

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF ALABAMA

LOCAL GENERAL ORDER NO. 13

CONDITIONAL DENIALS OF RELIEF FROM STAY
IN CHAPTER 13 CASES

Unless otherwise ordered by the Court, an order conditionally denying a motion for relief from stay (or conditionally extending or imposing the automatic stay) with a future relief provision is subject to the following requirements:

1. The future relief provision must expire no later than two years after entry of the conditional denial order.
2. Termination of the stay cannot be based upon the number of default notices.
3. The creditor must mail any notice of default to debtor(s) and file it with the court within one business day of mailing. If the stay terminates pursuant to the terms of the conditional denial order, the creditor must file a “notice of termination of stay” with the court and mail a copy to the debtor. The notice filings required by this paragraph are for information only, and the notices will not be set for hearing. The stay termination is not effective unless and until the notices described in this paragraph are filed with the court.
4. The conditional denial order must not contain an open-ended provision for future attorney’s fees or costs in addition to the fees and costs specifically authorized in the order.
5. The creditor must file an amended or supplemental proof of claim in order for any postpetition arrearage or attorney’s fees authorized by the conditional denial order to be paid by the Chapter 13 trustee. Any such proof of claim must be filed within sixty days of the conditional denial order’s entry.
6. If the denial is conditioned upon current payments being made directly to the creditor, the order must state the date of the month when payments are due. The cure period after notice of default must be at least twenty days from the date of mailing.
7. If the denial is conditioned upon plan payments being made to the Chapter 13 trustee, the order must not provide that debtor is in default prior to the end of the month in which the plan payment is due. The cure period after notice of default

must be at least fifteen days from the date of mailing. The trustee's records shall control as to the date payment was received.

This local general order shall apply to conditional denial orders entered after September 1, 2016.

Dated:

HENRY A. CALLAWAY
CHIEF U.S. BANKRUPTCY JUDGE

JERRY C. OLDSHUE
U.S. BANKRUPTCY JUDGE