

UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF FLORIDA  
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In re:

Administrative Order 12-04

Amended Order Amending Interim  
Local Rule 3070-1

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The court, having noted that creditors are filing notices of payment change under Fed. R. Bankr. P. 3002.1 that are neither necessary nor appropriate, and that the filing of these unnecessary notices is placing an unjustified burden on debtors' attorneys and the court, finds that Local Rule 3070-1(B) should be amended to clarify when notices of payment change should or should not be filed. Accordingly, effective December 3, 2012, it is ORDERED that:

1. Subdivision (B) of Interim Local Rule 3070-1, as adopted by Administrative Order 11-03 *Order Adopting Interim Local Rules and Clarifying Status of Local Forms Related to Chapter 13 Case Matters Addressed in Local Rule 3070-1 and Related to Local Rules 2002-1 and 4004-3*, shall be amended to add the following new Interim Local Rule subsections (B)(2), (B)(3), and (B)(4):

**(B)(2)** Bankruptcy Rule 3002.1 applies only "in a chapter 13 case to claims that are (1) secured by a security interest in the debtor's principal residence, and (2) provided for under § 1322(b)(5) of the Code in the debtor's plan." The Advisory Committee Note to Bankruptcy Rule 3002.1 states that "[i]t applies regardless of whether the trustee or the debtor is the disbursing agent for postpetition mortgage payments." Bankruptcy Rule 3002.1 does not apply to, and creditors shall not file notices of payment change with respect to, any claim (a) secured by a security interest in real property of the debtor that is not the debtor's principal residence OR (b) that is not provided for under § 1322(b)(5) of the Code in the debtor's plan. Without limiting the foregoing, if treatment of a claim secured by a security interest in the debtor's principal residence is not described in the debtor's plan other than to state that payment will be made by the debtor outside the plan, or if the treatment provided in the plan is not under § 1322(b)(5) of the Code, Bankruptcy Rule 3002.1 does not apply and the creditor shall not file notices of payment with

respect to such claim. The purpose of this provision is to eliminate the filing of unnecessary notices of payment change that result in needless incurrence of legal expenses by chapter 13 debtors to respond to such notices and necessitate unnecessary hearings before this court.

**(B)(3)** With respect to claims in connection with which creditors are directed not to file notices of payment change under subsection (B)(2) of this rule, the holder of the claim may send notices of payment change and escrow notices directly to the debtor without violating the automatic stay.

**(B)(4)** Upon motion by the debtor, the court will consider awarding sanctions against a creditor that files a notice of payment change not required under Bankruptcy Rule 3002.1 and that is expressly deemed unnecessary under this rule.

2. Prior Interim Local Rule subsection 3070-1(B)(2) will be renumbered (B)(5).

3. All other Interim Local Rule amendments adopted by AO 11-03 shall remain

in full force and effect until further order of this court.

4. This Order supersedes and replaces Administrative Order 12-02.

5. The clerk is directed to provide notice of entry of this Administrative Order and update the Local Rules as published by this court to reflect the text of amended Interim Rule 3070-1, as adopted by this Order.

**ORDERED** in the Southern District of Florida on November 30, 2012.

/s  
PAUL G. HYMAN, JR.  
Chief United States Bankruptcy Judge

c: All SD Bankruptcy Judges  
Clerk of Court