

UNITED STATES BANKRUPTCY COURT  
DISTRICT OF NEW MEXICO

In re: COURT ADMINISTRATIVE MATTERS,  
Correction to NM LBR 3015-3(a) to conform to  
Mandatory Local Form Chapter 13 Plan,

Misc. No. 23-001

**ORDER CORRECTING NM LBR 3015-3(a) DEFINING “GAP PAYMENT”  
FOR PURPOSES OF THE MANDATORY LOCAL FORM CHAPTER 13 PLAN**

On April 14, 2021, the Court entered an Order Adopting Local Bankruptcy Rule 3015-3, Local Bankruptcy Rule 3015-4, and New Local Form Chapter 13 Plan. *See* MP 21-001-J – Doc. 8. The Court adopted NM LBR 3015-3 to implement conduit mortgage payments in chapter 13 cases. NM LBR 3015-3(a) defines “gap payment” as “the first two Mortgage payments that come due post-petition.” However, the local form Chapter 13 Plan (NM LF 3015-2), which was adopted at the same time as NM LBR 3015-3(a), defines “gap” payment as the first post-petition mortgage payment, not the first two payments. NM LBR 3015-2(a) requires chapter 13 debtors to use the local form Chapter 13 Plan (NM LF 3015-2).

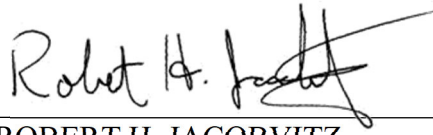
The local form Chapter 13 Plan has been in effect for nearly two years, and practitioners are now accustomed to the “gap payment” being treated as the first mortgage payment that comes due post-petition. Numerous orders have been entered confirming chapter 13 plans that define “gap payment” as the first post-petition mortgage payment, notwithstanding NM LBR 3015-5(a)’s conflicting definition. Under these circumstances, it is appropriate to conform NM LBR 3015-3(a) to the mandatory local form Chapter 13 Plan. Further, because this is a conforming correction, further public notice and comment is unnecessary.

WHEREFORE, IT IS HEREBY ORDERED, that NM LBR 3015-3(a) is corrected as follows:

Definitions. “Conduit payments” are post-petition Mortgage payments made by the Debtor to the Trustee for payment to the Mortgagee under a confirmed Chapter 13 plan. “Debtor” includes both debtors in a joint case. “Gap payment” means the first Mortgage payment that comes due post-petition. “Mortgage” includes deeds of trust. “Mortgagee” is the holder of a Mortgage, including but not limited to a Mortgage on Debtor’s principal residence. “Trustee” is the Chapter 13 Trustee.

ORDERED FURTHER, that the effective date of corrected NM LBR 3015-3(a) is March 1, 2023.

ORDERED FINALLY, that the Clerk of Court shall correct the Local Rules of the United States Bankruptcy Court for the District of New Mexico posted to the Court's website, [www.nmb.uscourts.gov](http://www.nmb.uscourts.gov), to reflect the correction adopted by this Order as of the effective date.



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ROBERT H. JACOBVITZ  
Chief United States Bankruptcy Judge



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DAVID T. THUMA  
United States Bankruptcy Judge

Date entered on docket: February 28, 2023