

**UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF VIRGINIA**

AMENDED PUBLIC NOTICE

***No v. Gorman*, 891 F.3d 138 (4th Cir. 2018): U.S. Bankruptcy Court Eastern District of Virginia--
Revised Procedures: Important Information**

Beginning October 1, 2018, for Chapter 13 cases, the Clerk's Office will schedule hearings in cases where the debtor fails to attend a Section 341 Meeting of Creditors or fails to commence Chapter 13 plan payments. Previously, the Chapter 13 Trustees were responsible for filing Motions to Dismiss and scheduling hearings on those motions in such instances.

Accordingly, further Notice is given regarding the following:

In the recent decision of *No v. Gorman*, 891 F.3d 138 (4th Cir. 2018), the Fourth Circuit Court of Appeals invalidated Local Bankruptcy Rule 3070-1(C) and the Court's procedure for dismissing a bankruptcy case for failure to commence plan payments in a Chapter 13 case without a hearing. The opinion concluded that a hearing was necessary prior to dismissal of a bankruptcy case. As a result, the Court suspended application of its automatic dismissal rules while procedures and processes were developed to bring the existing rules and procedures into compliance with the ruling of the Fourth Circuit Court of Appeals.

As noted in the Court's July 18, 2018, Public Notice, the Court has continued to examine its procedures and has determined to make a further refinement as to the requirement that,

. . . for Chapter 13 cases, the Chapter 13 Trustee will file a motion to dismiss and schedule a hearing thereon when a certification for failure to appear at the Section 341 Meeting of Creditors or a certification of failure to commence payments is filed. The Chapter 13 Trustee will be responsible for submitting the order on such motion after the hearing, and, if applicable, an order dismissing the case if a debtor fails to comply with that.

Effective October 1, 2018, for Chapter 13 cases, upon certification by the Chapter 13 Trustee, where the above referenced deficiencies have not been cured, a hearing will be scheduled by the Court for the debtor and, if applicable, counsel for the debtor, to appear and explain why the case should not be dismissed. Following the conduction of the hearing, the Court will enter an appropriate order either dismissing the case or granting the debtor an opportunity to cure the deficiencies. If the debtor fails to cure the deficiencies after being given an opportunity to do so, the Court will enter an order dismissing the case.

The Court will continue the process of examining its procedures and will advise of further refinements should the same be required. Questions regarding the procedures may be directed to the Division Managers. Feedback and comments may be submitted to the Clerk at localrules@vaeb.uscourts.gov.

Chief Judge Stephen C. St. John
United States Bankruptcy Court
Eastern District of Virginia

Date: September 19, 2018