

It is necessary to file a Motion for Modification when the plan is changed. For example, if you are proposing to change the percentage that is to be paid to the unsecured creditors, you must file a Motion for Modification. Often, you may need to add a secured creditor which was inadvertently omitted at the time of the initial filing. In this instance, you would be amending the schedules as well as filing for a modification inasmuch as the secured creditor has not previously been a part of the plan. These are just two examples of a modification and these examples are not intended to be exclusive. A good "rule of thumb" to remember is that if the plan changes, then a Motion for Modification is necessary.

**PROCEDURE**

**Prepare Motion for Modification**

- list all proposed changes numerically
- briefly state each change in clear and concise language

**Prepare Amended Schedules**

- copy the original page(s) of your petition which are affected by the Modification
- type "**AMENDED**" & **DEBTOR'S NAME AND CASE NO.** at top of each page white out or add any information on these pages
- mark each change with an asterisks (\*\*\*) - (if possible, place at left of change)
- prepare 2 copies of each page for Jackson office
- prepare 1 copy of each page for Gulfport office
- **Unsworn Declaration Under Penalty of Perjury**  
in accordance with FRBP 1008, 28 USC § 1746 the following statement is required to be provided with each amendment: "I declare (or certify, verify or state) under penalty of perjury that the forgoing is true and correct." and must contain the original signature of the debtor(s). If there are multiple pages of schedules being amended, the declaration under penalty of perjury is not required to be typed on each page, a declaration on the last page of the schedules listing all schedules amended with the original signature of the debtor(s) is all that is required. (see attached example)

**Prepare Amended Matrix (if the modification has added a creditor)**

- type "**AMENDED**" at the top of the matrix
- add or delete any creditor(s) (when deleting, place XXXX through address)
- mark additions with asterisks (\*\*\*)
- file this matrix with the Clerk's office
- do not submit amended matrix on diskette

**Prepare Modified "MINI" Plan**

- copy original mini plan
- make necessary changes on this sheet (do not type a new mini plan)
- mark each change with asterisks (\*\*\*)
- the modified chapter 13 modified mini plan + 4 copies

**Prepare a Notice of Modification**

- type correct debtor's name, all other names used by the debtor(s) within the last six (6) years before filing the petition, social security number of the debtor(s), and case number
- list the name and address of each affected party (include Case Trustee and U.S. Trustee)
- **When Modification does not add a Creditor:** allow twenty (20) days from the mailing of Notice for filing of objections to modified plan
- **Only When Adding a Creditor:**
- allow twenty (20) days from mailing of Notice for written request of the U. S. Trustee of an adjourned §341(a) meeting of creditors
- 90 days to file a proof of claim

- 20 days to file an objection to the modification (example of this language is given in the Notice of Amendment)
- attach a copy of the §341(a) meeting of creditors
- **Distribute Modification**
- file with the Clerk's Office
  - original in Gulfport office
  - original + 1 copy in Jackson office
  - (a) Motion for Modification
  - (b) Notice of Filing of Modification
  - (c) the Modified Mini Plan + 4 copies
  - (d) the Amended Schedules
  - (e) the Amended Mailing Matrix (original only)(ONLY IF A CREDITOR HAS BEEN ADDED OR DELETED)
  - (f) if necessary, the original and 5 copies of Order Approving Modification (see below)
  - (g) \$26.00 filing fee (When adding, deleting or changing the schedule of creditors) (If you require a FILED stamped copy returned to you by mail, include an extra copy plus a self-addressed, stamped envelope)
- mail to the affected creditor(s)
  - (a) 1 copy of Notice
  - (b) 1 copy of Motion
  - (c) 1 copy of Modified Mini Plan
  - (d) 1 copy of Amended Schedules
- mail to the Case Trustee and U. S. Trustee
  - (a) 1 copy of Notice
  - (b) 1 copy of Motion
  - (c) 1 copy of Modified Mini Plan
  - (d) 1 copy of Amended Schedules

**Modification Prior to Confirmation:**

An Order approving Modification is not necessary because the Order of Confirmation will Confirm the modified Plan provided no objections are filed.

**Modification After Confirmation:**

Submit an original + 5 copies of Order Approving Modification (see attached sample). If no objections are filed after the 20 days objection time has passed, the order approving modification will be entered by the Court. If an objection is filed, you will be notified of a hearing date.

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI**

**IN THE MATTER OF:**

**BANKRUPTCY NO. \_\_\_\_\_  
CHAPTER 13**

(Debtor(s) name and all other names used by the debtor(s) within the last six (6) years)

(Last four digits of the Debtor(s) Social Security No.)

TO: CASE TRUSTEE (list name and address)  
U.S. TRUSTEE  
AFFECTED CREDITOR(S)  
(list name and address of each affected creditor)

**NOTICE OF FILING MODIFICATION OF PLAN**

**YOU ARE HEREBY NOTIFIED** that the above named debtor(s) has/have filed with the Bankruptcy Court a Modification of Chapter 13 Plan (see copy of proposed modification attached).

**YOU ARE FURTHER NOTIFIED** that if you are a newly added creditor, and if you wish to examine the debtor under oath, you must request of the U.S. Trustee an adjourned §341(a) meeting. Said request must be made within 20 days of the date of this notice.

**YOU ARE FURTHER NOTIFIED** that any objections to this proposed Modification of Chapter 13 Plan should be filed by written pleading with the Court with a copy to the Case Trustee and U. S. Trustee within twenty (20) days of the mailing of this notice. If no objection is timely filed, the Court may approve the plan as modified.

**YOU ARE FURTHER NOTIFIED** that any added creditor is given ninety (90) days from the date of mailing of this Notice to file a Proof of Claim.

**DATED** this the \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

\_\_\_\_\_  
Signature of Attorney for Debtor(s)

**CERTIFICATE OF SERVICE**

I, \_\_\_\_\_, attorney for the above listed debtor(s), do hereby certify that I have this day mailed a true and correct copy of the above Notice of Filing Modification of Plan and copy of the attached proposed modification to the Case Trustee, U. S. Trustee, and the affected creditor(s) at the above listed address.

This the \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

NAME OF ATTORNEY  
ADDRESS  
CITY, STATE & ZIP  
TELEPHONE NUMBER

\_\_\_\_\_  
Signature of Attorney for Debtor(s)

**“EXAMPLE”**  
**IN THE UNITED STATES BANKRUPTCY COURT**  
**FOR THE SOUTHERN DISTRICT OF MISSISSIPPI**

**IN RE: JOHN DOE**

**BANKRUPTCY NUMBER 0000000 SEG**  
**CHAPTER 13**

**MOTION FOR MODIFICATION OF PLAN**

**COMES NOW** the debtor and files this proposed Modification of his/her/their Chapter 13 Plan as follows:

1. That First Guaranty Savings and Loan be removed from the Plan as a secured creditor.
2. That the security held by First Guaranty be abandoned to said creditor.
3. etc.

**WHEREFORE**, debtor prays that the Chapter 13 Plan be modified as set forth above.

**RESPECTFULLY** submitted, this the \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

NAME OF ATTORNEY  
ADDRESS  
CITY, STATE & ZIP  
TELEPHONE NUMBER

\_\_\_\_\_  
Signature of Attorney for Debtor

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI**

**IN RE:**

**BANKRUPTCY NUMBER  
CHAPTER 13**

**ORDER APPROVING MOTION FOR MODIFICATION OF PLAN**

A Motion and Notice of Modification of Plan having been filed in the above styled and numbered Chapter 13 bankruptcy proceeding dated \_\_\_\_\_, and no written objections having been filed within twenty (20) days, it is therefore,

**ORDERED AND ADJUDGED** that the Motion for Modification of Plan in the above styled and numbered Chapter 13 bankruptcy proceeding is granted.

**SO ORDERED** this the \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

\_\_\_\_\_  
EDWARD R. GAINES  
UNITED STATES BANKRUPTCY JUDGE