

POLICY FOR DOOMSDAY ORDERS IN CHAPTER 13 CASES

This sets forth Judge Hanan's policy on orders resolving Chapter 13 Trustee Motions to Dismiss (so-called "Doomsday Orders"), which is substantially similar to the policy that Judge Kelley has implemented. Doomsday Orders provide that if the Debtor defaults on a requirement specified in the Order, the Trustee can file an Affidavit of Default (Trustee Grossman) or Certification of Default (Trustee Garcia), and the case will be dismissed. The common defaults on Doomsday Orders include plan payments, filing a modified plan, filing a notice of conversion to Chapter 7, and providing the Trustee with tax returns and paying tax refunds. Depending on the nature of the default, the Order dismissing the case may be held for a brief period for Objections.

For cases in which the default is failure to file a notice of **conversion** by a deadline, Judge Hanan will not wait for the Trustee's affidavit of default or proposed order. For example, if the Order requires the Debtor to convert to Chapter 7 by February 13, 2017, Judge Hanan's staff will review the docket on February 14, 2017, and, if no notice of conversion has been filed, an order dismissing the case will be signed and docketed immediately.

For cases in which the default is failure to file a **modified plan (or other amendments required to be filed on the docket)** by a deadline, Judge Hanan will wait for the Trustee's affidavit of default, but will not wait 7 days (or any set period of time) before signing the dismissal order. For example, if the Trustee files an Affidavit of Default on February 14, 2017, stating that the Debtor failed to file a modified feasible plan by February 1, 2017, as required by a Doomsday Order, after reviewing the docket and confirming that the required plan has not been filed, Judge Hanan will sign the order dismissing the case immediately.

For cases in which the default is the failure to make timely **plan payments** or provide **tax returns** or pay one-half of the **tax refunds** (or file a modified plan to account for the tax refunds), Judge Hanan will hold the order dismissing the case for **7 calendar days** after the filing of an Affidavit of Default. For example, if the Trustee files an Affidavit of Default on March 13, 2017 stating that the Debtor failed to make the February plan payment, Judge Hanan will hold the order of dismissal until March 20, 2017. If no Objection has been filed to the Affidavit of Default, the order of dismissal will be signed on March 21, 2017.

Because of this policy, Judge Hanan will not sign a proposed Order that states that the case will be dismissed "without further notice or hearing" (or similar language) on the filing of an Affidavit of Default. Language that may be used for Stipulations and proposed Orders is attached.

If at all possible, seek relief from the Doomsday Order before the Affidavit of Default is filed.

*****Motions for relief from a Doomsday Order must filed and noticed in accordance with Local Rule 9014(a). The court WILL NOT grant *ex parte* motions for relief from (or extensions of time under) a prior Doomsday Order.*****

SUGGESTED DOOMSDAY ORDER LANGUAGE

(Adapt dates, amounts and payment periods for your particular circumstances)

1. The Debtors must pay \$250 monthly to the Office the Chapter 13 Trustee on or before the last day of each month commencing with April 2017 and continuing through and including September 2017.
2. The Debtors must provide copies of the Debtors' 2015 state and federal tax returns to the Trustee on or before February 24, 2017. The Debtors must pay to the Office of the Chapter 13 Trustee one-half of the net 2015 tax refunds received by the Debtors, if any, or file a modified plan to account for those refunds on or before March 24, 2017.
3. The Trustee may file an Affidavit or Certification of Default and Order dismissing this case if the Debtors fail to comply with the deadlines stated above. These deadlines will be strictly enforced.
4. If the Debtors need relief from the deadlines for payments or providing tax returns or tax refunds, the Debtors should seek relief from these deadlines before the Trustee files an Affidavit or Certification of Default. Any Objection to a Trustee's Affidavit or Certification of Default for plan payments or tax refund/tax return defaults must be filed within 7 days of the filing of the Trustee's Affidavit or Certification, and should be filed only if the Debtors can prove either (a) that there was no default; or (b) the existence of excusable neglect.
5. Denial/Withdrawal of the Trustee's Motion to Dismiss is without prejudice to the Trustee's right to file a subsequent Motion to Dismiss for future defaults.

If the doomsday provision involves a deadline to convert to Chapter 7 or a deadline to file a modified feasible plan, the 7-day waiting period for objections does not apply.

For Orders requiring a modified feasible plan by a deadline, simply state:

Should the Debtors fail to file the modified feasible plan by the deadline, the Trustee may submit an Affidavit or Certification of Default and proposed Order dismissing this case.

For conversion deadlines, simply state:

Should the Debtors fail to file a notice of conversion by the deadline, the Court will enter an Order dismissing this case.