges [or no additional charges]. [Itemize all charges in addition to principal amount of debt, state basis for inclusion and computation, and set forth any other consideration relevant to the legality of any charge]

5. [If the claim is founded on a writing] The writing on which this claim is founded (or a duplicate thereof) is attached hereto [or cannot be attached for the reason set forth in the statement attached hereto].

6. [If appropriate] This claim is founded on an open account, which became [or will become] due on, as shown by the itemized statement attached hereto. Unless it is attached hereto or its absence is explained in an attached statement, no note or other negotiable instrument has been received for the account or any part of it.

7. No judgment has been rendered on the claim except

8. The amount of all payments on this claim has been credited and deducted for the purpose of making this proof of claim.

9. This claim is not subject to any setoff or counterclaim except

10. No security interest is held for this claim except [If security interest in property of the debtor is claimed] The undersigned claims the security interest under the writing referred to in paragraph 5 hereof [or under a separate writing which (or a duplicate of which) is attached hereto, or under a separate writing which cannot be attached hereto for the reason set forth in the statement attached hereto]. Evidence of perfection of such security interest is also attached hereto.

[Unless a security interest is properly claimed in this paragraph and proof of claim filed on or before the first date set for the first meeting of creditors or within such extended time as the court may allow, claimant will not be treated as a secured creditor for purposes of voting and distribution in the Chapter XIII case.]

11. This claim is a general unsecured claim, except to the extent that the security interest, if any, described in paragraph 10 hereof is sufficient to satisfy the claim. [If priority is claimed, state the amount and the basis thereof.]

.....
.....
.....

12. Claimant accepts [or rejects] the debtor's plan, dated
..... [Any creditor filing a claim who has not filed a written acceptance or rejection of the plan, in his proof of claim or otherwise, before the conclusion of the first meeting of creditors, will be deemed to have accepted the plan.]

Dated:

Signed:

Penalty for Presenting Fraudulent Claim. Fine of not more than \$5,000 or imprisonment for not more than 5 years or both—Title 18, U. S. C., § 152.

FORM No. 13-10

PROOF OF CLAIM BY DEBTOR OR TRUSTEE

[Caption, other than designation, as in Form No. 13-1]

PROOF OF CLAIM BY DEBTOR OR TRUSTEE

1. [If person making claim is an individual] The undersigned, who is filing this proof of claim, is the debtor [or the trustee] in this case and resides at *.....

[If person making claim is a corporation acting through an authorized officer] The undersigned, who resides at *.....
..... is the of
....., a corporation organized under the laws of and doing business at *....., which corporation is the trustee in this case, and is authorized to make this proof of claim on behalf of the corporation.

[If claim is made by agent] The undersigned, who resides at *....., is the agent of of *.....

*State post-office address.

the debtor [*or* the trustee] in this case, and is authorized to make this proof of claim.

2. This claim is filed in the name of of *....., who asserts a claim against the debtor in the sum of \$.....

3. The consideration for this debt [*or* ground for this liability] is as follows:

.....
4. This claim consists of \$..... in principal amount and \$..... in additional charges [*or* no additional charges]. [*If appropriate*] The undersigned believes that \$..... of the additional charges are illegal for the following reasons:

.....
5. [*If the claim is founded on a writing*] The writing on which this claim is founded (or a duplicate thereof) is attached hereto [*or* cannot be attached for the reason set forth in the statement attached hereto].

6. [*If appropriate*] This claim is founded on an open account, which became [*or* will become] due on A note or other negotiable instrument was given for \$..... of the account on [*or* no note or other negotiable instrument was given for the account or any part of it].

7. No judgment has been rendered on the claim except

.....
8. The amount of all payments on this claim has been credited and deducted for the purpose of making this proof of claim.

9. This claim is not subject to any setoff or counterclaim except

.....
10. No security interest is held for this claim except

[*If security interest in property of the debtor is held*] Claimant asserts the security interest under the writing referred to in paragraph 5 hereof [*or* under a separate writing which (or a duplicate of which) is attached hereto, *or* under a separate writing which cannot be attached hereto for the reason set forth in the statement attached hereto].

*State post-office address.

11. This claim is a general unsecured claim, except to the extent that the security interest, if any, described in paragraph 10 hereof is sufficient to satisfy the claim. [*If claim is or may be entitled to priority, state the amount and the basis thereof.*]

.....
.....
.....

Dated:

Signed:

Penalty for Presenting Fraudulent Claim. Fine of not more than \$5,000 or imprisonment for not more than 5 years or both—Title 18, U. S. C., § 152.

FORM NO. 13-11

BOND OF TRUSTEE

[Caption, other than designation, as in Form No. 13-1]

BOND OF TRUSTEE

We,, of *.....
....., as principal, and,
..... of *.....
....., as surety, bind ourselves to the United States
in the sum of \$..... for the faithful performance by the under-
signed principal of his official duties as trustee of the estate of the
above-named debtor.

Dated:

.....
.....
.....

FORM NO. 13-12

ORDER APPROVING TRUSTEE'S BOND

[Caption, other than designation, as in Form No. 13-1]

ORDER APPROVING TRUSTEE'S BOND

The bond filed by of
*....., as trustee of
the estate of the above-named debtor is hereby approved.

Dated:

.....
.....
.....

Bankruptcy Judge.

*State post-office address.

FORM NO. 13-13

CERTIFICATE OF DESIGNATION AS TRUSTEE

[Caption, other than designation, as in Form No. 13-1]

CERTIFICATE OF DESIGNATION AS TRUSTEE

..... of *.....
....., standing trustee [or having previously filed a blanket bond approved by the court] has been designated as trustee of the estate of the above-named debtor.

Dated:

.....,
Bankruptcy Judge.

FORM NO. 13-14

ORDER FIXING TIME TO REJECT MODIFICATION OF PLAN PRIOR TO CONFIRMATION, COMBINED WITH NOTICE THEREOF

[Caption, other than designation, as in Form No. 13-1]

ORDER FIXING TIME TO REJECT MODIFICATION OF PLAN PRIOR TO CONFIRMATION, COMBINED WITH NOTICE THEREOF

To the debtor, his creditors, and other parties in interest:

The debtor having filed a modification of his plan on
....., it is ordered, and notice is hereby given, that:

1. is fixed as the last day for filing a written rejection of the modification.

2. A copy [or A summary] of the modification is attached hereto. Any creditor who has accepted, or who is deemed to have accepted, the plan and who fails to file a written rejection of the modification within the time above specified shall be deemed to have accepted the plan as modified.

Dated:

.....,
Bankruptcy Judge.

*State post-office address.

FORM No. 13-15

ORDER CONFIRMING PLAN

[Caption, other than designation, as in Form No. 13-1]

ORDER CONFIRMING PLAN

The debtor's plan filed on, [*if appropriate*, as modified by a modification filed on,] having been transmitted to his creditors; and

[*If appropriate*] The deposit required by the plan in the sum of \$..... having been made; and

It having been determined after hearing on notice:

(1) That the plan has been accepted in writing, or is deemed to have been accepted, by the creditors whose acceptance is required by law [*or by all creditors affected thereby*]; and

(2) That the plan has been proposed and its acceptance procured in good faith and not by any means, promises, or acts forbidden by law [*and, if the plan is accepted by less than all affected creditors*, the provisions of Chapter XIII of the Act have been complied with, the plan is for the best interests of the creditors and is feasible, and the debtor has not been guilty of any of the acts or failed to perform any of the duties which would be a bar to the discharge of a bankrupt];

It is ordered that:

1. The debtor's plan [*if appropriate*, as modified] is confirmed.

2. On, and each thereafter until further order, the debtor shall pay [*or*, the employer of the debtor, shall deduct from the wages, salary, or commissions of the debtor and pay] to the trustee,, of *....., the sum of \$.....

Dated:

.....
Bankruptcy Judge.

*State post-office address.

FORM No. 13-16

DISCHARGE OF DEBTOR

[Caption, other than designation, as in Form No. 13-1]

DISCHARGE OF DEBTOR

It appearing that the above-named debtor has filed a petition commencing a case under Chapter XIII of the Bankruptcy Act on has had a plan confirmed, and has completed all payments under said plan [*or* has failed to complete payments under the plan due to circumstances for which he cannot justly be held accountable], it is ordered that:

1. The above-named debtor is released from all dischargeable debts.
2. Any judgment heretofore or hereafter obtained in any court other than this court is null and void as a determination of the personal liability of the debtor with respect to any of the following:
 - (a) debts dischargeable under § 17a and b and § 660 [*or* § 661] of the Act;
 - (b) unless heretofore or hereafter determined by order of this court to be nondischargeable, debts alleged to be excepted from discharge under clauses (2) and (4) of § 17a of the Act;
 - (c) unless heretofore or hereafter determined by order of this court to be nondischargeable, debts alleged to be excepted from discharge under clause (8) of § 17a of the Act, except those debts on which an action was pending on the date when the petition was filed as specified above in which a right to jury trial existed and a party has either made a timely demand therefor or has submitted to this court a signed statement of intention to make such a demand;
 - (d) debts determined by this court to be discharged under § 17c (3) of the Act.
3. All creditors whose debts are discharged by this order and all creditors whose judgments are declared null and void by paragraph 2 above are enjoined from instituting or continuing any action or employing any process to collect such debts as personal liabilities of the above-named debtor.

Dated:

.....,
Bankruptcy Judge.

