

Local Bankruptcy Rule 2004-1

EXAMINATION OF DEBTOR AND OTHERS

(a) Rule not applicable in adversary proceedings and contested matters. This rule applies only to examinations conducted pursuant to Bankruptcy Rule 2004. The rules governing discovery in adversary proceedings and contested matters are set forth in Part VII of the Federal Rules of Bankruptcy Procedure.

(b) Manner of setting examination. A motion or court order is not necessary to authorize an examination pursuant Bankruptcy Rule 2004 or to require production of documents or electronically stored information at the examination. Examinations shall be scheduled upon notice filed with the court and served on the trustee, the debtor, the debtor's attorney, and the party to be examined.

(c) Reasonable notice. The attendance of the examinee and the production of documents or electronically stored information may not be required less than 21 days after service of the notice, except by agreement of the parties or order of the court. To the extent that a request for production of documents or electronically stored information under this rule may be construed as a request under Bankruptcy Rule 7034, the time to respond is shortened to 21 days. The notice of examination may provide for the production of documents or electronically stored information in advance of the examination, but in no event shall the production of documents or electronically stored information be required less than 21 days from service of the notice of examination, unless otherwise agreed to by the parties or ordered by the court.

(d) Who may attend. Any party in interest who wishes to attend an examination scheduled under this rule may do so by filing and serving a cross-notice of examination at least 14 days in advance of the scheduled examination.

(e) Motion for protective order. An interested party may file, at least 7 days before the date of the proposed examination or production of documents or electronically stored information, a motion for protective order stating the reasons for prohibiting, limiting, or rescheduling the examination or production of documents or electronically stored information. A motion for protective order shall be filed with a request for expedited hearing. The examination and/or production of documents or electronically stored information shall be stayed until the court rules on the motion. If the court schedules a hearing on a motion for protective order, the parties shall meet and confer prior to the hearing in an effort to resolve the issues presented in the motion.

(f) Subpoena. No subpoena is necessary to compel the attendance of, or the production of documents or electronically stored information by, the debtor at an examination of the debtor. A subpoena is necessary to compel the attendance of, or production of documents or electronically stored information by, a witness other than the debtor. The provisions of Federal Rule of Civil Procedure 45 apply to subpoenas issued under this rule.

Local Bankruptcy Rule 3015-2

CHAPTER 13 CONFIRMATION PROCEDURES

(a) § 341 meeting and confirmation hearing. The debtor is required to appear for examination at the § 341 meeting of creditors. Confirmation hearings will be scheduled and held after the expiration of the non-governmental claims bar date. The debtor and the debtor's counsel are not required to appear at the scheduled confirmation hearing if there are no unresolved objections to confirmation.

(b) Service of original plan. If the debtor files a plan at the same time of the filing of the petition and creditor matrix, the clerk of court will serve the plan with the notice of a commencement of a chapter 13 case on the creditor matrix. The debtor is responsible for any additional service required by Bankruptcy Rules 3012(b) and 7004. Otherwise, pursuant to Bankruptcy Rule 3015(d) the debtor shall serve the plan on all creditors when it is filed with the court.

(c) Preconfirmation modification of a plan. The modification of treatment for a secured, priority, or nondischargeable debt that is already addressed in the original plan can be handled with an agreed withdrawal of objection to confirmation and/or joint motion for valuation which is not required to be served on other creditors. The modified treatment must be reflected in the final plan summary as set out below.

However, preconfirmation plan modifications (1) to add or delete a secured, priority or nondischargeable debt or (2) modify the treatment of a secured, priority, or nondischargeable debt other than by agreement must be made by an amended plan. The debtor must serve the amended plan on all creditors as listed on the most recent creditor matrix. The debtor is also responsible for any additional service required by Bankruptcy Rules 3012(b) and 7004. The debtor is not required to sign the amended plan if signed by the debtor's counsel.

If a chapter 13 debtor files an amended plan before confirmation, any objections previously filed to any prior plan are deemed denied without prejudice as moot, except those of secured creditors whose treatment has not changed as provided by Bankruptcy Code § 1323(c). Objections to the plan as last amended must be filed at least seven days prior to the confirmation hearing date as provided by Bankruptcy Rule 3015(f).

(d) Final plan summary. Within 14 days of the chapter 13 trustee's recommendation of confirmation, the debtor shall file a final plan summary, using the form provided on the court's website, which shall include all changes made to the debtor's plan since it was originally filed. Failure to timely file the final plan summary may result in dismissal of the case or reduction of attorney's fees. The final plan summary will be a private filing event in CM/ECF.

(e) Confirmation order. After the final plan summary has been filed, the chapter 13 trustee shall prepare and submit to the court a proposed order confirming the terms of the debtor's plan. Upon its entry, the clerk of court shall serve the confirmation order on all creditors. The confirmation order will include a summary of the plan terms and the percentage distribution to be paid on unsecured claims. The confirmation order will also include a negative

notice provision that a creditor with an allowed unsecured claim may file an objection to the treatment of unsecured claims within 21 days of the entry of the order. The court will schedule a hearing on any timely-filed objection to the confirmation order. The chapter 13 trustee shall begin disbursements pursuant to the plan upon entry of the confirmation order.

(f) Postconfirmation modifications to plans. A motion to modify a confirmed plan must be specific as to the proposed modification. The debtor is not required to sign the motion to modify, and no amended plan is required. All motions to modify a confirmed plan must be served upon the debtor(s), trustee (unless filed by the trustee), and counsel for debtor(s) (unless filed by that counsel). The motion must also be served on any creditor whose treatment is proposed to be modified (using the notice address on the creditor's most recent proof of claim). A proposed modification which would reduce the percentage distribution on unsecured claims must also be served on all creditors that have filed a proof of claim by using the mailing matrix available in CM/ECF. However, a debtor's motion to modify seeking to change the term of the plan or temporarily suspend plan payments is not required to be served on creditors other than the chapter 13 trustee if it does not otherwise seek to modify the treatment of claims.

If the motion is granted, the chapter 13 trustee shall prepare and submit to the court a proposed order approving modification of the terms of the debtor's plan, which the clerk of court shall serve on all creditors upon its entry. The order approving the modification shall include a summary of the plan terms as modified and the percentage distribution to be paid on unsecured claims. An exception to the above is that the court may issue a separate order regarding any temporary plan payment suspension.

(g) When service on all creditors as listed on the most recent creditor matrix is required, the certificate of service must show what and how creditors were served either by listing them or by referencing and attaching a copy of the applicable creditor matrix. A bare recitation that "all creditors" or "all creditors on the matrix" were served is insufficient.