

Rule 1017-2. Dismissal of a Case.

(A) Failure to File Required Papers. The court may dismiss a voluntary case under any chapter without further notice or hearing for failure by the debtor to file required schedules, statements or lists, and may dismiss a chapter 13 case for failure to file a chapter 13 plan, upon determination that:

- (1) either
 - (a) the clerk has served on the debtor a warning as provided by Local Rule 2002-1(C)(1)(f)(i); or
 - (b) the clerk has provided to the debtor and the debtor's attorney or bankruptcy petition preparer, prior to the expiration of the deadline for filing, notice of the deficiency and a warning that the case will be subject to dismissal without further notice; and
- (2) the debtor has failed to file the required papers by the deadline and no timely filed request for an extension of time is pending before the court.

(B) Failure to Appear at Meeting of Creditors in Chapter 7, 11, and 12 Cases. The court may dismiss a voluntary case under chapter 7, 11 or 12 without further notice or hearing for failure of the debtor (or in the case of a non-individual debtor, the debtor's president, managing partner or other knowledgeable officer) to appear at the § 341 meeting, upon submission by the trustee of the Local Form "Chapter 7 Trustee's Motion to Dismiss Case for Failure by Debtor to Appear at the § 341 Meeting of Creditors" and the proposed Local Form "Order Dismissing Chapter 7 Case for Failure to Appear at §341 Meeting of Creditors" or upon the motion of the U.S. trustee and upon determination that:

- (1) the clerk has served notice of the intended action, by warning in the § 341 or post-conversion meeting notice as provided in Local Rule 2002-1(C)(1)(f)(i);
- (2) there is no motion pending, pursuant to Local Rule 2003-1, to reconsider the trustee's or U.S. trustee's denial of a request for continuance of the meeting; and
- (3) the case was not commenced as an involuntary case.

In an involuntary case, a motion to dismiss for failure of the debtor (or in the case of a non-individual debtor, the debtor's president, managing partner or other knowledgeable officer) to appear at the § 341 meeting shall be scheduled for hearing in accordance with Local Rule 9073-1.

(C) Failure to Appear at Meeting of Creditors in Chapter 13 Cases. The court may dismiss a case under chapter 13, without further notice or hearing, for failure by the debtor to appear at the § 341 or post-conversion meeting if the clerk served notice of the intended dismissal on the debtor by warning as provided in Local Rule 2002-1(C)(1)(f)(i).

(D) Failure to Timely Remit Installment Payment. The court may dismiss a case without further notice or hearing where an application to pay filing and administrative fees in installments has been granted upon determination that the debtor has failed to make a timely payment if the clerk served the warning as required by Local Rule 2002-1(C)(1)(f)(i).

(E) Fees Outstanding at Time of Dismissal. The balance of any statutory or court-ordered fees, including filing fees, conversion fees, and U.S. trustee's fees, due and owing at the time of dismissal must be immediately paid in full.

(F) Disposition of Funds by Chapter 12 or 13 Trustee Upon Dismissal of Case. Upon the dismissal of a case under Chapter 12 or Chapter 13 of the Bankruptcy Code, the trustee shall dispose of funds in the following manner:

- (1) If there is a confirmed plan in the case, the trustee shall pay any funds received prior to the entry of the order dismissing the case to creditors pursuant to the terms of the plan. All funds received after the entry of the order shall be paid or returned to the debtor.
- (2) If there is neither a confirmed plan nor an order directing otherwise, the trustee shall pay all funds, regardless of the time of receipt, to the debtor.
- (3) Notwithstanding subdivisions (1) and (2), any remaining balance owed by the debtor to the court for filing fees and clerk's fees shall be paid by the trustee to the court prior to making any refund to the debtor.

[Comment: See also 11 U.S.C. § 347(a) (unclaimed funds), Local Rule 2002-1(C)(6) (clerk to serve notice of dismissal), and Local Rule 9013-1(D)(3)(i) (dismissal of cases other than chapter 13 on negative notice).]

(G) Deadline in Reinstated Cases for Filing Motions to Dismiss or for Serving Notices of Hearings Pursuant to Bankruptcy Rule 1017(e). If a case is dismissed prior to the expiration of the deadline for filing a motion to dismiss a case for substantial abuse pursuant to Bankruptcy Rule 1017(e)(1) or for service of notice of a hearing on the court's own motion to dismiss a case for substantial abuse pursuant to Bankruptcy Rule 1017(e)(2) and subsequently reinstated, the deadline shall be modified as follows:

- (1) In a case dismissed before the § 341 meeting of creditors is held, the new deadline shall be 60 days after the rescheduled § 341 meeting of creditors.
- (2) In a case dismissed after the § 341 meeting of creditors is held, the new deadline shall be 60 days from execution of the order vacating the order of dismissal.

 2004 Amendment: Amended to incorporate the provisions of AO Order 03-1.