

Rule 41 (e)

(e) Expedited Procedure Under 11 U.S.C. 362(e)

(1) The date of the request shall be the date that a notice requesting a modification to the automatic stay is filed pursuant to Local Rule 70(a)(2).

(2) Upon receipt of filing of such a notice the court will promptly provide a notice of the date set for the preliminary hearing to the moving party, the debtor, the debtor's attorney, and the trustee.

(3) The preliminary hearing will be by telephonic conference and based on affidavits only, but may be supported by written memorandum.

(4) If an objection is received, the moving party must confirm the preliminary hearing by telephone on the court's calendar request line. Such confirmation of the preliminary hearing may be accomplished as soon as an objection is received but in no event later than eight (8) days prior to the date set for the hearing.

(5) Duty to Confer

If an objection is received, the moving party has a duty to confer with such objecting party for the purpose of attempting to resolve the differences between the parties. This duty to confer shall be satisfied prior to the confirming of the hearing.

(6) Timing of Filing Affidavit and Supportive Memoranda

(A) Notwithstanding Local Rule (3)(b), the moving party shall file and serve affidavits in support of request for modification of stay together with any memoranda of authority at least 6 days before the preliminary hearing.

(B) The opposing party shall file and serve responsive affidavits and opposing memoranda of authority at least 3 days before the preliminary hearing.

(C) Notwithstanding Local Rule 3(b)(3), a document intended to be considered by the court in connection with a scheduled hearing or a request for modification of stay shall be served and filed in accordance with (A) and (B) above and a copy shall be delivered to the chambers of the Bankruptcy Judge if the document has not been filed at least 7 days prior to the hearing.

(7) Waiver

Failure to follow these procedures by the moving party will be deemed to be a waiver of the automatic lifting provisions of 11 U.S.C. 362(e) and consent to the continuation of the automatic stay pending the conclusion of the final hearing.

Rule 63

CHAPTER 12 CASES

(a) Applicability

This rule applies only to cases under Chapter 12 of the Bankruptcy Code. The "Suggested Interim Rules for Chapter 12 Proceedings" approved by the Advisory Committee on Bankruptcy Rules shall apply.

(b) Serving Copies on Trustee

A copy of each document filed in a Chapter 12 case shall be served upon the Chapter 12 Trustee.

(c) The Chapter 12 Statement

The Chapter 12 Statement (Suggested Interim Chapter 12 Form 12-A or 12-B) shall be filed:

(1) with the petition, or

(2) within 15 days of the filing of the petition if the petition is accompanied by a list of all the debtor's creditors and their addresses.

(d) Tax Returns

The debtor shall file at the time the schedules are filed, a copy of income tax returns for the three years prior to the year in which the petition is filed together with all schedules thereto.

(e) Debtor Eligibility Challenges

Challenges to the eligibility of the debtor should be initiated at the earliest possible time in the case. Such challenges may be made by 15 days notice and hearing to the master mailing list pursuant to Local Rule 70.

(f) Funds of the Estate

(1) The debtor shall open a new bank account immediately upon filing a case under Chapter 12. The bank account shall be in the name of the debtor as "CHAPTER 12 DEBTOR". The account shall be separate from any account used by the debtor prior to filing of the Chapter 12 case. All amounts from the debtor's previous bank accounts shall be transferred to the new account. All receipts, including cash, after filing the case shall be deposited into the new account. The debtor shall file with the Clerk, the Chapter 12 Trustee, and the U.S. Trustee information as to the identity and location of the debtor's bank and the new account number.

(2) All bills shall be paid by check written to a named payee. Checks written to the debtor may only be for the payment of incidental family or household expenses.

(g) Monthly Operating Statement

(1) The debtor shall file and serve upon the Chapter 12 Trustee a monthly statement of the estate's cash receipts and disbursements. The first monthly statement shall be filed within 15 days of the close of the month during which the case was filed. A monthly statement shall be filed within 15 days of the close of each month thereafter until the plan is completed or the case is converted or dismissed. A copy of the bank statement for the corresponding month shall be attached to the monthly statement.

(2) The monthly statement shall itemize each receipt according to the type and quantity of product sold. Disbursements relating to farming operations shall be similarly itemized. Disbursements for household and family living expenses shall not be itemized, but shall be shown as a single, lump sum amount.

(3) The monthly statement shall include a certification that all taxes due since the filing of the case have been paid or deposited. The amount paid or deposited during the month, the date of payment or deposit, and the taxing agency paid or the place the tax was deposited shall be indicated in the monthly statement.

(4) The debtor shall keep a copy of all receipts, bills and invoices for all purchases or payments on behalf of the farming operation.

(5) The Chapter 12 Trustee or any party in interest may present, upon 5 days notice and hearing, an order to dismiss if the debtor becomes delinquent in filing any monthly statement.

(h) Motion to Value and Valuation Hearing

(1) If the debtor intends to treat any secured creditor as other than fully secured, the debtor shall file a motion to value the property claimed as security for the claim. This motion and notice thereof shall be filed no later than 30 days from the date of filing the petition initiating the Chapter 12 case, or upon the filing of the plan, whichever is sooner. Service on the master mailing list shall be initiated at the same time the motion is filed.

(2) The notice of this motion shall contain the following information:

(A) a description of the property to be valued;

(B) the value the debtor intends to place on the property if no objection is made;

(C) the name of all creditors asserting secured claims in the property; and

(D) with respect to each secured claimant:

(i) the amount which the debtor intends to place on the creditors claim if no objection is made;

(ii) the priority in the property which the debtor intends to attribute to the creditors claim if no objection is made; and

(iii) whether the debtor intends to treat the creditors claim as fully secured, undersecured or unsecured.

(3) Written objections for this motion shall be filed and served on the debtor within 15 days from the date of filing the notice. The objection shall state the specific grounds upon which it is based. Hearing on these objections will be held at the valuation hearing. An entity which fails to object to the motion to value may not participate at the valuation hearing.

(4) The debtor, any objecting party, or the trustee may request that a status conference be conducted in the case at any time after the expiration of the time for objection to the motion to value. The status conference will be conducted by telephone upon five days notice to the debtor, all parties who have filed objections, and the trustee.

(5) The valuation hearing shall be scheduled 90 to 105 days from the filing of the petition initiating the case. Notice of this hearing shall be included in the notice of the meeting of creditors.

(6) At least 10 days prior to the valuation hearing all parties participating in the hearing shall exchange and file a list of witnesses expected to testify at the hearing, a summary of the expected testimony, copies of the appraisals to be introduced at the hearing, and a list identifying the comparable sales information to be relied upon in supporting the valuation. Each appraisal submitted shall identify the date of the appraisal and the name and credentials of the appraiser. Failure to comply with this rule may result in the imposition of sanctions.

(7) The court may limit, on its own motion or at the request of a party, introduction of evidence on direct examination to affidavit only, provided, however, that said affiant be present at the time of hearing and available for cross examination.

(8) The moving party shall immediately notify the court of the settlement of any valuation disputes prior to the valuation hearing.

(9) Any lien is void to the extent it is found to be undersecured or unsecured in this valuation process, except as provided in 11 U.S.C. 506(d)(1) & (2).

(i) The Plan

(1) Filing

(A) A plan shall be filed within 90 days of the filing of the petition initiating the case. An extension of time to file the plan may be allowed if an application is made prior to the expiration of the 90 days from the filing of the petition. The application shall be supported by an affidavit which clearly sets forth the basis for the extension and establishes good cause for the request. The application may be made ex parte. A copy of the order of extension shall be served upon the master mailing list as soon as practicable by the debtor.

(B) Simultaneous with the filing of the plan the debtor shall serve upon the master mailing list a copy of the plan, notice of the time to file objections, and notice of the hearing on confirmation. (Local Form 2605).

(2) Objections

Objection to the confirmation of the plan shall be made within 15 days of the mailing of the notice of the filing of the plan, shall include the specific basis for the objection of the plan, and shall be filed with the court and served on the debtor, the debtor's attorney, and the Chapter 12 Trustee. A party who has made an objection and who fails to appear at the hearing on confirmation or at any other hearing scheduled on the objection may be deemed to have waived such objection.

(3) Plans Filed Within 60 Days - Status Conference

If a plan is filed within 60 days of the filing of the petition initiating the case, the court will conduct a status conference as soon as practical after the expiration of the time for objections to the plan. The status conference will be conducted by telephone conference upon five days notice to the debtor, all parties who have filed objections and the Chapter 12 Trustee. Among the matters to be discussed at this status conference will be possible revision of the hearing schedule in the case in light of the early filing of the plan.

(4) Contents of the Plan

The plan shall meet the requirements of 11 U.S.C. 1222 and shall also contain the following information:

(A) a schedule showing the dates, amounts, and payees of all payments to be made by the debtor and the payments

to be made through the office of the Chapter 12 Trustee;

(B) a Cash Flow Budget for the current crop year and for all future crop years for the life of the plan. The Cash Flow Budget shall describe the crops intended to be grown, the farm products intended to be produced, and the projected gross income expected to be received for each crop or product. Assumptions upon which the cash flow projections are based with historical or other data justifying such assumptions shall be included. Operating expenses and loan payments shall be detailed in the budget. Living expenses of the debtor and the debtor's family shall be listed as a lump sum and shall not be described in greater detail;

(C) projected administrative expenses, including attorney fees;

(D) the probable tax consequences to the debtor resulting from the plan;

(E) a statement, with detailed information, specifying the need, if any, for the plan payments to be made over a period longer than three years; and

(F) a liquidation analysis.

(j) Trustees Confirmation Summary

The Chapter 12 Trustee shall file a confirmation summary no less than 7 days prior to the date set for the confirmation hearing. At the same time a copy shall be served on the debtor, the debtor's attorney, and any party objecting to the plan. The confirmation summary shall make a recommendation as to confirmation and shall comment on each of the following:

- (1) the debtor's eligibility for relief under Chapter 12;
- (2) the liquidation statement, the cash flow budget, and proposed order confirming the plan;
- (3) objections to the confirmation of the plan;
- (4) the status of any valuation disputes;
- (5) the feasibility of the plan; and
- (6) the validity of the secured claims.

(k) Hearing on Confirmation

(1) The confirmation hearing shall be scheduled 120-135 days from the filing of the petition. Notice thereof shall be given with the notice of the meeting of creditors and at the time the

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(C) If a modified plan provides for the payment of claims not listed on the original schedules, notice of the modification shall be given to the additional creditors.

(D) The Chapter 12 Trustee may pay post-petition claims only if the plan is modified as above and the post petition creditor affirmatively agrees in writing to payment under the plan.

Related Provisions

11 USC 704(8)	Duties of Trustee
11 USC 1106(a)	Duties of Trustee
11 USC 1203	Rights and Powers of Debtor
11 USC 1204	Removal of Debtor as Debtor in Possession
11 USC 1221	Filing of Plan
11 USC 1222	Contents of Plan
11 USC 1223	Modification of Plan Before Confirmation
11 USC 1224	Confirmation Hearing
11 USC 1225	Confirmation of Plan
11 USC 1229	Modification of Plan After Confirmation
R 2002	Notices
R 2015	Duty to Make Reports
R 3015	Filing of Plan
R 3019	Modification of Plan
R 3020	Confirmation of Plan