

Summary of Recent Changes to Local Rule 9013-4 in Judge Waites' Cases

1. Service Requirement & Hearing Notice Changes:

- **Certification of Plan Completion and Request for Discharge** (11 U.S.C. § 1328(a)) – serve only the case trustee, United States Trustee (UST), and any parties receiving direct payments under confirmed plan. Service on entire mailing matrix is not required in Judge Waites' cases.
- **Motion for Hardship Discharge** (11 U.S.C. § 1328(b)) – serve only case trustee and UST. Service on entire mailing matrix is not required in Judge Waites' cases.
- **Motion to Reopen** – serve only prior case trustee, UST, debtor and debtor's counsel. Service on entire mailing matrix is not required in Judge Waites' cases. A hearing and response deadline is not required, therefore no need to include passive or non-passive notice form with motion.
- **Motion to Continue Administration after Debtor's Death or Disability** – serve only Chapter 13 Trustee. A hearing and response deadline is not required unless otherwise ordered.
- **Debtor's Motion to Convert from Chapter 11 to 7** (no prior conversion) – serve UST only. Service on entire mailing matrix is not required in Judge Waites' cases. A hearing and response deadline is not required unless otherwise ordered.
- **Debtors Motion to Convert from Chapter 13 to 11/12** (no prior conversion) – serve on Chapter 13 Trustee, all creditors, and the UST. A passive hearing notice should be filed providing 14-day response deadline.
- **Debtors Motion to Convert from Chapter 12 to 11/13** (no prior conversion) – serve on Chapter 12 Trustee, all creditors, and the UST. A passive hearing notice should be filed providing 14-day response deadline.
- **Motion to Divide a Case or for Joint Administration** – serve on case trustee, UST, debtor and debtor's counsel only. Service on entire mailing matrix is not required in Judge Waites' cases.
- **Motion for Allowance of Administrative Claims or Interest under 11 U.S.C. § 503** – serve only the case trustee, UST, debtor, debtor's counsel, all creditor committees, and in a chapter 11 case, the 20 largest unsecured creditors (if no committee is appointed). Service on entire mailing matrix is not required in Judge Waites' cases.
- **Motion for Waiver of Financial Management** – serve case trustee and UST only. No need to include passive or non-passive notice form with motion. A hearing and response deadline is not required unless otherwise ordered.

- **Motion to Value Tax Claim and Establish Priority** – notice must provide for 21 day deadline for response/objection (previously was 28 days)

2. Chapter 13 Plan and Embedded Motions

- Objections deadline is **21 days** after filing of the plan in Judge Waites' cases
- Debtors should not include statements in support of confirmation in the plan as this requirement may be obsolete under recent case law.

3. Case Division Changes

- To change assigned location division within the District to the proper county of residence, file amended petition setting forth the proper county.

4. Rule 2004 Examinations

- Prior to filing motion, consult with all necessary counsel and the party to be examined regarding scheduling of 2004 exam.
- Unless all necessary counsel and the party to be examined consent or the Court orders otherwise, the 2004 exam must be scheduled no earlier than 10 days after the filing of the motion for the Rule 2004 examination.

5. Employment of Professionals in Chapter 13 Cases

- Application to employ under § 327(e) is not necessary in Chapter 13 cases to employ professionals such as counsel to assist with post confirmation adversary proceedings, domestic law proceedings, criminal law proceedings or tort proceedings. All attorneys retained by the Chapter 13 debtor must disclose compensation pursuant to § 329 at the time of entry of compensation agreement and at the time of payment of compensation.

6. Motions to Reopen

- Unless otherwise ordered, a motion to reopen a closed case and the payment of a filing fee is not required to file the following:
 - i. Motions to reconsider dismissal;
 - ii. Motions to avoid lien (and amend schedules for lien avoidance) after completion of plan payments;
 - iii. Adversary proceedings or motions to enforce plan;
 - iv. Motions to obtain lien satisfaction in a chapter 13 case;
 - v. Pleadings to enforce the discharge injunction;
 - vi. Motions seeking sanctions;
 - vii. Financial Management Certificate (and Certification of Plan Completion and Request for Discharge, if necessary), if filed no more than 60 days after initial closing of case;
 - viii. Affidavit/correspondence and proof of payment to resolve issues regarding a response to the notice of final cure (and file the Certification of Plan Completion

- and Request for Discharge, if necessary), if filed no more than 60 days after initial closing of case; or
- ix. Amended schedules to disclose property obtained postpetition or to claim exemption that arose postpetition.

7. Service of Certain Orders Entered by the Court

- The following orders are served by the Clerk of Court:
 - i. Order regarding Trustee or UST's Motion to Convert or Dismiss
 - ii. Order regarding Motion to Divide a Case or for Joint Administration
 - iii. Order regarding Interim or Final Accounting
 - iv. Order regarding Debtor's Motion to Convert from 7 to 13 (no previous conversion)
 - v. Order regarding Debtor's Motion to Dismiss (No Prior Conversion)
 - vi. Final Decree
 - vii. Order regarding Discharge for Individual (11 U.S.C. § 1141)
 - viii. Order regarding Subchapter V Discharge (11 U.S.C. § 1192)
 - ix. Order regarding Debtor's Motion to Convert to Chapter 12 or 13 (no previous conversion)
 - x. Final Report (Fed. R. Bankr. P. 5009(a))
 - xi. Order Modifying Confirmed Plan (11 U.S.C. §§ 1229, 1329; Fed. R. Bankr. P. 3015(h))
 - xii. Discharge Order under 11 U.S.C. §§ 1228(a) or 1328(a)
 - xiii. Order Confirming Chapter 13 Plan and Embedded Motions
 - xiv. Order regarding Trustee's Motion or Petition to Dismiss (11 U.S.C. § 1327(c))

8. Service by Mail on Mailing Matrix

- When serving by U.S. Mail on the mailing matrix, it is not necessary to serve the Clerk of Court.

9. Guidance on Requesting Supplemental Fees under SC LBR 2016-1

- When requesting supplemental fees utilizing the Statement of Supplemental Chapter 13 Attorneys Fee CM/ECF event, the event will seek the following information in addition to the fee amount requested:
 - i. **Statement of Work:** Provide a brief explanation as to why the services were unanticipated for each component of the services rendered. If fees for multiple services are being requested in a single entry, include a breakdown of the fee charged for each particular service.

Example: Supplemental Fees in this request: \$500.00. Statement of Work: Assist with the filing of Amending Schedules and Statements (\$200.00) and assist with the filing of Amended Plan (\$300.00) due to a decrease in Debtor's monthly income resulting from a change in employment.
 - ii. **Is Fee Request Before or After Confirmation?:** To determine whether the supplemental fee request is "Before Confirmation" or "After Confirmation,"

ascertain when the services comprising the supplemental fee were rendered. For example, if the services were rendered pre-confirmation, but the Statement of Supplemental Chapter 13 Attorneys Fees is not filed until after confirmation, select “Before Confirmation” when filing the CM/ECF event.

- **Approval of Services on an Hourly Fee Basis:** Any services to be rendered and compensated on an hourly-fee basis, even as a supplemental fee, must be requested by application for compensation pursuant to Fed. R. Bankr. P. 2002(a)(6) and 2016(a), be set for a hearing, and be approved by the Court by written order before payment.

10. Removal of Prejudice Condition in Extending Stay or Reconsidering Dismissal

- Absent compelling reasons, there is no longer a requirement that the extension of the automatic stay or the reconsideration of dismissal be conditioned upon an agreement that any future dismissal of the case will be with prejudice.