

## Filing a Modified Plan and Notice of Motion

- 1) Use the sample Notice of Motion to Modify as a guide.
- 2) You must provide at least **21 days' notice** between the date you mail the notice and the next hearing date (see Rule 2002(a)(8)).

Check the Bankruptcy Court's web site for motion hearing times.

<http://www.nynb.uscourts.gov/usbc/motions/Motions.htm>

- 3) Motion and notice must be filed **electronically** in **.pdf** format. The affirmation in support of the motion is filed under *Bankruptcy > Motions/Applications > Modify Plan* and the Notice is filed under *Bankruptcy > Notices > Notice of Hearing on Default Motion* (make sure you put the default language in the notice; see Local Bankruptcy Rule 9013-4). Attach a certificate of service to the Notice.
- 4) An amended or modified plan must be filed and served with the motion (see Local Bankruptcy Rule 3015-2(a)(4)).
- 5) You must **always** give notice to Chapter 13 Trustee **and** the U.S. Trustee. Electronic notice is sufficient.
- 6) Those creditors whose treatment is being adversely affected especially need to receive notice (i.e., if you are reducing the dividend to unsecured creditors, all unsecured creditors must receive notice of the motion and amended plan).

## Calculating the Dividend for a Modified Chapter 13 Plan After Confirmation

**If secured/priority claims have been paid in full and money has been paid to unsecured creditors:**

Example

1) To determine monthly plan payment, subtract total amount of Schedule J expenses from total amount of Schedule I income.	<table style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 60%;">Amended Sched I income:</td> <td style="text-align: right;">\$2,700</td> </tr> <tr> <td>Amended Sched J expenses:</td> <td style="text-align: right;"><u>- 2,500</u></td> </tr> <tr> <td></td> <td style="text-align: right;">\$200</td> </tr> </table>	Amended Sched I income:	\$2,700	Amended Sched J expenses:	<u>- 2,500</u>		\$200		
Amended Sched I income:	\$2,700								
Amended Sched J expenses:	<u>- 2,500</u>								
	\$200								
2) Multiply monthly plan payment by term (the number of months) remaining in the plan.	$\$200 \times 35 \text{ mos} = \$7,000$								
3) Subtract Trustee's fees (10%)* and any balance owed on attorney fees for motion to modify that are to be paid through the plan.	<table style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 60%;"></td> <td style="text-align: right;">\$7,000</td> </tr> <tr> <td></td> <td style="text-align: right;">- 700</td> </tr> <tr> <td></td> <td style="text-align: right;"><u>- 250</u></td> </tr> <tr> <td></td> <td style="text-align: right;">\$6,050</td> </tr> </table>		\$7,000		- 700		<u>- 250</u>		\$6,050
	\$7,000								
	- 700								
	<u>- 250</u>								
	\$6,050								
4) Subtract the balances owed on secured and priority claims.	<table style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 60%;"></td> <td style="text-align: right;"><u>0</u></td> </tr> <tr> <td></td> <td style="text-align: right;">\$6,050</td> </tr> </table>		<u>0</u>		\$6,050				
	<u>0</u>								
	\$6,050								
5) Add the total amount that has already been paid to unsecured creditors.	<table style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 60%;"></td> <td style="text-align: right;"><u>+ 300</u></td> </tr> <tr> <td></td> <td style="text-align: right;">\$6,350</td> </tr> </table>		<u>+ 300</u>		\$6,350				
	<u>+ 300</u>								
	\$6,350								
6) Divide this amount by the total amount of unsecured debt to obtain the new dividend.	<table style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 60%;"></td> <td style="text-align: right;"><u>÷ 30,000</u></td> </tr> <tr> <td></td> <td style="text-align: right;">21%</td> </tr> </table>		<u>÷ 30,000</u>		21%				
	<u>÷ 30,000</u>								
	21%								

\*Trustee fees and commissions are set by the U.S. Trustee and change periodically. See the General Information page on the Trustee's web site for the current rate. (However, to be safe, you should use 10%, the maximum rate allowed).