

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF INDIANA**

NEW PROCEDURE FOR CHAPTER 13 CONFIRMATION HEARINGS

Historically, the Court has vacated a hearing on a creditor's objection to confirmation if an amended plan is filed prior to the hearing, regardless of whether the amended plan actually resolves, or even addresses, the objection. The Court has then required the creditor to file another objection to the amended plan, even if the amended plan does not alter the creditor's treatment from the previous plan. Creditors' counsel have pointed out to the Court that this procedure runs afoul of 11 U.S.C. § 1323(c), at least with respect to objections by secured creditors.

The Court also observes that its current procedure of automatically vacating a hearing on an objection to confirmation upon the filing of an amended plan arguably encourages some debtors to file an amended plan on the eve of the confirmation hearing with the hope of simply delaying the adjudication of a valid creditor objection. While the Court understands why debtors might wish to delay litigation, the practice of filing an amended plan that does not address or resolve an objection often leads to an inefficient use of limited judicial resources.

With these issues in mind, the Court hereby announces a new procedure, effective **July 1, 2013**:

1. Consistent with current procedure, the filing of an amended plan prior to a scheduled confirmation hearing will always vacate the hearing as to an objection to confirmation filed by the Chapter 13 trustee.
2. However, the filing of an amended plan will vacate a hearing scheduled on a creditor's objection to confirmation if, and only if, in advance of the hearing:
 - a. The creditor withdraws the objection; or
 - b. An agreed entry, signed by the debtor and objecting creditor (and by the trustee if the trustee so requires), is filed; or
 - c. A motion to continue the hearing is filed and granted.
3. If the hearing on a creditor's objection to confirmation is not vacated pursuant to paragraph 2, the Court may take whatever action on the objection at the hearing it deems warranted under the circumstances, including: Treating the objection as an objection to the amended plan and hearing argument on the objection; setting the objection for an evidentiary hearing; allowing the creditor to object orally to the amended plan and setting that objection for a hearing; or ordering the debtor to file another amended plan.
4. To assist with prompt resolution of objections, creditors should articulate concerns clearly and when possible provide in the objection the plan language desired.

The Court wishes to discourage the filing of amended plans that do not attempt to resolve a pending creditor objection. Thus, if an amended plan is filed on the eve of a hearing on a creditor objection and that amended plan does not alter the treatment of that creditor from the previous plan, the Court may choose to rule on the objection at the scheduled hearing or set the objection for a prompt evidentiary hearing, without requiring the creditor to file another objection. Certainly, parties will still have the ability to delay adjudication of the objection, but any continuance will likely have to be consensual.

June 17, 2013


James K. Coachys
Chief Bankruptcy Judge