

What's New?



341's and Motions to Value

Some of you Debtor attorneys may have noticed a recent change in 341 procedures, and you'd be correct in that observation. Under Local Rule 3015-1 (j), on motions to value and avoid liens, the debtor must "file, serve, and set for hearing a valuation motion and/or a lien avoidance motion," the hearing upon which "must be concluded before or in conjunction with the confirmation of the plan. If a motion is not filed, or it is unsuccessful, the Court may deny confirmation of the plan." The Trustee has seven days to object once the 341 is concluded, so in the recent past, this office has been objecting to plans that require a motion to value or avoid lien but the attorneys have not yet filed the motion, even when the 341 has been concluded and the plan is otherwise confirmable.

Now, if the Trustee does not object but the order on the motion to value is not filed timely, this office has been filing motions to dismiss for unreasonable delay and/or feasibility. Sometimes Debtors' counsel will inform us that a stipulation has been reached with the creditor but no order on that stipulation is ever filed. Other times the motion to value is granted but an order has not been filed. This gets sticky several months (or in some cases, years) down the road when the plan is not feasible or the Trustee has distributed more on the claim (due to the filed claim) than the debtors intended in their plan since no order was ever filed with the Court.

The current procedure, in order to keep uniformity between both departments and cut down on objections to confirmation, is to hold open the 341 meeting until the motion to value or avoid lien has been granted. (Insert groans here.) In order to conclude the 341 timely, please make sure you file your motions to value or avoid liens and set them for hearing as close to filing the petition as possible.

Proposed Local Rules

The Local Rules Advisory Committee has proposed various changes to the Local Rules. Public comments were to be submitted by Friday, April 17, 2015. These changes include, but are not limited to:

- Adding Local Rule 1016-1 Procedure Upon the Death or Incapacity of a Debtor During Pendency of a Bankruptcy Case
- Requirement of filing the plan separately in a motion to modify *(Cont. on page 2)*



In this issue:

1328 Certificates	Page 2
TFS Info	Page 2
Upcoming Events	Page 2



(cont. from Page 1)

- Trustee's compensation received on all receipts (as opposed to disbursements)
 - Cap on new/refinanced home loan payments increased to \$2,500.00
 - New rules on transferring, selling and incurring debt prior to and after plan completion
 - Rule regarding filing electronic claims
 - Contents of motions to reopen cases
 - Procedures for default in adversary proceedings
 - Procedures for discovery disputes
 - Increase of new debt limit on a vehicle loan to \$20,000.00
- Judge Clement was kind enough to discuss the proposed local rules at the most recent CCBA Attorney Lunch meeting on April 14, 2015. Be sure to peruse them yourself at:

<http://www.caeb.uscourts.gov/LocalRulesChanges.aspx>

11 U.S.C. Sec. 1328 Certificates

So your clients have managed to make it all the way through their plan and it is almost time to close the case— then you get hit with an objection to discharge for failure to check a teeny, tiny little box. This is a friendly reminder to double check all of your 1328 Certificates. Make sure each debtor files a separate certificate, that all of the alphabetical sections have the appropriate sections selected (domestic support obligations, prior 7, 11, 12, and 13 discharges, and exemptions) and that each signature line is signed and dated. This office closely screens all 1328 Certificates. Staff attorney Kristen Gates will try to email you to amend any errors before the objection deadline, but do not rely on this office to follow up with you before the objection deadline.

TFS— Automated Plan Payments Explained

You've heard the examining officers mention TFS at the 341's, but how many of you have sat down and explored the TFS website with or for your clients? On March 19, 2015, Patrick Schaefer, President of TFS, held an informational session with several debtor attorneys and their staff to better understand the in's and out's of using TFS. Mr. Schaefer explained the difference between a payment "processing" versus "pending," discussed the various payment options for plan payments for Debtors, timing of when payments should be made in order to be posted to the Trustee's office by the payment due date, and responded to questions attorneys raised. The feedback from the local debtor attorneys in attendance was well-received and appreciated. TFS is currently working on options to make this system accessible to debtors who do not have a home internet connection or computer. If you have any questions about using this system, feel free to contact the Trustee's office.

If you have any questions, comments, or requests for upcoming articles, email: newsletter@meyer13.com

UPCOMING EVENTS

- May 12, 2015: CCBA Informal Lunch @ El Torito, 12:00 p.m.
- May 21, 2015: Fundamentals of Bankruptcy, SJCL 8:25 a.m.
- June 9, 2015: CCBA Informal Lunch @ El Torito, 12:00 p.m.