



MEMORANDUM

To: Bankruptcy Practitioners in the Middle District of Georgia
From: Kyle George, Clerk of Court
Subject: Proposed Change to LBR 3015-2 and 3015-3 Modifications to Plan
UPDATED

June 1, 2017

1. In March, 2017, we sent out for comment proposed changes to our LBR 3015-2 Modifications to Plan regarding noticing forms to use if a plan is modified before confirmation. I refer back to my memorandum regarding the subject which can be found on our website under “Local Rules History” on our “Local Rules” portion of the website.
2. After comments from the bar, the judges have incorporated some of the recommendations and the proposed rule is now published again for public commentary.
3. The language in the original proposed rule regarding when a party should file opposition to the modified plan has changed from “...within 21 days from the date of this notice....” to “...within 21 days of service of this notice...” in order to comply with appropriate noticing requirements.
4. We have also inserted a cite to FRBP 9006(f) regarding the addition of three days to the response time if the service was completed by mail. This is consistent with our LBR 9004-1 rule change.
5. Because of the language change in LBR 3015-2, we need to update the language in LBR 3015-3 (Confirmations) to bring into harmony servicing requirements in that rule. The language in paragraph 3 above will be incorporated into the Local Rule. Additionally, the portion of the rule referencing FRBP 9006 is redundant and is therefore removed from the rule.
6. The updated proposed rule is attached for comment. I would very much appreciate comments back to me via email no later than July 1, 2017. My email address is Kyle_George@gamb.uscourts.gov. Your assistance in this matter is greatly appreciated.

LBR 3015-2. Chapter 13 – Modifications to Plan

(a) **Content of a Plan Modification** A modification of a plan pursuant to § 1329 or § 1323 shall include a description of each proposed change or modification. This requirement cannot be satisfied by simply attaching the new proposed plan to the modification.

(b) **Service of the Modification** The modification shall be served by the proponent of the modification on the Trustee and on all parties in interest affected by the modification pursuant to LBR 9007-1 or LBR 2002-1(e).

(c) **Amended Budgets** For all post-confirmation modifications the debtor shall prepare and file a budget of current income and expenses.

(d) **Notices – Form.**

(1) All notices of motions to modify Chapter 13 plans *post-confirmation* shall use the language described in LBR 9004-1(c)(5)(B).

(2) All notices of motions to modify Chapter 13 plans *before* confirmation shall substantially conform to one of two options:

(A) Notice of Motion to Modify Chapter 13 Plan Before Confirmation with Rescheduled Confirmation Date shall be used if the timing of the notice **requires a rescheduling** of the Confirmation Hearing as follows:

(Remainder of Page Intentionally Left Blank – the noticing form is on the next page)

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE MIDDLE DISTRICT OF GEORGIA
_____ DIVISION**

In re: : BANKRUPTCY CASE
: :
IMA SAMPLE : NO: 17-10000 ____ (presiding judge initials)
: :
Debtor(s) : CHAPTER 13 PROCEEDING

**NOTICE OF MOTION TO MODIFY CHAPTER 13 PLAN BEFORE CONFIRMATION
WITH RESCHEDULED CONFIRMATION DATE**

(Movant), DEBTOR(S) IN THE ABOVE-STYLED BANKRUPTCY MATTER, HAS FILED DOCUMENTS WITH THE COURT TO MODIFY DEBTOR’S CHAPTER 13 PLAN PRIOR TO CONFIRMATION.

YOUR RIGHTS MAY BE AFFECTED. You should read these documents carefully and discuss them with your attorney, if you have one in this bankruptcy case. **If you do not have an attorney, you may wish to consult one.** If not served with this notice in accordance with the Bankruptcy Code or the Federal Rules of Bankruptcy Procedure, a copy of the motion may be obtained upon written request to counsel for the Movant (identified below) or at the Clerk’s office.

The original confirmation was scheduled for _____ (date), 20__ . If you do not want the court to grant this motion, or if you want the court to consider your views on the motion, then you or your attorney shall file with the court a written objection or response **within 21 days of service of this notice and attend the rescheduled confirmation hearing noted below.** **If you are receiving this notice by mail, you may add 3 days to the response date, in accordance with FRBP 9006(f).** The objection or response should be sent to:

[Clerk, U. S. Bankruptcy Court
Middle District of Georgia
P. O. Box 1957
Macon, Georgia 31202]
478-752-3506

or

[Clerk, U. S. Bankruptcy Court
Middle District of Georgia
P. O. Box 2147
Columbus, Georgia 31902]
706-649-7837

The rescheduled confirmation hearing shall be held on:

[Date of Scheduled Hearing] at [Time] at the [Location/Address].

If you mail your response or objection to the court for filing, you shall send it early enough so the court will **receive** the objection or response on or before the response date stated above.

Any response or objection shall also be served on the movant.

If you or your attorney does not take these steps, the court may decide that you do not oppose the relief sought in the motion and may enter an order granting relief.

This notice is sent by the undersigned pursuant to LBR 3015-2(d)(2)(A).

Dated this _____

/s/ Electronic Attorney Signature
ELECTRONIC ATTORNEY, 123456
Attorney for Debtor(s)
Address Line 1
Address Line 2
City, State, Zip
(XXX) XXX-XXXX
Email.address@serviceprovider.com

(B) Notice of Motion to Modify Chapter 13 Plan Before Confirmation – **No Rescheduling Required** shall be used if the timing of the notice does not require a rescheduling of the Confirmation Hearing as follows:

(Remainder of Page Intentionally Left Blank – the noticing form is on the next page)

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE MIDDLE DISTRICT OF GEORGIA
_____ DIVISION**

In re: : BANKRUPTCY CASE
: :
IMA SAMPLE : NO: 17-10000 ____ (presiding judge initials)
: :
Debtor(s) : CHAPTER 13 PROCEEDING

NOTICE OF MOTION TO MODIFY CHAPTER 13 PLAN BEFORE CONFIRMATION

(Movant), DEBTOR(S) IN THE ABOVE-STYLED BANKRUPTCY MATTER, HAS FILED DOCUMENTS WITH THE COURT TO MODIFY DEBTOR'S CHAPTER 13 PLAN PRIOR TO CONFIRMATION.

YOUR RIGHTS MAY BE AFFECTED. You should read these documents carefully and discuss them with your attorney, if you have one in this bankruptcy case. **If you do not have an attorney, you may wish to consult one.** If not served with this notice in accordance with the Bankruptcy Code or the Federal Rules of Bankruptcy Procedure, a copy of the motion may be obtained upon written request to counsel for the Movant (identified below) or at the Clerk's office.

The confirmation is scheduled for _____ (date), 20___. If you do not want the court to grant this motion, or if you want the court to consider your views on the motion, then you or your attorney shall file with the court a written objection or response **within 21 days of service of this notice and attend the scheduled confirmation hearing noted above.** **If you are receiving this notice by mail, you may add 3 days to the response date, in accordance with FRBP 9006(f).** The objection or response should be sent to:

[Clerk, U. S. Bankruptcy Court
Middle District of Georgia or
P. O. Box 1957
Macon, Georgia 31202]
478-752-3506

[Clerk, U. S. Bankruptcy Court
Middle District of Georgia
P. O. Box 2147
Columbus, Georgia 31902]
706-649-7837

If you mail your response or objection to the court for filing, you shall send it early enough so the court will **receive** the objection or response on or before the response date stated above.

Any response or objection shall also be served on the movant.

If you or your attorney does not take these steps, the court may decide that you do not oppose the relief sought in the motion and may enter an order granting relief.

This notice is sent by the undersigned pursuant to LBR 3015-2(d)(2)(B).

Dated this _____

/s/ Electronic Attorney Signature
ELECTRONIC ATTORNEY, 123456
Attorney for Debtor(s)
Address Line 1
Address Line 2
City, State, Zip
(XXX) XXX-XXXX
Email.address@serviceprovider.com

LBR 3015-3. Chapter 13 - Confirmations

(a) All creditor objections to confirmation of a Chapter 13 plan shall comply with the following:

(1) All creditor objections shall be filed and served seven days prior to the first confirmation hearing held in the case unless a modification of plan has been filed prior to the confirmation hearing. If such modification is filed, the objection deadline shall be 21 days ~~from the date of the modification~~ **from the service of the notice of the modification**. Any objection to a plan or modification not filed timely may be overruled by the Court.

~~(2) FRBP 9006 shall be applicable in determining the timely filing of creditor objections.~~

(2) The first confirmation hearing held in the case for the purposes of this Rule is deemed to be the later of the hearing date set by the Court and contained in the notice of the § 341(a) Meeting of Creditors or, in the event the Meeting is adjourned, the confirmation date announced at the completed Meeting.

(3) All objections to confirmation and any request to file an objection after the deadline set above shall be served on the debtor, counsel for the debtor, and the Chapter 13 Trustee.

(4) Because the hearing to consider confirmation of a plan has been noticed to all interested parties, any objections to confirmation of a plan need not contain a notice of hearing otherwise required by LBR 9007-1.