

BANKRUPTCY ^{UP}DATE

November 14, 2017

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Big Change Coming December 1, 2017: Clerk Will Prepare Notice of Confirmation Hearing in Chapter 12 and Chapter 13 Cases

Under amendments to the local bankruptcy rules, the Bankruptcy Clerk will, effective December 1, 2017, prepare and file the notice of confirmation hearing for all chapter 12 and chapter 13 plans or modified plans. The process will be: (1) the debtor will file the plan or modified plan (no notice and no certificate of service); (2) the Bankruptcy Clerk will prepare and file the notice of confirmation hearing; (3) the debtor will serve the plan or modified plan and the notice on all creditors and other parties in interest; and (4) the debtor will file a certificate of service (do *not* re-file the plan or the notice with the certificate of service).

For any plan filed before 5:00 p.m. (Central) on a regular business day, the Bankruptcy Clerk will prepare and file the notice that same day, and the last date for objections will be calculated on the premise the plan and the notice will be served that same day. Thus, a debtor should not file a plan or modified plan in a chapter 12 or chapter 13 case before 5:00 p.m. (Central) if the debtor cannot also serve the plan and the notice that same day. If a plan or modified plan is filed on a business day after 5:00 p.m. (Central) or on a weekend or federal holiday, the

Bankruptcy Clerk will prepare and file the notice of confirmation hearing the next business day, and the debtor will need to serve the plan or modified plan and the notice the same day the Bankruptcy Clerk files the notice.

The change is effective for all chapter 12 and chapter 13 plans or modified plans filed on or after 12:00 midnight (Central) on December 1, 2017. Please note, however, **because CM/ECF will shut down at 5:00 p.m. (Central) on Thursday, November 30, 2017**, and come back on-line at 8:00 a.m. (Central) on December 1, 2017, the cutoff is really at 5:00 p.m. (Central) on November 30, 2017. If a chapter 12 debtor files a plan or modified plan before the cutoff, the debtor will still obtain a hearing date and time from Nita or Shan and prepare, file, and serve a notice of confirmation hearing with the plan or modified plan. If a chapter 13 debtor files his first plan before the cutoff on November 30, 2017, Bankr. D.S.D. R. 3015-3B will still govern, and the debtor's attorney will need to carefully review that local rule to determine whether a notice is required to be served with the plan, which will depend on when the case was filed compared to when the plan is filed. If a chapter 13 debtor files a modified plan before the 5:00 p.m. (Central) cutoff on November 30, 2017, Bankr. D.S.D. R. 3015-4B will still govern, and the debtor will need to obtain a hearing date and time from Nita or Shan and serve a notice of confirmation hearing with the modified plan. Any chapter 12 or chapter 13 plan or modified plan filed after 8:00 a.m. (Central) on December 1, 2017, will be governed by the amended local rules and the Bankruptcy Clerk will prepare the notice of confirmation hearing.

Please contact Chief Deputy Clerk Vicky Reinhard or Law Clerk Kay Cee Hodson if you have any questions or concerns.

New Local Plan Form Effective December 1

Word and WordPerfect versions of the new local plan form effective December 1, 2017, for chapter 12 and chapter 13 cases filed by a single debtor and filed by joint debtors have been added to the Bankruptcy ^{UP}date of November 1, 2017, found under the News & Announcements section on our website. If you would like a Word or WordPerfect version of the new local plan form to be emailed to you, please contact Bankruptcy Clerk Rick Entwistle.

Link

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