

# **eCOP BEST PRACTICES USER GUIDE**

## **Ch. 13 Electronic Confirmation Order Procedure**

### **For Judge Agresti Cases**

**Effective: August 15, 2021**

- (1) The *Chapter 13 Electronic Confirmation Order Procedure* (eCOP) system now utilized in Judge Agresti’s Chapter 13 confirmation process is designed to expedite and streamline the issuance of confirmation orders and eliminate substantial time and effort expended by the parties involved while maintaining professionalism and consistency in terminology contained in confirmation orders issued by the Court. eCOP eliminates the need for the Trustee to convene numerous conciliation conferences while attempting to finalize the confirmation process, reduces the need for multiple court filings by the Parties previously documenting various stages of the confirmation process and significantly frees up valuable time otherwise spent by the Chapter 13 Trustee, the Clerk’s Office and Chambers’ Staff thereby allowing them to focus on more pressing and important matters while building on the time-saving procedures and foundation recently implemented by Judge Jeffery Deller concerning the Chapter 13 confirmation process.
- (2) All proposed Confirmation Orders will confirm the Plan outright. There is no longer any distinction between “interim” and “final” confirmations in the confirmation process.

**Note:** Since his arrival on the Bench, Judge Agresti has viewed the labels of “interim confirmation” and “final confirmation” as simply procedural conventions created by the Court to allow for early plan payment while pending issues affecting total plan distributions are resolved over time. (*See In re Porreco*, 425 B.R. 529 (Bankr. W.D. Pa. 2010; *In re Morrison*, 375 B.R. 179 (Bankr. W.D. Pa. 2007)). The WDPA is the only District in the federal system utilizing this approach. Since Judge Agresti finds no qualitative distinction between the two labels, he has eliminated them. Therefore, in his cases “interim” or “final” Confirmation Orders will no longer be issued. Going forward, the Confirmation Order issued in Judge Agresti cases is deemed final once the applicable appeal period runs. Since October 1, 2020, when Judge Agresti eliminated the distinction between interim and final confirmation orders, through August 6, 2021, he has issued 626 confirmation orders and no objections to the procedure have been filed.

- (3) The proposed Confirmation Order to be used in all of Judge Agresti’s cases is represented in the Form Confirmation Order attached to this Guide (*See* Tab 1). Under no circumstances is any of the language in the form to be modified, changed or “tweaked.” All specific entries per the case under consideration are to be made via the Pick List (*See* Tab 2 and Paragraph 5, below) inserted in Paragraph A of the Form Confirmation Order.

- (4) The Confirmation Order caption shall contain the Debtor(s)' first name followed by the last name.
- (5) The eCOP system is designed to eliminate the need for any of the Parties to draft language for a proposed Confirmation Order submitted to the Court. The "Pick List" (*See* Tab 2) contains 64 potential options to be included in the proposed Confirmation Order, requiring only short, specific data entries for the case being considered. The Pick List also allows for use of an "Other" option in the extremely rare instance in which an entry is required but not already covered in any of the Pick List options.

**Note:** The entries identified in Section A of the Pick List are those "check the box" entries previously contained in Part 1 of the former confirmation order used by Judge Agresti. The "Top Ten" (most often) used entries by the Trustee in the 500 plus, reviewed orders are contained in Section B of the Pick List. Other entries are identified by subject matter in Sections C, D, E and F.

In reviewing the 200 confirmation Orders issued by Judge Agresti immediately prior to February 27, 2021, it was determined that an average of only 2.2 additional terms were added to those Confirmation Orders as a result of the then-existing conciliation process. As such, Judge Agresti anticipates that the number of entries in Section A of the Confirmation Orders, going forward will include, on average, between 2 and 3 Pick List entries. Through August 6, 2021, while testing the eCOP System, 30 confirmation orders were entered with the average number of Pick List entries totaling only 1 per order.

The Pick List items will be referred to by the Trustee and Debtor Counsel when meeting to prepare the proposed Confirmation Order. Any treatment of creditor claims or a debtor's responsibility to further supplement the record with additional matters necessary to implement the confirmed Plan and relevant to the specific case at hand will be inserted via digital entry in the Form Confirmation Order from the Pick List during the collaborative process between the Trustee and Debtor Counsel at the § 341 Creditors' Meeting/Conciliation Conference. In order to expeditiously implement the eCOP procedure, it is important for Debtor Counsel to also become very aware of and familiar with the various Pick List entries when involved in the collaborative effort to prepare a draft Confirmation Order.

- (6) Within three (3) days of the Trustee's filing of the virtual entry (*See* Paragraph 19, below) indicating to the Court that a Plan confirmation order has been agreed to and forwarded to Debtor Counsel for filing, the proposed Confirmation Order shall be uploaded on the record. This deadline applies even assuming the proposed Confirmation Order requires further attention between the Parties upon receipt and review by Debtor Counsel. Failure of Debtor Counsel to comply with the three (3) day deadline will result in the issuance of a Text Order imposing a sanction of \$150 against Debtor Counsel for failure to comply, without further notice or hearing.

- (7) When an original or amended Plan is filed by a Debtor, there will only be one conciliation conference convened to review the Plan for confirmation purposes.

**Note:** When an amended plan is filed, Debtor Counsel shall use TPA Form 203 (revised 8/1/2021) *Notice of Proposed Modification to Confirmed Plan Dated [insert date]*. As with Judge Deller's cases, Judge Agresti will no longer schedule a conciliation conference date for the amended plan in his cases. Instead, under Judge Agresti's new eCOP system, Debtor Counsel must pick the date and time for the conciliation and insert it into the Notice. Debtor Counsel must then file and serve the notice and amended plan. Debtor Counsel must indicate in the ECF docket the date and time of the scheduled conciliation.

A list of available dates and times for the conciliation on the amended plan are available at: TPA Conciliation Dates listed on the Chapter 13 Trustee's website <http://www.ch13pitt.com/>. Please choose the first available time slot for each available date. **Further Note:** The procedures require the attorney to pick a date more than 30 and less than 60 days from the date the amended plan is filed.

Please make sure that you indicate the conciliation date, and time, and "Chapter 13 341 zoom location" for "location" when entering information in the ECF docket at the time the document(s) is filed. If the date and time of the conciliation conference do not appear in the ECF docket, the Trustee's software will not capture the scheduling information and the matter may not appear on the Trustee's calendar.

- (8) If a need for a further meeting with the Trustee becomes apparent to discuss terms/issues regarding Plan implementation, a *Status Conference* with the Parties will be scheduled by the Trustee with the date/time set forth in the proposed Confirmation Order.

**Note:** The initial meeting with the Trustee following the §341 Creditors' Meeting is the Conciliation Conference. A recommendation to confirm the proposed Plan will either be issued following these two events or alternatively, following the Trustee's notice via virtual entry that no agreement can be had, the matter will immediately be scheduled before the Court for a contested hearing. The Conciliation Conference will not be continued unless by Court Order. Following entry of the Confirmation Order, any subsequent meeting of the Trustee and Debtor Counsel to implement proposed terms of the Confirmation Order not agreed to at the §341 Creditors' Meeting/Conciliation Conference will proceed by way of subsequent Status Conference convened with and scheduled by the Trustee. The Trustee will not need Court approval for continuing status conferences, it being subject to her sole discretion, provided however, Judge Agresti's three (3) continuance rule applies to Status Conferences.

- (9) If a Status Conference is to be scheduled, the Trustee will include Item A(1) from the Pick List (*See* Tab 2) which schedules the anticipated Status Conference. Continued Status Conferences will be affected by virtual entry. (*See* ¶ 19(B)(ii)(4)(e), below.)

- (10) Confirmation Orders are to contain actual dates for subsequent action (use drop down menu in the Pick List (*See Tab 2*)).

**Note:** The required time for Debtor compliance in the Confirmation Order to file matters necessary to implement and pertaining to the proposed Confirmation Order not originally resolved at the §341 Creditors' Meeting or the Conciliation Conference, is 14 days from the date of either event. The actual date for compliance is to be inserted in the proposed Confirmation Order through use of the drop-down scheduling menu in the digital confirmation order form.

- (11) As of now, **only** the Trustee is to prepare the proposed Confirmation Order. Following the §341 Creditors Meeting/Conciliation Conference, the Trustee will send the final, proposed Confirmation Order to Debtor Counsel to be uploaded within three (3) days of filing her virtual entry regarding same.
- (12) If, after receipt from the Trustee of the initial draft Confirmation Order any discrepancies exist, following consultation by Debtor Counsel with the Trustee, the Trustee, **only**, will make the proposed changes and then forward the revised draft to Debtor Counsel for final approval and filing.

**Note:** In order to assure proper drafting of the proposed Confirmation Order, until further directive from the Court, the Trustee is tasked with sole responsibility for preparing the document. Once the Debtor Bar familiarizes itself with implementation of eCOP, the responsibility for making changes to the original draft of the proposed Confirmation Order may be shared with Debtor Counsel, but for the time being it is solely the responsibility of the Trustee.

- (13) If the terms of a proposed Confirmation Order cannot be agreed to by the Debtor and Trustee, the Trustee shall note the matter as "contested" by virtual entry, immediately following which time the Court will set the matter for prompt hearing.

**Note:** It is anticipated that following the vast majority of §341 Creditor Meetings/Conciliation Conferences, an agreed upon proposed Confirmation Order will be submitted to the Court for consideration. However, if the Trustee and Debtor Counsel cannot come to an agreement as to terms of the proposed Confirmation Order the matter will promptly be determined by the Court via its "Contested Plan" calendar. It is anticipated that for this reason, as time goes on, contested matters will significantly decrease once the Bar becomes accustomed to the Court's rulings in this regard.

- (14) The Trustee will no longer file meeting minutes concerning results of a §341 Creditor Meeting or Conciliation Conference. Documenting these events will all be done via virtual entries (*See Paragraph 19, below*). If an Amended Plan is to be filed, the Trustee will note via virtual entry that the §341 Creditor Meeting/Conciliation Conference is concluded and that an Amended Plan is due in 14 days and schedule a Conciliation Conference regarding

the Amended Plan, assuming dates are available. Otherwise, the Court will set the time/date for the Conciliation Conference regarding the Amended Plan via Text Order.

- (15) Regarding any changes to a Dismissal Order, such as changing the plan payment amount and withdrawing the dismissal request, for the time being the current procedure will be maintained and the relevant documents are to be sent by the Trustee to the Court for processing.
- (16) With respect to processing Certificates of Default (COD) the current system will maintain. When the Trustee withdraws the COD, it is necessary to so note in the meeting docket text of this request.
- (17) When an Amended Plan is filed, Judge Agresti will follow the same procedure currently in use by Judge Deller. Upon the filing of an Amended Ch. 13 Plan, Debtor Counsel will immediately also file and serve a “Notice of Proposed Modification” to the previously filed Plan (*See* Tab 3). By doing so, Debtor Counsel will schedule the Conciliation Conference to be convened by the Ch. 13 Trustee by selecting dates for the same periodically posted on the Ch. 13 Trustee’s website, i.e., <http://www.ch13pitt.com/jad-conciliation-dates/>
- (18) **§341 Creditors Meeting/Conciliation Conference:**
  - (A) As previously noted, the Trustee is solely responsible for preparing the proposed Confirmation Order (*See* Tab 1) and populating Paragraph A(1) of the document by using the “Pick List” (*See* Tab 2).

**Note:** While the format of the standard Confirmation Order has somewhat changed, the substance of it continues to track the form used by Judge Agresti since his arrival on the Bench. Additions to the Confirmation Order (Tab 1) are confined to Paragraph A of the document. Paragraphs B and C contain the standard “boilerplate” Confirmation Order language in use for years. The Pick List (Tab 2) contains 62 separate, additional items identified according to actual use by the Trustee after review of over 500 Confirmation Orders issued by Judge Agresti over the years.

- (B) If possible, during the §341 Creditors Meeting/Conciliation Conference the Trustee and Counsel shall agree on the content of the proposed Confirmation Order by inserting options from the Pick List (Tab 2) into the space provided in Paragraph A of the Confirmation Order.
- (C) Once agreement is reached, the Trustee will email the agreed upon, proposed Confirmation Order to Debtor’s Counsel for final review and filing.

- (D) Within three (3) days of the Trustee’s email, Debtor’s Counsel shall docket/upload the agreed upon proposed Confirmation Order via CM/ECF using the docket entry “Proposed Ch 13 Confirmation Order (TPA)” found under “Bankruptcy/Miscellaneous” in CM/ECF system. **No Certification of Counsel** is to be filed. .

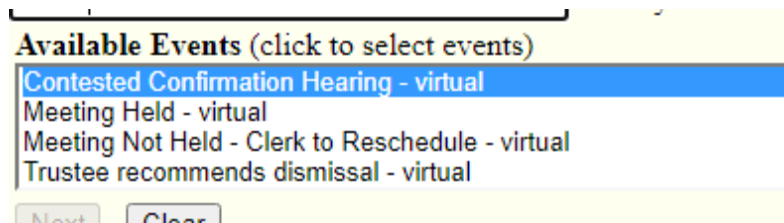
**Note:** As has been his practice for years and so noted in his Procedures on the Court’s website, Judge Agresti does not require the Certification of Counsel procedure referenced in the Local Rules. As such, no Certification of Counsel is necessary to accompany the filing of a Proposed Confirmation Order so long as the appropriate CM/ECF event is utilized.

If corrections to the proposed draft are required, the Trustee and Debtor’s Counsel shall collaborate and arrive at an acceptable draft within the prescribed 3-day period. **Failure to timely file the proposed Confirmation Order by Debtor Counsel will result in the imposition of a \$150 sanction automatically imposed by the Court** by Text Order without further notice or hearing. A further sanction may be indicated if the proposed Confirmation Order is not filed for any extended period.

- (E) The Trustee shall docket the applicable virtual entry(ies) concerning the outcome of the § 341 Creditors Meeting/Conciliation Conference within 3 days of such.
- (F) The Court will review the proposed Confirmation Order upon filing and either accept, sign and docket it or take other appropriate action.

(19) **Virtual Entries:**

- (A) In lieu of the prior practice of entering a proceeding memo with the Trustee’s handwritten notes the Trustee will use one of the following virtual entries to document the outcome of the §341 Creditors Meeting, Conciliation or Status Conference:



- (B) Below are the options for the Trustee’s Virtual Docket Entries:

- (i) **“Contested Confirmation Hearing – virtual”**

Conciliation Conference held. Contested Confirmation Hearing requested – [Pick one: Debtor Counsel failed to appear; Lack of Payments; Unresolved objections to plan; Debtor does not consent to dismissal; Parties could not agree to terms of Confirmation Order From xx/xx/20xx §341 meeting. Filed by Ronda J. Winnecour Hearing scheduled for [DATE/TIME] via Zoom – Agresti. (vde132) (Entered: xx/xx/20xx)

(ii) **“Meeting Held – virtual”**

(1) **341 Meeting of Creditors Held and Concluded**

- (a) 341 Meeting of Creditors held and concluded. Plan confirmation recommended. Filed by Ronda J. Winnecour Chapter 13 Proposed Confirmation Order due by [DATE]. (RE: related document(s): Meeting of Creditors Chapter 13 & 12). (filer) (Entered: xx/xx/20xx)
- (b) 341 Meeting of Creditors held and concluded. Plan confirmation recommended. Filed by Ronda J. Winnecour Chapter 13 Proposed Confirmation Order due by [DATE]. Status Conference scheduled for [DATE/TIME] at Ch 13 §341 Zoom Location. Related document(s): Meeting of Creditors Chapter 13 & 12). (filer) (Entered: xx/xx/20xx)
- (c) 341 Meeting of Creditors held and concluded. Contested Confirmation Hearing requested – [Pick one: Debtor Counsel failed to appear; Lack of payments; Unresolved objections to plan; Debtor does not consent to dismissal; Parties could not agree to terms of Confirmation Order From xx/xx/20xx §341 meeting. Filed by Ronda J. Winnecour Hearing scheduled for [DATE/TIME] via Zoom – Agresti. (vde132) (Entered: xx/xx/20xx)
- (d) 341 Meeting of creditors held and concluded. Amended Plan to be filed on or before [DATE]. Filed by Ronda J. Winnecour. Objections due by [DATE]. [Pick one: Conciliation Conference to be held on [DATE/TIME] at Ch 13 §341 Zoom Location; Court to set Conciliation date/time at Ch 13 §341 Zoom location. (RE: related document(s): Meeting of Creditors Chapter 13 & 12). (filer) (Entered: xx/xx/20xx)

(2) ***341 Meeting of Creditors Held and Continued***

- (a) 341 Meeting of Creditors held and continued. Contested Confirmation Hearing requested – [*Pick one*: Debtor Counsel failed to appear; Lack of payments; Unresolved objections to plan; Debtor does not consent to dismissal; Parties could not agree to terms of Confirmation Order From xx/xx/20xx 341 meeting. Filed by Ronda J. Winnecour Hearing scheduled for [DATE/TIME] via Zoom – Agresti. (vde132) (Entered: xx/xx/20xx)
- (b) 341 Meeting of creditors held and continued. Amended Plan to be filed on or before [DATE]. Filed by Ronda J. Winnecour]. Objections due by [DATE]. [*Pick one*: Conciliation Conference to be held on [DATE/TIME] at Ch 13 341 Zoom Location. (filer) (Entered: xx/xx/20xx)
- (c) 341 Meeting of Creditors held and continued. Conciliation Conference to be held. Filed by Ronda J. Winnecour Conciliation Conference to be held on [DATE/TIME] at Ch 13 341 Zoom Location. (filer)

(3) ***Conciliation Conference Held***

- (a) Conciliation conference held [DATE] and concluded. Plan confirmation recommended. Filed by Ronda J. Winnecour Proposed Confirmation Order due by [DATE]. (filer) (Entered: xx/xx/20xx)
- (b) 341 Meeting of Creditors held and concluded. Plan confirmation recommended. *Filed by Ronda J. Winnecour* Chapter 13 Proposed Confirmation Order due by [DATE]. Status Conference scheduled for [DATE/TIME] at Ch 13 §341 Zoom Location. Related document(s): Meeting of Creditors Chapter 13 & 12). (filer) (Entered: xx/xx/20xx)
- (c) Conciliation conference held [DATE] and concluded. Contested Confirmation Hearing requested – [*Pick one*: Debtor Counsel failed to appear; Lack of payments; Unresolved objections to plan; Debtor does not consent to dismissal; Parties could not agree to terms of Confirmation Order From xx/xx/20xx 341 meeting. Filed by Ronda J.



Winnecour Hearing scheduled for [DATE/TIME] via Zoom – Agresti. (vde132) (Entered: xx/xx/20xx)

- (d) Conciliation Conference held [DATE] and concluded. Amended Plan to be filed on or before [DATE]. Filed by Ronda J. Winnecour Amended Plan due [DATE]. Objections due by [DATE]. Conciliation Conference to be held on [DATE/TIME] at Ch 13 341 Zoom Location. (filer) (Entered: xx/xx/20xx)

(4) ***Status Conference Held***

- (a) Status Conference held. Plan confirmation recommended. Filed by Ronda J. Winnecour Proposed Confirmation Order due by [DATE]. (filer) (Entered: xx/xx/20xx)
- (b) Status Conference held [DATE]. Plan confirmation recommended. *Filed by Ronda J. Winnecour* Chapter 13 Proposed Confirmation Order due by [DATE]. Status Conference scheduled for [DATE/TIME] at Ch 13 §341 Zoom Location. Related document(s): Meeting of Creditors Chapter 13 & 12). (filer) (Entered: xx/xx/20xx)
- (c) Status Conference held. Contested Confirmation Hearing requested – [*Pick one*: Debtor Counsel failed to appear; Lack of Payments; Unresolved objections to plan; Debtor does not consent to dismissal; Parties could not agree to terms of Confirmation Order From xx/xx/20xx 341 meeting. Filed by Ronda J. Winnecour Hearing scheduled for [DATE/TIME] via Zoom – Agresti. (vde132) (Entered: xx/xx/20xx)
- (d) Status Conference held. Amended Plan to be filed on or before [DATE]. Filed by Ronda J. Winnecour Amended Plan due [DATE]. Objections due by [DATE]. Conciliation Conference to be held on [DATE/TIME] at Ch 13 §341 Zoom Location. (filer) (Entered: xx/xx/20xx)
- (e) Status Conference held and continued. Filed by Ronda J. Winnecour]. Status Conference scheduled for [DATE/TIME] at Ch 13 §341 Zoom Location. (filer) (Entered: xx/xx/20xx)

**Note:** Judge Agresti's three (3) continuance rule applies to continued Status Conferences.

(5) ***Trustee Recommends Dismissal – Virtual***

- (a) 341 Meeting of Creditors held and concluded. Trustee recommends dismissal – *Pick one:* Debtor agrees, Debtor has no defense, or Debtor has no objection. Filed by Ronda J. Winnecour. (filer) (Entered: xx/xx/20xx)
- (b) Conciliation conference held and concluded. Trustee recommends dismissal – *Pick one:* Debtor agrees, Debtor has no defense, or Debtor has no objection. Filed by Ronda J. Winnecour. (filer) (Entered: xx/xx/20xx)
- (c) Status Conference held. Trustee recommends dismissal – *Pick one:* Debtor agrees, Debtor has no defense, or Debtor has no objection. Filed by Ronda J. Winnecour . (filer) (Entered: xx/xx/20xx)

(iii) ***“Meeting Not Held – Clerk to Reschedule – virtual”***

- (1) 341 Meeting of creditors not held. Clerk is requested to reschedule. Filed by Ronda J. Winnecour (RE: related document(s): Meeting of Creditors Chapter 13 & 12. (filer) (Entered: xx/xx/20xx)
- (2) **Note:** In the event the scheduled Conciliation Conference does not occur the matter is to be scheduled for a Contested Hearing. Item (B)(3)(b), above will be utilized.

(iv) ***Meeting Held and Concluded***

- (1) 341 Meeting of Creditors Chapter 13 Held and Concluded on [DATE] Filed by Ronda J. Winnecour (filer) (Entered: xx/xx/20xx)
- (2) Status Conference Held and Concluded on [DATE] Filed by Ronda J. Winnecour (filer) (Entered: xx/xx/20xx)

IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

IN RE:

\_\_\_\_\_ : Bankruptcy Case No. \_\_\_\_\_ TPA  
\_\_\_\_\_ : Chapter 13  
*Debtor(s)* :

**PLAN CONFIRMATION ORDER**

**AND NOW**, this \_\_\_\_ of \_\_\_\_\_, **202**, with the consent of all the Parties in attendance, it is hereby **ORDERED, ADJUDGED and DECREED**, as follows:

**A** The Chapter 13 Plan dated [italics and bold, no underline], except as modified herein as numbered, below, is **CONFIRMED** in accord with *11 USC 1325*. On the effective date of this Order, the Chapter 13 Trustee shall pay administrative, secured and priority creditors identified in the Plan. General unsecured creditors will not receive distributions at least until the government bar date has passed and the Chapter 13 Trustee has submitted a *Notice of Intention to Pay Claims* to the Court. **The current Plan payment is \_\_\_\_\_.**

(Insert selections here from the Pick List)

**B IT IS FURTHER ORDERED THAT THE FOLLOWING DEADLINES ARE ESTABLISHED:**

**1. Objections to the Plan:** This Order is effective as of the date indicated below. Pursuant to *Fed.R.Bankr.P. 2002(b)*, any party in interest with an objection to any provision of this Confirmation Order must file a written objection within the twenty-eight (28) day period following entry of this Order. Failure to timely object shall be deemed a waiver of all objections and an acceptance of the provisions of this confirmed Plan. The Trustee may only disburse funds pursuant to this confirmation order upon expiration of the foregoing twenty-eight (28) day period.

**2. Applications to retain brokers, sales agents, or other professionals.** If the Plan contemplates sales of assets or litigation proceeds as a source of funding, Debtor shall file motion(s) to employ the necessary professionals within thirty (30) days hereof.

**3. Review of Claims Docket and Objections to Claims.** Pursuant to *LBR 3021-1(c)(2)*, the Debtor or Debtor's attorney, if represented, shall review all proofs of claim filed and shall file objections to any disputed claims within ninety (90) days after the claims bar date or, for late filed or amended claims, within ninety (90) days after they are filed and served. Absent an objection, the proof of claim will govern as to the classification and amount of the claim. Objections filed after the ninety (90) days specified herein shall be deemed untimely.

**4. Motions or Complaints Pursuant to §§506, 507, or 522.** All actions to determine the priority, avoidability, or extent of liens, all actions pursuant to *11 U.S.C. §§506, 507 and 522* shall be filed within ninety (90) days after the claims bar date.

**5. Filing Amended Plans.** Within fourteen (14) days after the Bankruptcy Court resolves the priority, avoidability, or extent of a lien, or any objection to claim, the Debtor(s) shall file an amended Plan to provide for the allowed amount of the claim if the allowed amount differs from the amount stated in the Plan. Debtor(s) shall also file an amended Plan within thirty (30) days after the claims bar date(s) in the event that no objection is filed and the claim(s) as filed causes the Plan to be underfunded.

**C IT IS FURTHER ORDERED THAT:**

**1.** Plan terms are subject to the resolution of: timely but yet to be filed claims including government claims; all actions to determine the avoidability, priority or extent of liens, including determination of the allowed amount of secured claims under *11 U.S.C. §506*, disputes over the amount and allowance of claims entitled to priority under *11 U.S.C. §507*, and all objections to claims.

**2.** Following payment of allowed secured and priority claims the allowed claims of general unsecured creditors shall be paid from available funds on a pro rata basis, which may represent an increase or decrease in the amount projected in the Plan.

**3.** After the claims objection deadline, the Plan shall be deemed amended to conform to the claims filed or otherwise allowed. If the Plan expressly modified the terms of payment to any creditor pursuant to *11 U.S.C. §1322(b)(2)*, nothing in this Order shall be construed to change the payment terms established in the Plan.

**4.** Any creditor who files or amends a proof of claim shall serve a copy on the Debtor(s) or counsel for the Debtor(s).

**5.** Any creditor whose payment changes due to variable interest rates, change in escrow, or change in monthly payments, shall notify the Trustee, Debtor(s)' Counsel and Debtor(s) at least twenty-one (21) days prior to the change taking effect.

**6.** Debtor(s) shall file an Amended Schedule I and/or J in the event of:

(a) Household income increases by 10% or more over most the recently filed Schedule I, because of new employment, promotion, or otherwise.

(b) A reduction in payroll withholding (including any Domestic Support Obligation and retirement loan(s) repayments), or a 10% or more reduction of any line item expense on Schedule J.

(c) Any indicated increase in disposable income as a result of an increase in income or decrease in payroll withholding or Schedule J expense (and the fund created for the benefit of general Unsecured Creditors) is retroactive to the date of the payoff of the obligation, decrease in expense, or increase in household income.

**7.** Debtor(s) shall provide Trustee annual tax returns and statements of income and expenses, in accordance with Section 521(f) and (g), and shall file an amended plan reflecting any increase in disposable income retroactive to date of increase.

**8.** Debtor's counsel must file a fee application in accordance with *W.P.A.LBR 2016-1* before attorney fees in excess of the "no look" provision (including retainer) will be allowed or paid.

**9.** The Trustee shall file a *Certificate of Default and Request for Dismissal* of the case in the event of a material Plan default. If the default involves failure to make a plan payment the case will result in dismissal without further hearing upon filing and service of an *Affidavit of Default* by the Trustee. The Trustee is not precluded from raising preconfirmation defaults in any subsequent motion to dismiss.

**10.** In the event that any order is entered in this case granting relief from the automatic stay to a secured creditor, then the Trustee shall make no further disbursements to any creditor on account of any secured claim that is secured by the subject property, unless directed otherwise by further Order of Court.

**11.** Any prior Confirmation Order entered in this matter is *VACATED*.

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Thomas P. Agresti  
United States Bankruptcy Judge

cc: All Parties in interest to be served by Clerk immediately

**PICK LIST OF LANGUAGE OPTIONS FOR  
JUDGE AGRESTI CH. 13 CONFIRMATION ORDERS**

Effective August 15, 2021

**(A) Proposed Standard Confirmation Order Terms**

- A(1) Confirmation of this Plan pursuant to this Order is without prejudice to reconsideration following a status conference held by the Chapter 13 Trustee to gauge the progress of Plan implementation, which *Status Conference* is scheduled for \_\_\_\_\_ (Date/Time) \_\_\_\_\_ *remotely by the Trustee via Zoom, how to participate: go to [www.ch13pitt.com](http://www.ch13pitt.com), [meetings@chapter13trusteedpa.com](mailto:meetings@chapter13trusteedpa.com)*, (which may, upon agreement of the Parties, be continued from time to time *provided however* that following the 3rd continuance, the matter shall be set for hearing before the Court), following which time the Plan may be modified to the satisfaction of all Parties after notice and hearing before the Court, or the status conference may be marked closed by the Chapter 13 Trustee.
- A(2) For the remainder of the Plan term, the periodic Plan payment is to be \$ \_\_\_\_\_ (Amount) \_\_\_\_\_ as of \_\_\_\_\_ (Date) \_\_\_\_\_. Debtor(s)' counsel shall file a motion to amend the income attachment order within seven (7) days of the date of this Order.
- A(3) The length of the Plan is increased to a total of \_\_\_\_\_ (#) \_\_\_\_\_ months. This statement of duration of the Plan is an approximation. The Plan shall not be completed until the goals of the Plan have been achieved. The total length of the Plan shall not exceed sixty (60) months.
- A(4) \_\_\_\_\_ (Creditor Name) \_\_\_\_\_ shall be paid monthly payments of \$ \_\_\_\_\_ (Amount) \_\_\_\_\_ beginning with the Trustee's \_\_\_\_\_ (Date) \_\_\_\_\_ distribution and continuing for the duration of the plan term, to be applied by that creditor to its administrative claim, budget payments and/or security deposit. These payments shall be at the third distribution level.
- A(5) The claims of the following creditors shall govern as to amount, classification and rate of interest (or as otherwise noted), unless the Debtor(s) successfully objects to the claim:
- |                             |                           |
|-----------------------------|---------------------------|
| _____ (Creditor Name) _____ | Claim No. _____ (#) _____ |
| _____ (Creditor Name) _____ | Claim No. _____ (#) _____ |
| _____ (Creditor Name) _____ | Claim No. _____ (#) _____ |
- A(6) Other: \_\_\_\_\_

**Additional Terms - Items (B), (C), (D) and (E)**

(B) **“TOP TEN” Pick List**

- B(7) The Trustee's prior payments to the following Creditor(s) is/are confirmed:  
\_\_\_\_\_ (Creditor Name) \_\_\_\_\_ Claim No. \_\_\_\_\_ (#) \_\_\_\_\_
- B(8) No payments are due \_\_\_\_\_ (Creditor Name) \_\_\_\_\_ since the claim is paid in full and all prior Trustee payments are approved.
- B(9) The secured claim(s) of the following Creditor(s) shall govern as to the claim amount and paid at the modified plan terms: \_\_\_\_\_ (Creditor Name) \_\_\_\_\_
- B(10) The secured claim(s) of the following Creditor(s) shall govern as to the claim amount and are to be paid at the modified plan interest rate, in a monthly amount determined by the Trustee, as payment in full: \_\_\_\_\_ (Creditor Name) \_\_\_\_\_
- B(11) The secured claim(s) of the following Creditor(s) shall govern as to claim amount and are to be paid at the modified/statutory interest rate of \_\_\_\_\_ (interest rate) \_\_\_\_\_ %, in a monthly amount determined by Trustee, as payment in full: \_\_\_\_\_ (Creditor Name) \_\_\_\_\_
- B(12) The secured claim(s) of the following Creditor(s) shall govern as to pre-petition arrears however the Plan controls as to the monthly post-petition payments: \_\_\_\_\_ (Creditor Name) \_\_\_\_\_
- B(13) The secured portion of the claim of \_\_\_\_\_ (Creditor Name) \_\_\_\_\_ (Claim No. \_\_\_\_\_ (#) \_\_\_\_\_) shall be treated as a surrender of collateral and shall not be paid by the Trustee or the Debtor.
- B(14) The secured claim(s) of the following Creditor(s), including all allowed post-petition payment changes filed prior to this Confirmation Order, shall govern: \_\_\_\_\_ (Creditor Name) \_\_\_\_\_
- B(15) Since the collateral is, or deemed to be, surrendered no payments will be made to the following Creditor: \_\_\_\_\_ (Creditor Name) \_\_\_\_\_
- B(16) Attorney's fees shall be paid upon the basis of a retainer having been paid in the amount of \$ \_\_\_\_\_ (Amount) \_\_\_\_\_.
- B(17) A Fee Application must be filed if fees (including retainer) exceed \$4,000 / \$5,000, including any fees paid to prior Counsel.

(C) **Monthly Payments to Trustee**

- C(18) The Trustee's computation of the plan base shall include lump sum funding in the amount of \$ \_\_\_\_\_ (Amount) \_\_\_\_\_ as described in the Plan.
- C(19) The Trustee shall adjust the plan base, and amount making it current, to reflect the total paid into the plan through the end of the current month.

- C(20) The Trustee's computation of the plan base shall include the anticipated funding from (Source Name) in the amount of \$ (Amount) as described in the Plan.
- C(21) Plan confirmation is contingent upon satisfaction of the Liquidation Alternative Test remaining at the minimum amount of \$ (Amount).
- C(22) Plan confirmation contemplates the sale of (Property Description) with any excess funds from the sale dedicated to the Plan.
- C(23) Plan confirmation contemplates that Debtor(s) achieve a successful objection to the mortgage claim of (Creditor Name).
- C(24) Trustee to use sale proceeds of \$ (Amount) to complete plan guaranteeing 100% payment to timely filed Unsecured Creditors.
- C(25) Debtor to immediately implement an ACH or TFS, whichever is applicable.

***(D) Plan Payments to Creditors***

- D(26) Claim No. (Creditor Name), which is alleged to be fully secured shall be bifurcated with an interest-bearing secured portion allowed in the amount of \$ (Amount) paid at (Interest Rate) % per annum with a payment of \$ (Amount) per month and the non-interest portion allowed in the amount of \$ (Amount) and classified as an unsecured claim.
- D(27) The Plan controls as to the amount needed to fund an escrow for taxes and/or insurance.
- D(28) The secured claim of (Creditor Name) shall be paid \$ (Amount) per month with interest accruing at (Interest Rate) % and \$ (Amount) per month for tax and/or insurance escrow until the claim has been paid in full.
- D(29) The secured claim of (Creditor Name) shall be paid \$ (Amount) per month without interest, and \$ (Amount) per month tax and/or insurance escrow until the claim has been paid in full.
- D(30) The secured claim of (Creditor Name) shall govern as to claim amount, to be paid at a (Interest Rate) % annual interest rate, in a monthly amount to be determined by the Trustee, until the claim has been paid in full.
- D(31) The secured claims of (Creditor Name) shall govern as to claim amount, to be paid at the (Interest Rate) % annual contract interest rate, in a monthly amount to be determined by Trustee, until the claim has been paid in full.
- D(32) The secured claim of (Creditor Name) shall govern as to pre-petition arrears and the monthly post-petition payments shall be based on allowed payment change notices.



- D(33) No support arrears are owing and all current support is being paid via the state court system going forward therefore no PA State Collection and Disbursement Unit payments are to be paid.
- D(34) \_\_\_\_\_ (Creditor Name) \_\_\_\_\_ is to be paid per Order dated \_\_\_\_\_ (Date) \_\_\_\_\_ at Doc \_\_\_\_\_ (#) \_\_\_\_\_.
- D(35) The Post Petition Fee Notice filed by \_\_\_\_\_ (Creditor Name) \_\_\_\_\_ and dated \_\_\_\_\_ (Date) \_\_\_\_\_ will be paid under the Plan since no timely objection has been filed.
- D(36) Until Counsel for the Debtor provides the Trustee with the correct payment amount, address, and account number for the following Creditor(s) within 20 days of the date of the this Order the Trustee shall make no distributions to said Creditor(s): \_\_\_\_\_ (Creditor Name) \_\_\_\_\_
- D(37) Mortgage Creditor \_\_\_\_\_ (Creditor Name) \_\_\_\_\_ is to be paid per the Loan Modification approved by the Court on \_\_\_\_\_ (Date) \_\_\_\_\_ and according to any allowed payment change notice(s) subsequently filed of record.
- D(38) The monthly payment amount stated in the Plan shall govern as to the following Creditors(s): \_\_\_\_\_ (Creditor Name) \_\_\_\_\_ (Claim No. \_\_\_\_\_ (#) \_\_\_\_\_).
- D(39) No further payments to the following secured/priority claimant(s) is/are due and owing because of the surrender of collateral referred to in the \_\_\_\_\_ (Amended) \_\_\_\_\_ Plan. All prior payments to the foregoing Creditor(s) is/are approved. Creditor(s): \_\_\_\_\_ (Creditor Name) \_\_\_\_\_ (Claim No. \_\_\_\_\_ (#) \_\_\_\_\_).
- D(40) No further payments to the following secured/priority claimant(s) is/are due and owing because of Trustee's receipt of notice from Creditor that the claim has been paid. All prior payments to the foregoing Creditor(s) is/are approved. Creditor(s): \_\_\_\_\_ (Creditor Name) \_\_\_\_\_ (Claim No. \_\_\_\_\_ (#) \_\_\_\_\_).
- D(41) No further payments to the following secured/priority claimant(s) is/are due and owing because of the indicated reason. All prior payments to the Creditor(s) listed below is/are approved. \_\_\_\_\_ (Creditor Name) \_\_\_\_\_ Reason: \_\_\_\_\_ (Reason) \_\_\_\_\_
- 
- D(42) The Trustee will use funds on hand to pay the balance due on the mortgage claim of \_\_\_\_\_ (Creditor Name) \_\_\_\_\_ (Claim No. \_\_\_\_\_ (#) \_\_\_\_\_), including the escrow component of \$ \_\_\_\_\_ (Amount) \_\_\_\_\_ as well as amounts due per the post-petition fee notice(s).
- D(43) The following claim(s) will be paid outside the plan by the co-obligor. \_\_\_\_\_ (Creditor Name) \_\_\_\_\_ (Claim No. \_\_\_\_\_ (#) \_\_\_\_\_).
- D(44) The following claim(s) against \_\_\_\_\_ (Identify) \_\_\_\_\_ property is/are to be paid from proceeds of sale of property and not paid in part 3.6 of the Plan. \_\_\_\_\_ (Creditor Name) \_\_\_\_\_ (Claim No. \_\_\_\_\_ (#) \_\_\_\_\_).

- D(45) The following claim is to be paid in (#) payments of \$ (Amount) /month. (Creditor Name) (Claim No. (#)).
- D(46) The claim of (Creditor Name) (Claim No. (#)) is to be paid the principal balance, only, of \$ (Amount) .
- D(47) The claim of (Creditor Name) (Claim No. (#)) is to be paid per the Plan pending resolution of the loss mitigation process.
- D(48) Debtor(s) is/are to file additional outstanding tax returns by (Date) .
- D(49) Plan is confirmed prior to the bar date therefore the Debtor(s) is/are responsible for reviewing all proofs of claims as filed and on or before (Date) to take such action as is necessary to address any claims not already provided for in Plan.

***(E) Calculating Payments to Unsecured Creditors***

- E(50) Issues concerning whether the Plan's §1325(b) estimated amount available for distribution to general Unsecured Creditors, good faith, and §1325(a)(4) amount is sufficient are preserved for the Status Conference to be scheduled. In the event the Parties are unable to amicably resolve any dispute over the treatment of Unsecured Creditors in the Plan, the matter will be deemed contested and presented to the Court for resolution.
- E(51) The \$ (Amount) plan payment referenced in this Order ("Debtor Calculation") is less than the amount determined by the Trustee as necessary to complete the Plan in the remaining plan term. Nevertheless, because of Debtor Counsel's insistence, the Trustee recommends confirmation utilizing the Debtor Calculation, under the specific and unique circumstances of this case, subject to the following: (a) the Trustee is willing to defer to the Debtor's position under the unique circumstances of this case with the understanding that the Debtor/Debtor's Counsel is primarily responsible for ensuring that the Plan is adequately funded and the Trustee's Calculation is provided as a curtesy and convenience; (b) the Debtor/Debtor's Counsel, having been advised that the Plan is most likely underfunded, accept the risk and consequences in the event of actual underfunding; and, (c) the Trustee will seek dismissal at the end of the plan term if in fact the Plan proves to be underfunded citing to this understanding as evidence of the Debtor/Debtor's Counsel assumption of the risk of probable underfunding.
- E(52) The Debtor's student loan with (Creditor Name) is to be specially classified and paid in the amount of \$ (Amount) per month as long term continuing debt subject to the following payment terms. (a) The proposed monthly payment for specially classified claims in the Plan (which claims are to be treated as long term continuing debt) is to be held on reserve until payments begin to Part 5.1 Unsecured Creditors (which will be no later than the completion of payment of all priority creditors (if any)); (b) At the commencement of distributions to the specially classified and Part 5.1 Unsecured Creditors (collectively the "Unsecured Classes") the amount available for distribution (which includes the full amount reserved for the specially classified claims) shall be pro-rated

between the Unsecured Classes (which proration shall be calculated on the total projected amount to be paid to each class during the plan term); and, (c) In the event of a dismissal of the case, the Trustee's balance on hand shall not be refunded to the Debtor but shall, instead, be distributed to the Unsecured Classes consistent with the foregoing proration formula.

- E(53) The estimated funds to be paid to general Unsecured Creditors is \$ (Amount) with an estimated percentage dividend of (Percentage) %
- E(54) In order to satisfy the Liquidation Alternative Test the minimum distribution to Unsecured Creditors is \$ (Amount) or (Percent) %.
- E(55) Satisfaction of the Liquidation Alternative Test is subject to re-determination following the proposed sale of assets and/or disposition of funds received from causes of action.
- E(56) The claim(s) of the following Creditor(s) identified in the Plan is/are reclassified as a general unsecured claim, for which a proof of claim must be timely filed: (Creditor Name)
- E(57) To the extent an objection is filed and sustained regarding the following Post Petition Fee Notice(s), any additional funds realized as a result of the same shall be added to the fund benefiting general Unsecured Creditors: (Creditor Name)
- E(58) Since the Debtor's computation of the Liquidation Alternative Test ("LAT") is based on use of depreciating or liquid asset(s) that Debtor(s) is/are retaining, the condition for Debtor(s) receipt of §1328 discharge is that the LAT remains at the minimum of \$ (Amount) including any future plan modification.
- E(59) The following claim(s) will be paid as specially classified, pro rata, at Trustee's level (No.). (Creditor Name) (Claim No. (#)).
- E(60) The pool for unsecured creditors controls.

(F) **MISCELLANEOUS**

- F(61) The Debtor shall file an Amended Plan on or before (Date).
- F(62) The Debtor shall file all business-related documents on or before (14 days insert Date).
- F(63) The Debtor shall file all Monthly Operating Reports currently due on or before (14 days insert Date), and, continue to timely file same until further order of Court.
- F(64) The Debtor is to resume direct long term debt payments effective (Date).

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

IN RE	)	
	)	Case No. _____
Debtor #1 and Debtor #2,	)	
Debtor(s)	)	Chapter 13
_____	X	
	)	
Debtor #1 and Debtor #2,	)	
Movant(s),	)	
- vs. -	)	
	)	
[Insert Affected Creditors, if any],	)	
and Ronda J. Winnecour, Trustee,	)	
Respondents.	)	
_____	X	

**NOTICE OF PROPOSED MODIFICATION TO  
PLAN DATED [INSERT DATE]**

1. Pursuant to 11 U.S.C. § 1329, the Debtor(s) has filed an Amended Chapter 13 Plan dated \_\_\_\_\_, which is annexed hereto at Exhibit “A” (the “Amended Chapter 13 Plan”). A summary of the modification is set forth below in paragraphs 4 through 6 of this Notice.

2. All Objections to the Amended Chapter 13 Plan must be filed and served by no later than 21 days after the date of this Notice upon the Debtor(s), Chapter 13 Trustee and any creditor whose claim allowance or treatment is the subject of the Objection. Untimely Objections will not be considered. Any creditor who files a timely Objection to the Amended Chapter 13 Plan must appear at the scheduled Initial Confirmation Hearing on the Amended Chapter 13 Plan.

3. A virtual (via Zoom) Initial Confirmation Hearing on the Amended Chapter 13 Plan will be held on \_\_\_\_\_, 20\_\_\_\_, at \_\_\_\_\_ .m., before the Chapter 13 Trustee. The table and meeting I.D., to participate by Zoom (and telephone number and meeting I.D. to participate by telephone if you lack the ability to participate by Zoom), can be found at <http://www.ch13pitt.com/calendar/> several days before the meeting. Parties are expected to familiarize themselves with the Trustee’s website at <http://www.ch13pitt.com/> and to comply with the procedures set forth at that site for conference participation.

4. Pursuant to the Amended Chapter 13 Plan, the Debtor(s) seeks to modify the Plan in the following particulars:

**[In ¶4 insert a specific description of how the Plan is being modified].**

5. The proposed modification to the Plan will impact the treatment of the claims of the following creditors, and in the following particulars:

**[In ¶5 identify which creditors will have distributions affected by the modification, and how their distributions will in-fact be affected].**

6. Debtor(s) submits that the reason(s) for the modification is (are) as follows:

**[In ¶6 identify reason(s) for modification, including change of circumstances].**

7. The Debtor(s) submits that the requested modification is being proposed in good faith, and not for any means prohibited by applicable law. The Debtor(s) further submits that the proposed modification complies with 11 U.S.C. §§ 1322(a), 1322(b), 1325(a) and 1329 and, except as set forth above, there are no other modifications sought by way of the Amended Chapter 13 Plan.

WHEREFORE, the Debtor(s) respectfully requests that the Court enter an Order confirming the Amended Chapter 13 Plan, and for such other relief the Court deems equitable and just.

RESPECTFULLY SUBMITTED, this \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
Name:  
Attorney I.D.:  
Address:  
Phone #:  
Facsimile #:  
E-Mail:

Attorney for the Debtor