



AMERICAN
BANKRUPTCY
INSTITUTE

2018 Southeast Bankruptcy Workshop

Consumer Track

The Bankruptcy Rules Seven Months Later: New Model Chapter 13 Plan, New Secured Proof of Claim Filing Requirement, and Other Changes

Christopher L. Hawkins, Moderator

Bradley Arant Boult Cummings LLP; Birmingham, Ala.

Hon. Henry A. Callaway

U.S. Bankruptcy Court (S.D. Ala.); Mobile

O. Byron Meredith III

Office of Chapter 13 Trustee O. Byron Meredith III; Savannah, Ga.

Travis Sasser

Sasser Law Firm; Raleigh, N.C.



The Bankruptcy Rules Seven Months Later: New Model Chapter 13 Plan, New Secured Proof of Claim Filing Requirement, and Other Changes

American Bankruptcy Institute
2018 Southeastern Bankruptcy Workshop
July 27, 2018

THIS IS NOT INTENDED TO PROVIDE LEGAL ADVICE

SPEAKERS

Henry A. Callaway – United States Bankruptcy Judge – Mobile, Alabama

Byron Meredith – Chapter 13 Trustee – Savannah, Georgia

Travis Sasser – Sasser Law Firm – Cary, North Carolina

Chris Hawkins – Bradley Arant Boult Cummings LLP – Birmingham, Alabama



MODEL CHAPTER 13 PLAN

- Rule 3015 provides that if there is an Official Form for a plan filed in a chapter 13 case, that form must be used unless a Local Form has been adopted in compliance with Rule 3015.1
- Rule 3015 further provides that nonstandard provisions are effective only if included the appropriate designated section of the form



3

MODEL CHAPTER 13 PLAN

- Rule 3015.1 allows districts to adopt a Local Form for a plan filed in a chapter 13 case, subject to a number of restrictions that ensure the district's retention of the key content of the Official Form.



4

MODEL CHAPTER 13 PLAN

- However, even in “Opt-Out” districts:
 - The Local Form must be uniform across the district, adopted only after public notice and an opportunity for public comment
 - Each paragraph must in the Local Form must be numbered and labeled in boldface type with a heading stating the general subject matter of the paragraph
 - The Local Form must include an initial paragraph for the debtor to indicate that the plan does or does not
 - Contain any nonstandard provision
 - Limit the amount of a secured claim based on a valuation of the collateral for the claim, or
 - Avoid a security interest or lien



5

MODEL CHAPTER 13 PLAN

- Additional Requirements in “Opt-Out” districts:
 - The Local Form must contain separate paragraphs for
 - Curing any default and maintaining payments on a claim secured by the debtor’s principal residence
 - Paying a domestic support obligation
 - Paying a claim under the “hanging paragraph” related to motor vehicles, and
 - Surrendering property that secures a claim with a request that the automatic stay and co-debtor stay be terminated as to the surrendered collateral
 - The Local Form must contain a final paragraph for
 - The placement of nonstandard provisions, along with a statement that any nonstandard provision placed elsewhere in the plan is void, and
 - Certification by the debtor’s attorney or by an unrepresented debtor that the plan contains no nonstandard provisions other than those set out in the final paragraph.



6

MODEL CHAPTER 13 PLAN

Official Form 113

Chapter 13 Plan

12/17

Part 1: Notices

To Debtors: This form sets out options that may be appropriate in some cases, but the presence of an option on the form does not indicate that the option is appropriate in your circumstances or that it is permissible in your judicial district. Plans that do not comply with local rules and judicial rulings may not be confirmable.

In the following notice to creditors, you must check each box that applies.

To Creditors: Your rights may be affected by this plan. Your claim may be reduced, modified, or eliminated.

You should read this plan carefully and discuss it with your attorney if you have one in this bankruptcy case. If you do not have an attorney, you may wish to consult one.

If you oppose the plan's treatment of your claim or any provision of this plan, you or your attorney must file an objection to confirmation at least 7 days before the date set for the hearing on confirmation, unless otherwise ordered by the Bankruptcy Court. The Bankruptcy Court may confirm this plan without further notice if no objection to confirmation is filed. See Bankruptcy Rule 3015. In addition, you may need to file a timely proof of claim in order to be paid under any plan.

The following matters may be of particular importance. Debtors must check one box on each line to state whether or not the plan includes each of the following items. If an item is checked as "Not included" or if both boxes are checked, the provision will be ineffective if set out later in the plan.

1.1	A limit on the amount of a secured claim, set out in Section 3.2, which may result in a partial payment or no payment at all to the secured creditor	<input type="checkbox"/> Included	<input type="checkbox"/> Not included
1.2	Avoidance of a judicial lien or nonpossessory, nonpurchase-money security interest, set out in Section 3.4	<input type="checkbox"/> Included	<input type="checkbox"/> Not included
1.3	Nonstandard provisions, set out in Part 8	<input type="checkbox"/> Included	<input type="checkbox"/> Not included



7

MODEL CHAPTER 13 PLAN

Part 2: Plan Payments and Length of Plan

2.1 Debtor(s) will make regular payments to the trustee as follows:

\$ _____ per _____ for _____ months
[and \$ _____ per _____ for _____ months.] Insert additional lines if needed.

If fewer than 60 months of payments are specified, additional monthly payments will be made to the extent necessary to make the payments to creditors specified in this plan.

2.2 Regular payments to the trustee will be made from future income in the following manner:

Check all that apply.

- ☐ Debtor(s) will make payments pursuant to a payroll deduction order.
☐ Debtor(s) will make payments directly to the trustee.
☐ Other (specify method of payment): _____

2.3 Income tax refunds.

Check one.

- ☐ Debtor(s) will retain any income tax refunds received during the plan term.
☐ Debtor(s) will supply the trustee with a copy of each income tax return filed during the plan term within 14 days of filing the return and will turn over to the trustee all income tax refunds received during the plan term.
☐ Debtor(s) will treat income tax refunds as follows:

2.4 Additional payments.

Check one.

- ☐ None. If "None" is checked, the rest of § 2.4 need not be completed or reproduced.
☐ Debtor(s) will make additional payment(s) to the trustee from other sources, as specified below. Describe the source, estimated amount, and date of each anticipated payment.

2.5 The total amount of estimated payments to the trustee provided for in §§ 2.1 and 2.4 is \$ _____.



8

MODEL CHAPTER 13 PLAN

Part 3: Treatment of Secured Claims

3.1 Maintenance of payments and cure of default, if any.

Check one:

☐ **None.** If "None" is checked, the rest of § 3.1 need not be completed or reproduced.

☐ The debtor(s) will maintain the current contractual installment payments on the secured claims listed below, with any changes required by the applicable contract and noticed in conformity with any applicable rules. These payments will be disbursed either by the trustee or directly by the debtor(s), as specified below. Any existing arrearage on a listed claim will be paid in full through disbursements by the trustee, with interest, if any, at the rate stated. Unless otherwise ordered by the court, the amounts listed on a proof of claim filed before the filing deadline under Bankruptcy Rule 3002(c) control over any contrary amounts listed below as to the current installment payment and arrearage. In the absence of a contrary timely filed proof of claim, the amounts stated below are controlling. If relief from the automatic stay is ordered as to any item of collateral listed in this paragraph, then, unless otherwise ordered by the court, all payments under this paragraph as to that collateral will cease, and all secured claims based on that collateral will no longer be treated by the plan. The final column includes only payments disbursed by the trustee rather than by the debtor(s).

Name of creditor	Collateral	Current installment payment (including escrow)	Amount of arrearage (if any)	Interest rate on arrearage (if applicable)	Monthly plan payment on arrearage	Estimated total payments by trustee
_____	_____	\$ _____	\$ _____	____%	\$ _____	\$ _____
		Disbursed by: <input type="checkbox"/> Trustee <input type="checkbox"/> Debtor(s)				
_____	_____	\$ _____	\$ _____	____%	\$ _____	\$ _____
		Disbursed by: <input type="checkbox"/> Trustee <input type="checkbox"/> Debtor(s)				

INSERT ADDITIONAL CLAIMS AS NEEDED.



MODEL CHAPTER 13 PLAN

3.2 Request for valuation of security, payment of fully secured claims, and modification of undersecured claims. Check one.

☐ **None.** If "None" is checked, the rest of § 3.2 need not be completed or reproduced.

The remainder of this paragraph will be effective only if the applicable box in Part 1 of this plan is checked.

☐ The debtor(s) request that the court determine the value of the secured claims listed below. For each non-governmental secured claim listed below, the debtor(s) state that the value of the secured claim should be as set out in the column headed *Amount of secured claim*. For secured claims of governmental units, unless otherwise ordered by the court, the value of a secured claim listed in a proof of claim filed in accordance with the Bankruptcy Rules controls over any contrary amount listed below. For each listed claim, the value of the secured claim will be paid in full with interest at the rate stated below.

The portion of any allowed claim that exceeds the amount of the secured claim will be treated as an unsecured claim under Part 5 of this plan. If the amount of a creditor's secured claim is listed below as having no value, the creditor's allowed claim will be treated in its entirety as an unsecured claim under Part 5 of this plan. Unless otherwise ordered by the court, the amount of the creditor's total claim listed on the proof of claim controls over any contrary amounts listed in this paragraph.

The holder of any claim listed below as having value in the column headed *Amount of secured claim* will retain the lien on the property interest of the debtor(s) or the estate(s) until the earlier of:

- payment of the underlying debt determined under nonbankruptcy law, or
- discharge of the underlying debt under 11 U.S.C. § 1328, at which time the lien will terminate and be released by the creditor.

Name of creditor	Estimated amount of creditor's total claim	Collateral	Value of collateral	Amount of claims senior to creditor's claim	Amount of secured claim	Interest rate	Monthly payment to creditor	Estimated total of monthly payments
_____	\$ _____	_____	\$ _____	\$ _____	\$ _____	____%	\$ _____	\$ _____
_____	\$ _____	_____	\$ _____	\$ _____	\$ _____	____%	\$ _____	\$ _____



MODEL CHAPTER 13 PLAN

3.3 Secured claims excluded from 11 U.S.C. § 506.

Check one.

☐ None. If "None" is checked, the rest of § 3.3 need not be completed or reproduced.

☐ The claims listed below were either:

(1) Incurred within 910 days before the petition date and secured by a purchase money security interest in a motor vehicle acquired for the personal use of the debtor(s), or

(2) Incurred within 1 year of the petition date and secured by a purchase money security interest in any other thing of value.

These claims will be paid in full under the plan with interest at the rate stated below. These payments will be disbursed either by the trustee or directly by the debtor(s), as specified below. Unless otherwise ordered by the court, the claim amount stated on a proof of claim filed before the filing deadline under Bankruptcy Rule 3002(c) controls over any contrary amount listed below. In the absence of a contrary timely filed proof of claim, the amounts stated below are controlling. The final column includes only payments disbursed by the trustee rather than by the debtor(s).

Name of creditor	Collateral	Amount of claim	Interest rate	Monthly plan payment	Estimated total payments by trustee
_____	_____	\$ _____	_____%	\$ _____	\$ _____
				Disbursed by:	
				<input type="checkbox"/> Trustee	
				<input type="checkbox"/> Debtor(s)	
_____	_____	\$ _____	_____%	\$ _____	\$ _____
				Disbursed by:	
				<input type="checkbox"/> Trustee	
				<input type="checkbox"/> Debtor(s)	

Insert additional claims as needed.



11

MODEL CHAPTER 13 PLAN

3.4 Lien avoidance.

Check one.

☐ None. If "None" is checked, the rest of § 3.4 need not be completed or reproduced.

The remainder of this paragraph will be effective only if the applicable law in Part 1 of this plan is checked.

☐ The judicial lien or nonpossessory, nonpurchase money security interests securing the claims listed below impair exemptions to which the debtor(s) would have been entitled under 11 U.S.C. § 522(b). Unless otherwise ordered by the court, a judicial lien or security interest securing a claim listed below will be avoided to the extent that it impairs such exemptions upon entry of this order confirming the plan. The amount of the judicial lien or security interest that is avoided will be treated as an unsecured claim in Part 6 to the extent allowed. The amount, if any, of the judicial lien or security interest that is not avoided will be paid in full as a secured claim under the plan. (See 11 U.S.C. § 522(f) and Bankruptcy Rule 4003(d). If more than one lien is to be avoided, provide the information separately for each lien.)

Information regarding judicial lien or security interest	Calculation of lien avoidance	Treatment of remaining secured claims
Name of creditor _____	a. Amount of lien \$ _____	Amount of secured claim after avoidance (line a minus line b) \$ _____
Collateral _____	b. Amount of all other liens \$ _____	Interest rate (if applicable) _____%
_____	c. Value of claimed exemptions + \$ _____	Monthly payment on secured claim \$ _____
_____	d. Total of adding lines a, b, and c. \$ _____	Estimated total payments on secured claim \$ _____
Lien identification (such as judgment date, date of lien recording, book and page number) _____	e. "Value of debtor(s)" interest in property - \$ _____	
_____	f. Subtract line e from line d. \$ _____	
_____	Extent of exemption impairment. (Check applicable box.)	
	<input type="checkbox"/> Line f is equal to or greater than line a. The entire lien is avoided. (Do not complete the next column.)	
	<input type="checkbox"/> Line f is less than line a. A portion of the lien is avoided. (Complete the next column.)	

Insert additional claims as needed.



12

MODEL CHAPTER 13 PLAN

Part 4: Treatment of Fees and Priority Claims

4.1 General

Trustee's fees and all allowed priority claims, including domestic support obligations other than those treated in § 4.5, will be paid in full without prepetition interest.

4.2 Trustee's fees

Trustee's fees are governed by statute and may change during the course of the case but are estimated to be _____% of plan payments, and during the plan term, they are estimated to total \$_____.

4.3 Attorney's fees

The balance of the fees owed to the attorney for the debtor(s) is estimated to be \$_____.

4.4 Priority claims other than attorney's fees and those treated in § 4.5.

Check one:

- ☐ None. If "None" is checked, the rest of § 4.4 need not be completed or reproduced.
☐ The debtor(s) estimate the total amount of other priority claims to be \$_____.

4.5 Domestic support obligations assigned or owed to a governmental unit and paid less than full amount.

Check one:

- ☐ None. If "None" is checked, the rest of § 4.5 need not be completed or reproduced.
☐ The allowed priority claims listed below are based on a domestic support obligation that has been assigned to or is owed to a governmental unit and will be paid less than the full amount of the claim under 11 U.S.C. § 1322(a)(4). This plan provision requires that payments in § 2.1 be for a term of 60 months; see 11 U.S.C. § 1322(a)(1).

Name of creditor	Amount of claim to be paid
_____	\$_____
_____	\$_____

Insert additional claims as needed.



Part 5: Treatment of Nonpriority Unsecured Claims

5.1 Nonpriority unsecured claims not separately classified.

Allowed nonpriority unsecured claims that are not separately classified will be paid, pro rata. If more than one option is checked, the option providing the largest payment will be effective. Check all that apply.

- ☐ The sum of \$_____.
- ☐ _____% of the total amount of these claims, an estimated payment of \$_____.
- ☐ The funds remaining after disbursements have been made to all other creditors provided for in this plan.

If the estate of the debtor(s) were liquidated under chapter 7, nonpriority unsecured claims would be paid approximately \$_____. Regardless of the options checked above, payments on allowed nonpriority unsecured claims will be made in at least this amount.

5.2 Maintenance of payments and cure of any default on nonpriority unsecured claims. Check one.

- ☐ None. If "None" is checked, the rest of § 5.2 need not be completed or reproduced.
☐ The debtor(s) will maintain the contractual installment payments and cure any default in payments on the unsecured claims listed below on which the last payment is due after the final plan payment. These payments will be disbursed either by the trustee or directly by the debtor(s), as specified below. The claim for the arrearage amount will be paid in full as specified below and disbursed by the trustee. The final column includes only payments disbursed by the trustee rather than by the debtor(s).

Name of creditor	Current installment payment	Amount of arrearage to be paid	Estimated total payments by trustee
_____	\$_____	\$_____	\$_____
	Disbursed by: <input type="checkbox"/> Trustee <input type="checkbox"/> Debtor(s)		
_____	\$_____	\$_____	\$_____
	Disbursed by: <input type="checkbox"/> Trustee <input type="checkbox"/> Debtor(s)		

Insert additional claims as needed.



MODEL CHAPTER 13 PLAN

5.3 Other separately classified nonpriority unsecured claims. Check one.

- ☐ None. If "None" is checked, the rest of § 5.3 need not be completed or reproduced.
- ☐ The nonpriority unsecured allowed claims listed below are separately classified and will be treated as follows

Name of creditor	Basis for separate classification and treatment	Amount to be paid on the claim	Interest rate (if applicable)	Estimated total amount of payments
_____	_____	\$ _____	_____%	\$ _____
_____	_____	\$ _____	_____%	\$ _____

Insert additional claims as needed.



15

MODEL CHAPTER 13 PLAN

Part 6: Executory Contracts and Unexpired Leases

6.1 The executory contracts and unexpired leases listed below are assumed and will be treated as specified. All other executory contracts and unexpired leases are rejected. Check one.

- ☐ None. If "None" is checked, the rest of § 6.1 need not be completed or reproduced.
- ☐ Assumed items. Current installment payments will be disbursed either by the trustee or directly by the debtor(s), as specified below, subject to any contrary court order or rule. Arrearage payments will be disbursed by the trustee. The final column includes only payments disbursed by the trustee rather than by the debtor(s).

Name of creditor	Description of leased property or executory contract	Current installment payment	Amount of arrearage to be paid	Treatment of arrearage (Refer to other plan section if applicable)	Estimated total payments by trustee
_____	_____	\$ _____ Disbursed by: <input type="checkbox"/> Trustee <input type="checkbox"/> Debtor(s)	\$ _____	_____	\$ _____
_____	_____	\$ _____ Disbursed by: <input type="checkbox"/> Trustee <input type="checkbox"/> Debtor(s)	\$ _____	_____	\$ _____

Insert additional contracts or leases as needed.



16

MODEL CHAPTER 13 PLAN

Part 7: Vesting of Property of the Estate

7.1 Property of the estate will vest in the debtor(s) upon

Check the applicable box:

- ☐ plan confirmation.
☐ entry of discharge.
☐ other: _____

Part 8: Nonstandard Plan Provisions

8.1 Check "None" or List Nonstandard Plan Provisions

☐ None. If "None" is checked, the rest of Part 8 need not be completed or reproduced.

Under Bankruptcy Rule 2015(c), nonstandard provisions must be set forth below. A nonstandard provision is a provision not otherwise included in the Official Form or deviating from it. Nonstandard provisions set out elsewhere in this plan are ineffective.

The following plan provisions will be effective only if there is a check in the box "Included" in § 1.3.



MODEL CHAPTER 13 PLAN

Part 9: Signature(s):

9.1 Signatures of Debtor(s) and Debtor(s)' Attorney

If the Debtor(s) do not have an attorney, the Debtor(s) must sign below; otherwise the Debtor(s) signatures are optional. The attorney for the Debtor(s), if any, must sign below.

X

Signature of Debtor 1

Executed on _____
MM / DD / YYYY

X

Signature of Debtor 2

Executed on _____
MM / DD / YYYY

X

Signature of Attorney for Debtor(s)

Date

MM / DD / YYYY

By filing this document, the Debtor(s), if not represented by an attorney, or the Attorney for Debtor(s) also certifies that the wording and order of the provisions in this Chapter 13 plan are identical to those contained in Official Form 113, other than any nonstandard provisions included in Part 8.



MODEL CHAPTER 13 PLAN

Exhibit: Total Amount of Estimated Trustee Payments

The following are the estimated payments that the plan requires the trustee to disburse. If there is any difference between the amounts set out below and the actual plan terms, the plan terms control.

a. Maintenance and cure payments on secured claims (Part 3, Section 3.1 total)	\$ _____
b. Modified secured claims (Part 3, Section 3.2 total)	\$ _____
c. Secured claims excluded from 11 U.S.C. § 506 (Part 3, Section 3.3 total)	\$ _____
d. Judicial liens or security interests partially evinced (Part 3, Section 3.4 total)	\$ _____
e. Fees and priority claims (Part 4 total)	\$ _____
f. Nonpriority unsecured claims (Part 5, Section 5.1, highest stated amount)	\$ _____
g. Maintenance and cure payments on unsecured claims (Part 5, Section 5.2 total)	\$ _____
h. Separately classified unsecured claims (Part 5, Section 5.3 total)	\$ _____
i. Trustee payments on executory contracts and unexpired leases (Part 6, Section 6.1 total)	\$ _____
j. Nonstandard payments (Part 5, total)	+ \$ _____
Total of lines a through j	\$ _____



NON-STANDARD PROVISION POTLUCK TRUSTEE PERSPECTIVES – QUESTIONABLE INGREDIENTS

- Upon completion of payments to secured creditor according to this plan, the creditor shall turn over vehicle title to the debtor.
- The trustee will continue to pay secured creditor after an order granting relief from stay has been entered, unless an order of the Court directs trustee to cease payments.
- If any creditor addressed in this plan obtains an order granting relief from stay the Trustee shall discontinue all payments to that creditor.
- Valuation of secured claim of government entity in this plan will not be effective until Bankruptcy Rule 3012(c) is complied with.
- If 910 creditor's proof of claim is filed for less than scheduled amount of claim, Trustee shall pay the lesser amount.
- If relief from stay is granted to secured creditor post-confirmation, balance of any claim shall be treated as general unsecured claim.



NON-STANDARD PROVISION POTLUCK
TRUSTEE PERSPECTIVES – ADD A GRAIN OF SALT

- Debtor's attorney shall receive \$[AMOUNT] from the first funds available upon confirmation.
- Debtor plans to sell or refinance real property located at [ADDRESS] within six months of confirmation and will pay [MORTGAGE CREDITOR] in full from proceeds.
- Car that serves as collateral to [CREDITOR] will be paid outside the plan by a third party.
- Student loans will not be paid by trustee. Said loans are in forbearance.
- No allowed claim by [CREDITOR] will be provided for in this plan, and Trustee will not make distribution to this creditor.
- The interest accruing on [STUDENT LOAN] will be discharged at the end of this case.



NON-STANDARD PROVISION POTLUCK
TRUSTEE PERSPECTIVES – DO NOT TRY THESE AT HOME

- If debtor's case is dismissed or converted after confirmation of this plan, prior to payment of funds to the debtor the trustee will pay balance of attorney fees, in accordance with the assignment contained in fee agreement between debtor and debtor's attorney.
- Upon confirmation of the Chapter 13 plan, the real property located at [ADDRESS] shall be surrendered to [MORTGAGE CREDITOR] in full satisfaction of its claim, and the property shall vest in the creditor.
- The debtor has applied for a loan modification with [MORTGAGE CREDITOR]. Therefore, pre-petition arrearages owed to this creditor will not be paid by the trustee but will be paid as part of the loan modification. If the modification is approved the debtor will file a modified plan within 60 days reflecting the modified loan terms. If the modification is not approved, debtor will file a modified plan within 60 days of denial to either sell or surrender the collateral, or to provide for payment of all pre- and post-petition arrears.



NON-STANDARD PROVISION POTLUCK DEBTOR PERSPECTIVES

- Debtor shall pay to the Trustee the tax refunds for the first three years.
- The Motorhome shall be surrendered in full satisfaction of the debt owed to the secured creditor
- All income tax refunds received by the Debtor during the term of this Chapter 13 Plan have been dedicated to the Plan. The available income reflected in the schedules includes the refund or earned income credit, which will make the plan feasible.



23

NON-STANDARD PROVISION POTLUCK DEBTOR PERSPECTIVES

- The deficiency claim of Ally Financial secured by a surrendered 2012 Nissan Maxima shall be allowed as provided in provision 9 above, but the amount of the deficiency claim shall be limited to and capped at the difference between the debt at the time of the filing and the NADA value of \$13,100.00 for which the vehicle is being surrendered. Santander Consumer USA, Inc. v. Brown (In re Brown, 2014 WL 1245266 (11th Cir. March 27, 2014).
- The IRS has categorized Debtor's case as "Case Closed-Currently Not Collectible" and as a result they have temporarily closed her collection case. Given that Debtor will not receive a discharge, Debtor proposes that the IRS Claim not be paid under the plan.



24

NON-STANDARD PROVISION POTLUCK DEBTOR PERSPECTIVES

- Upon granting of a discharge in this case, all secured creditors that were paid through the plan shall promptly release all collateral held as security on loans, and shall promptly release and/or satisfy all security deeds, security agreements, UCC filings, judgment liens, titles and/or any other lien claim of any kind against property of the debtor. This paragraph shall in no way apply to mortgages and/or secured debts that are not paid through the Chapter 13 Plan.
- Titles to 2017 CRV and 1997 Mercury Grand Marquis to be released upon discharge of the case.



25

NON-STANDARD PROVISION POTLUCK DEBTOR PERSPECTIVES

- Notwithstanding the date of filing of any proof of claim or its classification in the Schedules, all objections to proofs of claim shall be reserved and can be pursued after confirmation of the plan.
- In the absence of objection and court order, any arrearage amount proposed to be cured shall be controlled by the proof of claim rather than the estimated amount specified in the plan.
- Proofs of claim filed by creditors whose collateral is being surrendered pursuant to paragraph 3.6 shall amend their proof of claim within 120 days after confirmation of the plan to reflect any deficiency balance after disposition of the collateral. If the proof of claim is not amended within that time period, the claim shall be treated as unsecured and paid 0%.



26

NON-STANDARD PROVISION POTLUCK DEBTOR PERSPECTIVES

- Pursuant to 11 USC 522(f) and any other applicable statute, all holders of liens other than long term debt, including but not limited to A & A Finance, Rainey Finance shall cancel said liens within 15 days following notification of Debtor's Discharge.
- Debtors request to have payroll deduction.
- Upon discharge, all federal and state tax liens shall be canceled and avoided. The Internal Revenue Service and/or Georgia Department of Revenue shall issue a release of any lien imposed with respect to any pre-petition tax owed and shall cause such liens to be canceled by directing the clerk of court of the county to cancel such liens with 15 days notice.



27

NON-STANDARD PROVISION POTLUCK DEBTOR PERSPECTIVES

- Reject GAP Insurance & Service/Maintenance contracts on all vehicles unless otherwise specified.
- Collateral being paid for by the debtor does not revest upon confirmation.
- Any other allowed secured claim provided for by this plan shall retain the lien securing such claim: However, within thirty (30) days of either (a) completion of the payment of the underlying debt as determined under nonbankruptcy law, or (b) discharged from bankruptcy (whichever shall occur first), the holder (with the exception of tax liens) shall release its lien and return any title documents to the owner as listed on the certificate of title (unless there is a joint owned not protected by bankruptcy).



28

NON-STANDARD PROVISION POTLUCK DEBTOR PERSPECTIVES

- Objections to Claims -- Debtor(s) may file post-confirmation objections to claims for any reason, including, but not limited to, objections which challenge the validity, perfection or avoidability of a lien or objections to the amount of a claim based on the value of the property securing the claim.
- Student loan claims shall not be funded by the Chapter 13 trustee.
- Debtor's student loans shall be deferred throughout the term of the bankruptcy. When Debtor's student loans do not remain in deferment, they will be repaid directly by Debtor.
- Student Loan survives the plan.



29

NON-STANDARD PROVISION POTLUCK DEBTOR PERSPECTIVES

- Debtors will continue to pay all pre and post debt to Alabama Power.
- Debtor shall increase payments from \$500.00 per month to \$740.00 per month in June 2019 at which time the rent-to-own contract with Best Way Rental shall be paid in full.
- Debtor will be applying for Interest Rebate from DSO due to his 11 years of deductions from his SSD check for payments toward his arrears.
- Debtor will pay all pre and post-petition electric service charges in lieu of posting a deposit under 11 USC 366 and acknowledges that 362 will not prohibit collection by APCO.



30

NON-STANDARD PROVISION POTLUCK DEBTOR PERSPECTIVES

- The Debtor is not seeking a discharge of this debt or attempting to alter any rights of the subject creditor; the debt is not provided for by this plan; payments of the debt shall not be considered payments under the plan; nonpayment of the debt shall not constitute a default under the plan; and the Chapter 13 Trustee shall have no duty to supervise payment of the debt.
- Debtor contends that Ally Financial and Credit Acceptance have already either repossessed their vehicles. To the extent that they have not, Debtor proposes to surrender any interest that he has in the subject collateral in full satisfaction of each creditor's claim.



31

NON-STANDARD PROVISION POTLUCK DEBTOR PERSPECTIVES

- Debtor understands the following:
 - (1) The obligations set forth in the plan, including the amount, method, and timing of payments made to the Trustee or directly to creditors;
 - (2) The consequences of any default under the Plan; and
 - (3) That debtor(s) may not agree to sell or sell property, employ professionals, incur debt (including modification of debt), or request or agree to mortgage modification or other loss mitigation during the pendency of the case without the advance authorization of the Bankruptcy Court.



32

NON-STANDARD PROVISION POTLUCK DEBTOR PERSPECTIVES

- Confirmation of this plan does not bar a party in interest from any actions discovered from the documentation, or lack thereof in a proof of claim. The debtor specifically reserves any currently undiscovered or future claims, rights or causes of action the debtor may have, regarding the issues not specifically addressed or determined by the plan, against any creditor or other party in interest including, but not limited to, violations of applicable consumer protections codes and actions under 11 USC 542, 543, 544, 547 and 548.



33

NON-STANDARD PROVISION POTLUCK DEBTOR PERSPECTIVES

- Debtor understands the following: (1) The obligations set forth in the plan, including the amount, method and timing of payments made to the Trustee or directly to creditors; (2) The consequences of any default under the Plan.
- The confirmation of this plan may determine the character (secured, unsecured or priority), amount and timing of distribution of creditor's claim regardless of proof of claim filed. If a creditors objects to a claims treatment under the plan, the creditor must timely object to confirmation.



34

NON-STANDARD PROVISION POTLUCK DEBTOR PERSPECTIVES

- Valid Non-Purchase Money Security Interest in household goods and/or tools of trade will be valued at \$300 each as if set forth and included in Section 3.3. All references to payment amounts in this document represent average estimated payments, subject to the filing of a valid Proof of Claim, possible objections thereto, and the Chapter 13 Trustee's customary distribution process.
- Attorney fees to be paid as provided in the Local Bankruptcy Rules.



35

NON-STANDARD PROVISION POTLUCK DEBTOR PERSPECTIVES

- The “effective date of the plan” shall be the earlier of the date the plan is confirmed or 90 days following the initial date of the 341 Creditors Meeting.
- Debtors to resume monthly contract payments direct to Bayview after completion of plan.
- Debtor reserves the right to seek loss mitigation or modification of the mortgage loan using the Portal procedures described in Chambers Guidelines during the bankruptcy case.



36

NON-STANDARD PROVISION POTLUCK DEBTOR PERSPECTIVES

- Mortgage lender understands this case is an unusual case in that the bulk of the arrearage claim will not begin being distributed to them till after the 18th month. Debtor's Schedule I states she believes the ex-husband is waiting on a disability claim to be settled.
- All contractual provisions regarding arbitration or alternative dispute resolution are rejected in connection with the administration of this Chapter 13 case.



37

NON-STANDARD PROVISION POTLUCK DEBTOR PERSPECTIVES

- Debtor is specifically rejecting as an executory contract any prior authorization, either in writing, verbally expressed or implied, to contact the debtor by way of his or her cell phone. Such contact includes but is not limited to cell phone calls, text messages, voice mail messages, silent voice mail messages, or any form communication by cellphone or otherwise. These provisions are incorporated and made a part of the Chapter 13 plan and thus apply to all parties in interest with such provisions or who claim authority by contract, assignment, power of attorney, agency or otherwise to contact or attempt to contact by way of their respective wireless telephones or cell phones or land lines.



38

NON-STANDARD PROVISION POTLUCK DEBTOR PERSPECTIVES

- Credit Reporting
 - If any creditor affected by this plan choose to report debtor's account information to any credit reporting agency, such reports shall be consistent with the terms and provisions of this plan, as confirmed and 11 USC 1327.
 - If any creditor affected by this plan chooses to report debtor's account information to any credit reporting agency, such reports shall be consistent with the terms and provisions of this plan, as confirmed, and 11 USC 1327.



39

NON-STANDARD PROVISION POTLUCK DEBTOR PERSPECTIVES

- Debtor's attorney shall receive \$[AMOUNT] from the first funds available upon confirmation.
- Debtor plans to sell or refinance real property located at [ADDRESS] within six months of confirmation and will pay [MORTGAGE CREDITOR] in full from proceeds.
- Car that serves as collateral to [CREDITOR] will be paid outside the plan by a third party.
- Student loans will not be paid by trustee. Said loans are in forbearance.
- No allowed claim by [CREDITOR] will be provided for in this plan, and Trustee will not make distribution to this creditor.
- The interest accruing on [STUDENT LOAN] will be discharged at the end of this case.



40

NON-STANDARD PROVISION POTLUCK DEBTOR PERSPECTIVES

- Upon completion of payments to secured creditor according to this plan, the creditor shall turn over vehicle title to the debtor.
- The trustee will continue to pay secured creditor after an order granting relief from stay has been entered, unless an order of the Court directs trustee to cease payments.
- If any creditor addressed in this plan obtains an order granting relief from stay the Trustee shall discontinue all payments to that creditor.
- Valuation of secured claim of government entity in this plan will not be effective until Bankruptcy Rule 3012(c) is complied with.
- If 910 creditor's proof of claim is filed for less than scheduled amount of claim, Trustee shall pay the lesser amount.
- If relief from stay is granted to secured creditor post-confirmation, balance of any claim shall be treated as general unsecured claim.



41

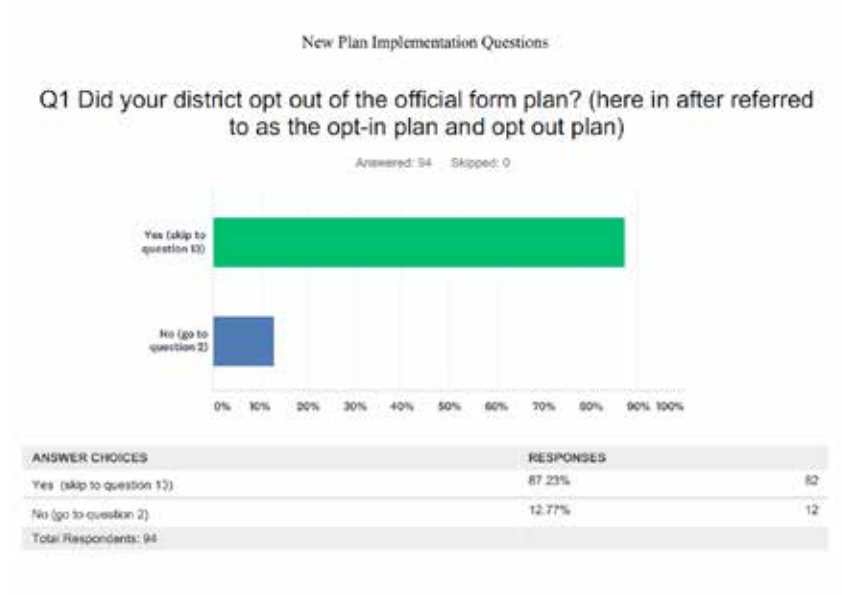
IMPLEMENTATION TRUSTEE PERSPECTIVES

- Rule 3015.1(d)(4) requires the opt-out plan to contain a separate paragraph for “surrendering property that secures a claim with a request that the stay under §§ 362(a) and 1301(a) be terminated as to the surrendered collateral.”
- If a plan provides for surrender of property to a creditor that has not filed a proof of claim or provided proof of a perfected security interest, how can the Trustee recommend the case for confirmation?
- How about a non-standard provision notifying creditor that the stay will not automatically terminate until proof of security interest has been provided?



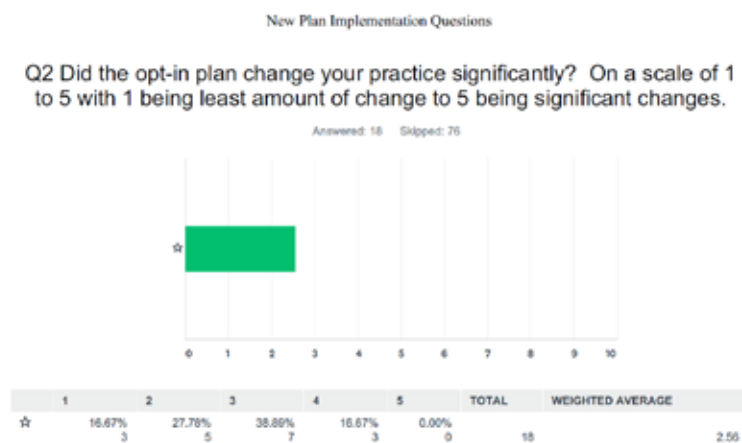
42

MODEL PLAN IMPLEMENTATION TRUSTEE PERSPECTIVES



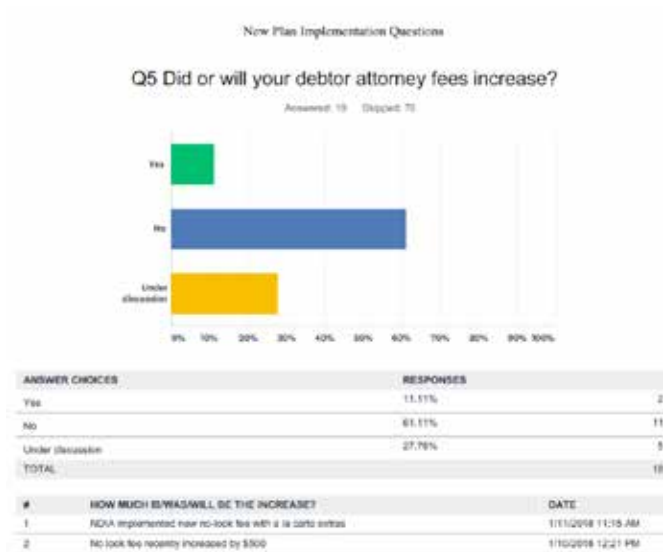
43

MODEL PLAN IMPLEMENTATION TRUSTEE PERSPECTIVES



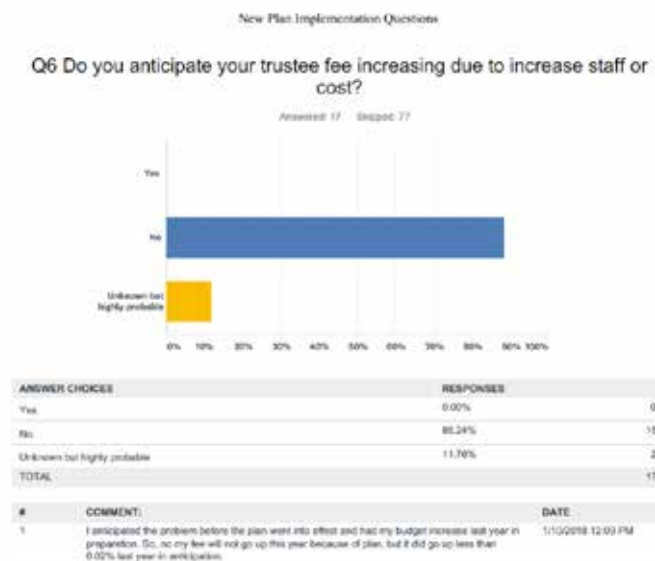
44

MODEL PLAN IMPLEMENTATION TRUSTEE PERSPECTIVES



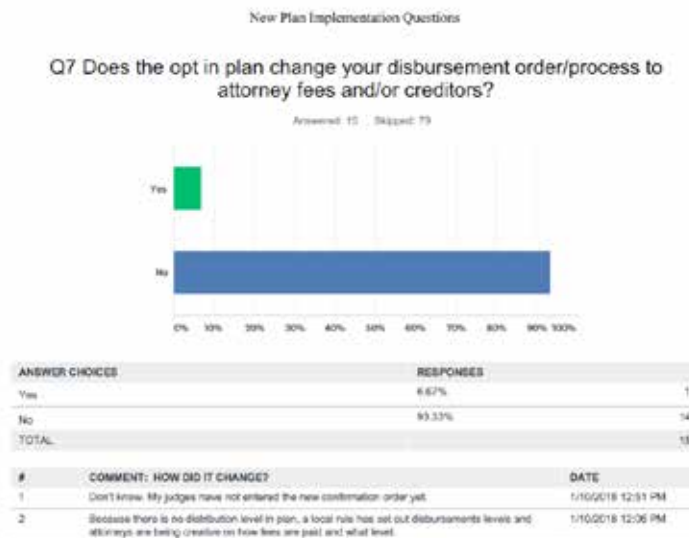
45

MODEL PLAN IMPLEMENTATION TRUSTEE PERSPECTIVES



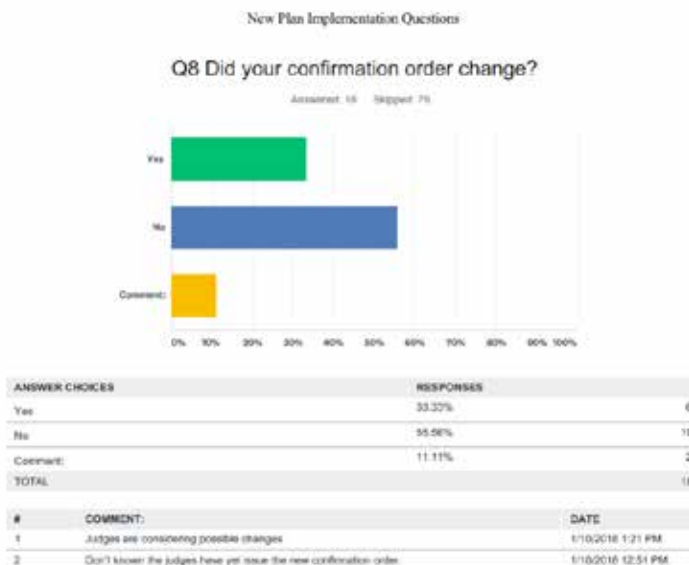
46

MODEL PLAN IMPLEMENTATION TRUSTEE PERSPECTIVES



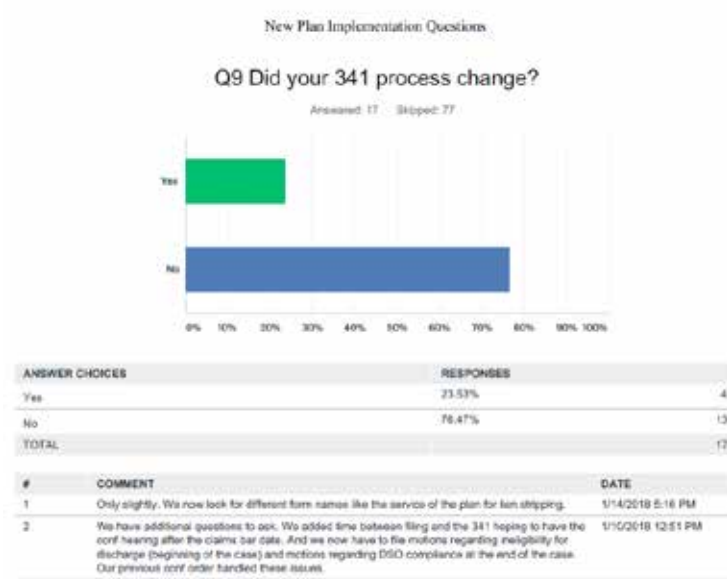
47

MODEL PLAN IMPLEMENTATION TRUSTEE PERSPECTIVES



48

MODEL PLAN IMPLEMENTATION TRUSTEE PERSPECTIVES



49

MODEL PLAN IMPLEMENTATION TRUSTEE PERSPECTIVES



50

MODEL PLAN IMPLEMENTATION TRUSTEE PERSPECTIVES

New Plan Implementation Questions

Q12 Please share any other changes that you have based upon your new plan. This is the last question for opt-in districts to answer.

Answered: 10 Skipped: 84

#	RESPONSES	DATE
1	N/A	1/14/2018 5:16 PM
2	I have a Debtor's counsel who purposely filed a non-conforming plan. We will be briefing whether or not the Rules Committee can require a specific form of plan in the 7th circuit.	1/12/2018 3:16 PM
3	n/a	1/11/2018 9:47 AM
4	Too numerous to list.	1/10/2018 4:52 PM
5	The big question for us is what to recommend that the attorneys put in Part 8.1 to answer some of the possible issues and problems that the old form resolved but the new form doesn't. I may seek more confirmation hearing continuances to get beyond the earlier bar before confirming the case.	1/10/2018 1:21 PM
6	none	1/10/2018 1:11 PM
7	none smooth sailing here	1/10/2018 12:28 PM
8	There were significant amendments to local rules to implement the new plan, while attempting to maintain the desirable aspects of our pre-Dec 1 plan. Adequate protection, order of distribution and statement of ACP stand out as issues which required new local rules.	1/10/2018 12:21 PM
9	We do not create Trustee claims (STR) until after bar date. Hopefully, this will eliminate all of the bad addresses because payee was listed in plan and we paid per the plan instead of the POC.	1/10/2018 12:06 PM
10	WE opted out and did new certificate of service and changed our plan review.	1/10/2018 12:05 PM



51

OPT OUT JURISDICTIONS

- Alabama
 - Middle
 - Includes lien avoidance and valuation sections
 - Provides for adequate protection payments and payments to lessors
 - Includes base plan option that was not previously available, in addition to percentage plan option and pot plan option
 - Northern
 - Includes lien avoidance and valuation sections
 - Provides for adequate protection payments
 - Southern
 - Does not include lien avoidance or valuation sections (must be accomplished separately from plan)
 - Provides for adequate protection payments and payments to lessors



52

OPT OUT JURISDICTIONS

- Florida
 - Middle
 - Plan available at the court's homepage
 - Includes lien avoidance and valuation sections, but requires that a separate motion be filed
 - Provides for adequate protection payments and payments to lessors
 - Provides for the designation of attorney's fees to be paid through the plan, including fees for mortgage modification mediation and estimated monitoring fee



53

OPT OUT JURISDICTIONS

- Florida
 - Northern
 - Includes section to indicate that the debtor intends to avoid a lien, but requires that a separate motion be filed
 - Includes section to indicate that debtor intends to request collateral valuation, but requires that a separate motion be filed
 - Includes section to indicate that the debtor intends to strip a lien or liens, but requires that a section motion be filed
 - Does not provide for adequate protection payments



54

OPT OUT JURISDICTIONS

- Florida
 - Southern
 - Includes lien avoidance and valuation sections, but requires that a separate motion be filed
 - Does not provide for adequate protection payments
 - Includes specific option for mortgage modification mediation as a non-standard plan provision



55

OPT OUT JURISDICTIONS

- Georgia
 - Middle
 - Includes valuation section
 - Includes option for lien avoidance section to be included in non-standard plan provisions (not a separate section)
 - Provides for adequate protection payments to secured creditors and holders of executory contracts
 - Northern
 - Includes lien avoidance and valuation sections
 - Provides for adequate protection payments
 - Southern
 - Includes lien avoidance and valuation sections
 - Provides for secured adequate protection payments and payments to lessors



56

OPT OUT JURISDICTIONS

- North Carolina
 - Eastern
 - Includes lien avoidance and valuation sections, but avoidance of mortgage liens and avoidance of judicial liens or nonpossessory, nonpurchase money security interests must be done by motion
 - Provides for adequate protection payments
 - Specifically allows for conduit mortgage payments
 - Middle
 - Includes valuation section but not lien avoidance section – avoidance of a judicial lien or nonpossessory, nonpurchase money security interest must be done by separate motion or adversary proceeding
 - Provides for adequate protection payments



57

OPT OUT JURISDICTIONS

- North Carolina
 - Western
 - Includes lien avoidance and valuation sections; also includes options to request termination of the automatic stay as to surrendered collateral and to request assumption of executory contracts and/or unexpired leases (not included unless specifically checked)
 - Does not provide for adequate protection payments
 - Specifically allows for conduit mortgage payments
- South Carolina
 - Includes lien avoidance and valuation sections, as well as section for proposed loss mitigation efforts
 - Does not provide for adequate protection payments
 - Specifically allows for conduit mortgage payments



58

OPT-OUT PLAN IMPLEMENTATION TRUSTEE PERSPECTIVES

New Plan Implementation Questions

Q13 Did the opt-out plan change your practice significantly? On a scale of 1 to 5 with 1 being least amount of change to 5 being significant changes. THIS IS THE FIRST QUESTION FOR OPT-OUT DISTRICTS TO ANSWER.

Answered: 76 Skipped: 18



	1	2	3	4	5	TOTAL	WEIGHTED AVERAGE
☆	39.47%	21.05%	19.74%	15.79%	3.95%	76	2.24
	30	16	15	12	3		



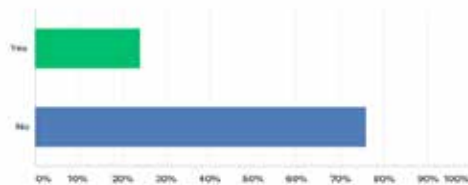
59

OPT-OUT PLAN IMPLEMENTATION TRUSTEE PERSPECTIVES

New Plan Implementation Questions

Q14 Did your OLD plan allow 522 lien avoidances without filing a motion?

Answered: 83 Skipped: 11



ANSWER CHOICES	RESPONSES
Yes	24.10%
No	75.90%
TOTAL	83

#	COMMENTS	DATE
1	No but often found in supplemental provisions	1/10/2018 2:24 PM
2	Motion incorporated into plan, required special service and transmittal letter	1/10/2018 1:52 PM
3	Our old plan was called "Notice, Chapter 13 Plan, Motion to Value Security, Avoid Judicial Lien, Avoid a Nonpriority Claim, Nonpriority Security Interest and Lien, and/or to Assume or Reject an Executory Contract/Unexpired Lease." So all motions were included as part of the old form plan itself.	1/10/2018 1:12 PM



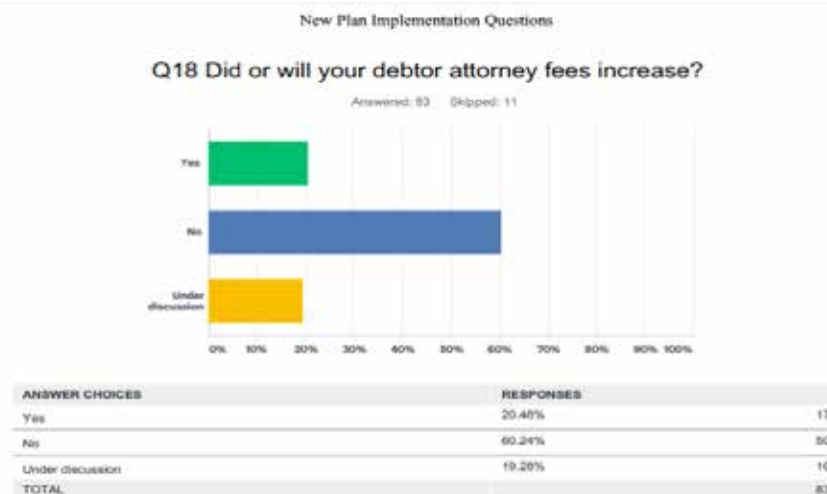
60

OPT-OUT PLAN IMPLEMENTATION TRUSTEE PERSPECTIVES



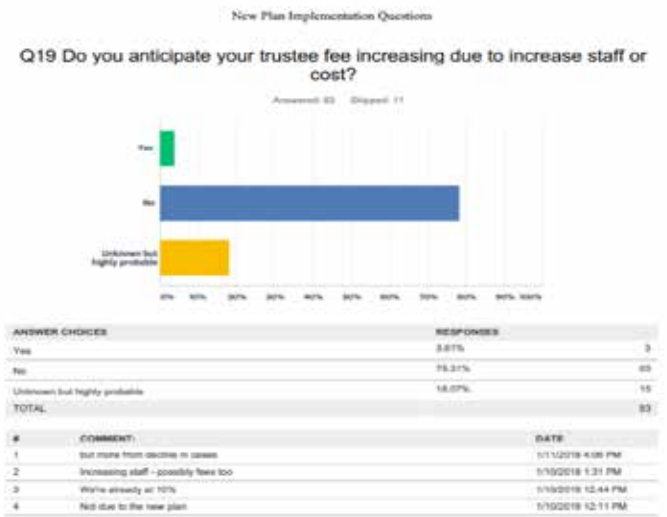
61

OPT-OUT PLAN IMPLEMENTATION TRUSTEE PERSPECTIVES



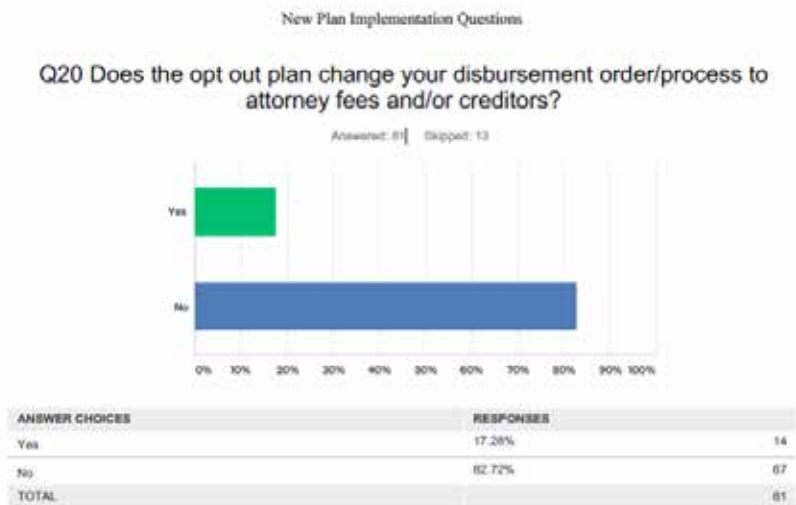
62

OPT-OUT PLAN IMPLEMENTATION TRUSTEE PERSPECTIVES



63

OPT-OUT PLAN IMPLEMENTATION TRUSTEE PERSPECTIVES



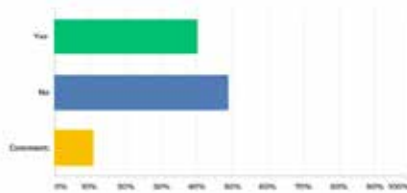
64

OPT-OUT PLAN IMPLEMENTATION TRUSTEE PERSPECTIVES

New Plan Implementation Questions

Q21 Did your confirmation order change?

Answered: 52 Skipped: 12



ANSWER CHOICES		RESPONSES	
Yes		40.24%	33
No		45.78%	40
Comment		13.98%	9
TOTAL			82

#	COMMENT	DATE
1	Under discussion	1/14/2018 9:33 PM
2	Again, attorney co-bank fees are approved without application	1/12/2018 5:12 PM
3	The Confirmation Order did change but not for reasons relating to the opt-out Plan	1/11/2018 10:07 AM
4	Not yet, I assume so	1/11/2018 6:24 AM
5	IT DIDN'T CHANGE BUT IT'S PENDING TO	1/10/2018 6:25 PM
6	I expect it will, but I do not yet know. We are going through significant changes in our confirmation process, but exactly what those changes and up being has not yet been conclusively determined – still in a state of flux. These changes, however, have nothing to do with the opt-out Plan in our district.	1/10/2018 2:52 PM
7	It has not yet changed, but I believe our judges are discussing that possibility.	1/10/2018 1:52 PM
8	Yes, but for other reasons unrelated.	1/10/2018 12:05 PM
9	Only very slightly, and not in response to the plan	1/10/2018 11:55 AM



65

OPT-OUT PLAN IMPLEMENTATION TRUSTEE PERSPECTIVES

New Plan Implementation Questions

Q22 Did your 341 process change?

Answered: 83 Skipped: 11



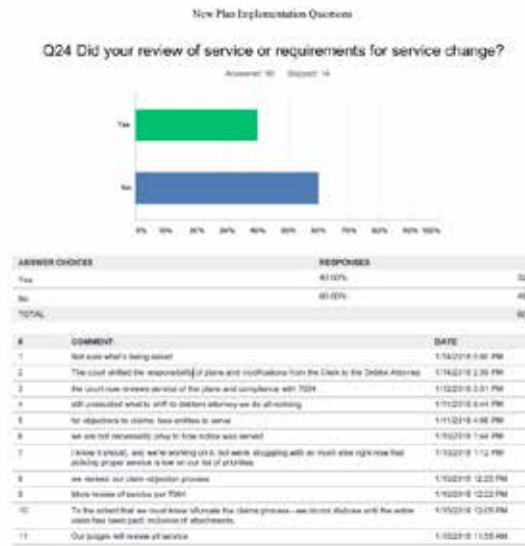
ANSWER CHOICES		RESPONSES	
Yes		25.38%	21
No		74.70%	62
TOTAL			83

#	COMMENT	DATE
1	Have to file objections quicker	1/12/2018 11:38 AM
2	Trustees used to set meetings, court took over setting because of the shortened post deadline; trustees did more customized scheduling	1/11/2018 4:06 PM
3	Longer to review	1/11/2018 8:39 AM
4	Our Clerk pushed scheduling the initial 341 meeting back to the maximum time to allow for the confirmation hearings to be set after the claims bar date.	1/10/2018 3:51 PM
5	Longer in the sense that lots of erroneous plan information will need discussion.	1/10/2018 1:44 PM
6	We are now scheduling 341 meetings as far out as possible after filing, in an attempt to push the confirmation hearing MORE THAN 75 days after filing (so the bar date will have past by the time we address confirmation).	1/10/2018 1:12 PM
7	a little more time concerning	1/10/2018 1:02 PM
8	Adding questions regarding mortgages since we went to conduct	1/10/2018 11:57 AM



66

OPT-OUT PLAN IMPLEMENTATION TRUSTEE PERSPECTIVES



67

OPT-OUT PLAN IMPLEMENTATION TRUSTEE PERSPECTIVES

New Plan Implementation Questions

Q25 Please share any other changes that you have based upon your new plan.

Answered: 23 Skipped: 71

#	RESPONSES	DATE
1	1. We added pre & post petition adequate protection payment provisions. 2. We added a default distribution order section. 3. We require more information when secured obligation is modified.	1/14/2018 9:33 PM
2	Rearranged duties of staff to match new plan process	1/14/2018 5:00 PM
3	Specific review of the non-standard provisions in the separate paragraph	1/14/2018 3:13 PM
4	Secured creditors now have to file a poc to be paid. Old plan required modification to be filed if secured or priority claims were timely filed after confirmation but were not provided for in confirmed plan. New plan took this language out.	1/12/2018 5:12 PM
5	341 meetings are taking more time just to get the attorneys realizing that if they fail to check the box about non standard or lien strip	1/11/2018 5:44 PM
6	vesting allowed at confirmation, discharge or other - used to be only confirmation	1/11/2018 4:06 PM
7	The district used the national plan for about a year and a half. The opt out was only to incorporate provisions that all of the attorneys were adding to Part 9 anyway. The substance and format of the national plan is our mandatory district plan.	1/11/2018 3:06 PM
8	went to conduit mortgage under the Plan and debtors required to contribute income tax refunds over \$2,000 to the Plan as additional disposable income.	1/11/2018 12:50 PM
9	Our opt-out Plan differs only slightly from the Plan we previously had in place. Essentially, we only changes those provisions which we were required to changes in accordance with the new la.	1/11/2018 10:07 AM



68

OPT-OUT PLAN IMPLEMENTATION TRUSTEE PERSPECTIVES

New Plan Implementation Questions

Q25 Please share any other changes that you have based upon your new plan.

Answered: 22 Unanswered: 1

12	The District wide form plan has probably increased the workload in my office by 40% at minimum. The mandatory debtors' forfeiture of tax refunds save and except 2% to the debtors each year has provided my Division with a wonderful basis for out threat litigation and endless discussion with the debtor bar as to why the debtors need their tax refunds for tires, roofs and water heaters.	1/10/2018 6:25 PM
13	First payment goes to mortgagee and second payment to attorney.	1/10/2018 2:53 PM
14	Because the new plan is so very new, and because there have been significant problems with the new plan in Best Case and with our Clerk's flimsy .pdf form for the new plan, it seems things are getting off to a very rocky start. Further, I have not yet had any hearings in cases utilizing the new plan, so it is a bit early to assess exactly what changes are happening. From talking to debtors' counsel (principally our largest filer), most changes and problems experienced so far have been happening in the debtors' attorneys' offices, and it sounds like the problems they have been experiencing have been beyond their worst fears (primarily related to software problems and getting cases processed for filing). I think there would be value in repeating this survey in April or May in preparation for our June meeting. By then we will have had more experience upon which to base our answers.	1/10/2018 2:52 PM
15	no major change in District of New Jersey - procedures under new rules and similar form of plan are similar to existing	1/10/2018 2:47 PM
16	I am now required to monitor ongoing tax returns and tax refunds, monitor mortgage payments although we are not a conduit district	1/10/2018 2:30 PM
17	Our only significant changes are already described above.	1/10/2018 1:12 PM
18	Having a common form plan is very helpful.	1/10/2018 1:11 PM
19	Too early to be certain re: changes.	1/10/2018 12:44 PM
20	More review at the beginning especially as our district now requires debtors' attorney to serve the plan on all creditors	1/10/2018 12:22 PM
21	Its still early to tell, but almost everyone is having a hard time filing it out correctly	1/10/2018 12:14 PM
22	While the change of rules has changed service (debtors' attorneys are responsible for service to federally insured banks and government), our old plan complied with 3015 and we really only tweaked some language and added a check box. Everything went very smoothly	1/10/2018 12:11 PM
23	So tired of attorney's forgetting to check boxes. I feel like a school teacher.	1/10/2018 12:06 PM



69

PROOF OF CLAIM REQUIREMENTS

- 3002(a) clarifies that secured creditors must file a proof of claim for the claim to be allowed, provided, however, that a lien that secured a claim against the debtor is not void due only to the failure of any entity to file a proof of claim.
- Rule 3002(c) provides that in voluntary cases under chapter 7, 12, or 13, a proof of claim is timely filed if it is filed not later than 70 days after the bankruptcy filing date.



70

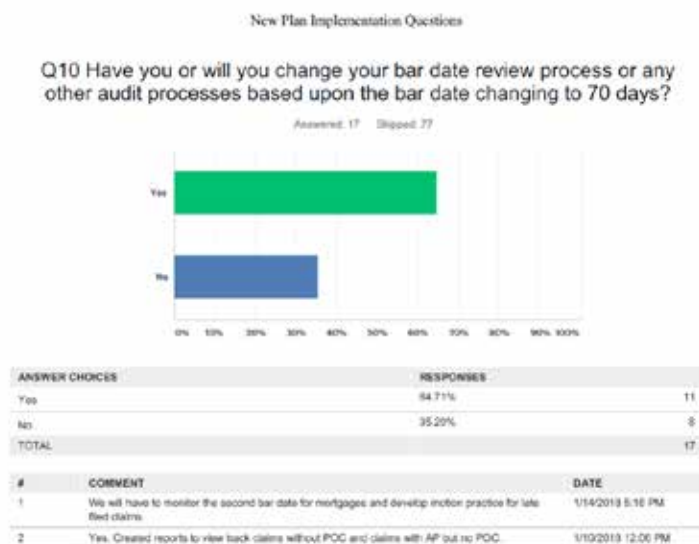
PROOF OF CLAIM TIMELINE FOR MORTGAGE LOANS

- Under Rule 3002(c)(7), a proof of claim filed by the holder of a claim that is secured by a security interest in the debtor's principal residence is timely filed if:
 - the proof of claim (Official Form 410) , together with the proof of claim attachment (Official Form 401A) and escrow analysis (if applicable) required under Rule 3001(c)(2)(C), is filed not later than 70 days after the bankruptcy filing date; and
 - any attachments required by Rule 3001(c)(1) and (d) – such as the note (with any endorsement or allonge), mortgage or deed of trust, and relevant assignments or supporting documents – are filed as a supplement to the holder's claim not later than 120 days after the bankruptcy filing date.



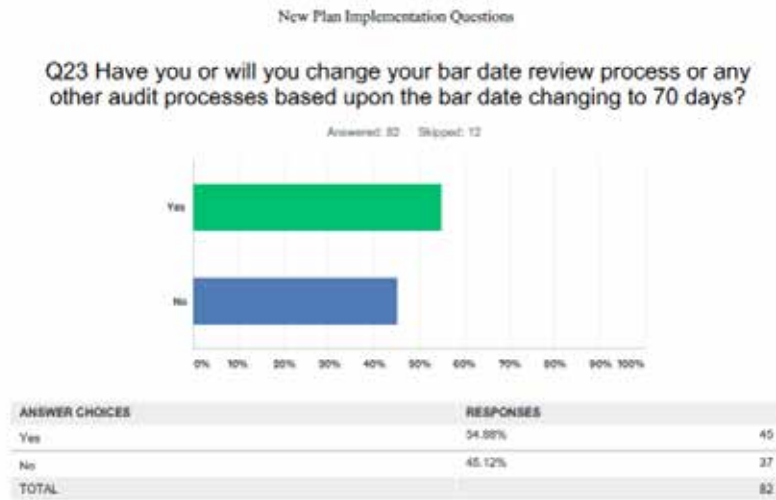
71

IMPLEMENTATION – OPT-IN JURISDICTIONS



72

IMPLEMENTATION – OPT-OUT JURISDICTIONS



73

PLAN OBJECTION/CONFIRMATION
HEARING DEADLINES

- Rule 2002(a) provides that the clerk, or some other person as the clerk may direct, shall give at least 21 days' notice by mail of the deadline to object to confirmation of a chapter 13 plan.



74

PLAN OBJECTION/CONFIRMATION HEARING DEADLINES

- Rule 2002(b) provides that the clerk, or some other person as the clerk may direct, shall give at least 28 days' notice by mail of the hearing on confirmation of a chapter 13 plan.



75

PLAN OBJECTION/CONFIRMATION HEARING DEADLINES

- Rule 3015(f) also provides that an objection to confirmation of a plan shall be filed and served at least 7 days before the date set for the hearing on confirmation, unless the court orders otherwise.



76

DETERMINING THE AMOUNT OF SECURED AND PRIORITY CLAIMS

- Rule 3012 expressly sets forth various mechanisms by which courts may determine the amounts of secured claims, namely a motion, claim objection, or a chapter 12 or 13 plan.
 - Courts may determine the amount of priority claims by motion (after a claim is filed) or claim objection.
 - Amended Rule 3015(g) provides that any determination made in the plan made under Rule 3012 about the amount of a secured claim is binding on the holder of the claim, even if the holder files a contrary proof of claim or the debtor schedules that claim, and regardless of whether an objection to the claim has been filed.



77

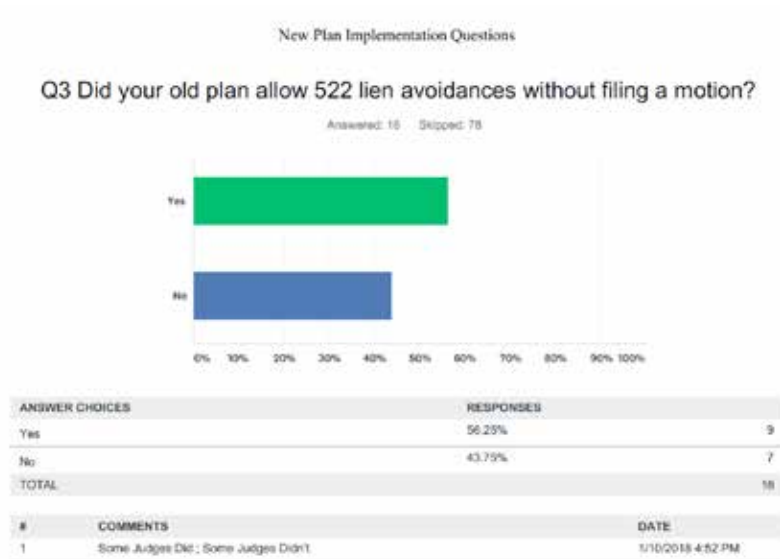
DETERMINING THE AMOUNT OF SECURED AND PRIORITY CLAIMS

- Rule 3012(c): A request to determine the amount of a secured claim of a governmental unit may be made only by motion or in a claim objection after the governmental unit files a proof of claim or after the time for filing one under Rule 3002(c)(1) has expired.
- Can claim be valued in plan?
 - Does it matter if plan is styled as a “plan and motion”?
 - Continue confirmation until claim filed or bar date has passed?
 - How can Trustee determine if plan is feasible if confirmation takes place before determination under Rule 3012(c)?



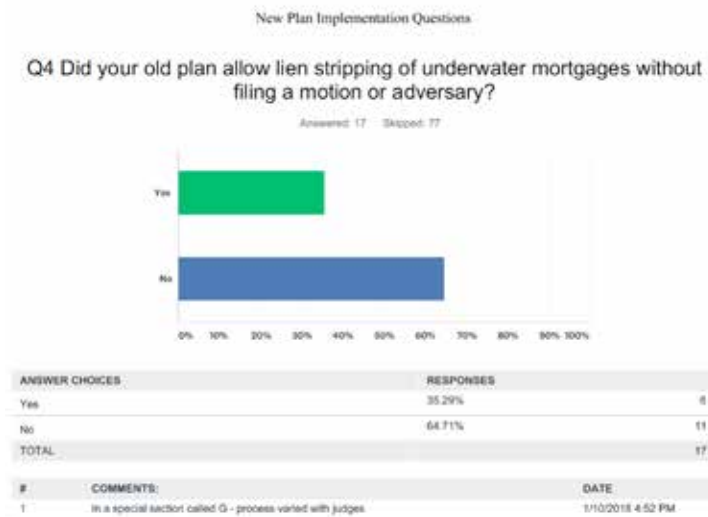
78

IMPLEMENTATION – OPT-IN JURISDICTIONS



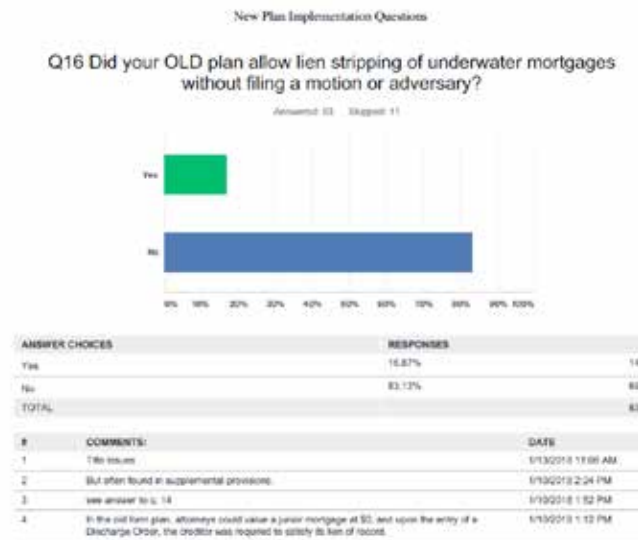
79

IMPLEMENTATION – OPT-IN JURISDICTIONS



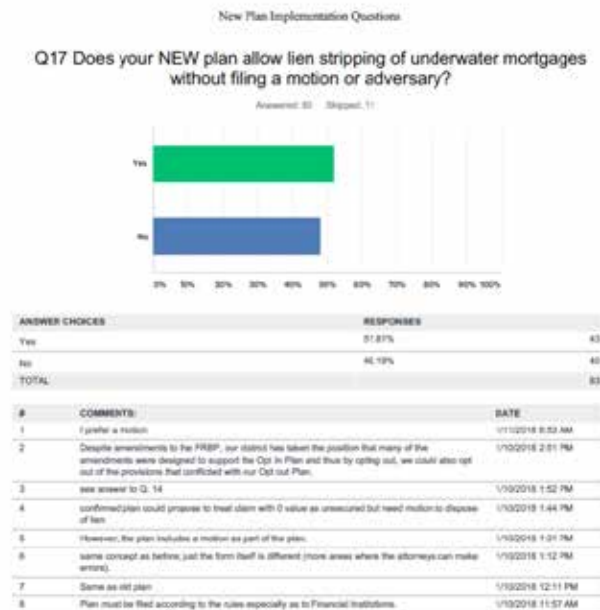
80

IMPLEMENTATION – OPT-OUT JURISDICTIONS



81

IMPLEMENTATION – OPT-OUT JURISDICTIONS



82