

## **JUDGE MICHAEL'S CHAPTER 13 PROCEDURES**

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Over the past few months, Judge Michael has engaged in discussions with Mr. Eck, other judges throughout the country and his staff regarding ways in which to improve the administration of Chapter 13 cases assigned to him. What follows is the result of those discussions. While most of the changes are minor in nature, it is hoped that they will be of assistance to all involved in the Chapter 13 process. **THE FOLLOWING PROCEDURES APPLY TO ALL CHAPTER 13 CASES HEARD BEFORE JUDGE MICHAEL.**

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### **I. Objectives Behind the New Procedures**

- A. Minimize time spent in court on uncontested matters.
- B. Minimize time spent by attorneys waiting in court.
- C. Provide the Courtroom Deputy more latitude in granting continuances and controlling the docket.
- D. Enhance the ability of Mr. Eck to work with counsel and resolve as many matters as possible without Court involvement.

### **II. First Time Confirmation Hearings**

- A. After all first time confirmation hearings have been set for a particular date, Judge Michael will then look at each case and note any independent questions or concerns.
- B. A list of the cases that Judge Michael has independent concerns regarding confirmation will be posted on the web site and on the information kiosk outside Courtroom 2 not later than one week prior to the scheduled hearing.
  - 1. In addition, attorneys may upon request have this list sent to them via e-mail. Any such request must be made in writing to Sue Haskins, Courtroom Deputy for Judge Michael.
  - 2. If Judge Michael has a concern with confirmation, counsel are required to appear at the confirmation hearing to address those concerns.
- C. All first time confirmation hearings shall be held at 2:00 p.m. Prior to the beginning of the hearings, the Courtroom Deputy will take announcements from the Trustee regarding plans which are ready for confirmation and cases where the parties have agreed to allow for the filing of an amended plan. The Court will go forward with hearings on the remaining plans and objections.

- D. If objections to confirmation have been filed, counsel are required to appear at the confirmation hearing to address those objections unless the objections have been resolved and/or the parties (including the Trustee) have agreed to allow the filing of an amended plan. In such an instance, Counsel for the Debtor(s) and the objecting parties are not required to appear and the Trustee may make an announcement either supporting confirmation of the plan or allowing for the filing of an amended plan. Ordinarily, the Court will require the amended plan to be filed within 10 days. However, should the Trustee agree that a longer period of time is necessary based upon the facts of a particular case, the Trustee may so advise the Court.
- E. The Court will maintain its policy of dismissing cases without further notice or hearing in the event an amended plan is not timely filed. The ruling of the Court shall continue to be reflected in the Court's minute entries.
- F. If:
1. No objections to confirmation have been filed; and
  2. The Chapter 13 Trustee supports confirmation; OR
  3. Counsel for the Debtor has reached an agreement with the Trustee and any objecting creditors that an amended plan needs to be filed, then
- Counsel for the Debtor(s) are not required to appear and the Trustee may make an announcement either supporting confirmation of the plan or allowing for the filing of an amended plan.
- G. All first time confirmation hearings shall be non-evidentiary status hearings. If an evidentiary hearing becomes necessary, it shall be given a special setting at the time of the first confirmation hearing.
- H. In all cases, counsel for the Debtor(s) and the objecting parties are responsible for communicating with the Trustee and ensuring that he will make an announcement on their behalf.

### **III. Motions to Dismiss**

- A. All motions to dismiss shall be scheduled at 2:00 p.m. and heard upon completion of the first-time confirmation hearings.
- B. Prior to the beginning of the hearings, Mr. Eck will advise the Courtroom Deputy of the following:

1. Which motions are being withdrawn;
  2. Which motions are no longer contested; and
  3. Which motions should be continued by agreement of the parties.
- C. Counsel for the debtors need not appear if any of the criteria set forth in III(B) are met.
- D. With respect to all other motions to dismiss, the parties shall appear and the motion will be heard. The only evidence which the court will receive at these hearings is the factual stipulations of the parties and/or the testimony of the Trustee regarding payment delinquencies. If an evidentiary hearing is necessary, it shall be specially set.

#### **IV. Contested Matters Other Than Motions for Relief from the Automatic Stay**

- A. All miscellaneous contested matters shall be scheduled at 2:00 p.m and heard upon completion of the hearings upon motions to dismiss.
- B. Parties may contact the Courtroom Deputy to advise the Court that:
1. The matter is settled and an agreed order will be submitted within 10 days;
  2. The motion is being withdrawn; or
  3. The opposing party no longer contests the motion and consents to the relief sought.

In each of these cases, the Courtroom Deputy may make a minute entry noting the resolution of the motion and striking the hearing.

- C. All hearings on miscellaneous contested matters shall be non-evidentiary status hearings. The only evidence which the court will receive at these hearings is the factual stipulations of the parties. If an evidentiary hearing is necessary, it shall be specially set.

#### **V. Motions for Relief from the Automatic Stay**

- A. All motions for relief from the automatic stay shall be heard at 2:15 p.m. or as soon thereafter as the parties may be heard.
- B. The Court will as a matter of course treat the first hearing on a motion for relief as a preliminary hearing if the parties so agree. The Court will set the final hearing on

the motion within 30 days of the preliminary hearing unless the Court's docket does not allow for such a setting. Absent exceptional circumstances, the final hearing will not be continued (rationale: if it can't be worked out within 60 days, it probably can't be worked out at all).

- C. With respect to the first hearing on a motion for relief, the parties may contact the Courtroom Deputy to advise the Court that:
1. They are requesting that the hearing be treated as a preliminary hearing;
  2. The matter is settled and an agreed order will be submitted within 10 days;
  3. The motion for relief is being withdrawn; or
  4. The debtor no longer contests the motion and consents to the relief sought.

In each of these cases, the Courtroom Deputy may make a minute entry noting the resolution of the motion and striking the hearing.

## **VI. Miscellaneous**

- A. Counsel are responsible for communicating with Mr. Eck regarding continuances, filing of amended plans, and any other relevant matters. Such communications should take place not later than one (1) day prior to the scheduled hearing. Other than expressly noted above, unless counsel has confirmation from either Mr. Eck or the Courtroom Deputy, counsel may not assume that a matter has been resolved or that they need not appear. Any such assumptions are made at counsel's own risk.
- B. All agreed orders are to be submitted on a timely basis. Failure to submit an order within the agreed upon or ordered time frame may result in the loss of the privilege of advising the Courtroom Deputy of a settlement and having a hearing stricken.

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