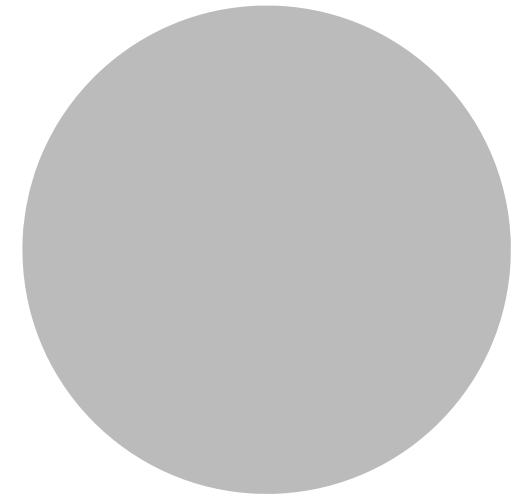


New Confirmation Procedures for Judge Waites



Operating Order 18-04

- ▶ For all Judge Waites cases filed or converted to Chapter 13 on or after October 1, 2018.
- ▶ In addition, the Order applies to all post-confirmation modified plans filed on or after October 1, 2018.
- ▶ Deadline for Filing Objection to Confirmation – all objections to confirmation of a plan shall be filed no later than 21 days after the date of service of the plan as computed under the mailbox rule (Fed. R. Bankr. P. 9006(a)).

New Required Non-Standard Language

- ▶ To be included in 8.1:
 - ▶ Part 1 of this chapter 13 form plan indicates that all objections to the confirmation of the plan must be filed no later than 7 days before the date set for the hearing on confirmation, unless otherwise ordered by the Bankruptcy Court. In Operating Order 18-4, Judge Waites has otherwise ordered that all objections to the confirmation of a chapter 13 plan in cases before him shall be filed with the Court no later than 21 days after the date of service of the plan. Therefore, **all objections to the confirmation of this chapter 13 plan must be filed with the Court no later than 21 days after the date of service of this plan.**
- ▶ The box in Part 1, #1.3 Nonstandard Provisions in Part 8, must be checked "Included." (since a statement in support of confirmation is usually added to the Plan, instead of filed separately, this should already be common practice)

Pre-Confirmation Notices



- ▶ Every plan and modified plan will need a Notice to give the deadline to object. If a plan has not been previously confirmed then:
 - ▶ Initial Plans and Modified Plans filed more than 28 days before the original confirmation hearing:
 - ▶ The Notice of Opportunity to Object provided in **Exhibit A** should be served with the Plan.
 - ▶ The Notice should be filed with the Plan using either the applicable “Plan” or “Modified Plan” CM/ECF event.
 - ▶ The Plan and Notice should be filed in the same event and not be filed the Notice as a separate event in CM/ECF.
 - ▶ Modified Plans filed less than 28 days before the original confirmation hearing or after the original confirmation hearing:
 - ▶ A new confirmation hearing date will need to be selected and included in the Notice of Confirmation Hearing provided in **Exhibit B**, which should be served with the modified plan.
 - ▶ Parties should use separate events in CM/ECF: “Modified Plan” for the Plan and “Notice of Confirmation Hearing” for the Notice.

Modified Plans filed Post-Confirmation

- ▶ For post-confirmation modifications to a chapter 13 plan not governed by SC LBR 3015-2(c) (Statement of Payment Increase), debtors shall file and serve with the proposed modified chapter 13 plan a motion in conformance with **Exhibit C**, which requests the modification of the confirmed plan and provides passive notice of a possible confirmation hearing.

Getting Plans Confirmed as Early as Possible

- ▶ **Please work out objections to confirmation as early as possible**
- ▶ The earlier the plan is confirmed, the earlier everyone can get paid.
- ▶ If there is a delay in the parties' communication to resolve objections, the Trustee or any party may request by letter a status hearing before the Judge.
- ▶ If an objection is not resolved before the confirmation hearing, joint or separate statements of dispute should be filed and counsel for the parties are expected to appear at the confirmation hearing (unless excused by the Court) so the Judge can discuss the status.
 - ▶ For Objections to Confirmation, the joint or separate statement of dispute shall be filed on the earlier of 30 days after the filing of the objection or 10 A.M. two business days before the scheduled confirmation hearing.

Deadline for filing/ providing documents

- ▶ Please file/ provide documents ***at least 7 days before*** the hearing in conformance with SC LBR 3015-4, or contact the trustee's office to request an extension of time. The trustees' offices need time to review the documents before Judge Waites' deadline of 10 a.m. 2 days before the hearing.

Changing the plan terms without having to draft/ serve/ file a modified plan:

- ▶ If the only change is to increase payments, please make use of the Payment Increase Stipulations
- ▶ If the only change is related to an unexpected claim, remember that the changes to FRBP Rule 3012 allow for determination of the amount of a secured or priority claim by claims objection or motion, in addition to use of the plan. This process would not provide payments to a secured creditor in the plan, but might be useful for claims that would be determined to be unsecured.
- ▶ Valuing governmental claims can only be done *after* the claim is filed.

Avoid Dismissal

- ▶ Provide tax returns or a statement that tax returns aren't required as soon as possible after filing, but no later than 7 days before the 341 meeting
- ▶ Make sure your clients start making payments within 30 days of filing
 - ▶ follow chambers guidelines on wage orders within 2 weeks of filing
- ▶ Provide documents early, and make sure to attend the confirmation hearing if appearances aren't waived
- ▶ Don't miss deadlines for filing plans and providing documents post hearing

362 Settlement Orders – Conduit

- ▶ Judge Waites has eliminated the 362 settlement orders Exhibit K, Exhibit L and Exhibit M (see announcement by Judge Waites posted 3/5/18) that result in Debtor adding conduit treatment for a mortgage creditor previously treated in a plan as paid directly. Please do not send those forms to the trustees for consent.