

FILED

UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF SOUTH CAROLINA

2021 FEB 23 P 2:35

U.S. BANKRUPTCY COURT
DISTRICT OF SOUTH CAROLINA

IN RE:

CHAPTER 13 CONFIRMATION
PROCEDURES IN CASES ASSIGNED
TO JUDGE WAITES

OPERATING ORDER 18-04¹
(Revised March 1, 2021)

Pursuant to Fed. R. Bankr. P. 3015(f) & (h), and SC LBR 1001-1(d), which allows the undersigned by order to establish confirmation procedures in chapter 13 cases assigned to him, the following procedures are binding upon all parties and counsel appearing in all cases filed or converted to chapter 13 on or after **October 1, 2018**:²

- I. **Deadline for Filing Objection to Confirmation.** Pursuant to Fed. R. Bankr. P. 2002(a)(9), all objections to the confirmation of a chapter 13 plan shall be filed no later than 21 days after the date of service of the chapter 13 plan as computed under Fed. R. Bankr. P. 9006(a).
- II. **Controlling Objection Deadline.** For post-confirmation modified plans that continue to utilize the former local form plan in effect from December 2017 to April 2019,³ the objection deadline set forth in the Motion to Modify Plan After Confirmation controls over any conflicting language that may be shown in the proposed plan.

¹ For cases assigned to Judge Waites, this Order effectively supersedes any contrary procedures set forth in SC LBR 3015-1 and 3015-2, but ensures parties are to continue to use the local form chapter 13 plan adopted in this District.

² Pursuant to this Order, the Court will additionally allow these procedures and forms for post-confirmation plan modification requests filed on or after October 1, 2018 in any pending case.

³ The local form plan in effect from December 2017 to April 2019 included erroneous language that creditors must file an objection to confirmation at least 7 days before the date set for the hearing on confirmation. If this language is included in a proposed post-confirmation modified plan, all parties are directed to disregard that language.

- III. **Pre-Confirmation Notices:** In cases where a plan has not been previously confirmed, the chapter 13 plan must include the appropriate notice depending on the circumstances described below:
- a. **Notice of Opportunity to Object:** If the deadline to object to the confirmation of the chapter 13 plan is **prior** to the date of the Original Confirmation Hearing,⁴ then a Notice of Opportunity to Object in conformance with **Exhibit A** attached to this order must be filed and served with the chapter 13 plan.⁵
 - b. **Notice of Confirmation Hearing:** If the deadline to object to the confirmation of the chapter 13 plan is **on or after** the date of the Original Confirmation Hearing, then a Notice of Confirmation Hearing in conformance with **Exhibit B** attached to this order must be filed and served with the chapter 13 plan.⁶
- IV. **Modified Plans filed Post-Confirmation.** For post-confirmation modifications to a chapter 13 plan not governed by SC LBR 3015-2(c), debtors shall file and serve with the proposed modified chapter 13 plan a motion in conformance with **Exhibit C** attached to this Order, which requests the modification of the confirmed plan and to provide passive notice of a possible confirmation hearing.

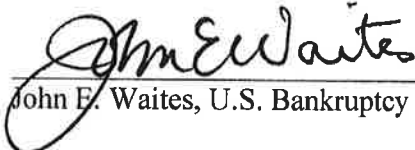
⁴ The Court defines the “Original Confirmation Hearing” as the date of the confirmation hearing set forth in Section 9 of the Notice of Chapter 13 Bankruptcy Case filed by the Court.

⁵ In the instance where the debtor is filing a plan that includes an additional creditor or party-in-interest that was not previously served with the Notice of Chapter 13 Bankruptcy Case and in order to provide the date of the confirmation hearing, the debtor shall file and serve with the plan, in lieu of **Exhibit A**, a notice of confirmation hearing in conformance with **Exhibit B**. In such a circumstance, the date of the confirmation hearing indicated in the notice of confirmation hearing should be the date of the confirmation hearing indicated in the Notice of Chapter 13 Bankruptcy Case unless that date would not satisfy the 28-day requirement of Fed. R. Bankr. P. 2002(b), in which case, the debtor should select another later date for the confirmation hearing.

⁶ The possible hearing date identified in **Exhibit B** should be no earlier than 28 days from the filing and service of the notice pursuant to Fed. R. Bankr. P. 2002(b).

To assist in implementing these procedures, the Clerk of Court is hereby directed to alter the Notice of Chapter 13 Bankruptcy Case (Official Form 309I) and to timely include in SC LBR 3015-2 a clear notice of the requirements of this Operating Order.⁷

AND IT IS SO ORDERED.


John E. Waites, U.S. Bankruptcy Judge

Columbia, South Carolina
February ~~23~~, 2021

⁷ As ordered herein, Judge Waites shall provide the details of those notice and rule changes applicable to his cases by memorandum to the Clerk of Court for inclusion in the Local Rules within 20 days of the Order.

EXHIBIT A

UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF SOUTH CAROLINA

IN RE:

(Set forth here all names including married, maiden, and trade names used by debtor within the last 8 years.)

Address: _____

Last four digits of Social-Security or Individual Tax-Payer-Identification (ITIN) No(s), (if any): _____

DEBTOR(S)

CASE NO:

CHAPTER 13

NOTICE OF OPPORTUNITY TO OBJECT

The debtor(s) in the above captioned case filed a chapter 13 plan on _____. The plan is attached.

Your rights may be affected by the plan. You should read the plan carefully and discuss it with your attorney, if you have one in this bankruptcy case. (If you do not have an attorney, you may wish to consult one.)

Any objection to confirmation of the chapter 13 plan must be in writing filed with the Court at 1100 Laurel Street, Columbia, SC 29201-2423 and served on the chapter 13 trustee, the debtor(s), and any attorney for the debtor(s) no later than 21 days after the service of the chapter 13 plan, as computed under Fed. R. Bankr. P. 9006(a). Objections to confirmation may be overruled if filed late or the objecting party fails to appear and prosecute the objection. If no objection is timely filed, the plan may be confirmed by the Court without further notice.

If you file an objection, you or your attorney must attend the hearing scheduled by the court on confirmation of the plan. Notice of the confirmation hearing is provided in section 9 of the Notice of Chapter 13 Bankruptcy Case. However, the Court may set an earlier status hearing on any objection upon notice to the applicable parties.

If you or your attorney do not take these steps, the court may determine that you do not oppose the terms or relief sought in the plan and may enter an order confirming the plan.

Date: _____

Signature of Attorney/ *Pro Se* Debtor

Typed Printed Name

Address/Telephone/Facsimile/E-mail

District Court I.D. Number

EXHIBIT B

UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF SOUTH CAROLINA

IN RE:

(Set forth here all names including married, maiden, and trade names used by debtor within the last 8 years.)

DEBTOR(S)

Address: _____

Last four digits of Social-Security or Individual Tax-Payer-Identification (ITIN) No(s), (if any): _____

CASE NO:

CHAPTER 13

NOTICE OF OPPORTUNITY TO OBJECT AND CONFIRMATION HEARING

The debtor(s) in the above captioned case filed a chapter 13 plan on _____. The plan is attached, or will be separately mailed to you by the debtor(s).

Your rights may be affected by the plan. You should read the plan carefully and discuss it with your attorney, if you have one in this bankruptcy case. (If you do not have an attorney, you may wish to consult one.)

Any objection to confirmation of the chapter 13 plan must be filed with the Court at 1100 Laurel Street, Columbia, SC 29201-2423 and served on the chapter 13 trustee, the debtor(s), and any attorney for the debtor(s) no later than 21 days after the service of the chapter 13 plan, as computed under Fed. R. Bankr. P. 9006(a). Objections to confirmation may be overruled if filed late or the objecting party fails to appear and prosecute the objection. If no objection is timely filed, the plan may be confirmed by the Court without further notice.

TAKE FURTHER NOTICE that no hearing will be held, except at the direction of the judge, unless a response, return, and/or objection is timely filed and served, in which case the Court will conduct a hearing on _____ at _____ m., at _____, South Carolina. No further notice of this hearing will be given.

If you or your attorney do not take these steps, the court may decide that you do not oppose the terms or relief sought in the plan and may enter an order confirming the plan.

Date: _____

Signature of Attorney/ Pro Se Debtor

Typed Printed Name

Address/Telephone/Facsimile/E-mail

District Court I.D. Number

EXHIBIT C

UNITED STATES BANKRUPTCY COURT
DISTRICT OF SOUTH CAROLINA

IN RE:

(Set forth here all names including married, maiden,
and trade names used by debtor within the last 8
years.)

DEBTOR(S)

Address: _____

Last four digits of Social-Security or Individual Tax-
Payer-Identification (ITIN) No(s) (if any):

CASE NO:

CHAPTER 13

MOTION TO MODIFY PLAN AFTER CONFIRMATION
AND OPPORTUNITY FOR HEARING

The Court has confirmed a chapter 13 plan in this case. The debtor(s) moves, pursuant to 11 U.S.C. § 1329(a), and Fed. R. Bankr. P. 3015(h), to modify the confirmed plan as follows:

[Description of changes. Include paragraph number of the plan and language being modified].

A copy of the plan with these modifications included is attached.

TAKE NOTICE that any response, return, and/or objection to this motion should be filed with the Court no later than 21 days after the service of the modified chapter 13 plan, as computed under Fed. R. Bankr. P. 9006(a), on the chapter 13 trustee, the debtor(s), and any attorney for the debtor(s).

TAKE FURTHER NOTICE that no hearing will be held on this motion, except at the direction of the judge, unless a response, return, and/or objection is timely filed and served, in which case the Court will conduct a hearing on _____, at _____ m., at _____, South Carolina. No further notice of this hearing will be given.

Date: _____

Signature of Attorney/*Pro Se* Debtor(s)

Typed Printed Name

Address/Telephone/Facsimile/E-mail

District Court ID Number