

MEMORANDUM

TO: All Attorneys Submitting Proposed Orders

FROM: Judge Pat E. Morgenstern-Clarren

DATE: March 6, 2006

RE: Submitting proposed orders under all chapters of the bankruptcy code
(REPLACES JANUARY 13, 1997 MEMORANDUM)

As you know, there are many occasions where counsel submits a proposed order to the court following a hearing or based on an uncontested motion. The goal of the clerk's office is to process these orders promptly, but at times the proposed orders are returned to counsel because they do not reflect the relief granted on the docket or they do not conform to standard procedures. This memo is to provide guidance and, hopefully, reduce the number of proposed orders returned to counsel.

1. Orders Granting or Denying Motions

The order should refer to the motion that was ruled on. For example, if the court ruled on the creditor's second amended motion for relief, the order should grant or deny the second amended motion for relief, not the first amended motion or the original motion.

2. Confirmation Orders with Incorrect Attachments (Chapter 13 cases)

The standard confirmation order should have attached to it whatever version of the plan was confirmed so that order, read as a whole, accurately informs the reader as to the terms of the confirmed plan. When confirmation orders are returned, it is generally because the attachment does not match the confirmation docket entry. For example:

a. If the docket entry reads "plan confirmed as interlineated," the attachment should be the plan with the handwritten changes as agreed to either in court or at the 341 meeting of creditors. (Please do not re-type the plan to incorporate the handwritten changes because the case administrators have no way of telling whether the re-typed version accurately reflects the interlineation agreed to by the parties).

b. If a motion to modify is granted, the attachment should be the modified plan. If a motion to modify is granted as interlineated in court, the copy with interlineations is the correct attachment.

3. Agreed Orders

If the docket entry reads “resolved by agreed order,” then the proposed order should be signed by all parties affected by the order. These orders sometimes come in with just one signature and blanks where the other parties were to sign. All attorneys should give written consent; “telephone consent” is insufficient because it is subject to being misunderstood.

4. Timing of Submitting Orders

Agreed orders may be submitted any time. Other orders should be emailed to the judge’s order box only after the scheduled hearing date because the case administrator does not know until then whether the proposed order accurately reflects the relief granted.

5. Miscellaneous

a. Please verify that the debtor’s name, the judge assigned to the case, and the case number and chapter are all listed accurately.

b. Please double-check that the order contains the appropriate terminology. Generally, motions are “granted” or “denied” while objections are “sustained” or “overruled.” A number of proposed orders just say that a motion or objection is “well taken,” without including a ruling.

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If you have any questions, please feel free to contact the case administrator assigned to your case.