

**Public Comments to the Proposed Changes to the District Wide Mandatory Form Chapter 13 Plan and form Order Confirming Chapter 13 Plan**

**Real estate taxes post petition to be paid outside the Plan by Debtor.** I didn't see in the revised Chapter 13 Plan any mention of real estate taxes owed, but I may be missing something. In the existing form, it was indicated that real estate taxes post-petition were not to be paid by the Trustee but to be paid by the Debtor directly to the Treasurer of the County. Obviously the Treasurer would like to keep this plan provision in place, so that failure to pay post-petition taxes would be grounds for a motion to dismiss. If I am missing something, please let me know. –From Chris Watkins.

**Unbundle 1322(c)(2) from 5.1.2.** The middle checkbox to warn creditors of impending modifications states that it applies to limiting amounts of a secured claim based on the value of the collateral. Granted, paying a mortgage balance in full through the trustee rather than maintaining contractual payments - because the last mortgage payment is contractually due during the term of the plan - is a modification, but it is not a modification based on the value of the collateral. While those mortgage creditors deserve to be warned, it should not be done by distorting the plain meaning of "based on the value of the collateral" to include them. –From Pamela Maggied.

**Service:** The proposed changes to the mandatory form plan seem to eliminate the check boxes stating that the plan is an original and filed within 7 days of the petition, thus being served by the BNC or an amended plan served by debtor. Does this mean debtors will be required to serve the original plan to all creditors? If that is the intention I suggest that the change be eliminated and BNC service of the original plan remain. The confirmed plan is binding on all parties. Without a BNC certificate of service, I can foresee creditors attacking the confirmed plan on the grounds that they were never served. BNC noticing eliminates this argument for creditors appearing on the BNC certificate of service because it is superior to notice by debtors/debtors counsel since it is automated and tracked. This leaves no room for human error. Further, quite frankly, debtors attorneys should not be forced to do the work of the clerk, which has already been pushed onto our desks too often. If this is the reason for the no-look increase to \$3,700, keep it. A long overdue increase to the no-look fee is NOT an increase at all if it requires debtor attorneys to spend it on servicing of the original ch 13 plan. –From Laura Nesbitt.

**Co-debtor protection:** There is no provision for treatment of creditors holding claims that are co-signed between the debtor and a non-filing co-debtors. Section 5.5 only addresses a co-debtor claim that will be paid outside of the plan by a non-filing co-debtor but does not address the opposite wherein the debtor chooses to include and pay the claim through the plan at 100% to protect the co-debtor. Please add this provision. –From Laura Nesbitt.

**Cramdown:** In section 5.1.4, in the date box i think it would be helpful to have a checkbox that states whether the purchase/transaction date is a PMSI or NMPSI loan so that it is clear as to why the cramdown is applicable. –From Laura Nesbitt.

**General functionality of form plan:** The current mandatory form plan does not adequately allow input. For example, in the special provisions, if too much text is added (such as a long provision about student loan treatment) the text that goes beyond the page just disappears, it does not add a second page and expand the box. Other provisions, such as the step payment provision in 2.1 have a similar flaw where if too much text is typed it overlaps the form plan language instead of bumping everything down to make room for the text. –From Laura Nesbitt.

**Automatic conveyance/release language:** We would suggest that the provisions regarding "cram down" and lien avoidance include automatic conveyance/release language (paragraphs 5.1.2, 5.1.4, 5.4.1, 5.4.2, 5.4.3, and 5.4.4) so that the counsel for debtor does not have to chase the creditor or its counsel to release the lien that has been avoided under the plan. Under the new form plan, the creditors' lien remains on the property until (a) payment of the underlying debt determined under nonbankruptcy law, (b) discharge of the underlying debt under 11 U.S.C. §1328, or (c) completion of the Plan; thus the lien remains on the property until the end of the case. Furthermore, the lien avoidance itself is to be accomplished through the plan, or by motion or claim objection, all of which must occur at the beginning of the case. Our experience has been that, due to the lapse of time between the judicial process avoiding the lien at the beginning of the case, and the end of the case, the creditor's attorney no longer represents the creditor, the creditor has gone out of business, or there are other difficulties with tracking down a representative of the creditor who can release the lien. Therefore we suggest that the Plan include language that would allow Debtors to submit a copy of the plan and/or other documents/order (which would be accepted by the County Recorder) filed in their case to automatically release the lien. This is also valid for car creditors who will not release the title after the claim has been paid in the plan. Thank you. –From Mina Nami Khorami.