

Rule 3015-2

Chapter 13 Plan Requirements and Confirmation

(a) Inclusion of Related Motions: If applicable, and without prejudice to a debtor's right to file a stand-alone motion seeking the same relief, the plan shall include the following related motions:

(1) Motion for Determination of Value pursuant to 11 U.S.C. § 506(a).

(2) Motion for Avoidance of Lien pursuant to 11 U.S.C. § 522(f) (Lien avoidance under any other provision of the Bankruptcy Code must be by adversary proceeding and requires service of a summons and complaint.)

(3) Motion for Assumption or Rejection of Executory Contracts pursuant to 11 U.S.C. § 365.

(b) Special Notice to Secured Creditors Whose Collateral is to be Valued or Lien Avoided Unless a stand-alone motion and appropriate notice is served on the affected creditor at the same time as the plan is filed with the Clerk and transmitted to creditors, the debtor shall serve on each creditor who is the subject of a motion for valuation under 11 U.S.C. § 506(a) or an included motion for lien avoidance under 11 U.S.C. § 522(f), a copy of the plan to which is attached a notice in the form approved by the Court. Service of the plan and special notice must be made in the manner provided for in Fed. R. Bankr. P. 7004.

(c) Filing of Original Chapter 13 Plan and Related Motions

(1) Requirement. The Chapter 13 Plan and Related Motions and any special notice to secured creditors required by this rule shall be filed with the petition or not later than fifteen (15) days after the commencement of the case if the case was originally filed under Chapter 13, or fifteen (15) days after the order converting the case to Chapter 13 from some other chapter.

(2) Proof of Service to include names and addresses of all parties served. The Chapter 13 Plan and Related Motions must contain proof of service setting forth the date and manner of service and the names and addresses of all parties to whom the plan was mailed or transmitted.

(3) Extension of Time to File Chapter 13 Plan and Related Motions

(A) A motion to extend the time to file a Chapter 13 Plan and Related Motions may be granted by the Clerk for an additional ten (10) days, if:

(i) the motion for extension has been filed before the initial due date has expired; and

(ii) notice of the motion has been given by the debtor to the trustee and all creditors.

(d) Distribution of Chapter 13 Plan and Related Motions. The debtor shall distribute a copy of the original Chapter 13 Plan and Related Motions to all creditors, the Chapter 13 trustee, and other parties in interest at or prior to the time it is filed with the court. Upon receipt of the confirmation date, time and location, the debtor shall serve on affected creditors the special notice required by paragraph (b) of this rule.

(e) Objections to Confirmation of Chapter 13 Plan or to Related Motions.

(1) Deadline for Filing. Any objection to confirmation of the Chapter 13 Plan or to the granting of any included Motion for Determination of Value, Motion for Lien Avoidance, or Motion to Assume or Reject Executory Contract or Unexpired Lease shall be filed not later than ten (10) days prior to the date set for the confirmation hearing. Any extension of the original objection period must be requested by motion.

(2) Service of Objection. The objecting party shall file the objection with the Court and serve the objections on the standing trustee, the debtor, and the debtor's attorney. The objection shall be accompanied by proof of service evidencing compliance with this requirement.

(3) Hearings on Objections. All timely filed objections shall be heard at the contested confirmation hearing to be scheduled by the court or by the Chapter 13 trustee (after the first confirmation hearing scheduled in the 341 Notice).

(f) Modified Chapter 13 Plan and Related Motions

(1) Procedure where no plan has been confirmed

(A) Time for Filing. Unless confirmation of a prior plan has been denied, a modified plan shall be filed ten (10) days prior to confirmation. If confirmation of a prior plan has been denied, a modified plan must be filed within the period stated in paragraph (h) of this rule unless the order denying confirmation states some other period.

(B) Distribution of Modified Chapter 13 Plan and Related Motions. The modified Chapter 13 Plan and Related Motions, and any special notice required by paragraph (b) of this rule, must be distributed and served in the same manner as the original plan. The special notice required by paragraph (b) of this rule need not be given, however, if an order has previously been entered granting the relief sought and the modified plan does not contain any provision inconsistent with the order previously entered.

(C) Objections to Confirmation of Modified Chapter 13 Plan and Related Motions. If a modified Chapter 13 Plan and Related Motions are filed, any objections must be filed not later than five (5) days prior to the date set for the confirmation hearing.

(D) Trustee's recommendations. The Chapter 13 trustee shall file a recommendation as to the plan to be confirmed no later than five (5) days prior to the date set for the confirmation hearing.

(E) Effect on Hearing Scheduled on Objection(s) to any Previously Filed Unconfirmed Plan. Once a modified plan and related motions have been filed by the debtor, all previously filed unconfirmed plans and related motions are deemed withdrawn.

(2) Procedure where plan has been confirmed.

(A) Where modification is requested by the trustee or a creditor. If modification of a confirmed plan is sought by the trustee or by a creditor, the modification must be requested by motion and give twenty (20) days notice pursuant to Fed. R. Bankr. P. 2002(a)(5).

(B) Where modification is requested by the debtor. If modification of a confirmed plan is sought by the debtor, modification must be requested by filing and distributing a modified Chapter 13 Plan and Related Motions and by giving twenty (20) days notice pursuant to Fed. R. Bankr. P. 2002(a)(5).

(C) Objections to Confirmation of Modified Chapter 13 Plan. If a timely objection is filed, the court or the trustee will schedule a hearing. Absent a timely objection, the modified plan becomes the plan under 11 U.S.C. § 1329(b)(2) and Fed. R. Bankr. P. 2002 (a)(5).

(g) Confirmation of Plan and Granting of Related Motions Without a Hearing. After the time for filing objections has passed and if no objection has been timely filed, the Court may enter an order confirming the plan and granting the relief sought in the related motions without holding a hearing, or the Court may direct that a hearing be held.

(h) Dismissal of Case upon Denial of Confirmation. If the Court denies confirmation of the debtor's original or subsequently modified Chapter 13 Plan and Related Motions, unless the Court has entered an order previously confirming a plan, the Court may issue an order dismissing the Chapter 13 case unless, within eleven (11) days after denial of confirmation:

(1) the debtor files a new Modified Chapter 13 Plan and Related Motions;

(2) the debtor converts or moves to convert the case to another chapter of the Bankruptcy Code;

(3) the debtor files a motion for relief from judgment or order, or appeals the denial of confirmation; or

(4) the Court otherwise orders.

(i) Full Force and Effect. An order previously entered by the Court confirming a Chapter 13 Plan shall remain in full force and effect if a subsequently modified Chapter 13 Plan is denied confirmation by the Court.

(j) Completion of Plan. Upon completion of the debtor(s') confirmed plan and in compliance with 11 U.S.C. § 1328(a), the Chapter 13 Trustee's Final Report shall clearly state either:

(1) that there were no domestic support obligations due to be paid by the debtor; or,

(2) that there were domestic support obligations due to be paid by the debtor and those obligations are current; or,

(3) that there were domestic support obligations owed by the debtor, that the trustee is unable to determine if they are current and the debtor has not applied for a waiver under this statute; and,

(4) If the trustee is unable to determine if these obligations are current, the Court shall issue a Notice of Intent to Close the Case Without a Discharge unless, within ten (10) days, the debtor files documentation with the Chapter 13 standing trustee that all domestic obligations are current and the Chapter 13 trustee so notifies the Court.