

UNITED STATES BANKRUPTCY COURT  
NORTHERN DISTRICT OF ALABAMA

RECEIVED  
12/7/98

JAMES S. SLEDGE  
Judge

117 United States Courthouse  
12th & Noble Streets  
Anniston, Alabama 36201  
Telephone: (205) 237-3528

1 December 1998

Peter G. McCabe, Secretary of the Committee  
on Rules of Practice and Procedure  
Administrative Office of the United States Courts  
One Columbus Circle, N.E.  
Washington, D.C. 20054

98-BK-037  
98-BK-E


Re: Comments on Proposed Rules

Dear Mr. McCabe:

I support the proposed changes to the bankruptcy rules. There is one additional change that I propose. Unfortunately, section 1324 requires a hearing on confirmation of the plan. I serve a high volume chapter 13 district, and this section requires me to hold many hours of hearings daily where there are no objections. The debtor must meet the burden of proof presented by the subsections of 1325(a). I observe that most courts in the country ignore this requirement and only hold hearings when there is an objection to confirmation. I wish you could amend the code section to require a hearing only if there is an objection. This amendment is beyond the committee's jurisdiction, so I propose that you change the end of proposed rule 3015(f). The end of the section should be changed to read as follows: "that the plan satisfies the requirements of section 1325(a)." This change to the rule would permit the court to rule on confirmation at the required hearing without the necessity that the debtor present evidence to meet the burden of proof required by section 1325(a). You would save me several hours of court per day if you make this change. Debtors and debtors' attorneys would also save many hours and expense with this change. Those courts which only hold evidentiary hearings when an objection is filed will more closely comply with the code and rules.

The proposed changes to the rules are needed and well crafted. I am a judge who follows the minutia of the code and rules. I do not feel free to establish an efficient system which may conflict with a code or rule. Every party in my court must learn the procedure, hopefully before the hearing. This learning curve indicates to me that my attempts to interpret the rules are not universally applied. The committee's proposed changes will clarify many of the present conflicts and eliminate the many local attempts to establish efficient systems. Proposed rules 9013 and 9014 will require adjustments, but they provide a standard for us to apply. I look forward to the proposed rules becoming effective with the addition suggested above.

Very truly yours,

  
James Scott Sledge  
Judge

c: The Hon. Jay Cristol