

In re)
)
AMENDMENT OF LOCAL) BANKRUPTCY GENERAL ORDER
BANKRUPTCY RULE 3015) NO. 176-B
AND 7054-2)
_____)

Having considered comments and suggestions made at the Chapter 13 Summit on October 30, 2010, the Court implements these local rule changes to better serve the public and bar in the administration of chapter 13 cases. These revisions clarify or change the procedures for obtaining dismissals, confirming chapter 13 plans including setting hearings for confirmation, and filing motions to value property subject to liens under chapter 13 plans. There are also some additional language changes affecting the administration of chapter 13 cases. These rules are generally applicable to chapter 12 cases. **As this order amends G.O. 176-A in a limited way, the effective date remains April 1, 2011.**

The Local Bankruptcy Rules are modified as indicated below:

**RULE 3015. CHAPTER 12 AND 13 PLANS; EXTENSIONS;
MODIFICATION OF OR OBJECTIONS TO CONFIRMATION
OF PLANS**

3015-1. APPLICABILITY OF RULE.

This rule governs the procedures for the chapters 12 and 13 plan confirmation processes.

3015-2. DISMISSAL BY CHAPTER TRUSTEE.

(a) A motion by the trustee for dismissal based upon the failure of the debtor to file the plan required by Fed. R. Bankr. P. 3015 must be noticed in accordance with Fed. R. Bankr. P. 2002 and Local Bankruptcy Rule 2002-2(a). These requirements are satisfied by including the notice of intended action within the § 341(a) meeting notice.

(b) A motion by the trustee to dismiss after plan confirmation may be made on notice only to the debtor and the debtor's attorney, if any.

3015-3. EXTENSION OF TIME FOR FILING.

Service on the trustee of a motion for extension of time to file a plan is governed by Local Bankruptcy Rule 9034-2.

3015-4. FORM OF OBJECTION TO PLAN.

All objections to confirmation of any original or modified plan, including, but not limited to, objections of the trustee, must be in writing and set forth with specificity all provisions of the Bankruptcy Code or Federal Rules of Bankruptcy Procedure relied upon in support of the objection. Local Form CSD 1172, *OBJECTION TO CONFIRMATION OF CHAPTER 13 PLAN*, may be used to comply with this rule.

3015-5. TIME AND MANNER FOR OBJECTING TO PLAN.

(a) **TIMING.** Objections to the confirmation of the plan, together with the notice of hearing required by Local Bankruptcy Rule 3015-8(b) and proof of service are required to be filed and served no later than seven (7) days after the conclusion of the § 341(a) meeting. Untimely objections may not be considered. Any such objections must be noticed for hearing on a date that is not less than twenty-eight (28) days after filing the objection, unless the court, for good cause shown, shortens the time for notice, or the trustee and debtor waive notice so that an objection can be set on the same calendar as an existing, fully noticed, objection previously set on the court's calendar. The objection must be served contemporaneous with the filing of the objection.

(b) **NOTICE AND FORM OF OBJECTION.** Objections, together with any additional documents required to be served by Local Bankruptcy Rule 9014-2, and a notice substantially conforming to Local Forms CSD 1173, *NOTICE OF HEARING ON OBJECTION TO CONFIRMATION OF CHAPTER 13 PLAN* or CSD 1170, *NOTICE OF MODIFIED CHAPTER 13 PLAN PRIOR TO CONFIRMATION*, must be served on the debtor, the debtor's attorney, the trustee and the United States Trustee. Hearing dates may be obtained from the calendar clerk assigned to the department handling the case.

(c) **RESPONSE.** Any response to the objection, together with supporting declarations containing admissible evidence, are required to be filed and served not later than fourteen (14) days after service of the objection, if personally served. Service of a copy of the pleadings on the United States Trustee is required. If no response is timely filed to the objection, then the objecting party may request an order sustaining the objection and other relief appropriately requested in connection with the objection. Any reply to a response must be filed with the document required in Local Bankruptcy Rule 3015-6.

3015-6. MEET AND CONFER.

The plan proponent and objecting party must confer promptly after the § 341(a) meeting to attempt to resolve plan objections. If a response is filed and objections remain unresolved, then no later than seven (7) days before the confirmation hearing, both

parties must file a status report that states with specificity the nature and extent of any unresolved issues.

3015-7. MODIFICATION OF PLAN.

(a) When modification of plan is required before confirmation of plan in accordance with § 1323, Local Form CSD 1170, *NOTICE OF MODIFIED CHAPTER 13 PLAN PRIOR TO CONFIRMATION*, may be used to comply with this rule and a copy of the modified plan must be attached to the notice.

(b) When modification of plan is required after confirmation of plan in accordance with § 1329, Local Form CSD 1149, *NOTICE OF HEARING AND MOTION FOR APPROVAL OF DISCLOSURE STATEMENT, PLAN, OR MODIFIED PLAN*, may be used to comply with this rule and must be filed with the proposed modified plan.

(c) If an objection has been filed and a hearing date has been set, the filing of a modified plan by a debtor before that hearing does not require the objecting party to re-file a new objection if the basis of the original objection has not changed.

(d) Any objections to a modified plan that were not stated as part of the original objection shall be filed and served no later than ~~fourteen (14)~~ **twenty-eight (28)** days following the filing of the modified plan.

3015-8. CONFIRMATION HEARING.

(a) **HEARING ON CONFIRMATION OF PLAN.** Unless an objection to confirmation is timely filed in accordance with this rule, a confirmation hearing upon a plan will not be required.

b) **NOTIFICATION OF COURTROOM DEPUTY OF MATTERS TO BE DISMISSED.** For all matters or proceedings that have been calendared for hearing, it is the duty of the attorney for the objecting party to promptly advise the parties in interest, including the trustee, and the applicable courtroom deputy by telephone if:

- (1) the objection has been settled by stipulation of the parties; or
- (2) the objection is to be withdrawn.

3015-9. ORDER CONFIRMING PLAN; DUTY OF DEBTOR'S ATTORNEY.

Within fourteen (14) days after the first date when the plan is first ready for confirmation, because the time for objection has passed or when all objections are withdrawn or resolved, the debtor shall prepare and transmit to the trustee the order confirming the plan for review and submission to the court. The trustee will then forward approval or disapproval/comments to the court along with the proposed confirmation order within fourteen (14) days of receipt.

3015-10. MOTIONS TO VALUE PROPERTY SUBJECT TO LIEN UNDER PLAN.

(a) **FORMAT.** A request by the debtor to value property subject to a lien and treat it as unsecured pursuant to 11 U.S.C. §§ 506(a) and 1322 and Fed. R. Bankr. P. 3012 ("Lien Strip Motion") must be noticed as a motion in accordance with Fed. R. Bankr. P. 9014 and Local Bankruptcy Rule 9014 with use of ~~Local Form CSD 1179, NOTICE OF HEARING AND MOTION REGARDING VALUATION OF PROPERTY SUBJECT TO LIEN~~ Local Forms CSD 1171, *DEBTOR'S MOTION TO VALUE REAL PROPERTY, TREAT CLAIM AS UNSECURED AND AVOID JUNIOR LIEN* and CSD 1171.1, *NOTICE OF HEARING AND DEBTOR'S MOTION TO VALUE REAL PROPERTY, TREAT CLAIM AS UNSECURED AND AVOID JUNIOR LIEN*. If timely opposition of a Lien Strip Motion is not filed, then the provisions of Local Bankruptcy Rule 9014-4(f) will apply and the court may deem the non-moving party to have consented to the Lien Strip Motion.

(b) **SERVICE.** Lien Strip Motions must be served in accordance with Fed. R. Bankr. P. 7004 and Local Bankruptcy Rule 7004.

(c) **DEADLINES.**

- (1) Lien Strip Motions must be filed no later than the earlier of twenty-eight (28) days after a proof of claim is filed by the creditor whose lien the debtor seeks to strip, or twenty-eight (28) days after the claims bar date. If a Lien Strip Motion is not timely filed, the court may upon proper motion grant an extension for good cause. Alternatively, the failure of a debtor to timely file a Lien Strip Motion may form the basis for a denial of the confirmation of a plan containing a lien strip provision, the dismissal of the chapter 13 case based on a finding of unreasonable delay that is detrimental to creditors, or other similar action appropriate under the facts of the case. A hearing for the Lien Strip Motion may be obtained from the courtroom deputy for the department assigned to the case that is no less than forty-two (42) days after the date the Lien Strip Motion is filed and served. Untimely Lien Strip Motions will not be given a hearing date without further order of the court.
- (2) Opposition to a Lien Strip Motion will be due twenty-eight (28) days after the service of the Motion. If no opposition is timely filed, then the debtor may submit an order to the court ~~granting the Lien Strip Motion~~ *which substantially conforms to Local Form CSD 1171.2, ORDER GRANTING DEBTOR'S MOTION TO VALUE REAL PROPERTY, TREAT CLAIM AS UNSECURED AND AVOID JUNIOR LIEN*, along with service on the opposing party in accordance with Local Bankruptcy Rule 3015-10(b).

7054-2. DUTY OF PREVAILING PARTY.

Unless the court directs otherwise, the prevailing party will prepare and submit any judgments or orders and, if required, separate findings of fact and conclusions of law, in the manner provided in Local Bankruptcy Rule 7054-3. The pleadings must also comply with Local Bankruptcy Rule 9004. If the prevailing party fails to comply with this obligation within fourteen (14) days after the date of the ruling made by the court, the court may reject the proposed order.

The effective date of this General Order is April 1, 2011.

DATED: April 6, 2011

/s/ Peter W. Bowie
PETER W. BOWIE
Chief Judge, U.S. Bankruptcy Court

/s/ Louise DeCarl Adler
LOUISE DeCARL ADLER
Judge, U.S. Bankruptcy Court

/s/ Laura S. Taylor
LAURA S. TAYLOR
Judge, U.S. Bankruptcy Court

/s/ Margaret M. Mann
MARGARET M. MANN
Judge, U.S. Bankruptcy Court