

Motion to Dismiss Case or Party – Chapter 12 and Chapter 13

Docketing Event

- Bankruptcy > Motions/Applications/Objections > Motion to Dismiss Case
 - Bankruptcy > Motions/Applications/Objections > Motion to Dismiss Party
 - Bankruptcy > Notices > Notice of Dismissal (voluntary)
-

Negative Notice: Yes, for a Motion to Dismiss filed by the Trustee.

Accompanying Orders: No.

Code and Rule References:

[11 U.S.C. § 349](#)

[11 U.S.C. § 1208](#)

[11 U.S.C. § 1307](#)

[Fed. R. Bankr. P. 1017](#)

[Fed. R. Bankr. P. 2002](#)

[Fed. R. Bankr. P. 9013](#)

[Local Rule 2002-4](#)

[Local Rule 9013-1](#)

Fee: N/A

Applicable Chapters: 12, 13

Implemented: 8/14/2020

Last Revision: 8/14/2020 12:42:47 PM

Description

Any interested party, including the debtor, creditors, trustees, and United States Trustee may move to dismiss the case or a particular debtor from a Chapter 12 or 13 case. A motion is required. This procedure does not apply to Chapter 7 or 11 cases.

Negative notice under Local Rule 2002-4 is not used *unless* the Chapter 12 Trustee or Chapter 13 Trustee is filing a motion to dismiss. Filing a “notice” of dismissal does not automatically dismiss a case.

An order is required for dismissal. For debtors requesting dismissal, the clerk’s office prepares the dismissal order.

11 U.S.C. § 1208 governs Chapter 12 case dismissals; 11 U.S.C. § 1307 governs Chapter 13 case dismissals. Except as provided by the Bankruptcy Code or court order, dismissal of a bankruptcy case is without prejudice and does not bar the debtor from filing a new case.

Filing Checklist

Review the motion to determine if:

- The motion is signed;
- Has the attorney’s name and address complete and consistent with the filing attorney’s name and address in CM/ECF;

- The motion is properly served and includes a proper certificate of service; and
- If a Trustee is requesting dismissal of a case, the motion contains negative notice that has the correct language located on the first page.

Forms

[Motion to Dismiss](#)