

FAQ'S FOR OUTSIDE USERS

*When are Motions to Lift the Automatic Stay set for hearing?

1. Chapter 11, 12 and 13 - All motions to lift stay filed in a case under these chapters are scheduled for preliminary hearing within thirty (30) days of the date motion is filed. Hearings are scheduled in the divisional venue of the case, when possible or in Charleston when no hearing date is available in the division within thirty (30) days of the filing of the motion.

2. Chapter 7

Motions to Lift Stay on personal property - only scheduled for hearing if:

- 1) No default notice giving parties 14 days to respond
- 2) Not served on Debtors' counsel, Debtors, and Trustee
- 3) Directed by the Court

Motions to Lift Stay on real property - only scheduled for hearing if:

- 1) Debtors are pro se
- 2) Debtors are represented by counsel; real property is the Debtors' primary residence and statement of intent does not indicate surrender (or statement of intent not filed at time of motion)
- 3) No default notice giving parties 14 days to respond
- 4) Not served on all of the following: Debtors' counsel, Debtors and Trustee
- 5) Directed by the Court

* When are Reaffirmation Agreements set for hearing or disallowed without hearing?

Disallowed without a hearing when filed by the Creditor and:

- 1) Reaffirmation Agreement does not include all required information: Creditor name, interest rate, total amount being reaffirmed, monthly payments
- 2) Reaffirmation Agreement is not signed by Debtors and/or Creditor
- 3) Cover Sheet either not included or included, but not completed

Set for hearing when filed by the Debtor(s) and:

- 1) Reaffirmation Agreement does not include all required information: Creditor name, interest rate, total amount being reaffirmed, monthly payments
- 2) Reaffirmation Agreement is not signed by Debtors and/or Creditor
- 3) Cover Sheet either not included or included, but not completed
- 4) Debtors are Pro Se
- 5) The Presumption of Undue Hardship exists, unless creditor is a credit union

What should be considered when filing an Amended Chapter 13 Plan and how will the Clerk's Office proceed?

- 1) No need to submit an amended wage order or request for amended wage order; the case administrator will issue an amended order if the plan payment amount is changed pursuant to the new amended plan, using the information found on page two
- 2) Amended plan should be linked back to most recent plan filed prior (not to original plan)
- 3) When a new amended plan is filed, any objections filed previously and linked to a prior plan will not be included on hearing docket, unless a new objection is filed
- 4) Any motions to value secured property written into the plan should also be docketed using the provided screens when e-filing an amended plan
- 5) If an amended plan is filed less than 10 days prior to the current confirmation hearing scheduled on a previously filed plan, then a new Notice of Amended Plan will not be issued until after the current confirmation hearing, which will move forward as noticed to creditors