

Procedures Governing Motions to Dismiss and Objections to
Confirmation in Ch. 13 Cases Assigned to Richmond Visiting Judges
(Effective for hearings on or after June 11, 2025)

Agreed Continuances/Pre-Call:

- The pre-call will be used to request first and second continuances only. Matters that have been continued at least twice are ineligible for continuance via the pre-call.
 - The pre-call will not be used to announce settlements or withdrawals. In general, such matters should be removed from the Court's docket by the Trustee or Creditor (the "Proponent") who filed the motion or objection.
 - Any matter that has settled or that will be withdrawn but was not removed in advance will be called on the main docket.
- A Proponent seeking a first or second continuance shall provide the Courtroom Deputy with a list of such matters by no later than 4:00 p.m. prior to the scheduled hearing date.
 - The list shall identify the (1) item number on the Court's docket, (2) the case number, (3) the case name, and (4) the requested date for the continued hearing.
- After two pre-call continuances, a motion to dismiss or objection to confirmation will be adjudicated by the Court at the third hearing unless it has been resolved in advance (*see below*).
 - The Court may determine at the third or further hearing that a further continuance is warranted based on the representations of the parties and the unique circumstances of the case.

Hearings:

The Court will convene a hearing on any motion to dismiss or objection to confirmation that has not been (1) removed from the docket via the Hearing Cancellation Module ("HCM") or by order or other pleading or (2) continued during the pre-call.

Relief by Default and Other Possible Resolutions:

1. Default

- (A) Motions to Dismiss: The Debtor's failure to file a timely response to a motion to dismiss will be treated as concession to the relief requested. A response will be considered timely only if it is filed no later than 7 days before the third scheduled hearing on the motion to dismiss.

When there is a concession to relief by default on a motion to dismiss, the Proponent will cancel the scheduled hearing via the HCM and submit an order granting the motion to dismiss.

- Minimum requirements of order of dismissal by default—
 - Statement that the Proponent agreed to continue the matter no less than twice.
 - Statement that the Debtor has failed to timely respond, and the relief requested is thereby deemed conceded
 - 9022-1(C)(2) Certification re: proof of service of proposed order.
 - LBR 9022-1(B) service list

- (B) Objections to Confirmation: The Debtor's failure to file an Amended Plan or a timely response to an objection to confirmation will be treated as concession to the relief requested. A response will be considered timely only if it is filed no later than 7 days before the third scheduled hearing on the objection to confirmation. A response should not be filed to state only that the debtor intends to file an Amended Plan.

When there is a concession to relief by default on an objection to confirmation, the Proponent will represent at the third scheduled hearing on the objection to

confirmation that the matter is conceded, and the objection may be sustained by default.

2. **Consent:** The Debtor and Proponent may agree to a settlement of the motion to dismiss or objection to confirmation. If an agreement is reached, the Proponent will cancel the scheduled hearing via the HCM and submit an agreed order.

- Minimum requirements of an agreed order of dismissal—
 - LBR 9022-1(C)(1) Certification that the order has been endorsed by all necessary parties
 - LBR 9022-1(B) service list
- Minimum requirements of an agreed order settling a motion to dismiss on conditions—
 - For settlements by cure of arrearage:
 - Total arrearage amount
 - Month and year through which arrearage accrued
 - Cure payment amounts
 - When cure payments are due
 - Provision that the Proponent may submit an order of dismissal without further notice or hearing upon the Debtor's failure to comply with the terms of the order
 - LBR 9022-1(C)(1) Certification that the order has been endorsed by all necessary parties
 - LBR 9022-1(B) service list
 - For settlements on other conditions:
 - Description of condition(s) and deadline(s)
 - Provision that the Proponent may submit an order of dismissal without further notice or hearing upon the Debtor's failure to comply with the terms of the order

- LBR 9022-1(C)(1) Certification that the order has been endorsed by all necessary parties
 - LBR 9022-1(B) service list
- Minimum requirements of an agreed order settling an objection to confirmation—
 - Necessary action(s) and deadline(s) (e.g., filing amended plan, converting case, providing necessary documents, etc.)
 - Provision that the Proponent may submit an order of dismissal without further notice or hearing upon the Debtor's failure to comply with the terms of the order
 - LBR 9022-1(C) Certification that the order has been endorsed by all necessary parties
 - LBR 9022-1(B) service list
- 3. **Cure/Withdrawal:** The Proponent will use the HCM to cancel the scheduled hearing and file a withdrawal if the debtor has fully cured the issues raised in the motion to dismiss or objection to confirmation.
- 4. **Amended Plan:** The filing of an Amended Plan will moot all objections to confirmation of the prior plan. The Court will remove hearings on mooted objections to confirmation from the docket. No action is required from the Proponent.
- 5. **Conversion:** The conversion of a case to another chapter will moot all objections to confirmation. The Court will remove hearings on mooted objections to confirmation from the docket. No action is required from the Proponent.

General Requirements for All Orders:

- Every order submitted in a chapter 13 case must be endorsed by the Chapter 13 Trustee unless excused by the Court.
- The minimum requirements set forth above represent only the basic requirements needed to permit entry of the proposed order. Settlements may include provisions in addition to the minimum requirements.

Use of the HCM:

- The HCM should be used by the Proponent in contemplation of the submission of an agreed order or filing of a withdrawal. The Proponent should have a reasonable belief that the matter is resolved when a hearing cancellation is submitted via the HCM.
- The Proponent should not wait until a withdrawal is filed or a settlement is documented in an agreed order before cancelling a hearing via the HCM.
- If the Proponent is ultimately unable to submit the contemplated order or withdrawal, the Proponent may re-notice the matter for hearing.