

THE NUTS AND BOLTS OF SUBCHAPTER V

MODERATOR

THE HONORABLE CHIEF JUDGE EDUARDO V. RODRIGUEZ*
U.S. BANKRUPTCY COURT, SOUTHERN DISTRICT OF TEXAS

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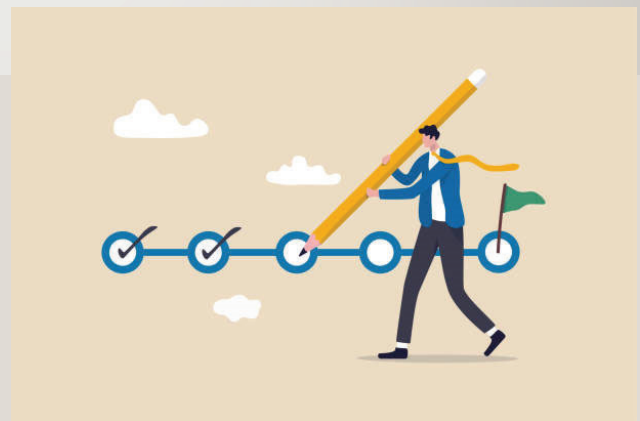
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¹ Any views expressed are those of the speaker and do not necessarily represent the views of and should not be attributable to the United States Trustee Program or the U.S. Department of Justice.

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CASE FILED, NOW WHAT?

- Post filing.
- Pre confirmation.
- Post confirmation.



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POST FILING

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STATUS CONFERENCE

- Section 105(d), which permits a court to conduct a status conference in any chapter, does not apply in a subchapter V case. Instead, it is mandatory in a subchapter V case under section 1188(a).
- Code text: §1188 Status Conference
 - **(a) In General.** Except as provided in subsection (b), not later than 60 days after the entry of the order for relief under this chapter, the court shall hold a status conference to further the expeditious and economical resolution of a case under this subchapter.
 - **(b) Exception.** The court may extend the period of time for holding a status conference under subsection (a) if the need for an extension is attributable to circumstances for which the debtor should not justly be held accountable.
 - **(c) Report.** Not later than 14 days before the date of the status conference under subsection (a), the debtor shall file with the court and serve on the trustee and all parties in interest a report that details the efforts the debtor has undertaken and will undertake to attain a consensual plan of reorganization.



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WHAT §1188 DOES NOT SAY



How the court schedules the status conference.

Consult local rules for scheduling and noticing guidelines.



The contents of the debtor's report.

Only requires the report detail "the efforts of the debtor has undertaken and will undertake to attain a consensual plan of reorganization."

Consult local rules and local forms, as local jurisdictions may have additional requirements.

Read scheduling order in case it outlines additional specific items to include in the report.



Duties of court or creditors.

Court may ask about any matter related to the case at status conference.

Creditors may also ask questions.

TIMING IN FILING A PLAN

- 60 days for status conference, should formulate consensual plan structure.
- 90 days from the petition date to formulate a consensual plan structure.

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