

Rule 3096-1. Chapter 13 Responses – Immediate Orders to Follow

A. Motions to Dismiss for Default in Plan Payments

1. If a response is non-responsive, the court will enter an order granting the motion to dismiss. To be considered responsive, the response should admit or deny the allegations in the motion or propose a specific solution, such as cure with a lump sum, periodic payments not to exceed six (6) months, a suspension, or contain a combination of the above.
2. If a response recites that a motion to suspend will be filed, the court will enter an order granting the motion to dismiss if the motion to suspend is not filed at the same time as the response as a separate entry.
3. If a response recites that an amended plan and motion to suspend will be filed, the court will enter an order denying the motion to dismiss on the condition an amended plan and motion to suspend are filed within 21 days.
4. If a response recites a specified repayment plan that will take six (6) months or less to cure the existing default, the court will enter an order denying the motion to dismiss on the condition on-going monthly plan payments are made in the interim in addition to the specified repayment plan set forth in the response.
5. If a response recites that the default in plan payments will be cured with a tax refund, the response shall state the basis for debtor's reasonable belief that a refund will be realized in an amount sufficient to cure the default, such as a prior history of refunds. If the response contains a reasonable belief, the court will enter an order directing the debtor to cure the default in plan payments with the tax refund on or before March 1 of the year following the tax year for which the refund is claimed with the condition that on-going monthly plan payments are made in the interim and copies of the tax returns are provided to the trustee on or before March 1. An extension of the March 1 deadline may be requested for cause shown.
6. No conditional order will be entered on a combined Trustee Motion to Dismiss for Violation of Section 1322(d) and Default in Plan Payments unless the response addresses how both plan length and payment default will be resolved.

B. Motions to Dismiss for Violation of Section 1322(d)

1. If a response recites that an amended plan will be filed, the court will enter an order denying the motion to dismiss on the condition an amended plan is filed within 21 days.
2. If the debtor needs time to file an objection to claim or take other steps to resolve the motion aside from amending the plan, the response shall recite the same and request a hearing be set within a specified amount of time.

C. Motions to Dismiss for Violation of Section 1322(d) and Default in Plan Payments

No conditional order will be entered on a combined Trustee Motion to Dismiss for Violation of Section 1322(d) and Default in Plan Payments unless the response addresses how both plan length and payment default will be resolved.

D. Motions to Deny Confirmation

1. If a response recites that an amended plan will be filed, the court will enter an order denying confirmation and granting debtor 21 days to file an amended plan.
2. If the debtor believes the court needs to hear and determine any confirmation issue, the debtor must identify all such issues and request a hearing as part of the response.
3. If the debtor needs time to file an objection to claim, adversary action, or take other steps to resolve the motion aside from amending the plan, the response shall recite the same and request a hearing be set within a specified amount of time.

E. Motions for Extension of Time.

If the debtor needs additional time to comply with any order entered pursuant to subsections A, B, C, or D, the debtor must file a motion for extension of time setting forth the cause for the request before the deadline set forth in the order has passed.