

PROCEDURE FOR RESPONDING TO POST-CONFIRMATION TRUSTEE'S
MOTIONS TO DISMISS

1. A Trustee's Motion to Dismiss Case (TMTD) filed after confirmation shall contain 21 day negative notice language and will be set for hearing not less than 60 days from the date of the filing of the motion.
2. If the Debtor is able to bring plan payments current, the Debtor shall file a Response which provides the date on which the plan payments will be current. The Parties may incorporate this deadline in an Agreed Order.
3. If the Debtor desires to cure the default over time and continue the Chapter 13 case, then the Debtor should respond to the TMTD with a Motion to Modify Plan in Response to the TMTD. It is preferred that the Debtor's motion be entitled:

DEBTOR'S MOTION TO MODIFY PLAN IN RESPONSE
TO TRUSTEE'S MOTION TO DISMISS CASE
4. The Motion to Modify Plan in Response to Trustee's Motion to Dismiss Case must contain twenty-one day negative notice language prominently indicated on the first page of the pleading and must be linked to the TMTD in ECF.
5. The negative notice language on the Motion to Modify should supply the date and time of hearing on the TMTD (as any potential hearing on the Motion to Modify Plan will be heard at the same time as the TMTD).
6. If no timely response to the TMTD is filed, no earlier than the 25th day after the TMTD was filed, the Court will enter the dismissal order and the hearing on the TMTD will be terminated. Counsel may file a response stating that the Debtor intends to file a Motion to Modify; however, the Motion to Modify must be filed timely as set forth below.

7. If a Motion to Modify is required to resolve the TMTD, the motion must be filed in time for the hearing on the motion to be set along with the pending TMTD, meaning that the motion must be filed at least 32 days before the TMTD hearing.
8. If a Motion to Modify is required to resolve the TMTD but is not filed in time to be set with the TMTD, the Court will grant the TMTD, absent extraordinary circumstances.