**Bankruptcy Court Liaison and Local Rules Committee**

**Chapter 13 Subcommittee Meeting**

February 5, 2020

1. Call to order, introduction of Chapter 13 subcommittee members.
2. Changes to Ch. 13 plan form: proposed.
   1. Summary of changes:
      1. Part 1—general provisions:
         1. Adds a definition for “Debtor” and “Estate”
            1. “Debtor” as used in this plan means both debtors in a joint case, except where otherwise specified. “Estate” means the estate of each debtor, unless otherwise specified.
         2. Trustee will only pay creditors with allowed claims.
      2. Part 2—payments to trustee and plan length:
         1. Brings back designation of debtor as under/over-median to aid in reviewing the plans
         2. States that all plan terms relating to debtor’s submission of funds to the trustee as is necessary to execute the plan must be contained in Part 2.
         3. Each debtor is responsible for making all payments required by plan, including wages deducted from income and paid by employers through payroll orders.
         4. Prohibits debtor from changes the plan payment except by filing amendments/modifications to the plan
         5. Provides that the debtor may change the method of payment to the trustee by filing a new form requesting change (for example, when a debtor changes employers and needs a new payroll order)
         6. Requires all plan payments to be stated in monthly amounts, with another section providing detail regarding how the payroll order will work (weekly, bi-weekly, etc.) to be made by Debtor 1 and Debtor 2 (either directly or through payroll orders).
         7. Provides a new provision for step payments and provides more detail for payments, including when the payments begin.
      3. Part 3 (secured claims):
         1. When relief from stay granted: Expands the explanation of a secured creditor’s treatment under the plan once relief from the stay is granted – states that the plan will be deemed not to provide for that claim or any payment of it regardless of whether the plan provided for payment of those claims before the creditor obtained relief.
            1. This provision has been relocated to the beginning of Part 3 and still applies to sections 3.1-3.3.
         2. Removes the “Current installment payment” column in Section 3.1 to prevent confusion.
         3. Provides for payment of Rule 3002.1(c) notices
         4. Clarifies that Section 3.2 only applies to requests for valuation of security and modification of unsecured claims held by non-governmental units and further provides that valuation of a secured government claim must be made by claim objection or motion (NOT in the plan).
         5. Informs the debtor that Rule 3012 requires secured creditors to be served with a plan under Rule 7004 if the plan treats the secured creditors’ claims in section 3.2.
         6. Section 3.3 now covers secured claims excluded from sec. 506 and payment of fully secured claims (i.e. hanging paragraph claims and fully secured claims).
         7. In Section 3.3, requires the debtor to state the interest rate required by section 511 for tax claims of governmental units.
         8. Part 3 lien termination/release in 3.2 and 3.3: clarifies that the lien release upon discharge is limited to the lien on the debtor’s and the estate’s interest in the collateral.
         9. Section 3.4- clarifies that lien avoidance only effective if the secured creditor received service of the plan in the manner provided by Rule 7004, as required by Rule 4003(d).
         10. 3.5: modified language on effect of surrender provision to abandon and provide for payment of claim as unsecured claim.
      4. Part 4 (trustee fees and priority claims):
         1. Clarifies section 4.3 that “Unless otherwise ordered, allowed administrative expenses for attorney’s fees will be paid by the trustee.”
      5. Part 5 (payments to nonpriority unsecured creditors) : payments of administrative expenses will reduce payments to GUC, except not below amount paid to meet the liquidation test.
      6. Part 7 (vesting)
         1. Modifies the options for revesting property of the estate by stating that the debtor may choose to have property revest on discharge or, if the debtor is not eligible for a discharge, property of the estate will revest when the court closes the case (as opposed to when trustee gives notice of completion): clarity and all payments may not have been completed when notice given.
      7. Part 8 (special provisions)
         1. Add optional standardized MMM provision
         2. Other special provision menu items that should be added?
         3. Require explanation of purpose/role of other nonstandard provisions: aid in understanding their function and assist in providing notice.
3. Proposals for other changes to the plan form or difficulties encountered by counsel?
4. Rule 3002.1 / Motions for Relief Settlement / Supplemental Claim issue:
   1. Problem: trustee paying on fees and other costs included in both a supplemental claim and in Rule 3002.1 notices because the plan directs the trustee to pay noticed amounts.
   2. Pitner Proposal: Eliminate the overlap as part of the court’s order adjudicating the MFR:

IT IS FURTHER ORDERED that the movant may file a supplemental claim for the post-petition arrearage which exists through January 2020 (excluding the movant’s attorneys’ fees and costs incurred with respect to this motion, which are addressed below) in the amount of $4,534.45. This arrearage is itemized as follows:

[Itemized arrearage excluding attorneys’ fees and costs here]

IT IS FURTHER ORDERED that with respect to the movant’s attorneys’ fees of $x and costs of $y, the movant may file a notice pursuant to FRBP Rule 3002.1(c) for these items. The notice shall be treated as a supplemental claim and paid pro rata with other secured claims pursuant to the plan.

Ques: remove “pursuant to the plan”? What if the plan does not provide that the trustee pay Rule 3002.1 notices? Could the court still so order as part of the adjudication (settlement) of the motion for relief?

1. Proposed changes to forms:
   1. Doomsday order on MFR stipulation: Not enforce doomsday provision before the effective date of the order, which is fourteen days after entry.
   2. Order granting MFR and Abandonment (chapter 7):
      1. “IT IS FURTHER ORDERED: the Trustee is authorized and ordered to abandon the Property from the bankruptcy estate under 11 U.S.C. § 554, and abandonment is effective upon entry of this Order.”
      2. Proposed: “IT IS FURTHER ORDERED: the abandonment of the Property from the bankruptcy estate under 11 U.S.C. § 554 is effective upon entry of this Order.”
2. Old business?
3. New business?