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“Unless the Court Orders Otherwise”: The Impact of Local Rules on Deadlines Established by the Federal Rules of Bankruptcy Procedure



Date Created: Thu, 2020-10-29 16:15

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The extensive 2017 changes to the Bankruptcy Rules included a model chapter 13 plan. These changes were designed to bring more uniformity to chapter 13 practice. Uniformity is helpful for both consumers and creditors alike; where courts agree on a majority practice across the country, national lenders become more efficient in their practices. The need created by the absence of uniformity in deadlines imposed by local and federal rules is great. This disparity hits consumer debtors the hardest. Consumer practitioners should be aware of the relative lack of uniformity that exists, and note the differences that exist between the relevant local rules and federal rules.

For example, Federal Bankruptcy Rule 3015 was amended to add a specific deadline of seven days prior to confirmation to object to a chapter 13 plan:

(f) Objection to Confirmation; Determination of Good Faith in the Absence of an Objection. An objection to confirmation of a plan shall be filed and served on the debtor, the trustee, and any other entity designated by the court, and shall be transmitted to the United States trustee, at least seven days before the date set for the hearing on confirmation, **unless the court orders otherwise.** An objection to confirmation is governed by Rule 9014. If no objection is timely filed, the court may determine that the plan has been proposed in good faith and not by any means forbidden by law without receiving evidence on such issues.

This change was designed to let creditors and bankruptcy practitioners know that the plan-objection deadline is seven days prior to confirmation. However, many practitioners are likely to gloss over the part of the rule that reads “unless the court orders otherwise.” This language demonstrates one of the many ways in which local rules may alter deadlines, such as the one codified by Bankruptcy Rule 3015.

Federal Rule 83 authorizes a district court, in its discretion and after notice, to implement local rules “consistent with — but not to duplicate — federal statutes and rules.” [1] Bankruptcy Rule 9029 specifically authorizes bankruptcy courts to implement local rules, which have “the force of law.” [2]

District courts are not required to adopt local rules, but they *cannot* circumvent the Federal Rules of Civil Procedure by implementing procedures or granting rights that are not already afforded to parties under the Federal Rules. [3] “[L]ocal court rules ... cannot conflict with the Federal Rules of Civil Procedure, Acts of Congress, and rules of practice and procedure prescribed by the Supreme Court.” [4] A local rule cannot be applied if it is contrary to a federal statute or rule. [5]

A specific example of a local rule altering a federal rule deadline exists in the Southern District of Florida. S.D. Fla. L.B.R. 3015-3(B)(1) requires that objections to confirmation in chapter 13 cases be filed *at least 14 days* before the date first scheduled for hearing on confirmation. [6] Notice of the confirmation hearing for chapter 13 cases sent by the clerk in this district further states, in part:

At the confirmation hearing on the plan, the court will consider all timely objections to confirmation and any filed motions to dismiss or convert the case. Except for objections to confirmation based on valuation of collateral in the plan or objections to attorney fee claims, objections to confirmation of the plan must be in writing and filed no later than 14 days prior to the date first scheduled for hearing on confirmation.” S.D. Fla. L.B.R. 3015-3(B)(1).

Thus, this local rule seemingly conflicts with the seven-day deadline established by an amendment to Bankruptcy Rule 3015(f), despite not granting any distinctive right or requiring a separate procedure as that imposed by the federal rules. As set forth above, however, the amended federal rule gives each district discretion to modify this important deadline. This local rule does not stand alone, and the impact that local rules may have on other federal rule counterparts is not exhaustive with regard to objections to confirmation. Therefore, parties must carefully review the deadlines imposed by their district’s local rules, cross-reference with the relevant federal rule, and determine the proper deadline for seeking relief.

[1] *Frazier v. Heebe*, 482 U.S. 641, 645, 107 S. Ct. 2607, 96 L. Ed. 2d 557 (1987) (citing 28 U.S.C. § 2071; Fed. R. Civ. P. 83); *Hollingsworth v. Perry*, 558 U.S. 183, 191, 130, S. Ct. 705, 710, 175 L. Ed. 2d 657 (2010).

[2] *Weil v. Neary*, 278 U.S. 160, 169, 49 S. Ct. 144, 73 L. Ed. 243 (1929).

[3] See *Carver v. Bunch*, 946 F.2d 451, 453 (6th Cir. 1991), *1009.

[4] *Coady v. Aguadilla Terminal Inc.*, 456 F.2d 677, 678 (1st Cir. 1972).

[5] *Hanna v. Plumer*, 380 U.S. 460, 85 S. Ct. 1136, 14 L. Ed. 2d 8 (1965); *In re Richardson*, 538 B.R. 594, 602-603 (Bankr. M.D. Ala. 2015).

[6] See S.D. Fla. L.B.R. 3015-3(B)(1) (emphasis added).

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