



Chief Judge Russ Kendig

DATE: November 30, 2018
TO: Chapter 13 attorneys practicing in the Youngstown court
FROM: Judge Kendig
RE: Service of pre- and postconfirmation plan modifications

The purpose of this memo is to refresh attorneys' recollections as to the provisions of the Bankruptcy Code and Rules governing pre and postconfirmation Chapter 13 plan modifications. Beginning on January 1, 2019, to the extent they have not been before, these requirements will be enforced.

I. Modification Before the Plan is Confirmed

Preconfirmation modifications are governed by 11 U.S.C. § 1323. Section 1323(b) states that after the modification is filed, "the plan as modified becomes the plan." As the plan, all the applicable plan requirements follow, including Bankruptcy Rules 2002 and 3015. Under Rule 2002(a)(9), a debtor must provide twenty-one days' notice of "the time fixed for filing objections to confirmation of a chapter 13 plan." Rule 2002(b)(3) requires twenty-eight days' notice of "the hearing to consider confirmation of a chapter 13 plan." Additionally, Rule 3015(d) states that "[i]f the plan is not included with the notice of the hearing on confirmation mailed under Rule 2002, the debtor shall serve the plan on the trustee and all creditors when it is filed with the court." *In summary, you must serve all parties with the plan as modified, confirmation date, and deadline to object.*

II. Modification After a Plan is Confirmed

11 U.S.C. § 1329 addresses postconfirmation plan modifications. Section 1329(b)(2) states that the modified plan "becomes the plan unless . . . such modification is disapproved." Rule 3015(h) regulates the procedure for postconfirmation modifications. Twenty-one days' notice of an objection deadline and a hearing must be provided the debtor, the trustee, the United States Trustee, and all creditors. Either a copy of the modification or a summary must be included with the notice. *In summary, you must serve all parties with the plan as modified, deadline to object, and hearing on the modification.* When a creditor/creditors are not adversely affected, a party may move to excuse service and notice of a postconfirmation modification and the objection deadline. Fed.R.Bankr.Pro. 3015(h). This would mostly be for minor or technical corrections.

Beginning January 1, 2019, the clerk's office will issue deficiency notices for modifications that fail to comply with the Bankruptcy Code and/or Rules and modifications will not be effective unless served correctly.