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| Severed (Split) Cases |

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| OverviewA split case occurs when the debtors in a joint case decide to sever their joint case into two separate cases. The judge must grant the motion to sever before a split case can be created. |

Procedure

1. The debtors’ attorney files a motion to sever the case. The motion to sever requires payment of a fee. These motions are set for hearing.
2. The motion should state with specificity the intention of the parties with regard to each portion of the case (i.e both cases remain in 13, one case to convert to 7, one case to dismiss).
3. When the order severing the case is entered, the Court will split the case where the original case will remain with one debtor and a new case number is created for the other debtor. Both cases are flagged by the Court as SPLITCASE.
4. In the new case, the following information is used from the original case to create the shell of the new case on the docket:
5. Division location.
6. The Date Filed is the date the original case was filed. No new bar date will be set.
7. Chapter.
8. Debtor attorney.
9. Prior filing within last 8 years (the case the debtor just split from is added as prior).
10. Estimated number of creditors, estimated assets and estimated liabilities.
11. The Clerk will enter a clerk’s notice of dismissal for all missing documents in the split case.
12. The severed debtor will need to file all new schedules with only the severed debtor’s debts listed.
13. The severed debtor should also file a new Chapter 13 plan to deal with only severed debtor’s debts. The term of the severed debtor’s plan should be for the remaining term left from the original case. The severed debtor does not get an additional five years after splitting from the original case.
14. The split case will be set for a new §341 meeting of creditors.
15. In the original case, the debtor should file amended schedules to remove the debts that do not belong to the original case.
16. The original debtor should file a Rule 9007 motion to modify the Chapter 13 plan to deal with only the original debtor’s debts. The Trustee may request the motion to modify plan be set for an adjourned meeting of creditors (AMOC).
17. The original debtor should file objections to all claims in the original case that do not belong to the original debtor. Neither the Clerk nor the Trustee can remove claims from the original case to the split case without Court Orders from the objection to claim.
18. If the creditor files a claim in the split case that duplicates a claim filed in the original case, then the claim filed in the split case will be treated as amending the original claim.