

United States Bankruptcy Court, Southern District of Alabama
Quarterly Bankruptcy Section Meeting
May 11, 2021

1. Jeffery Hartley, Section Chair
2. Judges Callaway and Oldshue
 - Notice of final cure payments--minor change in procedure (attachment)
 - Case filings report
 - “Last Thursday” get-together at Serda Brewing, Thursday 5/27 starting at 5 p.m.
 - Last minute filings before hearings
 - For discussion--possible changes to procedure on chapter 13 trustee’s motions to dismiss, getting away from consent orders
 - Reminder: Under LBR 3015-2, no amended chapter 13 plan is required for preconfirmation change to treatment of a secured, priority or nondischargeable claim that is already in the plan--just withdrawal of objection or stipulation. Forms going on court website soon (attached).
 - Bankruptcy judgeship opening in Middle District of Alabama--June 7th application deadline
 - Subchapter V observations--debtor, trustee, website resources, forms
 - CARES Act chapter 13 plan extensions available through March 2022 for cases confirmed by 3/26/21
3. Andrea Redmon, Clerk of Court
 - Debtors showing up at courthouse for telephonic hearings
4. Mark Zimlich, Bankruptcy Administrator hearings
 - New chapter 11 quarterly fee schedule and forms
5. Danny O’Brien, chapter 13 trustee
6. Consumer and business committees--chairs Stephen Klimjack and Danielle Mashburn-Myrick
7. Evan Parrott--Bankruptcy at the Beach, September 10-11, Henderson Beach Resort
8. Open the floor
9. Next meeting August 10th

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

IN RE:)
Clinton Darroll Rabon)
Debtor(s).)

Case No. 20-10041

ORDER REQUIRING RESPONSE TO NOTICE OF FINAL CURE

Creditor: Wells Fargo Bank N.A.

The chapter 13 trustee has filed a notice of final cure payment under Federal Rule of Bankruptcy Procedure 3002.1(f). The above-listed creditor, the holder of a claim secured by the primary residence of the debtor(s), must file a response to the notice of final cure payment pursuant to Bankruptcy Rule 3002.1(g) within 21 days after service of that notice. If the debtor(s) or trustee disagrees with the response, that party can file a motion to determine final cure payment pursuant to Bankruptcy Rule 3002.1(h) within 21 days after service of the creditor's response. If the creditor does not file a timely response to the notice of final cure, the trustee is directed to file a motion to determine final cure payment.

If a motion to determine final cure payment is filed, the court will set and hold a hearing to determine whether the debtor(s) has cured the default and paid all required postpetition amounts. If the creditor fails to file the response required by Bankruptcy Rule 3002.1(g), the court may (1) preclude the creditor from presenting the omitted information as evidence at the hearing on the motion to determine, unless the court determines that the failure was substantially justified or is harmless, or (2) award other appropriate relief, including reasonable expenses and attorney's fees caused by the failure.

Date: 4/28/21


HENRY A. CALLAWAY
CHIEF U.S. BANKRUPTCY JUDGE

Local Bankruptcy Rule 3015-2

(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, other preconfirmation plan modifications must be made by an amended plan form, which must be served by the debtor 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 preconfirmation plan modifications which require an amended plan form include but are not limited to:

- (1) Adding or deleting a secured, priority, or nondischargeable debt;
- (2) Modifying the treatment of a secured, priority, or nondischargeable debt other than by consent; or
- (3) Modifying the plan payment or term of the plan.

The debtor is not required to sign the amended plan if signed by the debtor's counsel.

(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. The motion must be served upon the trustee (unless filed by the trustee), the debtor, and any creditors 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 change the percentage distribution on unsecured claims must be served on all creditors as listed on the most recent creditor matrix. However, a debtor's motion to modify seeking to change the term of the plan or temporarily suspend plan payments is not required to

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

In re:

Case No. _____

Debtor(s).

WITHDRAWAL OF OBJECTION TO CONFIRMATION

The creditor listed below withdraws the objection to confirmation filed in this case on the following terms and conditions agreed to by debtor(s):

Collateral description _____

Pre-confirmation adequate protection \$ _____

Secured claim amount to be paid in plan \$ _____ @ _____ %

Alternate monthly payments \$ _____

§ 1325(a)(5) / preference payment \$ _____ per month

Other conditions: _____

Dated: _____

Creditor

Counsel for Creditor

Counsel for Debtor

Note: The chapter 13 trustee will immediately implement all changes made to adequate protection payments pursuant to this withdrawal of objection to confirmation. Under Local Rule 3015-2(d), counsel for debtor(s) must file a final plan summary within 14 days of the trustee's recommendation of confirmation.

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

In re:

Case No. _____

Debtor(s).

PRECONFIRMATION STIPULATION REGARDING TREATMENT OF CLAIM

The creditor listed below and debtor(s) stipulate to the below treatment of the creditor's secured, priority, or nondischargeable claim that is already addressed in the plan:

Collateral description _____

Pre-confirmation adequate protection \$ _____

Secured claim amount to be paid in plan \$ _____ @ _____ %

Alternate monthly payments \$ _____

§ 1325(a)(5) / preference payment \$ _____ per month

Other conditions: _____

Dated: _____

Creditor

Counsel for Creditor

Counsel for Debtor

Note: The chapter 13 trustee will immediately implement all changes made to adequate protection payments pursuant to this stipulation. Under Local Rule 3015-2(d), counsel for debtor(s) must file a final plan summary within 14 days of the trustee's recommendation of confirmation.