

WESTERN DISTRICT PRACTICE POINTERS

PAYMENTS:

We require employer wage orders if the debtor(s) are employed. If the debtor is not employed, please allow plenty of time (5-7 business days) when mailing plan payments to our bank lockbox in Chicago, IL. If using our online option (tfsbillpay.com) the payments are held for five business days before they post on the debtor's case.

CLAIMS:

We are a claims based district. The plan directs a few things – set monthly payments, pay order, etc. Otherwise, the dollar amount, classification of the debt and interest rate are paid based on the claim.

In re Pajjian determined the Bar Date is the last day for both unsecured and secured, non-government entities to file proofs of claim. Shortly after the Bar Date, the Trustee will mail out a 'Summary of Claims' to the debtor and debtor's counsel, listing the claim status of all creditors listed on the schedules. A claim may be filed on a creditor's behalf for 30 days beyond the applicable Bar Date. 11 USC § 501, Rule 3004

If collateral is to be surrendered or sold and a proof of claim has already been filed, the claim will need to be amended, withdrawn or an objection to the claim filed.

PLAN:

Unless specific language in the Plan states otherwise, administrative claims (attorney fees) will be paid at confirmation, before distributions to secured claims start. Adequate protection payments do not continue beyond confirmation.

If the plan states a creditor is to receive an AVG or EST monthly payment it will be paid on a pro rata basis. We interpret that language to be an approximation, not an exact amount. If you wish a creditor to receive a set monthly payment, do not include that additional notation.

Given that Chapter 13 filings have continued to decrease, our fee has had to increase. Please continue to use 7% when calculating plan payments to help maintain feasibility over the anticipated 3-5 years.

The first plan payment is due 30 days after the petition is filed. The code requires debtors to remain in the plan for a full 36 months (below median) or 60 months (above median), unless 100% of creditors have been paid. That clock starts ticking with the 1st payment due date.

341 MEETING:

Debtors must appear in person with a government issued photo ID (driver's license, Military ID card, passport) and social security number proof (social security card, W-2, 1099, etc). If these documents are not presented at the 341 Meeting, the meeting will be adjourned until both documents can be verified simultaneously.

Complete tax returns (Federal and State, all filed schedules), for the debtor's most recent tax year, must be provided to the Trustee at least 7 days prior to the 341 Meeting or the Trustee may adjourn the Meeting. 11 USC § 521 & § 1308.

An Amended Fee Disclosure is necessary if substitute counsel appears at the 341 Meeting, regardless if actual compensation is paid to counsel or not.