

UNITED STATES BANKRUPTCY COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA

In re

GENERAL ORDER 09-10

GENERAL ORDER REVISING LOCAL RULES AND GENERAL ORDERS
REGARDING COMPUTATION OF TIME PERIODS

On March 26, 2009, the Supreme Court of the United States approved amendments to 39 Federal Rules of Bankruptcy Procedure, designed to remove inconsistency and unnecessary complications associated with the computation of time periods driven by the rules. On May 7, 2009, the President signed into public law (Public Law 111-016) amendments to 28 statutes, including sections of the Bankruptcy Code, also to clarify computation of time periods driven by those statutes. The amendments to the Rules and Code shall become effective on December 1, 2009. Accordingly, pursuant to 28 U.S.C. § 2071, Rule 83 of the Federal Rules of Civil Procedure, and Rule 9029 of the Federal Rules of Bankruptcy Procedure, it is hereby

ORDERED that, **effective December 1, 2009**, the following time period calculations contained in this Court's Local Rules of Bankruptcy Procedure and General Orders are amended as set forth in Exhibit A attached hereto. Local Forms reflecting such amended time periods are available on the Court's website, www.wvsb@uscourts.gov.

ENTERED: **NOV 17 2009**



RONALD G. PEARSON, JUDGE

Amendments to Local Rules and General Orders with Time Limits		
Local Rule or General Order	Title	Modification
1007-4	Lists, Schedules and Statements - Extensions of Time	<i>"...no later than five (5) days before the scheduled § 341 meeting." is amended to "...no later than seven (7) days prior to the scheduled § 341 meeting."</i>
1010-1(1) and (2)	Petition - Involuntary	paragraphs (1) and (2) - <i>"within fifteen (15) days:..." is amended to "within fourteen (14) days:..."</i>
1015-1(a)	Joint Administration/ Consolidation, Procedural consolidation	<i>"...within ten (10) days from the date of the order granting the consolidation." is amended to "...within fourteen (14) days from the date of the order granting the consolidation."</i>
1015-1(b)	Joint Administration/Consolidation, Substantive consolidation	<i>"...within ten (10) days from the date of the order granting consolidation..." is amended to "...within fourteen (14) days from the date of the order granting consolidation..."</i>
2003-1(b)	Meeting of Creditors and Equity Security Holders, Counsel for the debtor(s) to mail notice of continued Section 341 meeting	<i>"Counsel for the debtor shall file with the Court a certificate of such service, within three (3) days of such mailing." is amended to "Counsel for the debtor shall file with the Court a certificate of such service, within seven (7) days of such mailing."</i>
2083-2(a)	Chapter 13 - Filing of Plan; Commencing of Payments and Payments to Secured Creditors	paragraph (a) - <i>"The debtor must file his/her Chapter 13 plan within fifteen (15) days from the date the Chapter 13 petition is filed with the Court. An "Order of Conditional Dismissal for Failure to File Chapter 13 Plan" will be issued in cases where plans are not filed within fifteen (15) days of the petition." is amended to "The debtor must file his/her Chapter 13 plan within fourteen (14) days from the date the Chapter 13 petition is filed with the Court. A "Notice of Conditional Dismissal for Failure to File Chapter 13 Plan" will be issued in cases where plans are not filed within fourteen (14) days of the petition."</i>

Amendments to Local Rules and General Orders with Time Limits

Local Rule or General Order	Title	Modification
2083-3(e)	Chapter13 - Trustee's Recommendation on Confirmation and Valuation of Secured Property	paragraph (e) - <i>"Recommendation on confirmation of the plan and valuation of all secured property will be presented the earlier of three (3) working days following the Trustee's settlement conference or the confirmation in a format prescribed by the Court."</i> is amended to <i>"Recommendation on confirmation of the plan and valuation of all secured property will be presented seven (7) days following the § 341 meeting of creditors in a format prescribed by the Court."</i>
2083-4	Chapter13 - Distributions	<i>"The Trustee shall not make any distribution of funds prior to ten (10) days after the entry of the confirmation order..."</i> is amended to <i>"The Trustee shall not make any distribution of funds prior to fourteen (14) days after the entry of the confirmation order..."</i>
2083-5	Chapter 13 - Dismissal or Conversion	paragraph b. - <i>"Unless a written objection is filed within ten (10) days,..."</i> is amended to <i>"Unless a written objection is filed within fourteen (14) days,..."</i>
2083-6	Chapter 13 Motion and Notice Practice	<i>"Within ten (10) days, the Trustee will submit the proposed order to the Court..."</i> is amended to <i>"Within fourteen (14) days, the Trustee will submit the proposed order to the Court..."</i>
2090-1	Attorneys - Admission to Practice	paragraph 2 - <i>"...within fifteen (15) days, the Court may strike the pleading from the docket."</i> is amended to <i>"...within fourteen (14) days, the Court may strike the pleading from the docket."</i>
3017-1	Disclosure statement - Approval	<i>"...and shall certify such mailing to the Court within three (3) days of such mailing."</i> is amended to <i>"...and shall certify such mailing to the Court within seven (7) days of such mailing."</i>
3018-1	Ballots - Voting on Plans	paragraph (b) - <i>"...not less than three (3) working days prior to the hearing on confirmation."</i> is amended to <i>"...not less than seven (7) days prior to the hearing on confirmation."</i>
4001-1(a)	Automatic Stay - Relief From, Chapter 7 Cases	paragraph(a) - <i>"If no response to the motion is filed within fifteen (15) days,..."</i> is amended to <i>"If no response to the motion is filed within fourteen (14) days,..."</i>

Amendments to Local Rules and General Orders with Time Limits		
Local Rule or General Order	Title	Modification
4001-1(c)	Automatic Stay - Relief From, Chapter 11 Cases	paragraph (c) - <i>"The movant will prepare and submit no later than three (3) days after the preliminary hearing..."</i> is amended to <i>"The movant will prepare and submit no later than seven (7) days after the preliminary hearing..."</i>
4003-2	Lien Avoidance	<i>"...along with a notice which states that if no response is filed within twenty (20) days,..."</i> is amended to <i>"...along with a notice which states that if no response is filed within twenty-one (21) days,..."</i>
5005-4	Electronic Filing - Facsimile Practice	<i>"Signed originals of pleadings transmitted by facsimile must be filed with the Clerk within three (3) business days"</i> is amended to <i>"Signed originals of pleadings transmitted by facsimile must be filed with the Clerk within seven (7) days"</i>
6004-1(a) and (b)	Sale of Estate Property	<i>"...a twenty (20) day negative notice..."</i> is amended to <i>"...a twenty-one (21) day negative notice..."</i>
6006-1	Executory contracts	<i>"The order shall give notice that the motion is granted unless a written objection to the extension is filed within twenty (20) days..."</i> is amended to <i>"The order shall give notice that the motion is granted unless a written objection to the extension is filed within twenty-one (21) days..."</i>
6008-1	Redemption	<i>"The notice shall provide that the named creditor shall serve upon the Clerk and upon counsel for the debtor a written request for hearing within twenty (20) days..."</i> is amended to <i>"The notice shall provide that the named creditor shall serve upon the Clerk and upon counsel for the debtor a written request for hearing within twenty-one (21) days..."</i>
7004-2	Summons/Service of Process	<i>"The summons and complaint must be served within ten (10) days after the date of issuance by the Clerk."</i> is amended to <i>"The summons and complaint must be served within fourteen (14) days after the date of issuance by the Clerk."</i>
7069-2	Writ of Execution - paragraph#1	<i>"Unless otherwise ordered by the Court, a writ of execution cannot be issued until ten (10) days after the entry of the judgment order."</i> is amended to <i>"Unless otherwise ordered by the Court, a writ of execution cannot be issued until fourteen (14) days after the entry of the judgment order."</i>

Amendments to Local Rules and General Orders with Time Limits		
Local Rule or General Order	Title	Modification
9013-1(d)(1), (2), (3), (6), and (7)	Motion practice - Notices	<i>"...prepare a twenty (20) day negative notice..." is amended to "...prepare a twenty-one (21) day negative notice..."</i>
9013-1(d)(4)	Motion Practice - Notice of Motion for Relief from Automatic Stay (Chapter 7)	<i>"...prepare a fifteen (15) day negative notice..." is amended to "...prepare a fourteen (14) day negative notice..."</i>
9019-1	Settlements and Agreed Orders	<i>"The terms of the settlement shall be sent out on a twenty (20) day negative notice...the Court may approve the compromise by entry of the agreed order at the end of the twenty (20) day period..." is amended to "The terms of the settlement shall be sent out on a twenty-one (21) day negative notice...the Court may approve the compromise by entry of the agreed order at the end of the twenty-one (21) day period..."</i>
9027-1	Removal/Remand	paragraph (a), last sentence - <i>"This statement shall be signed pursuant to Rule 9011 and shall be filed and served not later than ten (10) days after the filing of the notice of removal." is amended to "This statement shall be signed pursuant to Rule 9011 and shall be filed and served not later than fourteen (14) days after the filing of the notice of removal."</i>
Order 06-05	General Order Adopting Procedures Regarding Processing of Rental Deposits Made Pursuant to 11 U.S.C. § 362 (l)(1)	<p>paragraph 1. d. - <i>"Be filed contemporaneously with the bankruptcy petition, or no more than five (5) days after the filing of the petition in the event the petition is filed electronically." is amended to "Be filed contemporaneously with the bankruptcy petition, or no more than seven (7) days after the filing of the petition in the event the petition is filed electronically."</i></p> <p>paragraph 3. - <i>"...allowing the lessor fifteen (15) days to file written objection to the acceptance of the payment." is amended to "...allowing the lessor fourteen (14) days to file written objection to the acceptance of the payment."</i></p>

Amendments to Local Rules and General Orders with Time Limits

Local Rule or General Order	Title	Modification
Order 08-06	General Order Adopting Procedures for the Payment of Unclaimed Funds	Exhibit A, Section B(3)- <i>"Parties will be allowed twenty (20) days from the date of service of the motion to file written objections to the motion."</i> is amended to <i>"Parties will be allowed twenty-one (21) days from the date of service of the motion to file written objections to the motion."</i>
Order 08-07	General Order Adopting Administrative Procedures for Electronic Case Filing...	Administrative Procedures for Electronic Case Filing, Section II D.- <i>"...registered attorneys who have not paid the required fees within five (5)calendar days from the date the fees were incurred, will be automatically placed in "Lock Out" status."</i> is amended to <i>"...registered attorneys who have not paid the required fees within seven (7) days from the date the fees were incurred, will be automatically placed in "Lock Out" status."</i>
Order 08-10	General Order Requiring Motions for Stay Relief that Involve Residential Property to Contain Uniform Information to Permit Prompt Consideration by the Court...	<p>page 2, paragraph 2 - <i>"Otherwise, in the absence of such information, the Court shall issue an order giving notice of the deficiency and directing the movant correct the deficiency and to file and serve the information upon all parties who were served with the original motion within ten (10) days."</i> is amended to <i>"Otherwise, in the absence of such information, the Court shall issue an order giving notice of the deficiency and directing the movant to correct the deficiency and to file and serve the information upon all parties who were served with the original motion within seven (7) days."</i></p> <p>page 2, paragraph 3 - <i>"The motion shall be served on the Debtor(s), counsel for the Debtor(s), and the Trustee along with a notice allowing parties fifteen (15) days to file any objection...Absent written objection from the Debtor(s) or Trustee, the Court may, without hearing, enter an order granting stay relief within fifteen (15) days following service of the motion."</i> is amended to <i>"The motion shall be served on the Debtor(s), counsel for the Debtor(s), and the Trustee along with a notice allowing parties fourteen (14) days to file any objection...Absent written objection from the Debtor(s) or Trustee, the Court may, without hearing, enter an order granting stay relief within fourteen (14) days following service of the motion."</i></p>

Amendments to Local Rules and General Orders with Time Limits

Local Rule or General Order	Title	Modification
Order 09-07	General Order Adopting Chapter 13 Model Plan	<p>Exhibit A, Proposed Plan, page 1, first paragraph - <i>"Objections by any party other than the Chapter 13 Trustee must be in writing and filed with the court no later than ten (10) days after the date first set for the § 341 meeting of creditors. If this proposed plan was not filed at least ten days before the date first set for the § 341(a) meeting of creditors, objections must be filed within twenty (20) days after the filing of this proposed plan."</i> is amended to <i>"Objections by any party other than the Chapter 13 Trustee must be in writing and filed with the Court by the deadline set forth in the separate notice of the filing of this plan."</i></p> <p>Exhibit A, Proposed Plan, page 6, last paragraph - <i>"If an objection is filed and remains unresolved before confirmation, a § 506 valuation hearing will be held on the date and time set for confirmation of the Plan. If you object to the motion as contained in the Plan, you must file your objection(s) within 10 days following the date first set for the § 341 meeting of creditors. In cases where the Plan is not filed within 10 days before the date first set for the § 341 meeting of creditors, objections must be filed within 20 days after the filing of the Plan."</i> is amended to <i>"A § 506 valuation hearing will be scheduled for the date and time set for confirmation of the Plan. Objections to motions to value must be filed in writing with the Court and must be filed by the deadline set for filing objections to confirmation."</i></p> <p>Exhibit A, Proposed Plan, page 7, first paragraph - <i>"...the Debtor may file a separate motion to value, in which case the affected creditors will be sent either a default notice allowing 20 days to file an objection to value otherwise the Debtor's motion may be granted by the court, or a notice setting the motion for hearing."</i> is amended to <i>"...the Debtor may file a separate motion to value, in which case the affected creditor will be sent either a notice setting the motion for hearing or a default notice allowing twenty-one (21) days to file an objection, otherwise the Debtor's motion may be granted by the Court."</i></p>