

Judge Colton Chapter 13 Hearing Procedures

(effective March 1, 2021)

Confirmation hearings will be set between 9:30 a.m. and 9:50 a.m. All other matters (*i.e.* motions, applications, objections (other than to confirmation)) will be set at 10:00 a.m., except for motions to extend, impose, or reimpose the stay which will be set for 9:55 a.m. The Court may, in its discretion, set hearings for 10:30 a.m., or later, on time intensive matters.

Under these revised Procedures, cases will no longer be continued to an open date.

Confirmation Hearings

The Court's Expectations

The following expectations should guide counsel and pro se Debtors in managing their cases.

1. Except for the most complex cases or where the mortgage modification mediation process is prolonged, a Chapter 13 case should be confirmed within 9–12 months after the petition date or date of conversion to Chapter 13.
2. All parties should work to minimize the number of confirmation hearings in a case. Unnecessary confirmation hearings tax the resources of all parties.
3. Counsel and pro se Debtors must work diligently toward confirmation from the outset of their cases.

Practice Pointers:

- A request for a continuance should ask for as much time as is reasonably necessary to prepare the case for confirmation. It is better to ask for more time in the first instance than to ask a second time.
- If you have any hearing on the docket, including motions to extend or impose the stay (9:55 a.m.) or a miscellaneous matter (10:00 a.m.), it is wise to appear at 9:30 a.m. when the read through begins. The timeslots set forth in these Procedures are simply a way to group similar matters for consideration. The Court will proceed through the docket in docket order.

The Confirmation Calendar – What Each Hearing Timeslot Represents?

- **9:30 a.m.** – Initial Confirmation Hearings.

Initial Confirmation Hearings are set by the Court in the Notice of Chapter 13 Bankruptcy Case. Unless the Debtor is pro se, Initial Confirmation Hearings will be automatically continued for approximately six months to the date announced by the Chapter 13 Trustee at the start of the read through. The time for the continued hearing will be 9:35 a.m.

Initial Confirmation Hearings for pro se Debtors will be continued automatically for three to six months to the date announced by the Chapter 13 Trustee during the read through. The time for the continued hearing will be 9:50 a.m.

Generally, no case will be called individually at this initial hearing. However, the Trustee may call a case and recommend confirmation, if appropriate.

- **9:35 a.m.** – First Continued Confirmation Hearings.

The First Continued Confirmation Hearing is set based upon the automatic continuance of the Initial Confirmation Hearing. It should be the goal of Debtors' counsel that cases will be ready for confirmation at the First Continued Confirmation Hearing unless the case presents unique facts or difficult legal issues or involves mortgage modification mediation.

If confirmation is not appropriate at the First Continued Confirmation Hearing, the hearing will be continued to 9:40 a.m. on a date announced by the Trustee during the read through. Debtors' counsel should consult with the Trustee to select an appropriate continuance date.

- **9:40 a.m.** – Second and Further Continued Confirmation Hearings.

At a Second Continued Confirmation Hearing, the Court expects that cases will be ready for confirmation absent unforeseen circumstances or a confirmation-related dispute requiring adjudication by the Court. Further continuances will be granted only with leave of the Court or prior consent of the Trustee.

If the need for a further continuance is not due to Debtors or Debtors' counsel failure to prepare the case for confirmation, the hearing will be continued to an appropriate date at 9:40 a.m.

However, when a continuance is due to Debtors or Debtors' counsel failure to properly prepare the case for confirmation, the hearing will be continued by Order for a Final Confirmation Hearing at 9:45 a.m.

- **9:45 a.m.** – Final Confirmation Hearings

At a Final Confirmation Hearing, the Court expects that cases will be ready for confirmation without exception. Failure of Debtors or Debtors' counsel to have the case ready for confirmation will result in the imposition of an appropriate sanction. Sanctions may include dismissal, conversion, or as to counsel, a fee sanction or disgorgement in an amount to be determined by the Court.

- **9:50 a.m.** – Continued or Final Confirmation Hearings for Pro Se Debtors

Pro Se Debtors should make every effort to be ready to confirm at the first continued hearing. Additional continuances will be allowed only in the Court's discretion or with consent of the Trustee.

If the Court finds that the case is not progressing towards confirmation, an Order for a Final Confirmation Hearing will be entered. If the case is still not ready to be confirmed at the Final Confirmation Hearing, the Court will consider appropriate sanctions, including dismissal or conversion.