

RULE 2083-1. CHAPTER 13 RULES

Local Rules 2083-1 through 2083-13 govern chapter 13 practice in cases filed before October 17, 2005.

RULE 2083-2. FILING REQUIREMENTS

(a) **Documents Required.** In addition to other documents required to be filed, unless they are filed electronically, the debtor shall file an original and four copies of the following:

- (1) Chapter 13 plan;
- (2) Disclosure Statement of compensation paid or promised to be paid to the debtor's attorney; and
- (3) Application and proposed order authorizing payment of filing fee in installments (if needed).

(b) **Statement of Financial Affairs.** If the debtor is self-employed or engaged in business, the debtor shall also:

- (1) Complete the Statement of Financial Affairs for a debtor who is self-employed or engaged in business; and
- (2) File a current and ongoing monthly operating reports for the self-employment or business.

(c) **Timely Filing.** If a petition is filed without the documents set forth in paragraph (a) and, if applicable, paragraph (b), the debtor shall file the missing documents within 14 days of the date the petition is filed or, if cause exists, file a motion within that time to obtain an order extending the time to file the documents. The case may be dismissed as provided in Local Rule 1017-2 or the chapter 13 trustee may move for dismissal of the case if the documents are not timely filed.

Committee Notes 2009: Time deadlines have been amended to be consistent with amendments to the Federal Rules of Bankruptcy Procedure, effective December 1, 2009.

Committee Notes 2007: There is no Local Rule 2083-3.

RULE 2083-4. PLAN

(a) **Plan Requirements.** A plan shall contain, in addition to the requirements of Bankruptcy Code § 1322(a):

(1) The debtor's estimate of the value of each secured claim; the method of determining the value and the estimated amount of each claim that is secured;

(2) The time within which the debtor proposes to cure any arrearages on a mortgage, secured claim or lease;

(3) A plan analysis, the form of which substantially complies with Local Sample Form 13-2, which contains an estimate of what general unsecured claimants would receive if the case were a chapter 7 case and the anticipated dividend if the plan is completed;

(4) A statement of the rate of interest to be paid on each mortgage or other secured claim; and

(5) A statement that all tax returns due have been filed or which returns have not been filed.

(b) Amended Plan. An amended plan filed prior to entry of an order of confirmation shall be entitled "Amended Plan."

(c) Modified Plan. A plan filed after entry of an order of confirmation shall be titled as a "Modified Plan."

(d) Debtor to Mail Plans. A debtor not represented by an attorney must contact the vendor, selected and authorized by the case trustee, to arrange for the mailing of the plan or motion for moratorium. The debtor is also responsible for the cost of the noticing services.

(e) Debtor to Notice Plan Objection Deadline. The debtor shall serve on all creditors the plan (original, amended or modified) and plan analysis or motion for moratorium and a notice containing the appropriate deadlines set forth below. After the debtor makes service of the plan or motion for moratorium, the debtor shall file a certificate of service within five days. A copy of the plan or motion that was mailed, the mailing list used, and the notice mailed shall be attached to the certificate of service. The debtor shall serve a copy of the certificate of service with all attachments on the case trustee.

(f) Service of Amended Plans. An amended plan filed prior to confirmation may be served only on the case trustee and those creditors adversely affected thereby.

(g) Deadline for Service. Deadline for service of plan or motion for moratorium and notice:

(1) For original plans, the plan must be served within 30 days after filing the petition or conversion to chapter 13.

(2) Service of amended or modified plans or motion for moratorium must be made within 14 days after filing.

(3) If service of any plan or motion for moratorium is not timely made and a certificate of service filed, the case trustee may upload an order dismissing the case.

Committee Notes 2009: Time deadlines have been amended to be consistent with amendments to the Federal Rules of Bankruptcy Procedure, effective December 1, 2009.

Committee Notes 2007: Paragraph (d) comes from General Order 83(J). Paragraphs (e), (f) and (g) come from General Order 83(B). In paragraph (g)(1), the words "or conversion to chapter 13" were added to clarify that the deadline applies to cases converted to chapter 13.

RULE 2083-5. TAX RETURNS

The debtor shall file any due but unfiled tax returns within 60 days after the date first set for the meeting of creditors. If not timely filed, the case trustee may upload an order dismissing the case.

Committee Notes 2007: General Order 83(D) replaced Local Rule 2083-5.

RULE 2083-6. OBJECTIONS TO CONFIRMATION

(a) **Nonobjection Is Acceptance.** The failure of a party in interest to timely file an objection to confirmation of a plan or the granting of a motion for moratorium shall constitute acceptance of the plan or motion pursuant to Bankruptcy Code § 1325(a)(5)(A).

(b) **Creditor Objection.**

(1) For an original plan, the deadline for the filing of an objection is 60 days after the date first set for the meeting of creditors.

(2) For an amended plan, a modified plan or a motion for moratorium, the deadline for the filing of an objection is 28 days from the date of service or 60 days after the date first set for the first meeting of creditors, whichever is later.

(c) **Trustee Recommendation/Objection.**

(1) Time for Filing.

(A) For an original plan, the case trustee's recommendation/objection shall be filed no later than 90 days after the date first set for the meeting of creditors.

(B) For an amended or modified plan, or a motion for a moratorium, the case trustee's recommendation/objection shall be filed no later than 45 days after service or 90 days after the date first set for the meeting of creditors, whichever is later.

(2) The debtor shall comply with any requirements stated in the case trustee's recommendation/objection requesting documentation or information, or to pay any delinquent plan payments. The debtor shall comply with the case trustee's requests within 30 days after the recommendation/objection is filed. If the debtor does not timely comply, the case trustee may lodge an order dismissing the case.

(3) If the debtor makes no plan payments by the deadline for creditor objections set by (b) above, the case trustee may upload an order dismissing the case rather than a recommendation/objection.

Committee Notes 2009: Time deadlines have been amended to be consistent with amendments to the Federal Rules of Bankruptcy Procedure, effective December 1, 2009.

Committee Notes 2007: General Order 83(C) replaced Local Rule 2083-6.

RULE 2083-7. PROCEDURE UPON PLAN CONFIRMATION

(a) Confirmation Without Hearing. The original, amended or modified plan may be confirmed or a motion for moratorium granted without a hearing provided:

(1) There are no timely objections filed by a creditor and the case trustee recommends confirmation or approval; or

(2) The case trustee and all objecting creditors agree to a stipulated order.

(b) Hearing on Objection. If there is an objection to confirmation of any plan or a motion for moratorium which is unresolved by 30 days after the case trustee's recommendation is filed, and the debtor is represented by an attorney, the attorney for the debtor shall obtain a hearing on the objection. If there is an objection to confirmation of a plan, or a motion for moratorium which is unresolved by 30 days after the case trustee's recommendation is filed, a debtor that is not represented by an attorney shall so notify the case trustee in writing and the case trustee shall obtain a hearing on the objection.

(c) Proposed Stipulated Orders Confirming. The case trustee shall upload with the court or return to the debtor any proposed stipulated order confirming a chapter 13 plan within 30 days of receipt of the proposed order, unless cause is shown by the case trustee. Within 15 days from receipt of a signed stipulated order from the case trustee, the debtor shall upload the order with the court or a motion to extend the time to lodge the order.

(d) **Trustee Plan Payments.** The case trustee shall commence payments pursuant to the plan within 60 days after entry of an order confirming the plan, unless cause is shown by the case trustee.

(e) **Final Report.** When the case trustee determines the plan has been completed, the case trustee shall file a Final Report and Account.

Committee Notes 2007: General Order 83 did not change the Local Rule and the Committee recommends no substantive changes. Paragraph (a) comes from General Order 83(F). Paragraph (b) comes from General Order 83(G).

RULE 2083-8. ATTORNEY'S DUTY OF REPRESENTATION

An attorney who represents a debtor in a chapter 13 case or in a case under another chapter of the Code which is converted to chapter 13 has a continuing duty to represent the debtor in all proceedings in the bankruptcy court until the occurrence of the earlier of:

- (a) Dismissal of the case;
- (b) Discharge of the debtor; or
- (c) Entry of an order allowing the attorney to withdraw from representation of the debtor.

RULE 2083-9. SERVICE

All pleadings and other papers filed in the administrative case shall be promptly served upon the case trustee.

RULE 2083-10. PRIORITY OR SECURED CLAIMS

Any claimant who files a secured or priority claim shall serve a copy of the claim upon the debtor and the case trustee.

RULE 2083-11. ATTORNEY FEES

(a) **Plan Application for Payment.** Unless a separate fee application is filed, a chapter 13 plan, plan modification or motion for moratorium (collectively "the plan") shall contain an application for approval of compensation for services rendered by the attorney for the debtor. The plan shall include in its title "Application for Payment of Administrative Expense" or similar language. The application shall be heard at the same time and in conjunction with the hearing on the plan.

(b) **Amount Sought and Services Provided.** The application shall be a separate provision in the plan that sets forth the amount of compensation sought; whether it is a flat fee, hourly fee or subject to contingencies; and a comprehensive narrative of the legal services rendered and to be rendered. The application need not state the actual time expended or to be expended but shall provide generally for services performed or contemplated.

(c) **Payment Upon Dismissal.** In cases that are dismissed prior to confirmation of the plan, the order of dismissal shall include a provision for the retention by the case trustee of funds on hand pending approval of administrative expenses of the case trustee and debtor's attorney. After the expiration of the time for filing an objection to the plan and no timely objection to the application in the plan being filed, the debtor's attorney may lodge an order directing the case trustee to pay allowed administrative expenses.

(d) **Attorney Disclosure.** Any disclosure statement required by Rule 2016(b), or any other statute, rule or order, shall contain a comprehensive narrative explanation of the services rendered or to be rendered and expenses incurred or to be incurred. The statement shall state whether the disclosing party asserts a lien or claims an assignment of the plan payments.

(e) **Separate Application.** Nothing in these rules shall prohibit a debtor's attorney from filing a separate application or the court from ordering the filing of a separate application pursuant to Rule 2016(a).

RULE 2083-12. TRUSTEE MOTION TO DISMISS

(a) **Response to Dismissal Motion.** A motion to dismiss filed by the case trustee on the grounds that the debtor is delinquent in one or more plan payments may provide for dismissal of the case unless the debtor does one of the following within 30 days of the mailing of the motion:

(1) Makes payment to the case trustee of the amounts stated as delinquent in the motion;

(2) If the debtor is otherwise eligible, files with the court, and serves a copy on the case trustee, a notice of conversion to chapter 7; or

(3) Files with the court, and serves a copy on the case trustee, a motion for moratorium of the delinquent plan payments.

(b) **Dismissal.** If the debtor fails to timely do one of the above, the case trustee may lodge an order dismissing the case.

Committee Notes 2007: This Local Rule comes from General Order 83(H). The change to paragraph (a)(2) clarifies that the debtor must be eligible for chapter 7 before converting to such chapter.

RULE 2083-13. REINSTATEMENT OF DISMISSED CASES

If a case is dismissed on motion of the case trustee, a motion to reinstate the case may be granted, without a hearing, if the case trustee has approved the proposed reinstatement order. If the case trustee does not approve the order, the matter may be set for hearing upon debtor's request. The court may set a hearing on the motion to reinstate on request of an interested party who had joined the case trustee's dismissal motion.

Committee Notes 2007: This Rule is new and is from General Order 83(J).