

BANKRUPTCY MEETING AGENDA (APRIL 14, 2016)

A. MOTIONS FOR RELIEF FROM STAY:

Suggested Minimum Requirements:

DIRECT PAY MOTIONS FOR RELIEF

1. Date Certain for Payment Due – Your client's due date is often the 1st and not the 15th of the month
2. Filing of Defaults in Court ECF– we are creating a NON-MAILED event, note you still need to mail to Debtor
3. Filing of Termination in Court ECF- again a NON-MAILED event & NOTE TERMINATION STOPS TRUSTEE PAYMENTS!
4. Attorney Fee Maximum 'No-Look' fee
5. NO open ended fee provisions- fees must be approved to be charged
6. Expiration Dates

PLAN PAYMENT MOTIONS FOR RELIEF

1. Notice of Default (ECF event) (Notice served on Debtor)
2. Post-petition attorney's fees must be in order & 60 days to file POC
3. Notice of Termination (ECF event) (Notice served on Debtor)
4. 2 year shelf life

B. CONSENT ORDERS:

1. Expiration – 2 years
2. Wage order may help your debtor

C. DISMISSAL ORDERS:

1. Standard Case- no injunction: (prove bad faith to get one)

D. REINSTATEMENTS:

1. First one: verified petition helps, don't bring your debtor unless objection (time frame by General Order)
2. Second: have your debtor in court and a really good reason

E. MOTIONS TO EXTEND STAY

1. Verified Motion: don't bring your debtor unless objection (time frame for objections)
2. Put 'why this case is going to work' in your motion

F. SERVICE OF CHAPTER 13 PLANS

1. Amended Plans to be served on ALL parties
2. Post-confirmation, may allow for 'affected' parties

G. NOTICE OF ANY ACTION OR MOTION

1. Need to serve 'affected' parties
2. Clerk's office not sending motions, only notice
3. You have to pay for the matrix

H. NOTICE OF INTENT TO PAY

1. Time to object, working?
2. Late filed Claims

I. DEBTOR ATTORNEY FEES

1. Increased Noticing & costs put on Debtor's counsel
2. No margin of error for missed deadlines (re-opened cases)
3. Increase in costs/workload (but court completing many orders)
4. Reimbursement of Costs provision
5. Productive comments

****GOVDELIVERY****

The U.S. Bankruptcy Court for the Southern District of Alabama is pleased to announce that we have implemented a new email subscription service. GovDelivery will replace email blasts and make it easier for you to learn about updates on the topics which interest you. We hope that you will find it useful to have the ability to customize your emails based upon your particular interests. As of December 1, 2015, we will not send out BLAST emails. To receive future Court information, you will need to go to the link posted below and register.

With this new service you can password protect your subscriptions and preferences, change your email address, or remove yourself at any time by accessing your Subscription Preferences page. You'll need to log in with your email address. Be sure to save your changes, and look for a confirmation via email verifying the updates you make.

Go to www.alsb.uscourts.gov and on the main page, click on the envelope icon and that will take you to a subscription page.

JUDGES' CORNER -- 4/14/16 luncheon

1. The default now for Chapter 13 dismissals is no injunction, one year limit on consent orders. Expect closer scrutiny on motions to reinstate, extensions of stay.
2. Proposed new general rules (attached):
 - a. Minimum standards for conditional denials of relief from stay
 - b. Service of Chapter 13 plan amendments

Please provide comments.

3. Standardized order modifying stay for divorces in Chapter 13 -- draft attached, welcome comments.
4. Motions to employ personal injury attorney in Chapter 13 cases -- fillable sample forms attached (not mandatory) and are now available on website.
5. Transfer of some AP's and cases to balance caseload.
6. Section 522(f) motions to avoid liens on household goods -- consider combining with a valuation motion and having clients testify re value.
7. 66 month plans -- should be reserved for emergency situations, not used at beginning of case to lower plan payments.
8. Case summary -- updated each month.
9. Court-generated forms -- list attached.
10. Discharge eligibility hearings in open Chapter 13 cases.

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF ALABAMA

LOCAL GENERAL ORDER NO. ____

CONDITIONAL DENIALS OF RELIEF FROM STAY
IN CHAPTER 13 CASES

Unless otherwise ordered by the Court, an order conditionally denying a motion for relief from stay (or conditionally extending or imposing the automatic stay) with a future relief provision must meet the following conditions:

1. The future relief provision must expire no later than two years after entry of the conditional denial order.
2. Termination of the stay cannot be based upon the number of default notices.
3. The creditor must mail any notice of default to debtor(s) and file it with the court within one business day of mailing. If the stay terminates pursuant to the terms of the conditional denial order, the creditor must file a "notice of termination of stay" with the court and mail a copy to the debtor. The notice filings required by this paragraph are for information only, and the notices will not be set for hearing. The stay termination is not effective unless and until the notices described in this paragraph are filed with the court.
4. The conditional denial order must not contain an open-ended provision for future attorney's fees or costs in addition to the fees and costs specifically authorized in the order.
5. If the denial is conditioned upon current payments being made directly to the creditor, the order must state the date of the month when payments are due. The cure period after notice of default must be at least twenty days from the date of mailing.
6. If the denial is conditioned upon plan payments being made to the Chapter 13 trustee, the order must not provide that debtor is in default prior to the end of the month in which the plan payment is due. The cure period after notice of default must be at least fifteen days from the date of mailing. The trustee's records shall control as to the date payment was received.

This local general order shall apply to conditional denial orders entered after _____,
2016.

Dated:

HENRY A. CALLAWAY
CHIEF U.S. BANKRUPTCY JUDGE

JERRY C. OLDSHUE
U.S. BANKRUPTCY JUDGE

4/14/16
draft

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF ALABAMA

LOCAL GENERAL ORDER NO. ____

SERVICE OF PROPOSED CHAPTER 13 PLAN AMENDMENTS

Debtors must serve proposed amendments to Chapter 13 plans filed prior to confirmation (not conditional confirmation) on all creditors pursuant to Bankruptcy Rule 2002(a). Pursuant to Bankruptcy Rule 3015(g), the Court orders that debtors are not required to serve a request to modify a Chapter 13 plan after confirmation on creditors who have not filed proofs of claim unless they are affected by the proposed modification. Service of post-confirmation plan modification requests on creditors who have filed proofs of claim must be made using the notice addresses specified on the proofs of claim.

Dated:

HENRY A. CALLAWAY
CHIEF U.S. BANKRUPTCY JUDGE

JERRY C. OLDSHUE
U.S. BANKRUPTCY JUDGE

Draft 4/14/16

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE SOUTHERN DISTRICT OF ALABAMA

In re:

Debtor.

)
)
)
)
)

Case No. _____

ORDER MODIFYING AUTOMATIC STAY IN CHAPTER 13 CASE
TO ALLOW DIVORCE PROCEEDING

This matter is before the Court on the motion for relief from the automatic stay filed by _____ . The Court has jurisdiction to hear this matter pursuant to 28 U.S.C. § 157 and § 1334 and the order of reference of the District Court. This matter is a core proceeding pursuant to 28 U.S.C. § 157(b)(2)(G), and this Court has the authority to enter a final order. The Court determines that the automatic stay of 11 U.S.C. § 362 is due to be and hereby is modified in this case to the following extent:

Debtor and his or her spouse may prosecute a divorce proceeding to conclusion and the entry of a final judgment in state court. However, any agreement or state court order concerning property settlement is subject to approval of this Court, and this Court retains jurisdiction to adjudicate the impact of the state court's division of property in this bankruptcy case in accordance with the Bankruptcy Code. Any enforcement of the state court judgment against or involving debtor's property or earnings -- other than income withholding for alimony, maintenance or support -- must take place in this Court.

The stay provision of Bankruptcy Rule 4001(a) is waived, and this order may be immediately enforced and implemented. This order shall survive conversion of the case to any other chapter of the Bankruptcy Code.

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE SOUTHERN DISTRICT OF ALABAMA

IN RE:

CHAPTER 13

Case No. _____

Debtor(s).

APPLICATION FOR EMPLOYMENT OF ATTORNEY
AS A PROFESSIONAL PERSON FOR A SPECIFIC PURPOSE IN A CHAPTER 13
CASE AND VERIFIED STATEMENT OF DISINTERESTEDNESS

Debtor(s) hereby applies to employ an attorney as a professional person pursuant to 11 U.S.C. §§ 327(e) and 328(a) and Bankruptcy Rule 2014 to prosecute a cause of action or suit on his or their behalf. In support of this application, debtor(s) provides the following information:

1. Name of attorney (and firm, if applicable) proposed to be retained: _____

2. Description of cause of action or suit: _____

3. The proposed fee is a contingent fee of (describe) _____

_____ plus reimbursement of out-of-pocket expenses.

A copy of the fee agreement is attached. If there is no recovery, the debtor(s) and/or bankruptcy estate will not be responsible for attorney's fees or reimbursement of expenses.

4. Any other attorneys (other than members of the same firm) with whom the proposed attorney has agreed to share compensation: _____

5. No money has been paid to the proposed attorney or firm in connection with this matter prior to the filing of this application. The proposed attorney has not agreed to share

compensation with other attorneys in this matter except as set out above and understands that he or she cannot share any compensation with attorneys other than members of his or her firm unless they are also approved by this Court.

6. Upon settlement or completion of the cause of action, the proposed attorney will apply to the Court for approval of any settlement recovered on behalf of the debtor(s) and/or the estate and for approval of fees and expenses pursuant to 11 U.S.C. § 328(a) and Bankruptcy Rule 2016.

Attorney for Debtor(s)

ADDRESS
PHONE AND FAX
EMAIL

Verified Statement of Disinterestedness

I declare under penalty of perjury the following:

I have read the statements contained in the preceding application to employ, and they are true and correct. I do not represent or hold any interest adverse to the debtor(s) or the estate with respect to the matters upon which I seek to be employed. I have no connection with the Chapter 13 trustee, any creditors in this case, the bankruptcy administrator, the debtor(s), or their respective attorneys, or any other party-in-interest, other than the representation of the debtor(s) in the claim or lawsuit relating to which I am applying for employment as a professional person.

Date: _____

Attorney

CERTIFICATE OF SERVICE

I certify that I have served a copy of the foregoing Application on the parties listed below by placing same in the United States mail, postage prepaid and properly addressed, this _____ day of _____, 20__.

Daniel B. O'Brien
Chapter 13 Trustee
One St. Louis Center, 2nd Floor
Mobile, AL 36602

Draft 4/14/16

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE SOUTHERN DISTRICT OF ALABAMA

IN RE: _____)
)
) Case No. _____
)
 Debtor(s).)

ORDER APPROVING EMPLOYMENT OF SPECIAL COUNSEL FOR
CHAPTER 13 DEBTOR(S) ON A CONTINGENT FEE BASIS

This matter is before the Court on the application to employ _____
_____ of the law firm of _____ as
special counsel for debtor(s) to prosecute a cause of action. No objections to the motion have
been filed. The Court finds that the application should be approved on the condition that all fees
and expenses are to be paid from any proceeds and not by the debtor(s) or the bankruptcy estate.

It is thus ORDERED that the application to employ on a contingent fee basis as set out in
the application is approved pursuant to Bankruptcy Code § 328(a).

4/14/16

Orders Prepared by Clerk's Office

Order Extending Time to File Schedules
(First motions only)

Chapter 13 Cases:

Order Extending Automatic Stay

Order Imposing Automatic Stay

Order Granting Motion to Reopen

(only to file Form LBF283 and/or Form B23)

Order Granting Motion to Suspend Plan Payments

Order Granting Motion to Reduce Injunction

Order Granting Motion to Extend Ch. 13 Plan

Order Determining Discharge Eligibility of Chapter 13 Debtor

Order After Show Cause Hearing

Order Extending Time to File Form LBF283 and/or Financial
Management

(First motions only)

Order Sustaining Objection to Claim

(Reduced to the amount paid to date)

(Allowed in full and reclassified as unsecured)

(Allowed as unsecured in the amount of \$____)

(Disallowed completely)

Order Overruling Objection to Claim

(Allowed as filed)

(Allowed as amended)

Chapter 7 Cases:

Order Extending Time to File Certificate of Financial Management
(First motions only)

Order Approving Application to Waive Filing Fee

Orders on Reaffirmation Agreements (Judge's chambers)