

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF GEORGIA**

IN RE:

REQUIREMENT OF LOCAL FORM FOR CHAPTER 13 PLANS AND RELATED PROCEDURES	: : : : :	GENERAL ORDER NO. 21-2017
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**ORDER REQUIRING LOCAL FORM FOR CHAPTER 13
PLANS AND ESTABLISHING RELATED PROCEDURES**

Pursuant to Rule 3015.1 of the Federal Rules of Bankruptcy Procedure (the “Bankruptcy Rules”), effective December 1, 2017, the Court requires the use of a local form for a plan filed in a case under Chapter 13 of Title 11 of the United States Code (the “Bankruptcy Code”). After public notice and comment, the Court in this Order adopts the Local Form attached hereto as Exhibit A for the Northern District of Georgia (the “Local Form”) and concludes that the Local Form satisfies all the requirements of Bankruptcy Rule 3015.1.

Adoption of the Local Form requires revision of existing General Orders that govern certain matters in Chapter 13 cases and the establishment of certain procedures relating to the use of the Local Form and the administration of Chapter 13 cases in this District. As used in this Order, “Debtor” includes both debtors in a joint Chapter 13 case, and “Trustee” means the Chapter 13 Trustee.

It is, therefore, hereby **ORDERED** as follows:

1.0 Requirement of use of Local Form for plan. The Debtor must use the Local Form attached as Exhibit A to file a plan as 11 U.S.C. § 1321 requires.

2.0 Service of plan.

2.1 Service under Bankruptcy Rule 2002. If the Debtor files a plan contemporaneously with the filing of a Chapter 13 petition under 11 U.S.C. § 301(a) or § 302(a), or if the Debtor files a plan at the same time that the Debtor's case under another Chapter is converted to Chapter 13, the Clerk will mail a copy of the plan to all entities listed on the Mailing Matrix.¹ Otherwise, the Debtor must serve the plan when it is filed with the Court on all entities listed on the Mailing Matrix. See Bankruptcy Rule 3015(d). Section 4.2 of this Order governs service of a preconfirmation modification to the plan.

2.2 Service required under Bankruptcy Rule 7004. The Local Form contains requests (if applicable) for determination of the amounts of secured claims (Local Form § 3.2) and for avoidance of liens on exempt property pursuant to 11 U.S.C. § 522(f) (Local Form § 3.4). The Debtor must serve the plan on each creditor affected by such a request in the manner provided by Bankruptcy Rule 7004 for service of a summons and a complaint except that such service is not required for a creditor if the Debtor requests, or Bankruptcy Rule 3012(c) requires, determination of the amount of the creditor's secured claim by motion. See Bankruptcy Rules 3012(b), 4003(d).

2.3 Certificates with regard to service of the plan.

2.3.1 Certificate of service if the Clerk mails the plan. If the Clerk mails the plan and if any creditor must be served under Bankruptcy Rule 7004, the Debtor must promptly file a Certificate of Manner of Service Under Bankruptcy Rule 7004 that must: (A) be signed by the person who served the

¹ The Clerk maintains the Mailing Matrix, which is available through the Case Management/Electronic Case Filing system or from the Clerk's office.

plan; (B) state the date and method of service for each creditor served under Bankruptcy Rule 7004 (including the method of service of any creditor for which Bankruptcy Rule 7004(h) requires service by certified mail); and (C) set forth the name and address of each creditor served.

2.3.2 Certificates of service if the Debtor must mail the plan. If the Debtor must mail the plan, the Debtor must file, promptly after the Debtor mails the plan: (A) a Certificate of Service of Plan that certifies service of the plan; and (B) if any creditor must be served under Bankruptcy Rule 7004, a separate Certificate of Manner of Service Under Bankruptcy Rule 7004 that certifies such service (including the method of service of any creditor for which Bankruptcy Rule 7004(h) requires service by certified mail). Each certificate of service must: (X) be signed by the person who served the plan; (Y) state the date and method of service; and (Z) set forth the name and address of each entity served.

3.0 Motion to determine amount of secured claim. If the Debtor elects in Local Form § 3.2, or Bankruptcy Rule 3012(c) requires, that the Court determine the amount of a secured claim by motion, the Debtor must comply with the following:

3.1 Required provisions in Local Form § 3.2. In Local Form § 3.2, the Debtor must check the box for each secured claim for which the Debtor will file a motion to determine its secured amount.

3.2 Filing of motion; scheduling of hearing; contents of motion. The Debtor must promptly file a motion under Bankruptcy Rule 3012 for determination of the amount of each secured claim for which a box is checked and arrange for the scheduling of a hearing on the motion in accordance with the scheduling procedures of

the bankruptcy judge assigned to the case. The motion must include: (A) the name of the creditor; (B) the estimated amount of the creditor's total claim; (C) the collateral securing the claim; (D) the value of the collateral; (E) the amount of claims, if any, senior to the creditor's claim; (F) the amount of the secured claim; (G) the interest rate that the plan proposes to pay on the claim; (H) the monthly preconfirmation adequate protection payment that the plan proposes (if applicable); and (I) the monthly postconfirmation payment that the plan proposes.

3.3 Notice of hearing on motion; contents of notice. The Debtor must provide notice of the hearing on the motion. The notice must contain the following statement: "If the creditor objects to the provisions of the Debtor's plan for any reason, the creditor must file an objection to confirmation of the plan or, in the case of an objection to the monthly preconfirmation adequate protection payment (if applicable) seek appropriate relief in a motion."

3.4 Service of motion and notice of hearing. The Debtor must serve each motion and the notice of hearing on the creditor in the manner that Bankruptcy Rule 7004 requires for service of summons and a complaint. The Debtor must promptly file a certificate of service that must (A) be signed by the person who served the motion; (B) state the date and method of service of the creditor served (including the method of service of any creditor for which Bankruptcy Rule 7004(h) requires service by certified mail); and (C) set forth the name and address of the creditor served.

4.0 Filing and service of preconfirmation modification of plan under 11 U.S.C. § 1323.

4.1 Form of preconfirmation modification.

4.1.1 Local Form required for preconfirmation modification.

The Debtor must propose a preconfirmation modification under 11 U.S.C. § 1323 (the “Modified Plan”) by filing a Local Form that contains the amended provisions. The Debtor must indicate at the top of the Local Form that it is an amended plan and specify the sections that are amended. Amendments to a section are not effective if the section is not specified as amended in the space provided.

4.1.2 Optional Statement of Modified Plan. The Debtor may file a Modified Plan as an exhibit to a Statement of Modified Plan (the “Modification Statement”). The Modification Statement must (A) state that a Modified Plan has been filed that amends the plan as set forth in the Modification Statement and that the Modified Plan is attached as an exhibit to the Modification Statement filed with the Court; (B) specify each section of the plan that the Modified Plan amends and state the amendments that are in the Modified Plan; and (C) contain a statement that any amendments in the Modified Plan not set forth in the Modification Statement are not effective. The Modification Statement must conform to the form attached as Exhibit B.

4.2 Service of preconfirmation modification.

4.2.1 What must be served. The Debtor must serve the Modified Plan if the Debtor does not file a Modification Statement. See Bankruptcy Rule

3015(d). If the Debtor files a Modification Statement, the Debtor must serve the Modification Statement but need not serve the Modified Plan.

4.2.2 Who must be served. Unless the Court orders otherwise, the Debtor must serve the Modified Plan or the Modification Statement on all entities listed on the Mailing Matrix.

4.2.3 When service under Bankruptcy Rule 7004 is required. If the Debtor was required to serve a creditor with the original plan in the manner that Bankruptcy Rule 7004 requires for service of summons and a complaint, the Debtor must serve the Modified Plan or the Modification Statement on that creditor in accordance with Bankruptcy Rule 7004, unless the Modified Plan does not materially and adversely affect that creditor.

4.2.4 Certificate of service of Modified Plan or Modification Statement. Promptly after service of the Modified Plan or Modification Statement, the Debtor must file a Certificate of Service in accordance with § 4.4 of this Order.

4.3 Notice and hearing with regard to preconfirmation modification; Time for objections to confirmation of Modified Plan.

4.3.1 General rule for notice with regard to hearing on confirmation of Modified Plan and time for objections. Unless the Court orders otherwise, the Debtor must serve, on each creditor that the Modified Plan materially and adversely affects, a notice that states (A) the time and place of the hearing on confirmation of a Modified Plan and (B) that an objection to confirmation of a Modified Plan must be filed at least seven days before the date set for such hearing. See Bankruptcy Rules 2002(b), 3015(f). The notice must be

served not less than 28 days before the date of such hearing. The notice must conform to the form attached as Exhibit C. If the Debtor was required to serve a creditor who must receive this notice with the original plan in the manner that Bankruptcy Rule 7004 requires for service of summons and a complaint, the Debtor must serve the notice on that creditor in the manner that Bankruptcy Rule 7004 requires.

4.3.2 Certificate of service of notice. Promptly after service of the notice, the Debtor must file a Certificate of Service in accordance with § 4.4 of this Order.

4.3.3 Determination of who must be served with notice of hearing on confirmation and time for objections. At a confirmation hearing, the Court may determine matters with regard to notice and service of the Modified Plan or Modification Statement and any hearing thereon, including without limitation: (A) whether the Modified Plan materially and adversely affects any creditors such that the Court cannot confirm it without further service of the Modified Plan or Modification Statement and without further notice and hearing with regard to its confirmation; (B) which creditors must be served with the Modified Plan or Modification Statement and with notice of the time to object to it and of the hearing on its confirmation; or (C) the time for the filing of objections to confirmation of the Modified Plan and the time for the hearing on its confirmation.

4.4 Certificates of Service of Modified Plan or Modification Statement and notice of confirmation hearing and time for objections. Promptly after service of a Modified Plan or Modification Statement or of any required notice with

regard to the hearing on confirmation and the time for objections, the Debtor must file:

(A) a Certificate of Service of the Modified Plan or Modification Statement or the required notice; and (B) if any creditor must be served under Bankruptcy Rule 7004, a separate Certificate of Manner of Service Under Bankruptcy Rule 7004 that certifies such service (including the method of service of any creditor for which Bankruptcy Rule 7004(h) requires service by certified mail). Each certificate of service must: (X) be signed by the person who served the plan; (Y) state the date and method of service; and (Z) set forth the name and address of each entity served.

4.5 Attendance of Debtor or Debtor's attorney required at hearing on confirmation of existing plan scheduled prior to filing of preconfirmation modification. Unless the Court orders otherwise, if a Debtor files a Modified Plan, the Debtor or the Debtor's attorney must appear at the hearing on confirmation of the plan scheduled prior to the filing of the Modified Plan.

5.0. Objections to claims. Unless the plan expressly permits a postconfirmation objection in a nonstandard provision, an objection to a proof of claim (A) filed by a creditor that is not a governmental unit and (B) that asserts a secured claim must be filed before confirmation of the plan if the objection challenges the validity, perfection, or avoidability of the lien securing the claim or the amount of the secured claim based on the value of the property securing the claim. All other objections to a proof of claim, including an objection to a proof of claim that challenges the total amount of the claim or seeks its reduction or disallowance under 11 U.S.C. § 502, may be filed before or after confirmation.

6.0 Provisions with regard to Chapter 13 Trustees.

6.1 Percentage fee upon receipt of funds. The Chapter 13 Trustees in the Northern District of Georgia shall take a percentage fee upon receipt of funds in all Chapter 13 cases in this District, notwithstanding any contrary language in a plan.

6.2 Preconfirmation adequate protection payments. If a plan provides for the Trustee to disburse preconfirmation adequate protection payments as required by 11 U.S.C. § 1326(a)(1)(C) to secured creditors, prior to confirmation of the plan, the Trustee is authorized to make such disbursements and to assess and collect the Trustee's percentage fee. If the case is dismissed or converted prior to confirmation of the plan, the Trustee shall disburse the adequate protection payments prior to payment of any attorney's fees.

7.0 Effective Date; Superseding of prior General Orders; Transition.

7.1 This Order is effective December 1, 2017.

7.2 In cases to which this Order applies, this Order supersedes General Order No. 19-2015 (Chapter 13 § 1328(a)(1)(C) Pre-Confirmation Adequate Protection Payments); and General Order No. 17-2015 (Trustee Fee in Chapter 13 Cases). These General Orders remain in effect with regard to cases to which this Order does not apply.

7.3 This Order applies: (A) in all cases filed on or after December 1, 2017; (B) in all cases filed before December 1, 2017, that are converted to Chapter 13 on or after December 1, 2017; and (C) in all cases filed before December 1, 2017, in which the Debtor did not file a plan before December 1, 2017.

EXHIBIT A – Local Form

(To be included when the General Order is adopted)

EXHIBIT B

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
[Appropriate Division] DIVISION

IN RE:)
) Case No. *[xx-xxxxx]* – *[Assigned Judge’s*
[Name(s) of Debtor(s)],) *Initials]*
)
Debtor(s).) Chapter 13
)
_____)

STATEMENT OF MODIFIED PLAN

Come(s) now *[Name(s) of Debtor(s)]* and state(s) the following:

1. On *[date]*, Debtor(s) filed a Modified Plan. The Modified Plan is attached as an Exhibit to this Statement of Modified Plan filed with the Bankruptcy Court.

2. The Modified Plan amends the specified section(s) of the Plan and changes them as follows: *[State each section that is modified and describe the substance of the amendment. If the Modified Plan changes the treatment of a specific creditor, the description should include the name of that creditor.]*

3. Any amendment contained in the Modified Plan that is not set forth in this Statement of Modified Plan will not be effective.

4. Objections to the confirmation of the Modified Plan must be filed with the Court and served on the Debtor(s), the attorney for the Debtor(s), and the Chapter 13 Trustee at least seven days before the date set for the hearing on confirmation.

Respectfully submitted,

[Signature of attorney for Debtor(s)]
**[Name, address, telephone number, and
Georgia Bar Number of attorney for
Debtor(s)]**

[Attach certificate of service showing the persons served and the date and manner of service]

EXHIBIT C

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
[Appropriate Division] DIVISION

IN RE:)	Case No. <i>[xx-xxxxx]</i> – <i>[Assigned</i>
)	<i>Judge's Initials]</i>
<i>[Name of Debtor(s)],</i>)	
)	
Debtor(s).)	Chapter 13
)	

**NOTICE OF HEARING ON CONFIRMATION OF MODIFIED PLAN AND OF
DEADLINE FOR OBJECTIONS TO CONFIRMATION OF MODIFIED PLAN**

PLEASE TAKE NOTICE that the Debtor(s) has/have filed a preconfirmation modification to the Chapter 13 Plan. The preconfirmation modification may materially and adversely change the treatment or rights of creditors from those set forth in the Chapter 13 Plan previously filed.

Your rights may be affected. You should read the preconfirmation modification carefully and discuss it 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 you oppose confirmation of the Chapter 13 Plan, as modified, and do not want the court to confirm it, or if you want the Court to consider your views, then not less than seven days before the hearing on confirmation scheduled below, you or your attorney must:

- (1) File with the court a written objection, explaining your positions and views as to why the court should not confirm the Chapter 13 Plan, as modified. The written objection must be filed at the following address:

[State address of Clerk of Court of appropriate division]

If you mail your response to the Clerk for filing, you must mail it early enough so that the Clerk will **actually receive** it not less than seven days before the hearing on confirmation scheduled below.

- (2) Mail or deliver a copy of your written objection to the Debtor's attorney at the address stated below and to the Chapter 13 Trustee. You must attach a certificate of service to your written objection, stating when, how, and on whom (including addresses) you served the objection.

If you or your attorney do not file a timely objection, the court may decide that you do not oppose confirmation of the Chapter 13 plan, as modified.

A hearing on confirmation of the Chapter 13 Plan, as modified, will be held in *[State place of hearing, e.g., Courtroom number and street address of building]* at *[State time]* on *[State date²]*. You or your attorney must attend the hearing and advocate your position.

Dated: *[Date]*

[Signature of attorney for Debtor(s)]
[Name of Attorney] [Bar No.]
[Address]
[Telephone Number]
Attorney for Debtor(s)

² Obtain the hearing date by following the procedures for scheduling hearings used by the judge to whom the case is assigned.