

Western District Local Plan Change Highlights
Effective 11/15/2023

A relief from stay order means the trustee will cease any payments to that creditor and the plan will be deemed not to address that creditor as of the date of the order.

Section III A has been redefined to be for payment in full to secured debt. A BIG CHANGE in this section is the CLAIM amount now CONTROLS over the plan amount.

Section III B (like prior section A) is used to maintain and cure any existing default or arrearage. A BIG CHANGE in this section is the CLAIM arrearage amount now CONTROLS over the plan amount.

Section III C (largely like prior section B) is used to revalue or cram down secured debt. For this section, the PLAN CONTROLS value.

In all three of these sections, what happens when interest is not clearly spelled out is defined. In general, treatment follows prior trustee practice with respect to interest rate and payment.

The secured area now allows post-petition fee notices (PPFN's) to be paid. This coupled with payment on claims that are slightly higher than the plan should result in fewer objections and plan amendments being required. Larger differences, however, will require parties to monitor feasibility and may require an objection to claim and or plan amendment once the claim amount or PPFN total is known.

Section III C Lien avoidance and III C Surrender sections have been renumbered but are otherwise largely the same. Section III E for direct pay has been eliminated. Direct pay can be specified when appropriate in sections A and B.

The priority and unsecured sections were changed so the default does not allow set payments. You still can separately classify an unsecured claim if needed and set a payment as appropriate.

Implemented at that same time as the new plan form is a new notice of payment change. The ECF docket will now show why a payment order that differs from the plan is being filed. Most often this would be where a debtor changes employment after plan confirmation. There are numerous other reasons such as retirement, job loss, ratio changes between spouses, etc. In practice, the trustee will continue to file all payment orders. Please continue to notify the trustee if the initial payment needs to be other than an employer wage order.