

Bankruptcy Court Liaison and Local Rules Committee

Chapter 13 Subcommittee Meeting

January 15, 2020

1. Call to order, introduction of Chapter 13 subcommittee members.
2. Overview—Matters for the subcommittee’s consideration today and in the future:
 - a. Form changes
 - i. forthcoming changes to the plan form to address issues that have arisen since its implementation in November 2017 and incorporate;
 - ii. changes to other forms on the court’s website (recommendations for revision are invited).
 - b. Local rules changes (today)
 - c. Process changes (on a future occasion)
3. Potential rule changes for consideration:
 - a. Debtor’s Requirement to Provide Tax Returns to the Trustee:
 - i. Local Rule 1007.2(b) requires that chapter 12 and 13 debtors must provide the preceding 2 years’ federal and state income tax returns.
 - ii. Should Local Rule 1007.2 be revised to account for the situation where the debtor files her case early in the year and the tax returns for the preceding year are not yet due? If so, how?
 - b. L.R. 4001.1: Change what support is required for MFR for real property in a chapter 13 case.
 - i. Debtor intends to surrender: L.R. 4001.1(4) requires an affidavit from the mortgage servicer in support of a motion for relief as to real property in a chapter 13 case. The rule requires the affidavit even if the debtor is surrendering the property.

- Eliminate need to provide affidavit in these circumstances?
 - Proposal: change rule to begin, “Unless the debtor’s plan or ___ statement under 11 U.S.C. §521(a)(2)(A) represents that the debtor intends to surrender the real property in question, the moving party also must file with the motion ...”
- ii. Motions for reasons other than maintenance-payment default: L.R. 4001.1(4)(C) requires a complete payment history attached to/incorporated in the mortgage servicer’s affidavit “unless the motion is based on a plan-payment default”.
- Seems unnecessary if the motion for relief is based on the debtor’s failure to pay taxes and/or insurance or something other than the failure to make monthly mortgage payments? There is no exception for that.
 - Query: Why isn’t a missed post-confirmation maintenance payment a “plan-payment default”, which eliminates the need for an affidavit, contrary to what appears to be the rule’s purpose?
 - Proposal: change the current exception to “... unless the motion is based only on grounds other than the debtor’s failure to make one or more periodic post-petition payments to the moving party.”
- iii. Extend the MFR rule to chapter 12 cases, as well as chapter 13?
- c. Supplemental-claims:
- i. Rule 3002.1 issue: When plan requires trustee to pay supplemental claim and amounts added by Rule 3002.1, the trustee appears to be under a duty to make duplicative payments.
 - ii. Can a local rule and/or plan form change ameliorate the difficulty that arises when plan provides for cure and maintain but creditor does not file a claim and the bar deadline expires? If so, would such a change be a good idea?

iii. Other solutions? Discontinue supplemental claim practice?

4. New matters?

5. Next meeting. February 5, 2020 at noon?