

ORDER FIXING TIME TO OBJECT TO PROPOSED MODIFICATION OF CONFIRMED CHAPTER 12 PLAN

Applicable Law and Rules

Section 1229(a) of the Bankruptcy Code (11 U.S.C. § 1229(a)) permits the debtor, the trustee, or the holder of an allowed unsecured claim to request the modification of a confirmed chapter 12 plan at any time after confirmation of the plan and before the completion of payments under the plan. The statute does not authorize secured creditors to request plan modifications.

Instructions

Caption

1. Identify the judicial district in which the bankruptcy case was filed.
Example: "Eastern District of California."
2. "In re": Insert the name of the debtor as it appears in the bankruptcy petition.
3. "Case No.": Insert the bankruptcy case number assigned at the time of filing.

Order

In the first sentence of the order, the blanks are to be completed with the name of the proponent of the proposed modification and the date the request for modification was filed.

The boxes in the numbered paragraphs are to be completed by the clerk.

A copy of the proposed modification **MUST** be attached to this order and notice when it is served on the parties.

General Information for the Clerk

Section 1229(a) of the Bankruptcy Code permits the debtor, the trustee, or the holder of an allowed unsecured claim to request the modification of a confirmed chapter 12 plan at any time after confirmation and before completion of payments under the plan.

Prior to confirmation, the debtor may modify a chapter 12 plan pursuant to § 1223 of the Code. Form 2310A should **NOT** be used for a plan modification filed prior to confirmation.

Fed. R. Bankr. P. 3015 (h) requires 21 days' notice to the debtor, the trustee, and the creditors of the time fixed for filing objections to the proposed modification of a confirmed plan. The rule provides that a copy of the proposed modification, or a summary thereof, shall be included with the notice. The court can require that the proponent furnish the copies.

Form 2310A was designed to order the proponent of the modification to give the notice. Clerks may wish to consider whether this comports with local practice.

The rule provides that the court may waive notice for creditors who are not affected by the proposed modification. If so, Form 2310A should be revised accordingly.

Rule 3015(h) requires that objections to the proposed modification be filed; served on the debtor, the trustee, and any other entity designated by the court; and transmitted to the United States trustee. Form 2310A was designed to require service of objections on all creditors. The court may find that this is not necessary. If so, Form 2310A should be revised accordingly.

If no objection is filed, the proposed modification takes effect automatically. 11 U.S.C. § 1229(b)(2). The statute does not require a hearing or a court order on uncontested modifications of confirmed plans. In order to avoid either sending two notices or providing for a hearing on uncontested modifications, Form 2310A includes a tentative hearing date and states that, if no objection is filed, the court may not hold a hearing.

The instructions to the public provide that the boxes for the filing deadline for objections and the hearing date should be left empty, so that the clerk may fill in the correct information.

Be sure that the last day for filing objections and the hearing date are fixed far enough in advance to permit the proponent time to mail the notices and still meet the requirement to give 21 days' notice.