

Guidelines Regarding Voluntary Dismissals of Chapter 11 Cases
(Eff. June 1, 2019)

The Court promulgates these guidelines in order to provide guidance on when voluntary dismissals may be proper, and what the Court will normally approve and normally not approve in a Chapter 11 dismissal motion.

A. Situations in Which a Voluntary Dismissal May Be Appropriate

1. Cases in which substantially all of the assets of the estate have been sold or otherwise liquidated under Bankruptcy Code section 363.
2. Cases in which a change in circumstances has occurred that eliminates the need for further administration in the Bankruptcy Court. For example, where all creditors have been or will be paid in full.
3. Cases in which the estate is administratively insolvent and/or further administration of the debtor in bankruptcy is economically impractical or infeasible.

B. What the Court Will Normally Approve in a Dismissal Motion

1. Payments to creditors and/or retention of ownership by equity holders that comply with the priority scheme in the Bankruptcy Code.
2. Payments to creditors and/or retention of ownership by equity holders that do not comply with the priority scheme in the Bankruptcy Code, where all parties adversely affected by the deviation from the priority scheme have consented to the treatment. The absence of a timely objection will be deemed consent.
3. A provision in the proposed order stating that the Court's orders entered in the case remain in full force and effect despite the dismissal. See 11 U.S.C. § 349(b)(2).

4. A procedure for resolving claim objections, provided that the procedure is concluded prior to dismissal and closing of the case.
5. A procedure for review and approval of administrative claims prior to dismissal.

C. What the Court Will Normally Not Approve in a Dismissal Motion

1. Third party releases or exculpations, other than consensual releases approved as part of a settlement, after notice and opportunity for hearing.
2. A discharge of the debtor, or the issuance of any injunctions protecting the debtor or its property after dismissal of the case.
3. The appointment of a trustee, examiner, plan administrator or similar third party to carry out a liquidation and/or claims objection process.
4. Payments that do not comply with the priority scheme in the Bankruptcy Code without consent of all parties adversely affected by the deviation from the priority scheme. The absence of a timely objection will be deemed consent.

D. Procedural Requirements and Guidance

1. Movants should include a proposed order along with the motion so that the Court and parties in interest can determine the scope of the requested relief. The notice shall specifically note all parties and/or classes of creditors whose bankruptcy priority rights will be altered if the motion is granted. Service on affected parties shall comply with applicable rules and a certificate of service must be filed prior to the initial hearing.
2. Movants must also include a table or chart in the motion that sets forth clearly all deviations from the Bankruptcy Code and

these guidelines in the motion and the reasons for such deviations.

3. The proposed order should include a provision stating that orders entered in the case will remain in full force and effect notwithstanding the dismissal if the parties wish to invoke 11 U.S.C. § 349(b)(2).