

MEMORANDUM

TO: All Attorneys Practicing in the Akron Divisional Office
FROM: Judge Alan M. Koschik
DATE: May 9, 2017
RE: Interest Rate on Secured Claims

As have other divisional offices in this District, this Court previously adopted the prime-plus interest rate for secured claims promoted by a plurality decision of the United States Supreme Court in *Till v. SCS Credit Corp.*, 541 U.S. 465 (2004). *In re Kemmery*, 516 B.R. 485 (Bankr. N.D. Ohio 2014). Other divisional offices of this Court have followed this rule as well. *See, e.g., In re Riley*, 428 B.R. 757 (Bankr. N.D. Ohio 2010); *In re Dimery*, 2011 WL 2470057 (Bankr. N.D. Ohio 2011) (unpublished); *In re Blanton*, 2010 WL 4503188 (Bankr. N.D. Ohio 2010) (unpublished). Under this formula, secured claims may be restructured in a plan, especially, but perhaps not limited to, a chapter 13 plan, by imposing an interest rate equal to the prime rate prevailing as of the petition date plus an additional risk factor of 1-3 percent. It has been this Court's practice to allow secured claims to be paid interest at 2 percent over the prevailing prime rate by default. Attempts to deviate from that formula require a hearing and an explanation, if not specific evidence.

The prime rate in the United States remained constant at 3.25 percent from December 2008 until December 2015. As a result, over a seven-year period the *Till* opinion caused restructured secured claims, other than home mortgages in chapter 13 cases, to be fixed at, or at least near, 5.25 percent. However, as noted by Chief Judge Kendig in his March 20, 2017 Memorandum to Attorneys Practicing in the Canton Divisional Office, as well as Judge Woods' March 22, 2017 Memorandum to Attorneys Practicing in the Youngstown Bankruptcy Court, effective December 17, 2015, the prime rate increased to 3.50 percent. The prime rate again increased to 3.75 percent effective December 15, 2016. Only three months later, on March 16, 2017, the prime rate increased to the current 4.00 percent.

Secured creditors are presumptively entitled to a *Till* interest rate that is adjusted upwards by 2.00 percentage points from those prime rates for any cases filed on or after the date of the increase in the prime rate. However, for administrative ease, the Akron divisional office will apply these prime rates and the corresponding presumptive *Till* interest rate for cases filed on or after the beginning of the calendar quarter following the prime rate increases. Therefore, the Court will sustain objections to claim, by default, that seek to allow secured claims at 5.50 percent for cases filed on or after January 1, 2016, 5.75 percent for cases filed on or after January 1, 2017, and 6.00 percent for cases filed on or after April 1, 2017.

The following chart may be of some assistance.

Case Filing Date	Secured Claim Interest Rate
Before and on December 31, 2015	5.25%
January 1, 2016 to December 31, 2016	5.50%
January 1, 2017 to March 31, 2017	5.75%
On and after April 1, 2017	6.00%

Any and all parties remain free to request a hearing and contest a proposed interest rate as too high or too low. The rates described in this memorandum are those that will be approved if a claimant does not respond to a properly-noticed objection to its claim.