

## Motions for Hardship Discharge

11 U.S.C. § 1328(b) permits a debtor to receive a discharge without completing all payments required under the debtor's confirmed chapter 13 plan in certain circumstances.

Motions for Hardship Discharges are governed by SC LBR 3015-5 and should be filed with a "Certification of Debtor Information and Request for Hardship Discharge" and a "Notice of Hearing and Certification of Debtor Information and Request for Hardship Discharge," which are available within the District's local rules.

Motions for Hardship Discharge should explain how the debtor complies with the requirements of 11 U.S.C. § 1328(b), including how the debtor's failure to complete plan payments are due to circumstances for which the debtor should not be justly held accountable; that the value, as of the effective date of the plan, of property actually distributed under the plan on account of each allowed unsecured claim is not less than the amount that would have been paid on such claim if the estate of the debtor had been liquidated under chapter 7 of the Bankruptcy Code on such date; and why a modification of the debtor's confirmed plan is not practicable.

If the debtor seeking a hardship discharge is still employed, the debtor will need to provide amended schedules I and J and updated paystubs for the Trustee's review.

Motions for Hardship Discharge are non-passive, self-scheduled hearings under SC LBR 9013-4 and must be served on the mailing matrix with a hearing notice providing a 14-day objection deadline.

The Trustee will file a response to the motion, explaining whether the Trustee consents or objects to the motion.

Because Motions for Hardship Discharge are non-passive, the Court may hold a definite hearing and require attendance of the debtor even if no timely objections are filed and the Trustee has filed a response consenting to the motion. Counsel should closely monitor the Court's hearing docket to see if the hearing is removed in advance.