

Draft 3/2/26



UNITED STATES BANKRUPTCY COURT
FOR THE SOUTHERN DISTRICT OF ALABAMA

Local Rules

EFFECTIVE DATE: ~~September 1, 2023~~

Local Bankruptcy Rule 2016-2

SEPARATE PRE- AND POSTPETITION LEGAL SERVICES CONTRACTS IN CHAPTER 7 CASES

The debtor and the debtor's counsel may agree to separate prepetition and postpetition contracts for legal services in a chapter 7 bankruptcy case. The contracts shall be in writing and comply with Alabama Rules of Professional Conduct 1.1 and 1.2, Bankruptcy Code §§ 526-28, and any other applicable standards. The prepetition agreement must allow the debtor at least 10 days postpetition to decide whether to enter into a postpetition legal services contract and must provide that the debtor's counsel will remain as counsel of record until allowed to withdraw. The postpetition contract must cover all remaining aspects of the case except for adversary proceedings. All compensation paid or agreed to be paid must be disclosed pursuant to Bankruptcy Code § 329(a) and Bankruptcy Rule 2016(b). Pursuant to Bankruptcy Rule 1006(b)(3), no attorney's fees shall be paid or accepted postpetition until the filing fee has been paid in full.

If the debtor's counsel has not agreed to postpetition representation and the debtor fails to enter into an agreement for postpetition legal services, the court may allow the attorney to withdraw from the representation of the debtor upon the attorney's motion with service on the debtor, trustee, and bankruptcy administrator. Motions to withdraw may be considered on an expedited basis without being set for hearing.

Local Bankruptcy Rule ~~3010-1~~2016-3

APPLICATIONS TO EMPLOY PROFESSIONALS

In addition to meeting the other requirements of Bankruptcy Rule 2014(a), applications to employ professionals (including attorneys, real estate agents, and accountants) must state the fee terms of the proposed employment in the body of the motion and attach any written contract as an exhibit. An application to employ an attorney to handle a personal injury claim must state the nature of the claim and the date it arose. "Add-on" flat fees in a contingency fee agreement will not be approved. Fee terms may not be modified without prior court authorization.

Local Bankruptcy Rule 3010-1

CHAPTER 13 DIVIDENDS

If unsecured claims have been paid pursuant to the terms of a confirmed plan, the chapter 13 trustee may increase the monthly disbursements on secured claims.

Local Bankruptcy Rule 3015-1

REQUIRED LOCAL FORM FOR CHAPTER 13 PLANS

Pursuant to Bankruptcy Rule 3015.1, this district has adopted a local form for chapter 13 plans which is available on the court's website. Use of the applicable local plan form is required in chapter 13 cases.

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 If the chapter 13 trustee files a "notice to correct" regarding the final plan summary, counsel for debtor(s) must file a corrected final plan summary within 10 days of the notice. Failure to timely file or correct the final plan summary may result in dismissal of the case or reduction of attorney's fees. The final plan summary ~~will be~~ is a privatepublic filing event in CM/ECF; however, the event is informational only, and parties other than the chapter 13 trustee cannot file objections or responses to the filing.

(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.

Local Bankruptcy Rule 3022-1

CLOSING INDIVIDUAL CHAPTER 11 CASES

(a) After confirmation of a chapter 11 case filed by an individual, the clerk of court shall administratively close the case upon the recommendation of the bankruptcy administrator.

(b) Upon application by the debtor with certification that all plan payments have been made, the debtor may move to reopen the case and request entry of an order of discharge. Because the closing is required by local rule at least in part for the court's administrative convenience, no filing fee will be required.

Local Bankruptcy Rule 4001-1

MOTIONS FOR RELIEF FROM THE AUTOMATIC STAY

(a) Upon the filing of a motion for relief from the automatic stay imposed by Bankruptcy Code § 362 or from the co-debtor stay imposed by Bankruptcy Code § 1301, the preliminary hearing shall be consolidated with the final hearing unless directed otherwise by the court. The movant shall serve the motion upon the following parties with an appropriate certificate of service: the debtor, the debtor's counsel, any co-debtor, the chapter 11 debtor-in-possession, the trustee, any committee appointed in the case, the bankruptcy administrator (if a chapter 11, 12, or 9 proceeding), and such other parties as the court may direct.

(b) All motions for relief from the automatic stay or the co-debtor stay shall state with particularity the grounds for the motion. The moving party shall attach to the motion or to an affidavit submitted in support of the motion copies of any documents in support of its claim that it has an interest in the debtor's property. Mortgages on real property shall show the recording information. If the movant does not intend to present testimony at the hearing, the motion must be supported by an affidavit. All affidavits or other pleadings shall be filed and served on all adverse parties at least 7 days prior to the hearing.

(c) ~~In a case filed by an individual (not a business organization), an~~An attorney filing a motion for relief from stay and/or co-debtor stay seeking foreclosure or repossession of a mortgage, security interest, or leasehold interest shall also file a fact summary in the form provided on the court's website. The fact summary shall be filed at least 7 days ~~prior to~~before the ~~first~~hearing ~~date~~ on the motion. The fact summary shall be filed as a separate CM/ECF event, not as an attachment to the motion.

~~_____ (d) Unless otherwise ordered, if the court grants relief from stay as to collateral in a chapter 13 case, the trustee is directed to discontinue plan distributions on the creditor's claim secured by that collateral unless and until the creditor files an amended proof of claim reflecting any deficiency remaining after disposition of the collateral. The trustee shall file and serve on the creditor a notice of payment discontinuation incorporating the terms of this rule.~~

~~_____ (e) Any order granted under this rule shall not operate to waive any right the debtor may have with respect to property under non-bankruptcy law, including the right to notice of sale, notice of disposition of property, or rights of redemption.~~

Local Bankruptcy Rule 4001-2

CONDITIONAL DENIALS OF RELIEF FROM STAY IN CHAPTER 13 CASES

Unless otherwise ordered by the court, an agreed order in a chapter 13 case conditionally denying a motion for relief from stay (or conditionally extending or imposing the automatic stay) with a future relief provision is subject to the requirements set out below. The conditional denial order may deviate from these requirements only if the terms are requested by both parties in open court and approved by the court.

- (a) The future relief provision must expire no later than 2 years after entry of the conditional denial order.
- (b) Termination of the stay cannot be based upon the number of default notices.
- (c) The order shall provide that the creditor must ~~mail~~file any notice of default with the court and mail it to the debtor and ~~file it with the court~~debtor's counsel within 1 business day of ~~mailing~~filing. The order shall further provide that, 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 and debtor's counsel within 1 business day of filing, and that the stay termination is not effective unless and until the notices described in this paragraph are filed with the court. The notice filings required by this paragraph are for information only and will not be set for hearing.
- (d) 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.
- (e) The creditor must file an amended or supplemental proof of claim in order for any postpetition arrearage or attorney's fees authorized by the conditional denial order to be paid by the chapter 13 trustee. Any such proof of claim must be filed within 60 days of the conditional denial order's entry.
- (f) 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 20 days from the date of mailing.
- (g) If the denial is conditioned upon plan payments being made to the chapter 13 trustee, the order must not provide that the 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 15 days from the date of mailing. The trustee's records shall control as to the date payment was received.

Local Bankruptcy Rule 4003-1

MOTIONS TO AVOID JUDICIAL LIENS

A motion to avoid a judicial lien under Bankruptcy Code § 522(f) shall:

- (a) Clearly identify the party that holds the lien sought to be avoided in both the title and the body of the motion;
- (b) Describe when and where the lien is recorded in the official records, i.e., book and page or instrument numbers; and
- (c) Have attached a copy of the lien sought to be avoided.

Local Bankruptcy Rule 4004-1

MOTIONS FOR DISCHARGE IN CHAPTER 12 AND 13 CASES

In all chapter 12 or 13 cases, upon notice of completion of the plan by the trustee, the debtor shall file a motion for discharge under Bankruptcy Code §§ 1228 and 1328 and debtor's certifications regarding discharge eligibility, domestic support obligations, and Bankruptcy Code § 522(q). The motion/certifications ~~shall~~may be filed using Local Bankruptcy Form 283 or national form B2830 and may be filed via negative notice pursuant to Local Bankruptcy Rule 9007-1. If the motion/certifications are not filed within 21 days after the notice of completion is filed by the trustee, the court may close the case without issuing a discharge. If the case is closed without a discharge, the debtor must file a motion to reopen the case and pay any applicable filing fee in order to seek a discharge.

Local Bankruptcy Rule 5003

REDACTION OF TRANSCRIPTS

In compliance with the policy of the Judicial Conference of the United States on electronic availability of transcripts of court proceedings, during the first 90 days after filing a transcript will be ~~available~~available via the PACER system for remote access only to parties in the case or adversary proceeding who have paid the transcriber for the transcript. During that time, other parties who wish to view a transcript may do so at the clerk's office but may not print, copy, or save the transcript either in part or in full. After the 90 days, the transcript will be available for remote access via the PACER system. It is the parties' responsibility to monitor the docket for the filing of transcripts.

Local Bankruptcy Rule 5005

FACSIMILE AND EMAIL FILINGS

Papers transmitted to the court via facsimile or email are not acceptable for filing and will not be docketed.

Local Bankruptcy Rule 6004

SALES OF REAL ESTATE BY CHAPTER 13 DEBTORS

Unless otherwise ordered by the court, a chapter 13 debtor seeking approval to sell real estate during the pendency of his or her case must file the following items a sufficient time before the hearing to allow review by the court, chapter 13 trustee, and other interested parties:

- a. A proposed settlement statement, closing statement, or closing disclosure, and
- b. Any recent appraisal or other valuation of the property debtor proposes to sell.

Local Bankruptcy Rule 7004-1

SUMMONS

The clerk of court's office will generate a summons in an adversary proceeding and provide it to plaintiff's counsel (or plaintiff, if pro se). Plaintiff's counsel or plaintiff will then serve the summons as required by Bankruptcy Rule 7004 and file proof of service. An adversary proceeding complaint not filed through the ECF system must be accompanied by a completed adversary proceeding cover sheet.

Local Bankruptcy Rule 9007-1

NEGATIVE NOTICE PROCEDURE

(a) The court by separate administrative order published on the court website may specify certain motions, objections, and other matters which may be considered by the court without a hearing under the negative notice procedure described in this rule if no party in interest files a written objection stating a specific ground or grounds on which the objection is based.

(b) Motions, objections, and other matters filed pursuant to this negative notice procedure shall:

- (1) Be filed in CM/ECF and shall be served in the manner and on the parties as required by the provisions of the Federal Rules of Bankruptcy Procedure, Local Rule, or any order of court applicable to motions, objections, or matters of the type made and shall be filed