

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF CALIFORNIA**

In re:)	
)	FILED October 1, 2015
CHAPTER 13 ADEQUATE PROTECTION)	BANKRUPTCY GENERAL
PAYMENTS PURSUANT TO THE)	ORDER NO. 175-E
BANKRUPTCY ABUSE PREVENTION AND)	
CONSUMER PROTECTION ACT)	
_____)	

The Court, having considered the implications of *Harris v. Viegelahn*, _____ U.S. _____, 135 S. Ct. 1829 (2015), modifies Bankruptcy General Order No. 175-D to delete paragraphs 7 and 8 pending further analysis by the Court. Further, LBR 3015-9 is amended to reflect the renumbering of this General Order. The restated procedure for compliance with 11 U.S.C. § 1326(a)(1)(A), (B), and (C) is as follows:

1. The debtor must comply with 11 U.S.C. § 1326(a)(1)(B) and (C) by making payments under 11 U.S.C. § 1326(a)(1)(A) ("Plan Payments") to the chapter 13 trustee pursuant to a chapter 13 plan.

2. The chapter 13 trustee will perform the debtor's obligations under § 1326(a)(1)(B) and (C) by transmitting on a monthly basis a share of the Plan Payments actually received ("Adequate Protection Payments") to the creditors provided for in a debtor's chapter 13 plan ("Adequate Protection Creditors") in the following amounts (or such greater or lesser amount as ordered by the Court):
 - a. 75% of the installment due to a lessor scheduled to be paid under paragraph 4 of the plan on account of monthly lease obligations that become due as required by 11 U.S.C. § 1326(a)(1)(B);

 - b. 1.25% of the scheduled value of the collateral, to a secured creditor scheduled to be paid under paragraph 5 of the plan on account of a claim secured by personal property, where such security interest is attributable to the purchase of such property as required by 11 U.S.C. § 1326(a)(1)(C); or

 - c. 75% of the payment due to a secured creditor scheduled to be paid under paragraph 6 of the plan on account of a claim secured by personal property, where such security interest is attributable to the purchase of such property as required by 11 U.S.C. § 1326(a)(1)(C).

It will be presumed that a secured creditor listed in paragraphs 5 or 6 of the plan, or a lessor listed in paragraph 4 of the plan, is entitled to Adequate Protection Payments calculated as set forth in paragraphs 2(a), (b), and (c) above.

3. Notwithstanding paragraph 2 above, the chapter 13 trustee must hold Adequate Protection Payments until the Adequate Protection Creditor files a proof of claim.
4. The obligation of the chapter 13 trustee to make Adequate Protection Payments will terminate upon confirmation of the chapter 13 plan, with the creditor receiving thereafter the portion of the Plan Payments provided in the chapter 13 plan.
5. The debtor cannot propose in the chapter 13 plan Adequate Protection Payments in a lesser amount than as calculated in paragraph 2 of this order without a further order of the Court.
6. The chapter 13 trustee may assess an administrative fee for effecting Adequate Protection Payments and may collect such fee at the time of making the Adequate Protection Payments. The allowed expense fee must be no more than the chapter 13 trustee's then applicable percentage fee established by the designee of the Attorney General pursuant to 28 U.S.C. § 586(e)(1)(B) as such statute is in effect at the time of the disbursement.

The effective date of this General Order is October 1, 2015.

DATED: September 29, 2015

s/ Laura S. Taylor

LAURA S. TAYLOR
Chief Judge, U.S. Bankruptcy Court

s/ Louise DeCarl Adler

LOUISE DeCARL ADLER
Judge, U.S. Bankruptcy Court

s/ Margaret M. Mann

MARGARET M. MANN
Judge, U.S. Bankruptcy Court

s/ Christopher B. Latham

CHRISTOPHER B. LATHAM
Judge, U.S. Bankruptcy Court