

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF CALIFORNIA

In re)
) FILED January 20, 2011
) BANKRUPTCY GENERAL ORDER
AMENDMENT OF LOCAL)
BANKRUPTCY RULE 3015) NO. 176
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.

The Local Bankruptcy Rules are modified as indicated below:

**RULE 3015. DISMISSAL FOR FAILURE TO PROVIDE
INFORMATION; CHAPTER 13 PLAN; EXTENSIONS;
MODIFICATION OF OR OBJECTIONS TO CONFIRMATION
OF CHAPTER 13 PLANS**

3015-1. APPLICABILITY OF RULE.

~~This rule governs the granting of extensions of time for filing the chapter 13 plan and for filing objections to confirmation of the plan.~~ This rule governs the procedures for the chapter 13 plan confirmation process.

3015-2. DISMISSAL BY CHAPTER ~~12~~ OR 13 TRUSTEE.

(a) A motion by the chapter ~~12~~ or 13 trustee for dismissal based upon the failure of the debtor to file the plan required by Fed. R. Bankr. P. 3015 ~~shall~~ **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 chapter 13 trustee for dismissal based upon the failure of the debtor to timely provide either:

- (1) the tax return for the tax year ending before the year in which the case was filed as required by 11 U.S.C. § 521(e)(2)(A)(i), or
- (2) any of the information required under 11 U.S.C. § 521(a)(1),

must be noticed in accordance with Fed. R. Bankr. P. 2002 and Local Bankruptcy Rule 2002-2(a).

(bc) A motion by the chapter ~~12~~ or 13 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 chapter 13 trustee of a motion for extension of time to file a chapter 13 plan is governed by Local Bankruptcy Rule 9034-2.

3015-4. FORM OF OBJECTION TO CHAPTER 13 PLAN.

All objections to confirmation of any original or modified chapter 13 plan, including, but not limited to, objections of the chapter 13 trustee, ~~shall~~ **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 FILING OBJECTION OBJECTING TO CHAPTER 13 PLAN.

~~The objecting party must obtain a hearing date from the chapter 13 trustee no later than the date the § 341(a) meeting is concluded. The objecting party must file the original and two (2) copies of its objection to confirmation, together with the notice of hearing required by Local Bankruptcy Rule 3015-8(b) and proof of service, with the clerk on the next court day following the date the § 341(a) meeting is concluded.~~

(a) **TIMING.** Objections to the confirmation of the chapter 13 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 service of 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.

(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 chapter 13 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 not 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. ~~DUTY TO MEET AND CONFER.~~

The plan proponent and objecting party ~~shall~~**must** confer promptly after the § 341(a) meeting to attempt to resolve plan objections. ~~If objections cannot be resolved, then not later than seven (7) days before the confirmation hearing, the attorneys shall file declarations stating with specificity the nature and extent of the problem, why the court's assistance is required for its resolution, and the date on which the parties conferred. No declaration is required by a chapter 13 trustee when the basis for the objection is only a failure of the debtor to make plan payments.~~**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 CHAPTER 13 PLAN.

(a) When modification of plan is required ~~prior~~**prior** to 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 ~~shall~~**must** be attached to the notice.

(b) When modification of plan is required ~~after~~**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 ~~shall~~**must** be filed with the ~~original~~**proposed** 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 chapter 13 plan will not be required **and the debtor may submit a proposed form of order confirming the plan through the chapter 13 trustee within fourteen (14) days**

from the conclusion of the § 341(a) meeting or withdrawal of any objection.

~~(b) NOTICE OF HEARING.~~

~~(1) The party objecting to the confirmation of an original chapter 13 plan or a plan modified prior to confirmation must serve its objection, 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, on the debtor, the debtor's attorney, the chapter 13 trustee and the United States Trustee.~~

~~(2) The party objecting to the confirmation of an original chapter 13 plan or plan modified prior to confirmation must serve the objection and notice not less than twenty-eight (28) days prior to the date set for the hearing, 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.~~

~~(c) 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 chapter 13 trustee, and the chapter 13 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; and~~

~~(3) submit for filing the proper pleading disposing of the matter within seven (7) days.~~

3015-9. REPLY TO OBJECTIONS.

~~The debtor may file a reply to an objection to confirmation of the chapter 13 plan. Any reply must be filed and received by the objecting party and chapter 13 trustee the earlier of seven (7) days after service of the opposition or three (3) court days prior to the date of the confirmation hearing. Service may be by facsimile upon prior agreement of the parties or upon court order. Service of a copy of the pleadings on the United States Trustee is not required. No response to a reply is permitted without court order.~~

3015-10-9. ORDER CONFIRMING PLAN; DUTY OF DEBTOR'S ATTORNEY.

~~The attorney for the debtor shall prepare and deliver to the chapter 13 trustee at the conclusion of the § 341(a) meeting the original and one (1) copy of an order confirming the chapter 13 plan. If a hearing on objections to confirmation results in the plan being confirmed, debtor's attorney shall deliver a confirmation order with one (1) copy to the chapter 13 trustee at the conclusion of the hearing. Any other orders resulting from the hearing shall be delivered with one (1) copy to the chapter 13 trustee within seven (7) days of the conclusion of the hearing, unless otherwise ordered by the court.~~ When the chapter 13 plan is ready for confirmation, including after the time for objection has passed, the attorney for the debtor shall prepare and transmit to the chapter 13 trustee the order confirming the chapter 13 plan for review and submission to the court.

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

(a) **FORMAT.** A request by the debtor to value 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*. 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 granting the Lien Strip Motion to the court 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 ~~shall~~ 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 ~~shall~~ 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 absent a further order.

IT IS FURTHER ORDERED that the period of comment shall be now until FEBRUARY 18, 2011. The effective date of these rules will be MARCH 14, 2011. Any comments should be submitted to the Clerk of Court at 325 West "F" Street, San Diego, California 92101-6991. Please note on the envelope: "In re: G. O. 176 - Chapter 13."

DATED: January 20, 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