

VBA BANKRUPTCY LAW SECTION
Bench-Bar Brown Bag Lunch Meeting
with Hon. Colleen A. Brown, U.S. Bankruptcy Judge

Tuesday, April 30, 2013 12:00 pm

United States Bankruptcy Court, Federal Building – Burlington

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|--|-------------|
| 1. Discussion of draft standing order regarding chapter 11 confirmation order / final plan (Attachment 1) | Judge Brown |
| 2. Discussion of draft standing order regarding chapter 13 filing modified plan w/ every motion to modify (Attachment 2) | Judge Brown |
| 3. Discussion of draft standing order regarding mediation (Attachment 3) | Judge Brown |
| 4. Impact of sequestration | Judge Brown |
| 5. Staffing Changes- Introduce new law clerks Ruth D'Amico and Jessica Vogel | Judge Brown |
| 6. Transfer of Claim fee and filing procedure. | Kathy Ford |
| 7. Adjustments to certain dollar amounts (Attachment 4) | Kathy Ford |
| 8. The Intersection and Overlap of Foreclosure, Sales, Mediation and Bankruptcy and Their Impact on Title -- May 2, 2013 Capitol Plaza in Montpelier, 9-4. | Bob DiPalma |

**These Bench-Bar lunch meetings are coordinated by the Bankruptcy Court
Have a question about them?**

Call Kathy Ford at 802-776-2003 or e-mail her at kathleen_ford@vtb.uscourts.gov

No fee and no pre-registration required.

Soft drinks and bottled water will be provided.

UNITED STATES BANKRUPTCY COURT
DISTRICT OF VERMONT

4/3/13 DRAFT

In re:

**MODIFICATION OF
LOCAL RULES OF PRACTICE AND
PROCEDURE IN BANKRUPTCY COURT,
DISTRICT OF VERMONT**

STANDING ORDER # 13-03

TO REVISE VT. LBR 3020-1

AFTER DUE CONSIDERATION of the Chapter 11 process in this District and in recognition of the importance of having the Court's dockets conspicuously identify the version of the Chapter 11 plan that was confirmed,

IT IS HEREBY ORDERED that after the confirmation hearing at which a Chapter 11 plan is confirmed, the plan proponent shall file a copy of the final version of the plan (with whatever revisions the Court articulated at the confirmation hearing) as an attachment to the proposed confirmation order.

IT IS FURTHER ORDERED that the plan proponent is not required to serve a copy of the confirmed Chapter 11 plan with the confirmation order.

IT IS FURTHER ORDERED that the content of the foregoing paragraphs shall become revised Vt. LBR 3020-1(d), and the current Vt. LBR 3020-1(d) shall be redesignated as Vt. LBR 3020-1(e), effective upon entry of this order.

SO ORDERED.

May XX, 2013
Burlington, Vermont

Colleen A. Brown
United States Bankruptcy Judge

UNITED STATES BANKRUPTCY COURT
DISTRICT OF VERMONT

Attachment 2

4/4/13 DRAFT

In re:

**MODIFICATION OF
LOCAL RULES OF PRACTICE AND
PROCEDURE IN BANKRUPTCY COURT,
DISTRICT OF VERMONT**

STANDING ORDER # 13-04

**TO REVISE VT. LBR 3015-4 TO
REQUIRE FILING OF PROPOSED MODIFIED
PLAN WITH MOTION TO MODIFY**

AFTER DUE CONSIDERATION of the Chapter 13 process in this District, in recognition of the importance of having the Court's dockets conspicuously identify the version of the Chapter 13 plan that is currently in effect, and to have a proposed modified plan on the docket in connection with each motion to modify,

IT IS HEREBY ORDERED that a party filing a motion to modify a confirmed Chapter 13 plan and the corresponding confirmation order (a "Motion to Modify") must also file clean and redlined copies of the proposed modified plan.

IT IS FURTHER ORDERED that since there will be a relined copy of the proposed modified plan in the record, the movant need not file a detailed proposed order specifying the changes in the treatment of each category of creditor, as is currently required under Vt. LBR 3015-4(c)(1).

To implement these changes in the Local Rules,

IT IS FURTHER ORDERED that Vt. LBR 3015-4 is revised to delete the former subsection (c)(1) and create a new subsection (c)(1). The revised procedure for a Motion to Modify, as set out in revised Vt. LBR 3015-4(c), shall be as follows, effective upon entry of this order:

- (c) **Additional Requirements When Filing a Motion to Modify.** The moving party must also:
- (1) simultaneously file clean and redlined copies of the proposed modified plan; and
 - (3) serve the motion, proposed modified plan and proposed order on the Chapter 13 trustee and all affected creditors; the motion may be noticed under the Court's default procedure. See Vt. LBR 9013-4.

SO ORDERED.

May XX, 2013
Burlington, Vermont

Colleen A. Brown
United States Bankruptcy Judge

4/3/13 DRAFT

In re:

**MODIFICATION OF
LOCAL RULES OF PRACTICE AND
PROCEDURE IN BANKRUPTCY COURT,
DISTRICT OF VERMONT**

STANDING ORDER # 13-05

TO REVISE VT. LBR 4001-7

AFTER DUE CONSIDERATION of the experience this Court has had with the mortgage mediation process in bankruptcy cases, and the input the Bar has provided with respect to these mediations, the Court is modifying the pertinent local rule to improve the effectiveness and efficiency of mortgage mediations undertaken through this Court.

IT IS HEREBY ORDERED that:

1. Promptly after the entry of an order approving mediation, the Clerk's Office shall issue a notice listing all Bankruptcy Court approved mediators (rather than just three as currently provided in Vt. LBR 4001-7(c)(1)(D)) and the parties to the mediation shall stipulate to the selection of a mediator; if the parties are unable to agree on a mediator within seven days of the issuance of the notice, the debtor shall file a motion asking the Court to designate a mediator.

Note: A new form notice and list of all court approved mediators shall be posted on the VTB website

2. In addition to the documents the debtor is required to provide pursuant to Vt. LBR 4001-7(d), each debtor participating in mortgage mediation shall also provide a statement articulating whether the debtor is a member of a homeowners' association.
3. The mediators shall have broad discretion and authority to manage the mediation process, including the authority to enlarge the 90-day time period between entry of the mediation order and the convening of the first mediation session, set forth in Vt. LBR 4001-7(c)(6), provided the mediator files a statement setting forth the basis for enlarging this time period and a schedule for commencing and completing the mediation.
4. The mediator is encouraged and authorized to schedule a pre-mediation telephone conference in order to ascertain the status of the document exchange between the parties, assist in resolving any outstanding issues, address any impediments to moving forward, and schedule the mediation session as soon as possible.

5. The mediator may require the lender's representative to participate in the pre-mediation telephone conference and any other meetings necessary to expeditiously conclude the mediation process.

IT IS FURTHER ORDERED that these requirements shall be deemed incorporated into Vt. LBR 4001-7 upon entry of this order.

SO ORDERED.

May XX, 2013
Burlington, Vermont

Colleen A. Brown
United States Bankruptcy Judge

UNITED STATES BANKRUPTCY COURT
District of Vermont

Attachment 4

Thomas J. Hart
Clerk of Court

Room 401
151 West Street
P.O. Box 6648
Rutland, VT 05702-6648
(802) 776-2000 Phone
(802) 776-2020 Fax
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TO: Court Users
FROM: Thomas J. Hart
DATE: March 14, 2013
RE: Adjustments to Certain Dollar Amounts in Bankruptcy Code & Official Forms, effective April 1, 2013

On April 1, 2013, automatic adjustments to the dollar amounts stated in various provisions of the Bankruptcy Code and one provision in Title 28 of the United States Code will become effective. The amended dollar amounts will apply to cases filed on or after **April 1, 2013**.

In the Bankruptcy Reform Act of 1994, as amended by the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005, and Pub. L. No. 110-406 (2008), Congress provided for the automatic adjustment of these dollar amounts at three-year intervals. The relevant provisions are codified in 11 U.S.C. § 104(a). The amended dollar amounts will affect, among other matters:

- the eligibility of a debtor to file under chapters 12 and 13 of the Bankruptcy Code
- certain maximum values of property that a debtor may claim as exempt
- the maximum amount of certain claims entitled to priority
- the calculation of the “means test” for chapter 7 debtors
- the duration of a chapter 13 plan
- the definition of a small business debtor
- the minimum aggregate value of claims needed to commence an involuntary bankruptcy
- the value of “luxury goods and services” deemed to be nondischargeable
- where the trustee may commence certain proceedings to recover a money judgment or property

The adjustments reflect the change in the *Consumer Price Index for All Urban Consumers* published by the United States Department of Labor for the three-year period ending December 31, 2012, and rounded to the nearest \$25. Use of this formula to adjust specified dollar amounts in the Bankruptcy Code is prescribed by 11 U.S.C. § 104(a).

On February 21, 2013, the revised dollar amounts were published in volume 78, number 35, of the *Federal Register*, at page 12,089, as required under 11 U.S.C. § 104(c). The next three-year automatic adjustments of these dollar amounts will be published before March 1, 2016, and take effect April 1, 2016. Attached is a chart showing the affected sections of the Bankruptcy Code and Title 28 and both the current and the revised dollar amount in those sections.

Seven of the Official Bankruptcy Forms and two of the Director's Forms contain references to several of the affected dollar amounts.

- Official Form 1, Voluntary Petition
- Official Form 6C, Schedule of Property Claimed as Exempt
- Official Form 6E, Schedule of Creditors Holding Claims Entitled to Priority
- Official Form 7, Statement of Financial Affairs
- Official Form 10, Proof of Claim
- Official Form 22A, Statement of Current Monthly Income and Means Test Calculation (Chapter 7)
- Official Form 22C, Statement of Current Monthly Income and Calculation of Commitment Period and Disposable Income (Chapter 13)
- Director's Form 200, Required Lists, Schedules, Statements and Fees
- Director's Form 283, Chapter 13 Debtor's Certifications Regarding Domestic Support Obligations and Section 522(q)

These forms will be amended April 1, 2013, and will apply to cases filed on or after that date. The revised forms incorporating the changes will be posted on the bankruptcy forms pending amendment page of the Judiciary's website at <http://www.uscourts.gov/FormsAndFees/Forms/BankruptcyForms/BankruptcyFormsPendingChanges.aspx>

If you have any questions please contact me at 802.776.2002 or Chief Deputy Kathy Ford at 802.776.2003.

Attachments

Affected Sections of Title 28 U.S.C. and the Bankruptcy Code	Dollar Amount to be Adjusted	New (Adjusted) Dollar Amount
28 U.S.C.		
1409(b) - a trustee may commence a proceeding arising in or related to a case to recover		
(1) - money judgment of or property worth less than	\$1,175	\$1,250
(2) - a consumer debt less than	\$17,575	\$18,675
(3) - a non consumer debt against a non insider less than	\$11,725	\$12,475
28 U.S.C.		
Section 101(3) - definition of assisted person	\$175,750	\$186,825
Section 101(18) - definition of family farmer	\$3,792,650 (each time it appears)	\$4,031,575 (each time it appears)
101(19A) - definition of family fisherman	\$1,757,475 (each time it appears)	\$1,868,200 (each time it appears)
101(51D) - definition of small business debtor	\$2,343,300 (each time it appears)	\$2,490,925 (each time it appears)
Section 109(e) - allowable debt limits for individual filing bankruptcy under chapter 13	\$360,475 (each time it appears) \$1,081,400 (each time it appears)	\$383,175 (each time it appears) \$1,149,525 (each time it appears)
Section 303(b) - minimum aggregate claims needed for the commencement of involuntary chapter 7 or chapter 11 bankruptcy		
(1) - in paragraph (1)	\$14,425	\$15,325
(2) - in paragraph (2)	\$14,425	\$15,325
Section 507(a) - priority expenses and claims		
(1) - in paragraph (4)	\$11,725	\$12,475
(2) - in paragraph (5)	\$11,725	\$12,475
(3) - in paragraph (6)	\$5,775	\$6,150
(4) - in paragraph (7)	\$2,600	\$2,775

Section 522(d) - value of property exemptions allowed to the debtor		
(1) - in paragraph (1)	\$21,625	\$22,975
(2) - in paragraph (2)	\$3,450	\$3,675
(3) - in paragraph (3)	\$550 \$11,525	\$575 \$12,250
(4) - in paragraph (4)	\$1,450	\$1,550
(5) - in paragraph (5)	\$1,150 \$10,825	\$1,225 \$11,500
(6) - in paragraph (6)	\$2,175	\$2,300
(7) - in paragraph (8)	\$11,525	\$12,250
(8) - in paragraph (11)(D)	\$21,625	\$22,975
522(f)(3) - exception to lien avoidance under certain state laws	\$5,850	\$6,225
522(f)(4)- items excluded from definition of household goods for lien avoidance purposes	\$600 (each time it appears)	\$650 (each time it appears)
522(n) - maximum aggregate value of assets in individual retirement accounts exempted	\$1,171,650	\$1,245,475
522(p) - qualified homestead exemption	\$146,450	\$155,675
522(q) - state homestead exemption	\$146,450	\$155,675
523(a)(2)(C) - exceptions to discharge		
in subclause (i)(I) - consumer debts, incurred \leq 90 days before filing owed to a single creditor in the aggregate	\$600	\$650
in subclause (i)(II) - cash advances incurred \leq 70 days before filing in the aggregate	\$875	\$925
541(b)- property of the estate exclusions		
(1) - in paragraph (5)(C) - education IRA funds in the aggregate	\$5,850	\$6,225
(2) - in paragraph (6)(C) - pre-purchased tuition credits in the aggregate	\$5,850	\$6,225

547(c)(9) - preferences, trustee may not avoid a transfer if, in a case filed by a debtor whose debts are not primarily consumer debts, the aggregate value of property is less than	\$5,850	\$6,225
707(b) - dismissal of a case or conversion to a case under chapter 11 or 13 (means test)		
(1) - in paragraph (2)(A)(i)(I)	\$7,025	\$7,475
(2) - in paragraph (2)(A)(i)(II)	\$11,725	\$12,475
(3) - in paragraph (2)(A)(ii)(IV)	\$1,775	\$1,875
(4) - in paragraph (2)(B)(iv)(I)	\$7,025	\$7,475
(5) - in paragraph (2)(B)(iv)(II)	\$11,725	\$12,475
(6) - in paragraph (5)(B)	\$1,175	\$1,250
(7) - in paragraph 6(C)	\$625	\$675
(8) - in paragraph 7(A) (iii)	\$625	\$675
1322(d) - contents of chapter 13 plan, monthly income	\$625 (each time it appears)	\$675 (each time it appears)
1325(b) - chapter 13 confirmation of plan, disposable income	\$625 (each time it appears)	\$675 (each time it appears)
1326(b)(3) - payments to former chapter 7 trustee	\$25	\$25