

United States Bankruptcy Court  
District of South Carolina

LOCAL RULES  
Effective as of 8/3/2011



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## LOCAL RULE 1001-1: SCOPE, CITATION, AND APPLICABILITY OF LOCAL RULES

- (a) **Scope and Citation of Rules.** These local rules govern practice and procedure before the Court. The rules are to be cited as "District of South Carolina Local Bankruptcy Rules" and the individual rules may be cited as "SC LBR \_\_\_\_."
- (b) **Construction of Rules.**
  - (1) **Construction with Other Rules.** These rules do not create, modify or abrogate substantive rights. The rules are not to be construed in a manner inconsistent with the Federal Rules of Bankruptcy Procedure and the applicable Federal Rules of Civil Procedure.
  - (2) **Gender; Plural.** Whenever applicable, each gender includes the other gender and the singular includes the plural.
  - (3) **References to Rules and Statutes.** Any reference in the local rules to a statute or a rule shall include amendments or successors thereto.
- (c) **Suspension or Modification of Local Rules.** A judge may, *sua sponte* or upon motion of a party in interest for good cause shown, suspend or modify the application of any local rule(s) to a particular case or proceeding.

### Notes:

(2008) Portions of former SC LBR 9001-1 were consolidated into paragraph (b) of this rule pursuant to Fed. R. Bankr. P. 9029(a) and the Judicial Conference's prescribed numbering conventions. Former paragraphs (c) and (e) were deleted as unnecessary.

## **LOCAL RULE 1006-1: FEES- INSTALLMENT PAYMENTS**

An application to pay filing fees in installments must be accompanied by a minimum payment established by the Court. The installment payments are equal to certain charges set by statute, rule, or other guideline and shall include the administrative fee, the trustee surcharge (if applicable), and a portion of the filing fee. The amount of the minimum payment shall be posted on the Court's website and in the Clerk's Office.

### **Notes:**

(2008) Former paragraph (a) was restyled. Former paragraph (b) was deleted as unnecessary based upon the incorporation of the Interim Bankruptcy Rules into the Federal Rules of Bankruptcy Procedure.

## **LOCAL RULE 1007-1: LIST OF CREDITORS**

The requirement of a list of creditors pursuant to Fed. R. Bankr. P. 1007(a) shall be met by the filing of a mailing matrix as provided herein. The debtor must file the mailing matrix with the petition.

The mailing matrix must be submitted in accordance with the provisions for filing documents set forth in the Court's Guidelines for the Filing of Documents, as amended from time to time.

It is not necessary to include the debtor, joint debtor, attorney for the debtor, case trustee, the United States trustee, or the judge assigned to the case because these, where applicable, will automatically be added by the Court's Case Management/Electronic Case Filing ("CM/ECF") system.

It is the debtor's responsibility to verify and ensure that the information on the mailing matrix is identical to the schedules, statements, and lists and the debtor shall update the mailing matrix pursuant to the Operating Order regarding returned and undeliverable mail, as amended or as may be incorporated into these rules.

Please see the Court's website for an updated [creditor address list](#).

### **Notes:**

(2008) Portions of this rule were restyled and procedures to ensure the integrity of the mailing matrix were clarified.

**LOCAL RULE 1007-I: INCORPORATION OF INTERIM BANKRUPTCY RULE 1007-I**

Interim Bankruptcy Rule 1007-I, as amended, is applicable to all cases filed on or after December 19, 2008 and is to be read in conjunction with any corresponding Federal Rule.

**Notes:**

(2008) This rule was added to the Local Rules December 19, 2008 and serves to implement the National Guard and Reservists Debt Relief Act of 2008. Subdivision (n)(1) was added to the model Interim Bankruptcy Rule and subdivisions (n)(1) and (n)(2) of the model Interim Bankruptcy Rule were renumbered as subdivisions (n)(2) and (n)(3).

**INTERIM BANKRUPTCY RULE 1007-I: LISTS, SCHEDULES, STATEMENTS, AND OTHER DOCUMENTS; TIME LIMITS; EXPIRATION OF TEMPORARY MEANS TESTING EXCLUSION**

\* \* \* \* \*

**(b) Schedules, Statements, and Other Documents Required.**

\* \* \* \* \*

**(4)** Unless either: (A) § 707(b)(2)(D)(i) applies, or (B) § 707(b)(2)(D)(ii) applies and the exclusion from means testing granted therein extends beyond the period specified by Rule 1017(e), an individual debtor in a chapter 7 case shall file a statement of current monthly income prepared as prescribed by the appropriate Official Form, and, if the current monthly income exceeds the median family income for the applicable state and household size, the information, including calculations, required by § 707(b), prepared as prescribed by the appropriate Official Form.

**(c) Time Limits.** In a voluntary case, the schedules, statements, and other documents required by subdivision (b)(1), (4), (5), and (6) shall be filed with the petition or within 14 days thereafter, except as otherwise provided in subdivisions (d), (e), (f), and (h), and (n) of this rule. In an involuntary case, the list in subdivision (a)(2), and the schedules, statements, and other documents required by subdivision (b)(1) shall be filed by the debtor within 14 days of the entry of the order for relief. In a voluntary case, the documents required by paragraphs (A), (C), and (D) of subdivision (b)(3) shall be filed with the petition. Unless the court orders otherwise, a debtor who has filed a statement under subdivision (b)(3)(B), shall file the documents required by subdivision (b)(3)(A) within 14 days of the order for relief. In a chapter 7 case, the debtor shall file the statement required by subdivision (b)(7) within 60 days after the first date set for the meeting of creditors under § 341 of the Code, and in a chapter 11 or 13 case no later than the date when the last payment was made by the debtor as required by the plan or the filing of a motion for a discharge under § 1141(d)(5)(B) or § 1328(b) of the Code. The court may, at any time and in its discretion, enlarge the time to file the statement required by subdivision (b)(7). The debtor shall file the statement required by subdivision (b)(8) no earlier than the date of the last payment made under the plan or the date of the filing of a motion for a discharge under §§ 1141(d)(5)(B), 1228(b), or 1328(b) of the Code. Lists, schedules, statements, and other documents filed prior to the conversion of a case to another chapter shall be deemed filed in the converted case unless the court directs otherwise. Except as provided in § 1116(3), any extension of time to file schedules, statements, and other documents required under this rule may be granted only on motion for cause shown and on notice to the United States Trustee, any committee elected under § 705 or appointed under § 1102 of the Code, trustee, examiner, or other party as the court may direct. Notice of an extension shall be given to the United States trustee and to any committee, trustee, or other party as the court may direct.

\* \* \* \* \*

**(n) Time Limits for, and Notice to, Debtors Temporarily Excluded from Means Testing.**

**(1)** Within seven days of the petition date, a debtor, excluded from means testing pursuant to § 707(b)(2)(D)(ii) of the Code, shall file or docket a statement of temporary exclusion from means testing. If a debtor, excluded from means testing pursuant to § 707(b)(2)(D)(ii) of the Code, is released from active duty after the petition date and before the case is closed, the debtor shall file or docket a statement of release from active duty within seven days of being released from active duty.

**(2)** An individual debtor who is temporarily excluded from means testing pursuant to § 707(b)(2)(D)(ii) of the Code shall file any statement and calculations required by subdivision (b)(4) no later than 14 days after the expiration of the temporary exclusion if the expiration occurs within the time specified by Rule 1017(e) for filing a motion pursuant to § 707(b)(2).

- (3) If the temporary exclusion from means testing under § 707(b)(2)(D)(ii) terminates due to the circumstances specified in subdivision (n)(2), and if the debtor has not previously filed a statement and calculations required by subdivision (b)(4), the clerk shall promptly notify the debtor that the required statement and calculations must be filed within the time specified in subdivision (n)(2).

**Notes:**

(2008) CLERK'S NOTE: Subdivision (n)(1) is in addition to the provisions found in model Interim Bankruptcy Rule 1007-I. The paragraph clarifies the debtor's duty to docket a statement of temporary exclusion from means testing and requires the debtor to docket a statement of release from active duty, if released from duty during the pendency of the case, so that the Clerk of Court may send the notice required by subdivision (n)(3).

(2008) COMMITTEE NOTE: This rule is amended to take account of the enactment of the National Guard and Reservists Debt Relief Act of 2008, which amended § 707(b)(2)(D) of the Code to provide a temporary exclusion from the application of the means test for certain members of the National Guard and reserve components of the Armed Forces. This exclusion applies to qualifying debtors while they remain on active duty or are performing a homeland defense activity, and for a period of 540 days thereafter. For some debtors initially covered by the exclusion, the protection from means testing will expire while their chapter 7 cases are pending, and at a point when a timely motion to dismiss under § 707(b)(2) can still be filed. Under the amended rule, these debtors are required to file the statement and calculations required by subdivision (b)(4) no later than 14 days after the expiration of their exclusion.

Subdivisions (b)(4) and (c) are amended to relieve debtors qualifying for an exclusion under § 707(b)(2)(D)(ii) from the obligation to file a statement of current monthly income and required calculations within the time period specified in subdivision (c).

Subdivision (n)(2) is added to specify the time for filing of the information required by subdivision (b)(4) by a debtor who initially qualifies for the means test exclusion under § 707(b)(2)(D)(ii), but whose exclusion expires during the time that a motion to dismiss under § 707(b)(2) may still be made under Rule 1017(e). If, upon the expiration of the temporary exclusion, a debtor has not already filed the required statement and calculations, subdivision (n)(3) directs the clerk to provide prompt notice to the debtor of the time for filing as set forth in subdivision (n)(2).

(2009) CLERK'S NOTE: Deadlines in paragraph (c) and (n) were amended to multiples of seven as part of time computation amendments.

(2010) CLERK'S NOTE: The deadline to file a statement of completion of a course in financial management in a chapter 7 case was extended from 45 days to 60 days in paragraph (c) in accordance with national time computation changes.

**LOCAL RULE 1009-1: AMENDMENTS OF VOLUNTARY PETITIONS, LISTS, SCHEDULES AND STATEMENTS**

- (a) **Statement of Change.** In addition to the requirements under Fed. R. Bankr. P. 1009, when the debtor amends the petition, lists, schedules, or statements, the debtor must file with the Court and give notice of, to any party in interest affected by the amendment, a statement indicating the changes made by the amendment. The statement of change shall be the first page of the amendment filed.
- (b) **Amendments Adding Creditors.** When the debtor adds a creditor by amending either the schedules or the list of creditors, or if the debtor initially files schedules that add creditors to the list filed with the petition, in addition to the requirements of subsection (a), the debtor also must update the mailing matrix for noticing purposes and simultaneously give notice to the added creditor of the following: (1) Notice of Meeting of Creditors; (2) Statement of Social Security Number (Official Bankruptcy Form B 21); (3) the order granting discharge (if any); and (4) any other document filed in the case which affects the rights of the creditor.
- (c) **Address Changes.** When the debtor seeks only to change an address on a petition or list, or is required to change an address as a result of returned mail, such change is not considered an amendment, and the requirements of subsection (a) are not applicable.

**Notes:**

(2008) Portions of former paragraph (c) were consolidated with paragraph (b). Former paragraph (d) was restyled as paragraph (c). Former paragraph (e) was deleted as unnecessary based upon the incorporation of the Interim Bankruptcy Rules into the Federal Rules of Bankruptcy Procedure.

**LOCAL RULE 1015-1: AMENDING PETITIONS TO ADD SPOUSE AND SEPARATING A JOINT PETITION**

- (a) **Joinder of Spouse.** When a debtor has filed a petition under the Bankruptcy Code and subsequently the debtor's spouse seeks to join the petition, the joining debtor must file a petition under the same chapter as the pending case and pay the appropriate fees. The petition shall be accompanied by all schedules, statements and lists required for that chapter. The joining debtor may then move for joint administration of the two cases.
- (b) **Separation of Joint Case.** When one debtor in a case commenced by the filing of a joint petition seeks to maintain a separate case, that debtor shall file a motion to sever the joint case and shall pay the appropriate fees. The new case number shall be assigned to the case of the movant unless otherwise ordered by the Court.
- (1) **Conversion.** If one of two joint debtors seeks conversion to a chapter other than that under which the joint case is pending, in addition to filing a motion to sever the joint case and paying the applicable fee, as provided in the preceding section, a motion to convert must be filed.
- (2) **Dismissal of debtor from a joint case.** When a debtor seeks to dismiss one debtor from a joint case, a motion to sever is not required.

**Notes:**

(2008) Portions of this rule were restyled. Former paragraph (b)(3) was deleted as unnecessary.

## LOCAL RULE 1017-2: DISMISSAL OR SUSPENSION- CASE OR PROCEEDING

- (a) **Dismissal for failure to pay filing fee or file documents.** The Court may enter an order dismissing a voluntary case upon the certification by the Clerk of Court, the United States Trustee, or the case trustee that the debtor failed to pay the filing fee pursuant to Fed. R. Bankr. P. 1006 or failed to file or provide lists, schedules, statements, and other documents required pursuant to 11 U.S.C. § 521 or SC LBR 3015-4 within the time periods established therein or by Fed. R. Bankr. P. 1007(c) and 1019(1)(B).
- (b) **Dismissal for failure to attend a Meeting of Creditors.** In a voluntary case, upon certification to the Court by the United States Trustee or case trustee that either the debtor or attorney for the debtor has not appeared at the meeting of creditors, a continued meeting of creditors, or a special meeting of creditors, or that the debtor or attorney for the debtor has appeared but was unprepared to proceed, the Court may dismiss the case without further notice or hearing.
- (c) **Dismissal for failure to provide financial information.** In a voluntary chapter 7 case, upon certification by the United States Trustee or case trustee that the debtor failed to provide required documentation and financial information, including tax returns, at the meeting of creditors pursuant to Fed. R. Bankr. P. 4002 or otherwise as required by statute or rule, the Court may dismiss the case without further notice or hearing.
- (d) **Dismissal for failure to timely file, distribute, or confirm plan.** The Court may enter an order dismissing or converting a chapter 13 case if confirmation of the plan is denied or upon the certification by the Clerk of Court, the United States Trustee, or the case trustee that the debtor has failed to timely meet the filing requirements of Fed. R. Bankr. P. 3015(b).
- (e) **Motion to Dismiss or Convert Pursuant to 11 U.S.C. § 1112.** Any party filing a motion to dismiss or convert a case pursuant to 11 U.S.C. § 1112 shall ensure that the Court has an available hearing date within the time required by statute, the Federal Rules of Bankruptcy Procedure, and the Local Rule or shall specially request by separate emergency motion that such a hearing be scheduled. The absence of such a request shall be deemed a waiver of the scheduling and ruling deadlines imposed by the statute and the rules.
- (f) **Notice.** Notice of this local rule shall be provided in the Notice of Meeting of Creditors.

### Notes:

(2008) Portions of former SC LBR 1007-2, 2003-1, and 3015-2 were revised and incorporated into this rule pursuant to Fed. R. Bankr. P. 9029(a) and the Judicial Conference's prescribed numbering conventions.

(2011) Paragraph (d) was amended to include cause for dismissal or conversion currently included in the Meeting of Creditors Notice. Paragraph (e) was added and former paragraph (e) was moved to paragraph (f).

## LOCAL RULE 1073-1: ASSIGNMENT OF CASES

- (a) **Manual Assignment of Certain Cases.** The filing party shall not use the “Judge/Trustee Assignment” feature in CM/ECF in the following categories of cases:
- (1) A chapter 11 case in which there is a motion to designate the case as a complex chapter 11 case pursuant to SC LBR 2081-2;
  - (2) A chapter 11 case or group of related chapter 11 cases in which scheduled assets total \$20 million or more;
  - (3) A chapter 11 case in which the filing party believes that the case will require significantly more court time than is customary in the early stages of a chapter 11 case;
  - (4) Any involuntary case;
  - (5) Any chapter 15 or chapter 9 case;
  - (6) Any chapter 11 or chapter 12 cases re-filed within one year of the closure or dismissal of the previous case, whichever is later;
  - (7) Any chapter 7, chapter 11, or chapter 12 cases that relate to a chapter 7, chapter 11, or chapter 12 case currently pending or that was pending within one year prior to the current case; or
  - (8) Cases under any chapter where there is a simultaneous case pending by the same debtor.
- (b) **Certification Regarding Judge Assignment.** The filing party of any case described in paragraph (a) shall file a “Certification Regarding Judge Assignment” in CM/ECF simultaneous with the filing of the case. For any case described in paragraph (a), the Clerk of Court shall make the judge assignment, notify filing counsel of the assignment, and note the assignment on the court docket in an expeditious fashion.
- (c) **Effect of Common Assignment.** The common assignment of related cases shall not constitute consolidation or joint administration pursuant to Fed. R. Bankr. P. 1015 nor shall it constitute substantive consolidation. Such a determination shall be made only upon proper motion and notice.
- (d) **Failure to Comply.** Failure to comply with this Rule may result in the subsequent reassignment of the case(s) or other appropriate relief.

### Notes:

(2008) Portions of former SC LBR 2081-2 were revised and incorporated into this rule pursuant to Fed. R. Bankr. P. 9029(a) and the Judicial Conference's prescribed numbering conventions.

(2010) This rule was amended to incorporate provisions of Operating Order 09-05 and other instances where the Judge/Trustee assignment is not used in the filing of a case. Exhibit A was replaced by the CM/ECF event "Certification Regarding Judge Assignment."

## LOCAL RULE 2002-1: NOTICES

- (a) **Verification.** Upon the filing of a proof of claim and/or notice of appearance utilizing CM/ECF, the filing party shall place the address listed therein on the mailing matrix for purposes of notice. Failure to comply may be deemed a waiver of the right to receive notice.
- (b) **Designation of Addresses.** In a case under chapter 7 or 13, the filing of a notice of preferred address pursuant to 11 U.S.C. § 342(f) by a creditor must be accomplished directly with the agency or agencies that provide noticing services for the Court and will constitute the filing of such a notice with the Court.<sup>1</sup>

In a case under chapter 7 or 13 in which the debtor is an individual, the filing of a notice of case specific address pursuant to 11 U.S.C. § 342(e) by a creditor must be accomplished by filing a form in substantial conformance with Exhibit A and, when filed electronically, must be filed pursuant to applicable CM/ECF procedures governing such filings. Upon request for receipt of a matrix pursuant to CM/ECF, the case specific address will override a corresponding preferred address filed pursuant to 11 U.S.C. § 342(f).

### Notes:

(2008) Portions of this rule were restyled. Former paragraph (c) was deleted as unnecessary based upon the incorporation of the Interim Bankruptcy Rules into the Federal Rules of Bankruptcy Procedure.

(2009) The period in Exhibit A was amended to a multiple of seven as part of time computation amendments.

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<sup>1</sup> Forms and registration information are available on the Court's website.

**EXHIBIT A TO SC LBR 2002-1**

UNITED STATES BANKRUPTCY COURT  
DISTRICT OF SOUTH CAROLINA

IN RE:

CASE NO:  
CHAPTER:

NOTICE OF CASE SPECIFIC ADDRESS PURSUANT  
TO 11 U.S.C. § 342(e) AND  
SC LBR 2002-1

DEBTOR(S)

Pursuant to 11 U.S.C. § 342(e) and SC LBR 2002-1, (*creditor*) files this notice of address to be used to provide notice in the above-captioned case. (*Creditor*) is aware that, pursuant to 11 U.S.C. § 342(e)(2), any notice in such case required to be provided to such creditor by the debtor or the Court will not be provided to the address designated herein until after seven (7) days following receipt of (*creditor's*) notice of address by the Court and the debtor.

Address to be changed (if applicable):

Name: \_\_\_\_\_  
Address 1: \_\_\_\_\_  
Address 2: \_\_\_\_\_  
Address 3: \_\_\_\_\_  
Address 4: \_\_\_\_\_  
City, State, Zip \_\_\_\_\_

Address to be used for further noticing:

Name: \_\_\_\_\_  
Address 1: \_\_\_\_\_  
Address 2: \_\_\_\_\_  
Address 3: \_\_\_\_\_  
Address 4: \_\_\_\_\_  
City, State, Zip \_\_\_\_\_

Authorization: Under penalty of perjury, I, the undersigned affirm that I am authorized to request this address change.

Name: \_\_\_\_\_  
Signature: \_\_\_\_\_  
Date: \_\_\_\_\_

## **LOCAL RULE 2014-1: EMPLOYMENT OF PROFESSIONALS**

An application for an order approving the employment of a professional pursuant to Fed. R. Bankr. P. 2014 must be accompanied by a proposed order. In addition to compliance with Fed. R. Bankr. P. 6003, the order will not be considered for fourteen (14) days following filing to allow for comment by the United States Trustee. Upon approval, employment is effective from the date of filing the application, unless otherwise ordered by the Court.

### **Notes:**

(2008) Reference was made to Fed. R. Bankr. P. 6003 to clarify that the orders on application for employment will be considered no earlier than 20 days following the petition date.

(2009) The comment period for the United States Trustee was extended to 14 days.

### **LOCAL RULE 2015-3: TRUSTEE AND DEBTOR-IN-POSSESSION REPORTS**

- (a) **Monthly Reports.** In accordance with 11 U.S.C. §§ 704(a)(8), 1107(a), 1203, and Fed. R. Bankr. P. 2015, the debtor-in-possession or, if applicable, the trustee, shall file with the Court a financial report for the preceding month not later than the 20<sup>th</sup> day of each month. This report must conform to the format provided by the United States Trustee. The original report must be signed by the debtor or, if applicable, the trustee.
- (b) **Post-Confirmation Reports.** Following the entry of an order confirming a plan of reorganization, the debtor or trustee, pursuant to Fed. R. Bankr. P. 2015(a), shall continue to file monthly operating reports until such time as the case is closed by the Court.
- (c) **Report of Substantial Consummation.** Within ninety (90) days after the date the order confirming plan of reorganization is entered, or whatever time period the Court may require, the debtor, trustee, or other plan proponent shall file a report of substantial consummation, a final report and an application for a final decree which indicates that, upon the approval of the application for final decree, the case will have been fully administered. Failure to timely comply may be deemed a failure to prosecute the case and may constitute grounds for dismissal or conversion without further notice or hearing or other sanction.

**Notes:**

(2008) Portions of former SC LBR 2015-1 and 2081-1 were revised and incorporated into this rule pursuant to Fed. R. Bankr. P. 9029(a) and the Judicial Conference's prescribed numbering conventions.

## **LOCAL RULE 2016-1: COMPENSATION OF PROFESSIONAL PERSONS**

- (a) **Chapter 11 Cases.** In a chapter 11 case, a trustee, examiner, attorney for the debtor or any professional person employed under 11 U.S.C. §§ 327 or 1103 may apply for allowance of compensation and reimbursement of expenses on or after thirty (30) days after the date of the order for relief. A second application may be made on or after sixty (60) days after the first application, and a third application may be made on or after ninety (90) days after the second application. After one hundred eighty (180) days following the date of the order for relief, applications may not be made more than once every one hundred twenty (120) days, unless the Court orders otherwise. In a chapter 11 case, a retainer held by a professional shall be maintained in a trust account and not be drawn against post-petition unless the Court orders otherwise.
- (b) **Chapter 13 Cases.** In chapter 13 cases, attorney's fees shall be governed by an Operating Order which establishes procedures for approval of attorney's fees in chapter 13 cases.

### **Notes:**

(2008) Portions of former SC LBR 2081-1(c)(2) were incorporated into paragraph (a) pursuant to Fed. R. Bankr. P. 9029(a) and the Judicial Conference's prescribed numbering conventions. Paragraph (b) is new.

## **LOCAL RULE 2081-1: CHAPTER 11 PROCEDURAL AND ADMINISTRATIVE REQUIREMENTS**

Unless otherwise ordered, a debtor in a case pending under chapter 11 with 500 or more creditors or parties in interest shall seek to employ a claims and noticing agent in accordance with 28 U.S.C. § 156(c) and in a form and manner acceptable to the Clerk of Court upon the later of the filing of the petition, the entry of the order for relief, or the conversion of the case to a proceeding under chapter 11. The order employing the claims and noticing agent may be entered without notice and a hearing.

### **Notes:**

(2008) Portions of former SC LBR 2081-1 were incorporated into other local rules pursuant to Fed. R. Bankr. P. 9029(a) and the Judicial Conference's prescribed numbering conventions. The provisions in current SC LBR 2081-1 are new.

## LOCAL RULE 2081-2: REQUIREMENTS FOR COMPLEX CHAPTER 11 CASE

- (a) **Designation as Complex.** A debtor filing a chapter 11 bankruptcy petition<sup>1</sup> who believes that the case should be classified as a complex chapter 11 case shall file with the petition a motion for designation as complex chapter 11 case. Factors to be considered in determining whether to move for designation as complex chapter 11 case must be addressed in the motion for consideration by the Court and must include:
- (1) The need for hearings or orders on an emergency or expedited basis following the filing of the petition;
  - (2) The size of the case, either in number of parties, creditors, or employees, or amount of indebtedness (usually total debt of more than \$10 million), whether claims against the debtor and/or equity interests are publicly traded; and
  - (3) The need for simplification of noticing or hearing procedures.
- (b) **Affidavit in Support.** A debtor in a chapter 11 case filing a motion for designation as complex shall file an affidavit accompanying the motion setting forth:
- (1) The nature of the debtor's business and a concise statement of the circumstances leading to the debtor's filing under chapter 11;
  - (2) The following information with respect to each of the holders of the twenty (20) largest unsecured claims, excluding insiders: the name, address, telephone number, name of the person familiar with the debtor's account, the amount of the claim, and an indication of whether the claim is contingent, unliquidated, disputed, or partially secured;
  - (3) The following information with respect to each of the holders of the five largest secured claims: the name, address, the amount of the claim, a brief description and an estimate of the value of the collateral securing the claim, and whether the claim or lien is disputed; and
  - (4) The names of the individuals who comprise the debtor's existing senior management, their tenure with the debtor, and a brief summary of their relevant responsibilities and experience.
- (c) **Determination of Case as Complex Chapter 11.** When a debtor has filed a chapter 11 petition and a motion for designation as complex chapter 11, the debtor shall not use CM/ECF to automatically assign a judge to the case. The case shall be randomly assigned to a judge using the established case assignment system. Upon case assignment, the attorney for the debtor shall immediately deliver to the judge two binders containing complete sets of all motions, applications, and other applicable documents that are known at that time to be sought on an emergency or expedited basis following the filing of the petition, indexed and separated by labeled tabs, along with proposed orders which shall be considered by the Court. The principal attorney for the debtor shall further be available to discuss immediate scheduling needs with the Court.
- (d) **Content of Order Designating Case as Complex Chapter 11.** If the Court determines that the case qualifies for treatment as a complex chapter 11 case, the initial order for complex chapter 11 case will address:

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<sup>1</sup> Despite references to "a debtor filing a chapter 11 bankruptcy petition," "debtor," and "attorney for the debtor," this rule is contemplated to include a party filing an involuntary petition.

- (1) Emergency or expedited hearings to be held within the first two (2) business days of the filing of the petition, or whatever time period demonstrated by the attorney for the debtor as necessary, and the filing and service of the necessary motions and notices related thereto;
- (2) Hearings to be held within the first two (2) weeks after the filing of the petition and the filing and service of the necessary motions and notices;
- (3) Omnibus hearings to be held monthly to consider, among other things, other expedited motions filed, served, and noticed at least seven (7) business days prior to the date being used for the omnibus hearing, unless otherwise ordered by the Court; and
- (4) Final hearings on the foregoing matters and other matters to be scheduled and heard as the Court deems appropriate.

Notices relating to such hearings are to be served by the attorney for the debtor unless otherwise directed.

Parties seeking emergency or expedited relief shall strictly comply with SC LBR 9013-1. Misuse of the expedited scheduling process may subject a party to sanctions.

- (e) **Shortened Mailing Matrix and Service of Notices.** The debtor may, within seven (7) days after the filing date of the petition, file and serve on all parties in the case a motion and notice, using the passive notice procedures of SC LBR 9013-4, to establish a shortened mailing list that will apply to the extent permitted by Fed. R. Bankr. P. 2002. The notice shall provide parties with the option of receiving notices served by debtor or other party in interest via electronic mail or by facsimile, pursuant to Fed. R. Bankr. P. 9036, in lieu of service by first class mail.
- (f) **Initial Status Conference.** The Court, in its initial order for complex chapter 11 cases, may set a status conference to be held within six (6) weeks of the filing of the petition, and following the meeting of creditors held pursuant to 11 U.S.C. § 341, or at such other times as designated by the Court. The status conference will be conducted pursuant to 11 U.S.C. § 105(d) and may include issues addressed by the Court in its initial order for complex chapter 11 cases, and may include other scheduling and procedural issues addressed by any other party in the case which files a motion entitled “Motion Regarding Administrative Issues to be Heard at Status Conference” not later than seven (7) days prior to the date set for the status conference. Such a motion will be served upon debtor’s counsel, all secured creditors, the twenty (20) largest unsecured creditors (or unsecured creditors’ committee, if one is appointed), any existing official committees, and any party that files a request specifically seeking notice of such status conferences.

**Notes:**

(2008) Portions of this former SC LBR 2081-3 were incorporated into this rule pursuant to Fed. R. Bankr. P. 9029(a) and the Judicial Conference’s prescribed numbering conventions.

(2009) The period in paragraph (e) was amended to a multiple of seven as part of time computation amendments.

## LOCAL RULE 2082-1: CHAPTER 12- GENERAL

- (a) **Filing of Plan.** The chapter 12 plan, attached as Exhibit A, may be filed in a chapter 12 case in this District. Plans must be filed within the time limits set forth in 11 U.S.C. § 1221. If the form plan attached as Exhibit A is not used, the plan filed must state, conspicuously and in its first sentence, that the plan proposed is not presented in the format of the form plan.
- (b) **Liquidation Analysis.** The debtor must attach as an exhibit a liquidation analysis to the proposed plan.
- (c) **Feasibility Analysis.** The debtor must attach as an exhibit to the plan a feasibility analysis setting forth the feasibility of the plan which shall include, at a minimum, the following:
  - (1) The projected income for the family farming operation during the year in which the debtor's first plan payment is due;
  - (2) An itemized list of the sources of such income including the amount of property to be sold and the anticipated price per unit;
  - (3) An itemized statement of the debtor's expenses of doing business and living costs;
  - (4) The amount available for payment to the trustee under the terms of the confirmed plan; and
  - (5) Any amount to be retained by the debtor for expenditure as operating capital in the ensuing year.
- (d) **Pre-Confirmation Conference.** A conference between the debtor, the attorney for the debtor, creditors, the trustee, equity security holders, and parties in interest shall be held at least twenty-one (21) days before the hearing on confirmation of the debtor's plan. The purpose of the conference is to attempt to resolve objections to the plan and to narrow the issues for the Court. The trustee shall preside at the conference. Any amended plan resulting from the conference must be filed with the Court and served on the trustee and all creditors and equity security holders at least fourteen (14) days before the hearing on confirmation of the debtor's plan, in order to be considered at the confirmation hearing.
- (e) **Notice.** The Clerk's Office, or some other person as the Court may direct, shall provide to the debtor or attorney for the debtor a notice to be served on the trustee, all creditors and all equity security holders, setting forth the date and time fixed for the pre-confirmation conference, the deadline for filing objections to the plan, and the date and time of the hearing to consider confirmation of a plan. Unless the Court fixes a shorter period, the notice shall be served at least thirty (30) days before the confirmation hearing. A copy of the plan and all exhibits shall accompany the notice.
- (f) **Objections.** Objections to confirmation of the plan must be filed with the Court and served on the debtor, attorney for the debtor, the trustee, and on any other entity designated by the Court, at or before the time fixed for the pre-confirmation conference. Objections to the amended plan, if any, must be filed and served on the debtor, attorney for the debtor, and the trustee prior to the confirmation hearing to be considered at the confirmation hearing. An objection to confirmation is governed by Fed. R. Bankr. P. 9014 and SC LBR 9014-1. The Court may refuse to consider an objection that does not comply with these rules.
- (g) **Summary of Operations.** At least seven (7) days before the pre-confirmation conference, the debtor shall serve on the trustee a completed summary of operations in a form to be provided by the trustee to the debtor after commencement of the case.

**Notes:**

(2008) Paragraphs (d), (e), (f), and (g) were reordered and portions of this rule were restyled.

(2009) The periods in paragraphs (d) and (g) were amended to multiples of seven as part of time computation amendments.

**EXHIBIT A TO SC LBR 2082-1**

UNITED STATES BANKRUPTCY COURT  
DISTRICT OF SOUTH CAROLINA

IN RE:

CASE NO:  
CHAPTER:  
  
CHAPTER 12 PLAN

DEBTOR(S)

The debtor certifies that:

- (1) All motions to establish the value of collateral have been filed or are filed contemporaneously herewith.
- (2) All motions to avoid liens have been filed or are filed contemporaneously herewith.
- (3) All fees, charges and amounts required to be paid before confirmation pursuant to chapter 123 of Title 28 of the United States Code have been paid.

**FUNDING OF PLAN**

(INSTRUCTION: INCLUDE THE APPLICABLE FUNDING LANGUAGE)

The debtor hereby submits his/her future income in the amount of \_\_\_\_\_ per month for a period of \_\_\_\_\_ beginning \_\_\_\_\_.

The debtor hereby submits his/her future income in the amount of \_\_\_\_\_ per quarter for a period of \_\_\_\_\_ beginning \_\_\_\_\_.

The debtor hereby submits his/her future income in the amount of \_\_\_\_\_ per year for a period of \_\_\_\_\_ years. Annual payments are to begin on \_\_\_\_\_ and on \_\_\_\_\_ each year for a period of \_\_\_\_\_ years.

After deduction of ten (10%) percent from the above amount, to be applied towards administrative expenses, the trustee shall make disbursements as follows:

(1) To the attorney's fees of the debtor in an amount not to exceed \_\_\_\_\_, after approval by the Court, at the rate of ten (10%) percent of the gross payment, until paid in full. This percentage may be reduced or increased by the trustee as necessary.

(2) Payments to secured creditors, as follows: [INSTRUCTION: THE LANGUAGE SET FORTH IS TO BE REPEATED FOR EACH SECURED CREDITOR AND FOR EACH CLASS OF COLLATERAL HELD BY A SECURED CREDITOR.]

Name of Creditor: \_\_\_\_\_

Claim No: \_\_\_\_\_ Claim Amount: \_\_\_\_\_

Collateral: \_\_\_\_\_

The Court established the value of this creditor's collateral as \$\_\_\_\_\_ by order dated \_\_\_\_\_.

or

Motions to value collateral are filed contemporaneously herewith.

or

This creditor is wholly secured in the amount of \_\_\_\_\_ as of the effective date of confirmation.

The unsecured portion of this creditor's claim is \$ \_\_\_\_\_.

This creditor is to be paid \$ \_\_\_\_\_ per \_\_\_\_\_ for a period of \_\_\_\_\_ which includes interest at \_\_\_\_\_% *per annum*.

or

The collateral held by this creditor is hereby surrendered to it. No payment will be made to this creditor.

or

Payments to this creditor shall be based on any unsecured deficiency claim that may be filed.

Other provisions for this creditor:

(3) Subsequent to the above, dividends to priority creditors, including tax claims, will be paid on a *pro-rata* basis until paid in full. These are as follows: [INSTRUCTION: THE FOLLOWING SHOULD BE COMPLETED FOR EACH PRIORITY CREDITOR.]

Name of Creditor: \_\_\_\_\_

Claim No: \_\_\_\_\_ Claim Amount: \_\_\_\_\_

Payment Amount: \_\_\_\_\_ (monthly, quarterly or annually)

This creditor shall be paid no interest on its claim.

or

This creditor shall be paid interest at \_\_\_\_\_% *per annum* on its claim.

(4) Subsequent to the above, unsecured creditors will be paid on a *pro rata* basis.

(5) The following leases or executory contracts will be treated as follows:

Upon confirmation of the plan, property of the estate will remain property of the estate, but title to the property shall revert in the debtor. Unless the plan otherwise provides, secured creditors shall retain their liens upon their collateral until the allowed amounts of their claims are paid in full.

The automatic stay provisions of 11 U.S.C. § 362(a) shall remain in effect until the case is closed.

The effective date of confirmation is the date upon which the order of confirmation becomes final.

Date: \_\_\_\_\_

\_\_\_\_\_  
Signature of Attorney/*Pro Se* Debtor

\_\_\_\_\_  
Typed Printed Name

\_\_\_\_\_  
Address/Telephone/Facsimile/E-mail

\_\_\_\_\_  
District Court I.D. Number

**LOCAL RULE 2090-1: ATTORNEYS- ADMISSION TO PRACTICE<sup>1</sup>**

- (a) An attorney who is admitted to practice in the United States District Court for the District of South Carolina is admitted to practice in this Court.
- (b) An attorney, not otherwise admitted to practice in this Court, may move for admission to practice in this Court *pro hac vice* as provided in the Local Rules of the United States District Court for the District of South Carolina.

**Notes:**

(2008) Portions of former SC LBR 9010-1 were revised and incorporated into this rule pursuant to Fed. R. Bankr. P. 9029(a) and the Judicial Conference's prescribed numbering conventions.

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<sup>1</sup> This local rule is promulgated in compliance with the United States District Court for the District of South Carolina's Local Rules regarding bankruptcy practice.

**LOCAL RULE 2090-2: ATTORNEYS- DISCIPLINE AND DISBARMENT**

The Rules of Disciplinary Enforcement (DRE) of the United States District Court for the District of South Carolina are applicable to attorneys who practice before this Court.

**Notes:**

(2008) This rule was restyled.

## **LOCAL RULE 2091-1: ATTORNEYS- WITHDRAWALS AND SUBSTITUTIONS**

- (a) **Withdrawal of Counsel.** The Court may permit counsel to withdraw from representation of a party upon motion and cause shown or upon the consent of the represented party.
- (b) **Substitution of Counsel.** In the event of an agreement among a party, the original attorney, and a substitute attorney that the original attorney will no longer represent the party and the substitute attorney will do so, a consent order signed by each attorney, accompanied by a certification contained within the consent order that the party requests or consents to the substitution, may be submitted for the Court's consideration without notice or a hearing.

In the event an attorney of record leaves a law firm, and the representation of a party is to remain with the law firm, notice which specifies the case by name and number and identifies the new responsible attorney within the firm must be provided to the Court and the party. Such notice may be in the form of a letter to the Clerk signed by both the previous and the new attorney.

### **Notes:**

(2008) Portions of former SC LBR 9010-1 were incorporated into this rule pursuant to Fed. R. Bankr. P. 9029(a) and the Judicial Conference's prescribed numbering conventions.

### **LOCAL RULE 3003-1: PROOFS OF CLAIM OR INTEREST IN CHAPTER 11 CASES**

Proofs of claim or interest of nongovernmental entities required or permitted to be filed under Fed. R. Bankr. P. 3003(c) must be filed not later than ninety (90) days after the first date set for the § 341 meeting of creditors, and such proofs of claim or interest of governmental entities must be filed within one hundred eighty (180) days after the date of the order for relief, except as otherwise specified in the Bankruptcy Code or Federal Rules of Bankruptcy Procedure or ordered by the Court. A request to extend the times provided for by this local rule must be made before the expiration of the time.

**Notes:**

(2008) Former paragraph (a) was restyled. Former paragraph (b) was deleted as unnecessary based upon the incorporation of the Interim Bankruptcy Rules into the Federal Rules of Bankruptcy Procedure.

## LOCAL RULE 3011-1: DISPOSITION OF UNCLAIMED DIVIDENDS

- (a) **Depositing of Unclaimed Funds.** Unclaimed dividends shall be submitted to the Court no earlier than the time period set forth in 11 U.S.C. § 347. The party submitting the unclaimed dividends shall certify that the claim remains unsatisfied, describe the party's efforts to locate claimant, and, pursuant to Fed. R. Bankr. P. 3011, state the last known address for the claimant.
- (b) **Motion for Payment of Unclaimed Funds.** Any party<sup>1</sup> who seeks the release of unclaimed dividends held pursuant to 11 U.S.C. § 347(a) must file a motion for payment of unclaimed dividends in substantial conformance with Exhibit A and serve a copy of the motion on the United States Attorney for the District of South Carolina.<sup>2</sup>
- (c) **Identifying Information.** The movant shall submit Exhibit B and provide the information required therein.<sup>3</sup>
- (d) **Supporting Documentation.** The following supporting documentation, if applicable, shall be required:
- (1) **All Corporate Claimants.**
    - (A) A statement of the movant's authority to sign the motion on behalf of the corporation.
  - (2) **Non-Original Claimants.**
    - (A) **All Non-Original Claimants.** Documentary evidence clearly setting forth the chain of title to the claim giving rise to the unclaimed dividend and the claimant's entitlement to the funds.
    - (B) **Non-Original Corporate Claimants.**<sup>4</sup> In addition to the information required by paragraphs (d)(1)(A) and (d)(2)(A), the movant shall also file a corporate power of attorney signed by an officer of the claimant, which is stamped with the claimant's corporate seal,<sup>5</sup> and which provides the movant with the authority to recover the unclaimed dividends.
  - (3) **Deceased Claimants.** Certified copies of the probate documents establishing the movant's right to act on behalf of the deceased claimant's estate.
  - (4) **Representative Claimants.** A notarized original power of attorney establishing that the movant<sup>6</sup> is authorized to file the motion on behalf of the claimant.<sup>7</sup>

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<sup>1</sup> For purposes of this rule, the "movant" is the party filing the motion and the "claimant" is the party entitled to the unclaimed dividends. The movant and the claimant may be the same.

<sup>2</sup> All relevant parts of the motion must be completed for consideration.

<sup>3</sup> Exhibit B shall be filed in CM/ECF and public access shall be restricted.

<sup>4</sup> This provision also applies to corporate entities seeking payment on behalf of a related entity.

<sup>5</sup> If corporate seal is not affixed or available, then appropriate documentation is required which indicates the reason the seal is not affixed or available.

<sup>6</sup> All movants acting under a power of attorney must be represented by an attorney admitted to practice before this Court in accordance with SC LBR 2090-1.

<sup>7</sup> The Court will not issue payment to a claimant's representative.

- (e) **Objection.** Any party objecting to the relief sought in the motion shall, within twenty-one (21) days after service thereof, serve upon the movant and other appropriate parties and file with the Court an objection to the motion. If no objection is filed with the Court within twenty-one (21) days after the filing of the motion, the motion and accompanying documents may be considered by the Court without hearing.

**Notes:**

(2008) Former paragraph (a) was restyled. Former paragraphs (b) and (c) were deleted as unnecessary.

(2009) The objection period was amended to a multiple of seven as part of time computation amendments.

(2011) The rule and Exhibit A were amended to provide for more specific provisions regarding the submission of unclaimed dividends. The provision regarding the certificate of service was deleted as unnecessary pursuant to SC LBR 9013-3, which requires all motions to be accompanied by a certificate of service. Exhibit B was added to conform with requirements of the Administrative Office of the United States Courts and Fed. R. Bankr. P. 9037.

**EXHIBIT A TO SC LBR 3011-1**

UNITED STATES BANKRUPTCY COURT  
DISTRICT OF SOUTH CAROLINA

IN RE:

CASE NO:  
CHAPTER:

MOTION FOR PAYMENT  
OF UNCLAIMED DIVIDENDS

DEBTOR(S)

Now appears \_\_\_\_\_ ("Movant") and states that \_\_\_\_\_ (name of the "Claimant")<sup>1</sup> is entitled to \$ \_\_\_\_\_ ("Unclaimed Funds") held in the United States Treasury in this case pursuant to 11 U.S.C. § 347(a) and as set forth in the attached supporting documents required by SC LBR 3011-1. For the following reasons, \_\_\_\_\_ (INSERT NAME OF ORIGINAL PAYEE) did not negotiate the original disbursement: \_\_\_\_\_

Movant represents that the Claimant is entitled to receive the Unclaimed Funds and that no other party is entitled to the Unclaimed Funds based upon: (check the statement(s) that apply)

\_\_\_ Claimant is the original creditor entitled to said Unclaimed Funds as appearing on the records of this Court (if the original creditor or claimant is a corporate entity or partnership, attach the documentation required by SC LBR 3011-1(d)(1)(A)).

\_\_\_ Claimant obtained title to the Unclaimed Funds by assignment, purchase, merger, acquisition, succession or by other means (attach the documentation required by SC LBR 3011-1(d)(2) and, if applicable, 3011-1(d)(1)(A)).

\_\_\_ Movant is a representative of the estate of a deceased Claimant (attach the documentation required by SC LBR 3011-1(d)(3)).

\_\_\_ Movant is a Representative of the Claimant and is named in the attached Power of Attorney by the owner of the Unclaimed Funds, valid under the laws of the State of South Carolina, which empowers Movant to collect the Unclaimed Funds described above on behalf of the rightful owner (attach the documentation required by SC LBR 3011-1(d)(4) and, if applicable 3011-1(d)(1)(A) and 3011(d)(2)).

Further, Movant is submitting, with this Motion, Exhibit B to SC LBR 3011-1 and providing the identifying information required therein.

WHEREFORE, the Movant submits to the jurisdiction of this Court and requests that an order be entered directing payment of the Unclaimed Funds described above to \_\_\_\_\_ (INSERT NAME OF CLAIMANT/PAYEE)<sup>2</sup> and mailed to \_\_\_\_\_ (INSERT ADDRESS WHERE PAYMENT IS TO BE MAILED).

<sup>1</sup> "Movant" and "Claimant" are defined by SC LBR 3011-1.

<sup>2</sup> Payment will only be issued to the claimant.

I, \_\_\_\_\_, hereby declare under penalty of perjury that the foregoing is true and correct and state that I am the Movant in the above-named case and request payment of the Unclaimed Funds pursuant to SC LBR 3011-1. On \_\_\_\_\_ (INSERT DATE), I served a copy of this motion and attachments on:

United States Attorney for the District of South Carolina  
1441 Main Street, Suite 500  
Columbia, SC 29201

Name of Movant \_\_\_\_\_

Movant's Phone No. \_\_\_\_\_

Previous Mailing Address of the Claimant \_\_\_\_\_

Current Mailing Address of the Claimant \_\_\_\_\_

\_\_\_\_\_  
Signature of Movant

I, \_\_\_\_\_, a notary public for the State of \_\_\_\_\_, certify that I have examined the Motion for Payment of Unclaimed Dividend and documentation of the Movant which establishes identity, and the above motion was subscribed and sworn to before me in \_\_\_\_\_, (city/town), \_\_\_\_\_ (state), this day of \_\_\_\_\_, \_\_\_\_\_.

\_\_\_\_\_  
(seal)  
Notary Public  
My commission expires: \_\_\_\_\_

**EXHIBIT B TO SC LBR 3011-1**

UNITED STATES BANKRUPTCY COURT  
DISTRICT OF SOUTH CAROLINA

IN RE:

CASE NO:  
CHAPTER:

DEBTOR(S)

The following information is submitted pursuant to SC LBR 3011-1(c):

1. Tax identification or social security number of the claimant/payee is \_\_\_\_\_.
2. Attached is the proof of identification of the claimant.<sup>1</sup>

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<sup>1</sup> Proof of identification includes a photocopy of any of the following forms of photo identification: current driver's license, government ID card, passport, or state-issued ID card.

## **LOCAL RULE 3015-1: CHAPTER 13-FILING A PLAN**

Every chapter 13 debtor must complete Exhibit A<sup>1</sup> or file a plan in substantial conformance with Exhibit A. Service of the plan is hereby delegated to the debtor pursuant to Fed. R. Bankr. P. 2002(b).

### **Notes:**

(2008) Former SC LBR 3015-1 was revised and restyled. Portions of former SC LBR 3015-1 were incorporated into other local rules pursuant to Fed. R. Bankr. P. 9029(a) and the Judicial Conference's prescribed numbering conventions.

(2009) The objection period in Exhibit A was amended to a multiple of seven as part of time computation amendments.

(2011) Section IV(A) in Exhibit A was amended to allow attorneys to receive up to \$1,000 from the initial disbursement. The certificate of service section in Exhibit A was amended to clarify that the specific list of the names and addresses of parties served with the plan should be attached to the plan filed with the Court. Sections II(A) and (B) were amended to clarify that a debtor does not have to claim an exemption to avoid a lien.

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<sup>1</sup> The referenced Exhibit is incorporated into and made part of this rule as if fully set out within its text.

**EXHIBIT A TO SC LBR 3015-1**

UNITED STATES BANKRUPTCY COURT  
DISTRICT OF SOUTH CAROLINA

IN RE:

CASE NO:  
CHAPTER:

NOTICE, CHAPTER 13 PLAN,  
MOTIONS TO VALUE SECURITY, AVOID JUDICIAL  
LIEN, AVOID A NONPURCHASE-MONEY,  
NONPOSSESSORY SECURITY INTEREST AND  
LIEN, AND/OR TO ASSUME OR REJECT AN  
EXECUTORY CONTRACT/UNEXPIRED LEASE

DEBTOR(S)

**I. NOTICE TO CREDITORS AND PARTIES IN INTEREST:** The debtor<sup>1</sup> has filed a chapter 13 bankruptcy case and listed you as a creditor or interested party. The debtor has filed the following chapter 13 plan and motions which may affect your rights. **Failure to object may constitute an implied acceptance of and consent to the relief requested in this document.**

A. **ADDITIONS, MODIFICATIONS, OR DELETIONS:** All additions or modifications to the Court’s form plan (See exhibits to SC LBR 3015-1 and 3015-2, “SC LBR” refers to the SC Local Bankruptcy Rules, available at [www.scb.uscourts.gov](http://www.scb.uscourts.gov)) are highlighted by italics. Deletions are noted as “Not Applicable” or by striking through the deleted provisions. If changes are substantial or if an alternative plan is proposed, a cover sheet that summarizes and identifies the changes shall be filed and served herewith.

B. **DEADLINE FOR FILING OBJECTIONS, NOTICE OF HEARING ON CONFIRMATION OF CHAPTER 13 PLAN AND MOTIONS:** Objections to the motions and any provision of the plan must be made in accordance with SC LBR 9014-1, properly served, and filed with the United States Bankruptcy Court, 1100 Laurel Street, Columbia, SC 29201, within twenty-eight (28) days from the date this document is filed. Timely objections will be heard at the confirmation hearing, notice of which is given separately in the Notice of Meeting of Creditors. If a timely objection is filed after the confirmation hearing, a separate hearing on the objection will be scheduled and notice of such a hearing will be given. If no timely objection is filed, the Court, upon recommendation of the chapter 13 trustee and without further hearing or notice, may enter an order confirming the plan and granting the motions.

**II. MOTION TO VALUE SECURITY, AVOID JUDICIAL LIEN, AVOID A NONPURCHASEMONEY, NONPOSSESSORY SECURITY INTEREST AND LIEN, AND/OR TO ASSUME OR REJECT AN EXECUTORY CONTRACT/UNEXPIRED LEASE.** The debtor requests that confirmation of this plan alter the rights of the following creditor:

A. Nonpossessory, Nonpurchase-Money Lien: The debtor moves, pursuant to 11 U.S.C. § 522(f), to avoid the following nonpossessory, nonpurchase-money security interest and lien in household goods:

| Name of creditor and description of property securing lien | Value of Debtor’s interest in property | Total of all other liens | Exemption | Estimated security interest/debt | Security interest Not avoided (see IV(B)(4) below) | Security interest to be avoided (see IV(E) below) |
|--|--|--------------------------|-----------|----------------------------------|--|---|
|  |  |                          |           |                                  |  |   |

<sup>1</sup> When used herein, the term "debtor" shall apply as applicable either in the singular or in the plural, if there are joint debtors in the case.

B. Judicial Lien: The debtor moves, pursuant to 11 U.S.C. § 522(f), to avoid the following judicial lien:<sup>2</sup>

| Name of creditor and description of property securing lien | Value of Debtor's interest in property | Total of all other liens | Exemption | Estimated judicial lien | Judicial lien Not avoided (see IV(B)(4) below) | Judicial lien avoided (see IV(E) below) |
|--|--|--------------------------|-----------|-------------------------|--|---|
|--|--|--------------------------|-----------|-------------------------|--|---|

C. Valuation of Security: The debtor moves, in accordance with 11 U.S.C. § 506, to establish the value of a lien as follows:

| Name of creditor and description of property securing lien | Value of Debtor's interest in property | Holder and amount of superior liens | Estimate of creditor's claim | Value of lien (see IV(B)(4) below) | Unsecured claim after valuation (see IV(E) below) |
|--|--|-------------------------------------|------------------------------|------------------------------------|---|
|--|--|-------------------------------------|------------------------------|------------------------------------|---|

D. Assumption or Rejection of Executory Contract/Unexpired Lease: The debtor moves for the assumption of the following executory contract and/or unexpired lease. The debtor agrees to abide by all terms of the agreement and to cure any pre-petition arrearage or default in the manner below. Any executory contract or unexpired lease not specifically mentioned is rejected.

| Name of Creditor and lease or contract to be assumed | Amount of regular payment | Estimated amount of Default (state if none) | Cure Provisions for any default paid by (Debtor or trustee) | Regular payments to be paid by Debtor directly to creditor beginning (month/year) |
|--|---------------------------|---|---|---|
|--|---------------------------|---|---|---|

**III. THE CHAPTER 13 PLAN: PAYMENT OBLIGATIONS OF THE DEBTOR.**

A. Payments from the debtor to the chapter 13 trustee (the "trustee"): The debtor submits to the supervision and control of the trustee all or such portion of future earnings or other future income as is necessary for the execution of the plan. In addition, the debtor will pay to the trustee any portion of a recovery under a pre-petition claim or cause of action that constitutes disposable income or is not exempt.

The debtor shall pay to the trustee the sum of \$ \_\_\_\_\_ per month for a period of \_\_\_\_\_ months, unless all allowed claims (other than long-term claims) are fully paid pursuant to the plan.

B. Payments from the debtor directly to creditors: The debtor shall pay all post-petition priority obligations, including but not limited to taxes and post-petition domestic support, and pay regular payments on assumed executory contracts or leases, directly to the holder of the claim as the obligations come due, unless otherwise ordered by the Court. The debtor may be required to pay some or a portion of pre-petition debts directly to a creditor in addition to required payments to the trustee, as indicated in paragraph II(D) above and/or in the paragraphs that follow.

**IV. PLAN DISTRIBUTIONS TO CREDITORS.** To receive a distribution from the trustee, a proof of claim, including adequate supporting documentation, must be filed with the Court. If a claim designated in this plan as secured is filed as an unsecured claim and the plan is confirmed, the claim may be treated as unsecured for purposes of plan distributions by the trustee. If a creditor files a proof of claim alleging that the claim is secured, but does not timely object to the confirmation of the plan and the claim is treated as unsecured in a confirmed plan, the claim may be treated as unsecured for purposes of plan distributions by the trustee. Confirmation of this plan does not bar a

<sup>2</sup> For co-owned property, see *In re Ware*, 274 B.R. 206 (Bankr. D.S.C. 2001) and Exhibit C to SC LBR 4003-2.

party in interest from objecting to a claim. The trustee, after the deduction of the trustee's commission and expenses, or the debtor, as indicated, shall make payments as follows:

A. Attorney for the debtor:

1. The debtor and the debtor's attorney have agreed to an attorney's fee in the amount of \$ \_\_\_\_\_ for the services identified in the Rule 2016(b) disclosure statement filed in this case. The amount of \$ \_\_\_\_\_ was paid prior to the filing of the case. The remaining fee shall be disbursed by the trustee as follows: Following confirmation of the plan and unless the Court orders otherwise, the trustee shall disburse \$1,000.00 to the attorney from the initial disbursement.<sup>3</sup> Thereafter, the balance of the attorney's compensation as allowed by the Court shall be paid, to the extent then due, with all funds remaining each month after payment of allowed secured claims and pre-petition arrearages on domestic support obligations. In instances where an attorney assumes representation in a pending *pro se* case and a plan is confirmed, a separate order may be entered by the Court, without further notice, which allows for the payment of a portion of the attorney's fees in advance of payments to creditors.

2. If, as an alternative to the above treatment, the debtor's attorney has received a retainer and cost advance and agreed to file fee applications for compensation and expenses in this case pursuant to 11 U.S.C. § 330, the retainer and cost advance shall be held in trust until fees and expense reimbursements are approved by the Court. Prior to the filing of this case, the attorney has received \$ \_\_\_\_\_ and for plan confirmation purposes only, the fees and expenses of counsel are estimated at \$ \_\_\_\_\_ or less.

B. Secured Creditor Claims: The plan treats secured claims as follows:

1. General Provisions: The terms of the debtor's pre-petition agreement with a secured creditor shall continue to apply except as modified by this plan, the order confirming the plan, or other order of the Court. Holders of secured claims shall retain liens to the extent provided by 11 U.S.C. § 1325(a)(5)(B)(i). Secured creditors paid the full secured claim provided for by this plan shall timely satisfy any liens in the manner required by applicable law or order of this Court. Any creditor holding a claim secured by property that is removed from the protection of the automatic stay by order, surrender, or through operation of the plan will receive no further distribution from the chapter 13 trustee on account of any secured claim. This also applies to creditors who may claim an interest in, or lien on, property that is removed from the protection of the automatic stay by another lienholder or released to another lienholder, unless the Court orders otherwise. Any funds that would have been paid to any such creditor will be distributed according to the remaining terms of the plan. (The preceding language does not apply if the sole reason for its application arises under 11 U.S.C. § 362(c)(3) or (c)(4)). Any creditor affected by this provision may file an itemized proof of claim for any unsecured deficiency within a reasonable time after the removal of the property from the protection of the automatic stay. Secured creditors that will be paid directly by the debtor may send standard payment and escrow notices, payment coupons, or inquiries about insurance, and such action will not be considered a violation of the automatic stay.

2. Long-term or mortgage debt. No default: The debtor is current on obligations to (creditor name) and will continue regular payments directly to that creditor. Description of collateral:

3. Long term or mortgage debt. Curing default: 11 U.S.C. 1322(b)(3) and/or (5):

a. Arrearage payments. The trustee shall pay the arrearage as stated in the creditor's allowed claim or as otherwise ordered by the Court to (creditor name) at the rate of \$ (payment amount) or more per month, for (collateral description), along with (percentage)% interest. The creditor shall apply trustee payments solely to those designated arrearages, i.e., those arrearages accruing before the month specified in (b) below. For so long as the debtor complies with this plan, a creditor may not declare a default based on any payment delinquency to

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<sup>3</sup> The chapter 13 trustee shall not at any time disburse to the debtor's attorney more than: (a) the unpaid balance of (1) the fee to be paid under the plan pursuant to paragraph 1 herein, or (2) the fee previously applied for and authorized pursuant to paragraph 2 herein, plus (b) any supplemental fee then applied for and authorized under the terms of the applicable Procedures for Approval of Attorney's Fees in Chapter 13 Cases.

be cured by this paragraph and the creditor shall not impose any post-petition fee on account of any arrearage paid by the trustee.

b. Maintenance of regular non-arrearage payments. Beginning (month and year), the Debtor shall pay directly to the creditor non-arrearage payments arising under the agreement with the secured creditor. The creditor shall apply each payment under this paragraph solely to post-petition obligations that accrue during or after the month specified herein.

4. Secured portion of claims altered by valuation and lien avoidance: The trustee shall pay (creditor name) the sum of \$ (payment amount) or more per month, along with (percentage) % interest until the secured claim of \$ (amount of secured claim) established above is paid in full. The remaining portion of the allowed claim will be treated as a general unsecured claim.

5. Other secured debts (allowed claim to be paid in full without valuation or avoidance of lien): The trustee shall pay (creditor name) the sum of \$ (payment amount) or more per month, along with (percentage) % interest until the allowed secured claim is paid in full.

6. Surrender of property: The debtor will surrender the following property upon confirmation of the plan. The order confirming plan shall terminate the automatic stay as to that property: (Name of creditor and property address or collateral description). Any creditor affected by this provision may file an itemized proof of claim for any unsecured deficiency within a reasonable time after the surrender of the property.

7. Secured tax debt: The trustee shall pay (creditor name) the sum of \$ (payment amount) or more per month until the (net balance or value) of creditor's secured claim plus (percentage) % interest has been paid. If the lien is to be valued, the debtor shall file a separate motion to value the claim and establish priority of any remaining tax obligations. If a tax priority creditor files a claim designated as secured, is not treated as secured in this paragraph, and does not timely object to confirmation of this plan, then the claim may be paid as a priority claim for purposes of distributions from the trustee.

C. Priority Creditors: Priority claims shall be paid as follows:

1. Domestic Support Claims. 11 U.S.C. § 507(a)(1):

a. Pre-petition arrearages. The trustee shall pay the pre-petition domestic support obligation arrearage to (name of DSO creditor), at the rate of \$ (amount) or more per month until the balance, without interest, is paid in full.

b. The debtor shall pay all post-petition domestic support obligations as defined in 11 U.S.C. § 101(14A) on a timely basis directly to the creditor.

c. Any party entitled to collect child support or alimony under applicable non-bankruptcy law may collect those obligations coming due after this case was filed from the income or assets of the debtor-parent/spouse without further order or relief from the automatic stay. (Any claim for child support or alimony due before this case was filed must be collected in accordance with 11 U.S.C. § 507(a)(1) and 11 U.S.C. § 1322(a)(2).)

2. Other Priority debt. The trustee shall pay all remaining pre-petition 11 U.S.C. § 507 priority claims on a *pro rata* basis.

D. Executory Contracts and Unexpired Leases: Regular payments that arise post-petition under an executory contract or lease that is being assumed shall be paid directly by the debtor according to the terms of the contract or lease. Pre-petition defaults will be cured by payments of the sum of \$ (payment amount) or more per month by the trustee or the debtor according to paragraph II(D). Claims arising from the rejection of executory contracts or leases shall be general unsecured claims unless otherwise ordered by the Court.

E. General Unsecured Creditors: General unsecured creditors shall be paid allowed claims *pro rata* by the trustee to the extent that funds are available after payment of all other allowed claims. The debtor (does/does not) propose to pay 100% of general unsecured claims.

**V. PROPERTY OF THE ESTATE, STATUS AND OBLIGATIONS OF THE DEBTOR AFTER CONFIRMATION:** Upon confirmation of the plan, property of the estate will remain property of the estate, but possession of property of the estate shall remain with the debtor. The chapter 13 trustee shall have no responsibility regarding the use or maintenance of property of the estate. The debtor is responsible for protecting the non-exempt value of all property of the estate and for protecting the estate from any liability resulting from operation of a business by the debtor. Nothing herein is intended to waive or affect adversely any rights of the debtor, the trustee, or party with respect to any causes of action owned by the debtor.

Date: \_\_\_\_\_

BY: \_\_\_\_\_  
Attorney for the Debtor/*Pro Se* Debtor  
District Court I.D.

Debtor \_\_\_\_\_

Debtor \_\_\_\_\_

**CERTIFICATE OF SERVICE**

The above signing parties certify that the foregoing Notice, Plan and Motions was served on all creditors and parties in interest entitled to such notice on the above stated date. The list of the specific names and addresses of parties served with the plan is attached to the plan filed with the Court.

## LOCAL RULE 3015-2: CHAPTER 13- AMENDMENTS TO PLAN

After compliance with Local Rule 3015-1, a debtor's proposed amendment or modification to the plan shall be presented to the Court as follows:

- (a) **Before confirmation.** The debtor must complete, serve, and file with the Court a notice in substantial conformance with Exhibit A with proper proof of service. Service must be made on all parties which may be adversely affected by the amendment.
- (b) **Exception.** If the sole purpose of the amendment is to increase payments of the plan (paragraph (III)(A) of Exhibit A to SC LBR 3015-1), the debtor may complete and file a form in substantial conformance with Exhibit C, as applicable. The filing of an amendment, which does not adversely affect the plan treatment of any creditor or party in interest, shall be deemed to meet the notice requirements of Fed. R. Bankr. P. 3015(g).
- (c) **After confirmation.** The debtor must complete, serve, and file with the Court a notice in substantial conformance with Exhibit B with proper proof of service. Service must be made on all creditors and parties in interest.

### Notes:

(2008) Portions of former SC LBR 3015-1 were incorporated into this rule pursuant to Fed. R. Bankr. P. 9029(a) and the Judicial Conference's prescribed numbering conventions.

(2009) The objection period in Exhibit B was amended to a multiple of seven as part of time computation amendments.

**EXHIBIT A TO SC LBR 3015-2**

UNITED STATES BANKRUPTCY COURT  
DISTRICT OF SOUTH CAROLINA

IN RE:

CASE NO:  
CHAPTER:

NOTICE OF PLAN MODIFICATION BEFORE  
CONFIRMATION, MOTIONS TO VALUE SECURITY,  
AVOID JUDICIAL LIEN, AVOID A NONPURCHASE-  
MONEY, NONPOSSESSORY SECURITY INTEREST  
AND LIEN, AND/OR TO ASSUME OR REJECT AN  
EXECUTORY CONTRACT/UNEXPIRED LEASE

DEBTOR(S)

I. NOTICE TO AFFECTED CREDITORS AND PARTIES IN INTEREST: The above-captioned debtor<sup>1</sup> previously proposed a chapter 13 plan and motions; debtor now moves, pursuant to 11 U.S.C. § 1323 and Fed. R. Bankr. P. 2002(a)(5), to modify the proposed plan and motions as detailed below:

*(include a brief explanation of the changes made and the reason for the change and the specific creditor(s) directly affected by the change.)*

This modification to the chapter 13 plan and motions, and the remaining terms of the chapter 13 plan and motions set forth below, may affect your rights. Failure to object may constitute an implied acceptance of and consent to the relief requested.

*A. (Beginning with paragraph (I)(A) repeat text of Exhibit A to SC LBR 3015-1 hereafter)*

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<sup>1</sup> When used herein, the term "debtor" shall apply as applicable either in the singular or in the plural, if there are joint debtors in the case.

**EXHIBIT B TO SC LBR 3015-2**

UNITED STATES BANKRUPTCY COURT  
DISTRICT OF SOUTH CAROLINA

IN RE:

CASE NO:  
CHAPTER:

NOTICE OF PLAN MODIFICATION AFTER  
CONFIRMATION, MOTIONS TO VALUE SECURITY,  
AVOID JUDICIAL LIEN, AVOID A NONPURCHASE-  
MONEY, NONPOSSESSORY SECURITY INTEREST  
AND LIEN, AND/OR TO ASSUME OR REJECT AN  
EXECUTORY CONTRACT/UNEXPIRED LEASE

DEBTOR(S)

I. NOTICE TO CREDITORS AND PARTIES IN INTEREST: The above-captioned debtor<sup>1</sup> proposed a chapter 13 plan and motions that were previously confirmed by this court; debtor now moves, pursuant to 11 U.S.C. § 1329(a), Fed. R. Bankr. P. 3015(g), and Fed. R. Bankr. P. 2002(a)(5), to **modify the plan as follows**:

*(Include a brief explanation of the change made, the reason for the change and the specific creditor directly affected by the change. This information replaces the Motion for Modification previously required for plan amendment).*

This modification to the chapter 13 plan and motions may affect your rights. Failure to object may constitute an implied acceptance of and consent to the relief requested.

A. ADDITIONS, MODIFICATIONS, OR DELETIONS: All additions or modifications to the Court's form plan are highlighted by italics. (See SC LBR 3015-2, "SC LBR" refers to the SC Local Bankruptcy Rules, available at [www.scb.uscourts.gov](http://www.scb.uscourts.gov)) Deletions are noted as "Not Applicable" or by striking through the deleted provisions. If changes are substantial or if an alternative plan is proposed, a cover sheet that summarizes and identifies the changes shall be filed and served herewith.

B. DEADLINE FOR FILING OBJECTIONS, OPPORTUNITY FOR NOTICE AND HEARING ON CONFIRMATION OF MODIFIED CHAPTER 13 PLAN AND MOTIONS: Objections to the motions and any provision of the plan must be made in accordance with SC LBR 9014-1, properly served, and filed with the United States Bankruptcy Court, 1100 Laurel Street, Columbia, SC 29201, within twenty-eight (28) days from the date this document is filed. Timely objections will be scheduled for hearing and separate notice of such a hearing will be given. If no timely objection is filed, the Court, upon recommendation of the chapter 13 trustee and without further hearing or notice, may enter an order confirming the modified plan and granting the motions.

**II. (Repeat text of Exhibit A to SC LBR 3015-1 hereafter)**

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<sup>1</sup> When used herein, the term "debtor" shall apply as applicable either in the singular or in the plural, if there are joint debtors in the case.

**EXHIBIT C TO SC LBR 3015-2**

UNITED STATES BANKRUPTCY COURT  
DISTRICT OF SOUTH CAROLINA

IN RE:

CASE NO:  
CHAPTER:

AMENDMENT TO PARAGRAPH III(A) OF PLAN FOR  
THE SOLE PURPOSE OF INCREASING PAYMENTS  
FROM THE DEBTOR TO THE CHAPTER 13

DEBTOR(S) TRUSTEE

The debtor<sup>1</sup> in this case has filed and served a NOTICE, CHAPTER 13 PLAN, MOTIONS TO VALUE SECURITY, AVOID JUDICIAL LIEN, AVOID A NONPURCHASE-MONEY, NONPOSSESSORY SECURITY INTEREST AND LIEN, AND/OR TO ASSUME OR REJECT AN EXECUTORY CONTRACT/UNEXPIRED LEASE. The debtor hereby **moves to modify ONLY paragraph III(A)** of the plan filed on (date) as follows:

**III. THE CHAPTER 13 PLAN: PAYMENT OBLIGATIONS OF THE DEBTOR.**

A. Payments from the debtor to the chapter 13 trustee (the "trustee"): The debtor submits to the supervision and control of the trustee all or such portion of future earnings or other future income as is necessary for the execution of the plan. In addition, the debtor will pay to the trustee any portion of a recovery under a pre-petition claim or cause of action that constitutes disposable income or is not exempt.

The debtor shall pay to the trustee the sum of \$ \_\_\_\_\_ per month for a period of \_\_\_\_\_ months, unless all allowed claims (other than long-term claims) are fully paid pursuant to the plan.

The undersigned certifies that this change does not adversely affect the plan treatment of any creditor or party in interest in this matter and requests that this modification be approved upon recommendation of the chapter 13 trustee without further notice or hearing.

Date: \_\_\_\_\_

\_\_\_\_\_  
Signature of Attorney/*Pro Se* Debtor

\_\_\_\_\_  
Typed Printed Name

\_\_\_\_\_  
Address/Telephone/Facsimile/E-mail

\_\_\_\_\_  
District Court I.D. Number

<sup>1</sup> When used herein, the term "debtor" shall apply as applicable either in the singular or in the plural, if there are joint debtors in the case.

### LOCAL RULE 3015-3: CHAPTER 13- CONFIRMATION

- (a) **Plan Confirmation.** If the time for filing objections set forth in the plan or any amendments has passed and all timely filed objections have been considered by the Court or otherwise resolved, the Court, without hearing, may enter an order confirming the chapter 13 plan and granting the relief sought in any motions included therein. A form in substantial conformance with Exhibit A shall be completed and submitted by the debtor to the chapter 13 trustee (but not filed with the Court) as a condition of confirmation and at any time thereafter upon request of the trustee.
- (b) **Denial of Confirmation.** If confirmation of the chapter 13 plan is denied, the Court may enter an order dismissing or converting the case without further notice.

**Notes:**

(2008) Portions of former SC LBR 3015-1 were incorporated into this rule pursuant to Fed. R. Bankr. P. 9029(a) and the Judicial Conference's prescribed numbering conventions.

(2011) Paragraph (b) was added to include cause for dismissal or conversion currently included in the Meeting of Creditors Notice.

**EXHIBIT A TO SC LBR 3015-3**

UNITED STATES BANKRUPTCY COURT  
DISTRICT OF SOUTH CAROLINA

IN RE:

CASE NO:  
CHAPTER:  
CERTIFICATION

DEBTOR(S)

The above-captioned debtor hereby certifies that, if there is a post-petition obligation to pay any domestic support obligation, any such payments coming due after filing of the bankruptcy petition and continuing through the date of the confirmation hearing have been paid.

\_\_\_\_\_  
Debtor

\_\_\_\_\_  
Debtor

Date: \_\_\_\_\_, \_\_\_\_\_

#### LOCAL RULE 3015-4: CHAPTER 13- PROVIDING DOCUMENTS

Pursuant to 11 U.S.C. §§ 521 and 1308, Fed. R. Bankr. P. 1007 and 4002, certain information and documentation are required to be filed or provided to the chapter 13 trustee within the time periods prescribed therein. Certain additional information and documents listed in subsection (c) below have also been determined by the Court to be necessary to consideration of the confirmation of a chapter 13 plan. Therefore, the debtor and the attorney for the debtor shall timely provide same to the chapter 13 trustee upon request.

- (a) **Requirement to Provide.** If the chapter 13 trustee has requested any of the information/documents listed below at the 11 U.S.C. § 341 meeting, or at any time thereafter in writing, it must be provided to the trustee at least seven (7) days prior to the original confirmation hearing.
- (b) **Burden on Debtor/Attorney for the Debtor.** The responsibility of ensuring that the required documents are provided to the chapter 13 trustee (and filed, as necessary) belongs to the attorney for the debtor or debtor appearing *pro se*.
- (c) **Documents which may be Requested:.**
  - (1) The most recent real estate tax appraisals covering all parcels of debtor's real property.
  - (2) Post-petition domestic support certificate signed and dated through the month of the confirmation hearing.
  - (3) The amount of the most recent year's income tax refund received by debtor, for both state and federal returns.
  - (4) Proof that all required income tax returns have been filed.
  - (5) Final, signed copies of the most recent year's federal and state income tax returns (including all attached schedules).
  - (6) Amended Schedules if identified as necessary by the chapter 13 trustee.
  - (7) Amended Statement of Financial Affairs if identified as necessary by the chapter 13 trustee.
  - (8) Amended Petition or Form 21 correcting the debtor's name and/or social security number if identified as necessary by the chapter 13 trustee.
  - (9) In any case involving a self-employed debtor, a completed self-employment questionnaire, business budget, and final, signed copies of the business's most recent year's federal and state income tax returns (including all attached schedules).
  - (10) Proof of charitable contributions made by the debtor.
  - (11) An itemization of unreimbursed medical expenses.
  - (12) An itemization of a non-filing spouse's monthly expenses, including the balance owed on each debt.
  - (13) Copies of the debtor's pay stubs and W-2 forms.

- (14) Any other item not specified above which is reasonably related to the administration of the case and which the chapter 13 trustee requested either orally at the 11 U.S.C. § 341 meeting or in writing prior to the confirmation hearing.

**Notes:**

(2008) Portions of former SC LBR 3015-2 were incorporated into this rule.

(2009) The period in paragraph (a) was amended to a multiple of seven as part of time computation amendments.

## LOCAL RULE 3015-5: CHAPTER 13- DISCHARGE<sup>1</sup>

- (a) **Discharge Pursuant to 11 U.S.C. § 1328(a).** Upon filing by the Trustee of the Notice of Plan Completion, the chapter 13 trustee shall contemporaneously serve on the debtor and the attorney for the debtor (if any) the chapter 13 trustee's Notice to Debtor of Plan Completion and Notification of Need to File Request for Discharge (the chapter 13 trustee's Notice, attached as Exhibit E), giving notice that the Certification of Plan Completion and Request for Discharge and Notice (attached as Exhibits A and B) must be completed, filed and served before a discharge can be entered.

The debtor shall complete and file with the Court within fourteen (14) days of the date of the chapter 13 trustee's Notice:

- (1) The Certification of Plan Completion and Request for Discharge (attached as Exhibit A);
- (2) The Notice of Certification of Plan Completion and Request for Discharge (attached as Exhibit B); and
- (3) A certificate of service of the items set forth above upon all creditors and parties and interest.

If no response is filed and no hearing is requested within fourteen (14) days of service of the Certification and Notice, the Court shall issue a discharge.

In the event that the debtor fails to timely file the Certification and Notice, the Clerk's Office will issue a deficiency notice to the debtor, attorney for the debtor, and the chapter 13 trustee. If the deficiency is not cured within the required time period, the Clerk's Office will close the case without issuing a discharge.

- (b) **Discharge Pursuant to 11 U.S.C. § 1328(b).** Upon the filing of a motion by the debtor for a "hardship discharge" pursuant to 11 U.S.C. § 1328(b), the debtor shall contemporaneously therewith complete and file with the Court:

- (1) The Certification of Debtor Information and Request for Hardship Discharge (attached as Exhibit C);
- (2) The Notice of Certification of Debtor Information and Request for Hardship Discharge (attached as Exhibit D); and
- (3) A certificate of service of the items set forth above upon all creditors and parties in interest.

Failure to file items (1) - (3) with the motion for hardship discharge may result in denial of the relief sought.

### Notes:

(2008) Portions of former SC LBR 3015-1 were incorporated into this rule.

(2009) The periods in paragraph (a) and Exhibits B, D, and E were amended to multiples of seven as part of time computation amendments.

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<sup>1</sup> Applicable only to cases governed by the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005, and are inapplicable to cases in which the Court has made a finding that the debtor will not be receiving a discharge.

**EXHIBIT A TO SC LBR 3015-5**

UNITED STATES BANKRUPTCY COURT  
DISTRICT OF SOUTH CAROLINA

IN RE:

CASE NO:  
CHAPTER:

CERTIFICATION OF PLAN COMPLETION AND  
REQUEST FOR DISCHARGE

DEBTOR(S)

The above-captioned debtor certifies under penalty of perjury that the following are true and correct:

- 1) All plan payments have been completed and the debtor is entitled to a discharge.
- 2) Pursuant to 11 U.S.C. § 1328(a), all amounts payable for domestic support obligations due on or before the date set forth below (including any amounts due before the filing of the bankruptcy petition to the extent provided for by the plan) have been paid to:

Name: \_\_\_\_\_

Address: \_\_\_\_\_  
\_\_\_\_\_

(repeat for multiple payees)

The debtor's employer and address:

Name: \_\_\_\_\_

Address: \_\_\_\_\_  
\_\_\_\_\_

Claims that were not discharged pursuant to 11 U.S.C. § 523(a)(2) or (4): \_\_\_\_\_  
\_\_\_\_\_

Debts that were reaffirmed under 11 U.S.C. § 524(c): \_\_\_\_\_  
\_\_\_\_\_

- 3) The provisions of 11 U.S.C. § 522(q)(1) are not applicable to this case under 11 U.S.C. § 1328(h) and there are no proceedings pending against the debtor of the kind described in 11 U.S.C. § 522(q)(1)(A) or 522(q)(1)(B).
- 4) The debtor has not received a discharge in a case filed under 7, 11, or 12 of this title during the 4-year period preceding the date of the order for relief under this chapter, or in a case filed under chapter 13 of this title during the 2-year period preceding the date of such order.
- 5) The debtor has completed an instructional course concerning personal financial management described in 11 U.S.C. § 111 and has either previously filed Official Form 23 so certifying with the Court, or such certification and accompanying documents are being contemporaneously filed herewith.

The undersigned requests that a discharge be granted in accordance with 11 U.S.C. § 1328.

DATE: \_\_\_\_\_, \_\_\_\_\_

\_\_\_\_\_  
Debtor

\_\_\_\_\_  
Debtor

**EXHIBIT B TO SC LBR 3015-5**

UNITED STATES BANKRUPTCY COURT  
DISTRICT OF SOUTH CAROLINA

IN RE:

CASE NO:  
CHAPTER:

NOTICE OF CERTIFICATION OF PLAN  
COMPLETION AND  
REQUEST FOR DISCHARGE

DEBTOR(S)

To: The Trustee and to all creditors and parties in interest:

**YOU ARE HEREBY NOTIFIED** that the above-captioned debtor has requested a discharge pursuant to 11 U.S.C. § 1328(a) in the above case. A copy of the Certification of Plan Completion and Request for Discharge is attached. **Your rights may be affected.** You should read these papers carefully and discuss them with your attorney, if you have one in this bankruptcy case. (If you do not have an attorney, you may wish to consult one.)

If you have any reason to believe that the provisions of 11 U.S.C. § 522(q)(1) apply to this debtor or that there is pending any proceeding in which the debtor may be found guilty of a felony of the kind described in 11 U.S.C. § 522(q)(1)(A) or liable for a debt of the kind described in 11 U.S.C. § 522(q)(1)(B) or that the debtor is otherwise not entitled to a discharge, then you or your attorney must:

1. File with the Court a written response to the Certification, specifying the basis for your response, no later than fourteen (14) days from the date of service of this Notice, and mail a copy to:

(insert debtor's attorney name and address) and  
(insert debtor's name and address); and

2. Attend the hearing to be held as indicated below.

PLEASE TAKE FURTHER NOTICE that no hearing will be held on the Request for Discharge unless a response is timely filed and served, in which case, the Court will conduct a hearing on \_\_\_\_\_, 2\_\_\_\_, at \_\_\_\_m., at \_\_\_\_\_ (Court street address and city), South Carolina. No further notice of this hearing will be given.

IF YOU OR YOUR ATTORNEY DO NOT TAKE THESE STEPS, THE COURT MAY ENTER AN ORDER GRANTING THE RELIEF REQUESTED.

Date of Service: \_\_\_\_\_

\_\_\_\_\_  
Signature of Attorney/*Pro Se* Debtor

\_\_\_\_\_  
Typed Printed Name

\_\_\_\_\_  
Address/Telephone/Facsimile/E-mail

\_\_\_\_\_  
District Court I.D. Number

**EXHIBIT C TO SC LBR 3015-5**

UNITED STATES BANKRUPTCY COURT  
DISTRICT OF SOUTH CAROLINA

IN RE:

CASE NO:  
CHAPTER:

CERTIFICATION OF DEBTOR INFORMATION AND  
REQUEST FOR HARDSHIP DISCHARGE

DEBTOR(S)

The above-captioned debtor certifies under penalty of perjury that the following are true and correct:

1) All of the requirements of 11 U.S.C. § 1328(b) have been met and the debtor is entitled to a hardship discharge.

2) Pursuant to 11 U.S.C. § 1328(a), all amounts payable for domestic support obligations due on or before the date set forth below (including any amounts due before the filing of the bankruptcy petition to the extent provided for by the plan) have/ have not ( select one) been paid to:

Name: \_\_\_\_\_

Address: \_\_\_\_\_  
\_\_\_\_\_

(repeat for multiple payees)

The debtor's employer and address:

Name: \_\_\_\_\_

Address: \_\_\_\_\_  
\_\_\_\_\_

Claims that were not discharged pursuant to 11 U.S.C. § 523(a)(2) or (4):

Debts that were reaffirmed under 11 U.S.C. § 524(c): \_\_\_\_\_

3) The provisions of 11 U.S.C. § 522(q)(1) are not applicable to this case under 11 U.S.C. § 1328(h) and there are no proceedings pending against the debtor of the kind described in 11 U.S.C. § 522(q)(1)(A) or 522(q)(1)(B).

4) The debtor has completed an instructional course concerning personal financial management as described in 11 U.S.C. § 111 and has either previously filed Official Form 23 so certifying with the Court, or such certification and accompanying documents are being contemporaneously filed herewith.

The undersigned requests that a discharge be granted in accordance with 11 U.S.C. § 1328(b).

DATE: \_\_\_\_\_, \_\_\_\_\_

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Debtor

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Debtor

**EXHIBIT D TO SC LBR 3015-5**

UNITED STATES BANKRUPTCY COURT  
DISTRICT OF SOUTH CAROLINA

IN RE:

CASE NO:  
CHAPTER:

NO: \_\_\_\_\_

CHAPTER 13

NOTICE OF CERTIFICATION OF DEBTOR  
INFORMATION AND REQUEST FOR HARDSHIP  
DISCHARGE

DEBTOR(S)

To the Trustee and all creditors and parties in interest:

**YOU ARE HEREBY NOTIFIED** that the above-captioned debtor has moved for a hardship discharge pursuant to 11 U.S.C. § 1328(b) in the above case. A copy of the Certification of Debtor Information and Request for Hardship Discharge is attached. **Your rights may be affected.** **You should read these papers carefully and discuss them with your attorney, if you have one in this bankruptcy case. (If you do not have an attorney, you may wish to consult one.)**

If you have any reason to believe that the provisions of 11 U.S.C. § 522(q)(1) apply to this debtor or that there is pending any proceeding in which the debtor may be found guilty of a felony of the kind described in 11 U.S.C § 522(q)(1)(A) or liable for a debt of the kind described in 11 U.S.C. § 522(q)(1)(B) or that the debtor is otherwise not entitled to a discharge, then you or your attorney must:

1. File with the Court a written response to the Certification, specifying the basis for your response, no later than fourteen (14) days from the date of service of this Notice, and mail a copy to:

(insert debtor's attorney name and address) and  
(insert debtor's name and address); and

2. If a response is filed, attend the hearing to be held on the same date (unless another date is separately noticed) set forth on the notice of hearing on motion for "hardship discharge" pursuant to 11 U.S.C. § 1328(b). No further notice of this hearing will be given.

**IF YOU OR YOUR ATTORNEY DO NOT TAKE THESE STEPS, THE COURT MAY ENTER AN ORDER GRANTING THE RELIEF REQUESTED.**

Date of Service: \_\_\_\_\_

\_\_\_\_\_  
Signature of Attorney/*Pro Se* Debtor

Typed Printed Name

---

Address/Telephone/Facsimile/E-mail

---

District Court I.D. Number

**EXHIBIT E TO SC LBR 3015-5**

UNITED STATES BANKRUPTCY COURT  
DISTRICT OF SOUTH CAROLINA

IN RE:

CASE NO:  
CHAPTER:

TRUSTEE'S NOTICE TO DEBTOR OF PLAN  
COMPLETION AND NOTIFICATION OF NEED TO  
FILE REQUEST FOR DISCHARGE

DEBTOR(S)

TO: Debtor and attorney for the debtor

**Your rights may be affected. You should read these papers carefully and discuss them with your attorney, if you have one in this bankruptcy case. (If you do not have an attorney, you may wish to consult one.)**

The chapter 13 trustee has filed notice with the Court that the plan in the above case has been completed.

YOU ARE HEREBY NOTIFIED that, pursuant to Local Rule 3015-5, IF YOU BELIEVE YOU ARE ENTITLED TO A DISCHARGE, you must prepare, sign and file, within fourteen (14) days of the date of this notice, a Certification of Plan Completion and Request for Discharge and Notice (copies of which are attached) as they are required before a discharge can be entered. Your failure to file the required documents timely could result in the closing of the case without a discharge.

The Certification indicates that you understand and agree to the following:

**1) All plan payments have been made and you are entitled to a discharge.**

You agree that there has been no Court order which would deny you the right to a discharge, and that you meet all of the requirements for a discharge, as provided in the Bankruptcy Code. If you are not certain, please consult an attorney for advice.

**2) All amounts payable for domestic support obligations due on or before the date of your certification (including any amounts due before the filing of the bankruptcy petition to the extent provided for by the plan) have been paid. Your certification must state the current name and address of each domestic support obligation payee.**

The term "domestic support obligation" means a debt "in the nature of alimony, maintenance, or support (including assistance provided by a governmental unit) of such spouse, former spouse, or child of the debtor or such child's parent, without regard to whether such debt is expressly designated" that accrues *before, on, or after* the date of the order for relief in a case under Title 11, including interest that accrues on that debt as provided under applicable nonbankruptcy law notwithstanding any other provision of Title 11, that is owed to or recoverable by (i) a spouse, former spouse, or child of the debtor or such child's parent, legal guardian, or responsible relative; or (ii) a governmental unit. 11 U.S.C. § 101(14A).

**3) The provisions of 11 U.S.C. § 522(q)(1) are not applicable to your case and there are no proceedings pending against you of the kind described in 11 U.S.C. § 522(q)(1)(A) or 522(q)(1)(B).**

11 U.S.C. § 522(q) applies:

if "...the debtor has been convicted of a felony (as defined in section 3156 of title 18), which under the circumstances, demonstrates that the filing of the case was an abuse of the provisions of this title (Title 11);"

11 U.S.C. § 522(q) also applies:

if "the debtor owes a debt arising from--(i) any violation of the Federal securities laws (as defined in section 3(a)(47) of the Securities Exchange Act of 1934), any State securities laws, or any regulation or order issued under Federal securities laws or State securities laws; (ii) fraud, deceit, or manipulation in a fiduciary capacity or in connection with the purchase or sale of any security registered under section 12 or 15(d) of the Securities Exchange Act of 1934 or under section 6 of the Securities Act of 1933; (iii) any civil remedy under section 1964 of title 18; or (iv) any criminal act, intentional tort, or willful or reckless misconduct that caused serious physical injury or death to another individual in the preceding 5 years."

**4) You have completed an instructional course concerning personal financial management as described in 11 U.S.C. § 111.**

The debtor is not entitled to a discharge unless after filing a petition the debtor completes an instructional course concerning personal financial management. 11 U.S.C. § 1328(g)(1). This is *in addition to* the budget and credit counseling session you undertook before the bankruptcy case was filed.

Your signature on the certification is under penalty of perjury.

## LOCAL RULE 3015-6: PERIODIC INTEREST RATE IN CHAPTER 13 PLANS

- (a) **Presumption of Reasonableness.** In order to expedite the determination of an effective interest rate to be used by debtors in meeting the requirement of 11 U.S.C. § 1325, a presumed effective interest rate (“Periodic Interest Rate”) will be set by the Court with the assistance of a committee of trustees and members of the consumer bar. If applied to a secured claim in a chapter 13 plan, there will be a rebuttable presumption that the Periodic Interest Rate – for plan confirmation purposes – is reasonable.
- (b) **Presumption that Plan Pays Present Value.** A debtor who, in a chapter 13 plan, proposes to pay the Periodic Interest Rate on a secured claim (including, but not limited to, an arrearage on a real estate mortgage loan, an automobile loan, a mobile home loan, or a personal property loan) is presumed to be paying the present value of that claim as required by 11 U.S.C. § 1325(a)(5)(B)(ii), except as provided in subsection (c) below.
- (c) **Objection to Periodic Interest Rate.** A party in interest objecting to the Periodic Interest Rate proposed in a chapter 13 plan must, within twenty-eight (28) days after filing of the plan:
- (1) **File the Objection.** File with the Court an Objection and Certification of Interest Rate in substantial conformance with Exhibit A, thereby indicating the objection and stating the interest rate to which the party in interest claims entitlement, and
  - (2) **Serve the Objection.** Serve the Objection and Certification of Interest Rate on the debtor and the attorney for the debtor.
- (d) **Response to Objection to Periodic Interest Rate.** If the debtor opposes the interest rate claimed in the Objection and Certification of Interest Rate, the debtor must, within fourteen (14) days after service thereof on the debtor, file a response to the objection so that the dispute may be resolved at the hearing on the confirmation of the plan. If no response is filed, the Court may require that the debtor amend the chapter 13 plan to reflect the interest rate claimed by the party in interest.

### Notes:

(2008) Portions of former SC LBR 3015-3 were incorporated into this rule.

(2009) The deadlines in paragraphs (c) and (d) and Exhibit A were amended to multiples of seven as part of time computation amendments.

**EXHIBIT A TO SC LBR 3015-6**

UNITED STATES BANKRUPTCY COURT  
DISTRICT OF SOUTH CAROLINA

IN RE:

CASE NO:  
CHAPTER:

OBJECTION AND  
CERTIFICATION OF INTEREST RATE

DEBTOR(S)

TO: Chapter 13 Trustee and Debtor

\_\_\_\_\_, a secured creditor in this case, hereby objects to the interest rate proposed by the debtor in the chapter 13 plan, dated \_\_\_\_\_, and claims entitlement to a rate of interest greater than the rate proposed in the chapter 13 plan; and, in support of its claim of entitlement to the interest rate set out below, certifies:

Contractual rate of interest: (copy of the obligation attached) \_\_\_\_\_

Market rate of interest for similar loans in creditors' lending market: \_\_\_\_\_

Arrearage amount (if applicable): \_\_\_\_\_, as of \_\_\_\_\_

Payoff balance, as of date of filing: \_\_\_\_\_

Hypothetical cost, in dollars, of liquidating collateral: \_\_\_\_\_

Hypothetical cost, in dollars, of making a new loan: \_\_\_\_\_

Interest rate to which creditor is entitled under plan: \_\_\_\_\_

If the debtor opposes the interest rate claimed in the Objection and Certification of Interest Rate, the debtor must, within fourteen (14) days after service thereof on the debtor, file a response to the objection so that the dispute may be resolved at the hearing on confirmation of the plan. If no response is filed, the Court may require the debtor to amend the chapter 13 plan to reflect the interest rate claimed by the creditor.

Date: \_\_\_\_\_

\_\_\_\_\_  
Signature of Attorney

\_\_\_\_\_  
Typed Printed Name

\_\_\_\_\_  
Address/Telephone/Facsimile/E-mail

\_\_\_\_\_  
District Court I.D. Number

#### **LOCAL RULE 3016-1: CHAPTER 11 PLAN**

- (a) **Deadline.** Unless otherwise ordered by the Court, a disclosure statement and plan of reorganization shall be filed by the debtor or trustee not later than one hundred eighty (180) days after the entry of the order for relief. The debtor, trustee, or other plan proponent shall prosecute its disclosure statement and plan in a timely manner.
- (b) **Amendments.** The Court may consider for approval written amendments made prior to the hearing on the disclosure statement or plan at that hearing.
- (c) **Denial of Confirmation.** If any plan of reorganization or disclosure statement filed by the debtor, trustee, or other plan proponent is not confirmed or approved by the Court, any amendment, modification, or supplement necessary to correct the deficiency must be filed within fourteen (14) days or whatever time period the Court may require. Failure to timely comply may be deemed a failure to prosecute the case and may constitute grounds for dismissal or conversion without further notice or hearing.

#### **Notes:**

(2008) Portions of former SC LBR 2081-1 were incorporated into this rule pursuant to Fed. R. Bankr. P. 9029(a) and the Judicial Conference's prescribed numbering conventions.

(2009) The period in paragraph (c) was amended to a multiple of seven as part of time computation amendments.

## **LOCAL RULE 3018-1: BALLOTS IN CHAPTER 11 CASES**

At least seven (7) days prior to the hearing on confirmation of a chapter 11 plan, the plan proponent shall file with the Court a ballot tally of the votes cast for and against the plan, and shall certify to the Court in writing the amount and number of allowed claims or allowed interests of each class accepting or rejecting the plan. The ballot tally shall include an identification of each class and whether or not it is impaired; for each impaired class, the number of ballots received, the number of ballots voting to accept, and their aggregate dollar amount; a concluding paragraph indicating whether the plan has received sufficient acceptance to be confirmed; a completed ballot report and, appended thereto, copies of all ballots not counted for any reason and a statement why the same were not counted; and a representation that all ballots were counted for the classes for which those ballots were filed except for ballots appended to the report. A copy of the ballot tally and certification shall be served simultaneously upon the debtor (if applicable), the trustee (if any), and each committee.

The Court may refuse to recognize, in connection with the confirmation of a plan, a timely filed ballot which is not signed, which does not clearly indicate acceptance or rejection of the plan, or which does not clearly indicate its inclusion in a specific class of claims or interests under the plan.

Upon motion at the confirmation hearing, the Court may extend the time for balloting and may permit the modification or withdrawal of ballots.

### **Notes:**

(2009) The ballot period was amended to a multiple of seven as part of time computation amendments.

## **LOCAL RULE 3070-1: CHAPTER 13- PAYMENTS**

- (a) Following confirmation of a plan, all funds in possession of the chapter 13 trustee shall be disbursed pursuant to the terms of the confirmed plan. Unless the Court orders otherwise, creditors shall receive adequate protection as required by 11 U.S.C. § 1326(a) from the plan and the provisions set forth below.
- (b) Upon the conversion or dismissal of a case the chapter 13 trustee shall, after first paying the balance of any sanctions as directed by the Court and next paying any unpaid fees, dispose of funds in the following manner, unless otherwise ordered by the Court:
  - (1) If there is a confirmed plan in the case, the chapter 13 trustee shall pay any funds received before the conversion or dismissal of the case to creditors pursuant to the terms of the plan. All funds received thereafter shall be paid to the debtor.
  - (2) If there is neither a confirmed plan nor an order directing otherwise, funds received prior to entry of an order of dismissal or conversion shall be disbursed as follows:
    - (A) First, unless otherwise ordered, the lesser of the amount due to debtor's attorney, to the extent that the amount owed has not been satisfied; \$500.00; or the remaining balance of funds received by the chapter 13 trustee prior to dismissal or conversion, shall be disbursed to the debtor's attorney. The attorney may seek a greater payment upon timely application to the Court made prior to the disbursement by the chapter 13 trustee;
    - (B) Second, as adequate protection required by 11 U.S.C. § 1326(a), the trustee shall disburse scheduled payments to the holders of allowed secured claims and allowed claims for executory contracts scheduled to be paid through the most recently filed plan, divided based upon the monthly payments provided therein. Subject to the availability of funds, creditors will be paid a full payment for each full month beginning thirty (30) days after the order for relief and continuing through the date of dismissal or conversion. No payment will be made for partial months;
    - (C) Third, any fees still due the debtor's attorney after the above payment; and
    - (D) Any funds remaining after these payments, and all funds received after conversion or dismissal, shall be returned to the debtor.
- (c) Subject to the above, the chapter 13 trustee shall pay any funds that would be considered an asset of a converted case to any subsequent trustee, and the chapter 13 trustee shall pay to the Court any remaining balance of the fee owed to the Court.

### **Notes:**

(2008) Portions of former SC LBR 1019-1 and 3015-1 were incorporated into this rule pursuant to Fed. R. Bankr. P. 9029(a) and the Judicial Conference's prescribed numbering conventions.

(2011) Former paragraph (b)(2) was eliminated and paragraph (b)(3) was renumbered to (b)(2) to eliminate reference to cases filed before the Bankruptcy Consumer Protection Act of 2005. Former paragraph (b)(3)(C) was renumbered to (b)(2)(D) and paragraph (b)(2)(C) was added to provide for an additional distribution to debtor's counsel.

## LOCAL RULE 4001-1: PROCEEDINGS TO MODIFY STAY

This rule applies to motions for relief from the automatic stay of 11 U.S.C. § 362(a), motions to extend or impose the automatic stay pursuant to 11 U.S.C. § 362(c)(3) and (c)(4), and motions for an order confirming termination of the automatic stay pursuant to 11 U.S.C. § 362(j), 11 U.S.C. § 362(h), and 11 U.S.C. § 521(a)(6).

### (a) **Motions for Relief from the Automatic Stay Pursuant to 11 USC § 362(a).**

(1) **Hearing date.** The movant shall select a hearing date from a list of available dates posted on the Court's website and prepare a hearing notice in substantial conformance with Exhibit A under the following guidelines.

(A) For all divisions, the hearing shall be scheduled before the judge to whom the case is assigned;

(B) If a hearing date is required within the thirty (30) day period pursuant to 11 U.S.C. § 362(e) and either the judge required to hear the motion is not scheduled for that location within that time, or the movant is unable to select a hearing date which is at least twenty-one (21) days from the date of the service/transmittal of the motion, the movant must contact a courtroom deputy for scheduling assistance which may include scheduling the motion for hearing in Columbia, if deemed necessary; and

(C) If the movant fails to properly select a hearing date or selects a hearing date which is more than thirty (30) days after the moving party makes its request for relief, the movant will be deemed to have waived its rights under 11 U.S.C. § 362(e) relating to the automatic lifting of the stay. In such instance, the stay shall remain in effect until further order of the Court.

(2) **Service and transmittal of the motion.** At least twenty-one (21) days before the scheduled hearing date, the movant shall serve on the debtor, attorney for the debtor, any trustee serving in the case, any committee elected or appointed in the case, and any other party in interest entitled to notice pursuant to Fed. R. Bankr. P. 4001(a), and shall file with the Court:

(A) The 11 U.S.C. § 362 motion;

(B) The movant's completed certification of facts in substantial conformance with Exhibit B;

(C) The notice of hearing on the motion in substantial conformance with Exhibit A; and

(D) A blank certification of facts form (applicable to service on *pro se* parties only).

The moving party should determine if the case has been dismissed or closed before filing these documents. Filing fees will not be refunded for motions filed in dismissed or closed cases.

(3) **Objections.** Any party objecting to the relief sought in the motion shall, within fourteen (14) days after service thereof, serve upon the movant and other appropriate parties and file with the Court an objection to the motion and its responding certification of facts. Failure to complete, serve and file a responding certification of facts or to complete fully the certification of facts shall be deemed an agreement to the terms contained in the movant's certification.

(4) **Defaults.** If no objection is filed and served upon the movant within fourteen (14) days after the service of items (A)-(D), subparagraph (a)(2), the movant shall:

- (A) File a certificate stating that no objection has been served upon the movant or filed with the Court; and
  - (B) Submit a proposed order granting the relief sought in the motion.
- (5) **Form of motion.** Any motion for the approval of an agreement pursuant to Fed. R. Bankr. P. 4001(d) should be prepared using a form in substantial conformance with the form approved by the Court (see Exhibit A to SC LBR 4001-4).
- (6) **General matters.** Neither consent/settlement orders nor default orders should contain provisions which attempt to make the order binding upon a trustee or creditors in the event of the conversion of the case to another chapter or provisions which purport to limit the effect of the automatic stay in the event of a dismissal and refiling of the case. Such provisions may require a showing of cause before the Court after a hearing.
- (b) **Motions to Extend the Automatic Stay Pursuant to 11 U.S.C. § 362(c)(3).**
- (1) **Hearing date.** Motions pursuant to 11 U.S.C. § 362(c)(3) shall be scheduled to be heard prior to the expiration of thirty (30) days following the filing of the case. The movant shall select a hearing date from a list of available dates posted on the Court's website and prepare a hearing notice attached as Exhibit A under the following guidelines.
- (A) Motions under paragraph (b) are to be scheduled before the judge to whom the case is assigned;
  - (B) The hearing shall first be scheduled when motions to extend or impose the automatic stay pursuant to 11 U.S.C. § 362(c)(3) and (c)(4) are specially designated to be heard;
  - (C) If a hearing date set forth in subparagraph (1)(B) is unavailable, then the hearing shall be scheduled when motions for relief from the automatic stay are being heard in the same division as the case;
  - (D) If a hearing date set forth in subparagraphs (1)(B) or (C) is unavailable, then the hearing shall be scheduled in any division where motions for relief from the automatic stay are being heard; and
  - (E) If none of the above-referenced hearing dates are available, then the movant must contact a courtroom deputy for scheduling assistance.
- (2) **Filing, service, and transmittal of the motion.** All motions filed by the debtor pursuant to 11 U.S.C. § 362(c)(3) must be filed with the petition; all motions filed by parties in interest, including any trustee serving in the case, must be filed within seven (7) days following the filing of the case. All motions must clearly set forth specific and detailed grounds in support of the motion. At least fourteen (14) days before the scheduled hearing date, the movant shall serve on all creditors sought to be stayed, the United States Trustee, and any trustee serving in the case, and shall file with the Court:
- (A) The 11 U.S.C. § 362 motion; and
  - (B) The notice of hearing on the motion in substantial conformance with Exhibit A.

- (3) **Objections.** Any party objecting to the relief sought in the motion shall, within fourteen (14) days after service thereof, serve upon the movant and other appropriate parties and file with the Court an objection to the motion.
- (c) **Motions to Impose the Automatic Stay Pursuant to 11 U.S.C. § 362(c)(4).**
- (1) **Hearing date.** If time permits, the movant shall follow the procedures set forth in subsection (b) for selection of a hearing date. As an alternative to the procedures set forth in subsection (b), the movant may request a hearing on an emergency basis pursuant to SC LBR 9013-1(d) and in the manner posted on the Court's website pursuant to the Chambers Guidelines set forth therein for each Judge. Such motions, if granted, shall be scheduled subject to the availability of the Court.
- (2) **Filing, service, and transmittal of the motion.** All motions filed by the debtor pursuant to 11 U.S.C. § 362(c)(4) must be filed with the petition; all motions filed by parties in interest, including any trustee serving in the case, must be filed within seven (7) days following the filing of the case. Any objection shall be filed within the time period required by SC LBR 4001-1(b)(3). All motions must clearly set forth specific and detailed grounds in support of the motion. Motions sought to be scheduled on an emergency basis must also be accompanied by items (A)-(B), subparagraph (b)(2) and, if granted, shall be served on an expedited basis. Motions not scheduled on an emergency basis shall be filed and served and objections shall be made in accordance with the procedures set forth in paragraph (b).
- (d) **Motion for an Order Confirming Termination of the Automatic Stay Pursuant to 11 U.S.C. § 362(j), 11 U.S.C. § 362(h), and 11 U.S.C. § 521(a)(6).**
- (1) **Hearing date.** It is not necessary to select a hearing date as motions for an order confirming termination of the automatic stay may be considered on an *ex parte* basis.
- (2) **Filing of the motion.** Motions for an order confirming termination of the automatic stay shall specifically recite facts and the applicable statutory authority upon which the stay has been terminated.
- (3) **Order.** The order confirming termination of the automatic stay will be served upon all creditors and parties in interest.

**Notes:**

(2008) Former paragraphs (a)(6), (7), (8), (10), (13), and (14) were deleted based upon similar provisions in the Chambers Guidelines. Former paragraphs (a)(4) and (11) and (b)(2)(B) were deleted. Former paragraphs (a)(1)(D), (b)(1)(F), and (e) were deleted based upon SC LBR 9011-3. Former paragraphs (a)(2)(E) and provisions in other paragraphs were removed because certificates of service are now addressed by SC LBR 9013-3. Other paragraphs were renumbered and restyled based upon these changes. Paragraphs (a)(3), (a)(4), and (b)(3) were amended to extend the objection period from 10 to 14 days.

(2009) The periods in paragraphs (a)(1)(B), (a)(2), (b)(2), and (c)(2) were amended to multiples of seven as part of time computation amendments.

**EXHIBIT A TO SC LBR 4001-1**

UNITED STATES BANKRUPTCY COURT  
DISTRICT OF SOUTH CAROLINA

IN RE:

CASE NO:  
CHAPTER:

NOTICE OF: MOTION FOR  
RELIEF FROM AUTOMATIC  
STAY (11 U.S.C. § 362(a)) / MOTION TO EXTEND OR  
IMPOSE AUTOMATIC STAY (11 U.S.C. § 362(c)(3); 11  
U.S.C. § 362(c)(4))

DEBTOR(S)

**TO: DEBTOR, TRUSTEE (if applicable), AND THOSE NAMED IN THE ATTACHED MOTION**

PLEASE TAKE NOTICE THAT a hearing will be held on the attached motion on:

Date: \_\_\_\_\_

Time: \_\_\_\_\_

Place: [location including building and street address and city]

Within fourteen (14) days after service of the attached motion, the notice of motion, the movant's certification of facts, (and a blank certification of facts form, applicable only to motions for relief from the automatic stay and for service on *pro se* parties only), any party objecting to the relief sought shall:

- (1) File with the Court a written objection to the 11 U.S.C. § 362 Motion;
- (2) File with the Court a certification of facts (for motions for relief from the automatic stay);
- (3) Serve on the movant items 1 and 2 above at the address shown below; and
- (4) File a certificate of such service with the Court.

If you fail to comply with this procedure, you may be denied the opportunity to appear and be heard on this proceeding before the Court.

Date of Service: \_\_\_\_\_

\_\_\_\_\_  
Signature of Attorney/Movant

\_\_\_\_\_  
Typed Printed Name

\_\_\_\_\_  
Address/Telephone/Facsimile/E-mail

\_\_\_\_\_  
District Court I.D. Number

**EXHIBIT B TO SC LBR 4001-1**

UNITED STATES BANKRUPTCY COURT  
DISTRICT OF SOUTH CAROLINA

IN RE:

CASE NO:  
CHAPTER:

CERTIFICATION OF FACTS

DEBTOR(S)

In the above-entitled proceeding, in which relief is sought by (name of movant) from the automatic stay provided by 11 U.S.C. § 362, I do hereby certify to the best of my knowledge the following:

- (1) Nature of Movant's Interest.
- (2) Brief Description of Security Agreement, copy attached (if applicable).
- (3) Description of Property Encumbered by Stay (include serial number, lot and block number, etc.).
- (4) Basis for Relief (property not necessary for reorganization, debtor has no equity, property not property of estate, etc.) include applicable subsection of 11 U.S.C. § 362).
- (5) Prior Adjudication by Other Courts, copy attached (Decree of Foreclosure, Order for Possession, Levy of Execution, etc., if applicable).
- (6) Valuation of Property, copy of Valuation attached (Appraisal, Blue Book, etc.):  
Fair Market Value: \_\_\_\_\_  
Liens (Mortgages): \_\_\_\_\_  
Net Equity: \_\_\_\_\_  
Source/Basis of Value: \_\_\_\_\_
- (7) Amount of Debtor's Estimated Equity (using figures from paragraph 6, supra).
- (8) Month and Year in Which First Direct Post-petition Payment Came Due to Movant (if applicable).
- (9)(a) For Movant/Lienholder (if applicable): List or attach a list of all post-petition payments received directly from debtor(s), clearly showing date received, amount, and month and year for which each such payment was applied.<sup>1</sup>
- (b) For Objecting Party (if applicable): List or attach a list of all post-petition payments included in the Movant's list from (a) above which objecting party disputes as having been made. Attach written proof of such payment(s) or a statement as to why such proof is not available at the time of filing this objection.
- (10) Month and Year for Which Post-petition Account of Debtor(s) is Due as of the Date of this Motion:

<sup>1</sup> This requirement may not be met by the attachment of a payment history generated by the movant. Such attachment may be utilized as a supplement to a complete and detailed response to (9)(a) above, which should be shown on this certification.

Date: \_\_\_\_\_

\_\_\_\_\_  
Signature of Attorney

\_\_\_\_\_  
Typed Printed Name

\_\_\_\_\_  
Address/Telephone/Facsimile/E-mail

\_\_\_\_\_  
District Court I.D. Number

**LOCAL RULE 4001-4: AGREEMENTS RELATING TO RELIEF FROM THE AUTOMATIC STAY, PROHIBITING OR CONDITIONING THE USE, SALE OR LEASE OF PROPERTY, PROVIDING ADEQUATE PROTECTION, USE OF CASH COLLATERAL, AND OBTAINING CREDIT**

- (a) **Form of Motion.** A motion for the approval of an agreement pursuant to Fed. R. Bankr. P. 4001(d) shall be in substantial conformance with Exhibit A.
- (b) **Guidelines for 4001(d) Notices and Orders.** All notices, proposed consent orders, or applications for approval of Fed. R. Bankr. P. 4001 agreements must recite whether the notice, proposed order, or stipulation contains any provision that the Court does not normally approve and should identify any such provision and explain the justification for the provision. If such an order or stipulation is presented in connection with a hearing, counsel shall call the Court's attention to such provision on the record.
  - (1) The following will not normally be approved:
    - (A) Provisions or findings of fact that bind the estate or parties in interest with respect to the validity, perfection, or amount of the secured party's lien or debt;
    - (B) Provisions or findings of fact that bind the estate or parties in interest with respect to the relative priorities of the secured party's lien and liens held by persons who are not parties to the stipulation. (This would include, for example, an order approving a stipulation providing that the secured party's lien is a "first priority" lien);
    - (C) Waivers of 11 U.S.C. § 506(c), unless the waiver is effective only during the period in which the debtor is authorized to use cash collateral or borrow funds;
    - (D) Provisions that operate, as a practical matter, to divest the debtor in possession of any discretion in the formulation of a plan or administration of the estate or limit access to the Court to seek any relief under other applicable provisions of law;
    - (E) Cross-collateralization clauses, i.e., clauses that secure pre-petition debt by post-petition assets in which the secured party would not otherwise have a security interest by virtue of its pre-petition security agreement;
    - (F) "Rollup" clauses, i.e., clauses that include the application of proceeds of post-petition financing to pay, in whole or in part, pre-petition debt;
    - (G) Releases of liability for the creditor's alleged pre-petition torts or breaches of contract;
    - (H) Waivers, assignment, transfer or encumbrance of avoidance actions arising under the Bankruptcy Code;
    - (I) Immediate entitlement to relief from the automatic stay upon default, conversion of the case, or appointment of a trustee, absent further order;
    - (J) Waivers of the procedural requirements for foreclosure mandated under applicable non-bankruptcy law;
    - (K) Adequate protection provisions that create liens on claims for relief arising under the Bankruptcy Code;

- (L) Findings of fact on matters extraneous to the approval process. (For example, in connection with an application to borrow on a secured basis, a finding that the debtor cannot obtain unsecured credit would be acceptable, whereas a “finding” that the lender acted in good faith in declaring the pre-petition loan in default would not be acceptable. Do not include long histories of the relationship between the parties or a lengthy recitation or detailing of documents. A finding that notice is proper should be replaced by a provision which states that notice has been given according to the certificate of service filed by the movant);
  - (M) Provisions which merely recite the Bankruptcy Code. (For example, a provision that in the event the adequate protection provided by the debtor is insufficient that the creditor is entitled to an administrative priority claim is unnecessary since that is the effect of § 507(b));
  - (N) Any provision which purports to bind a later appointed trustee to the agreement of the debtor;
  - (O) Provisions which prohibit or restrict the Court’s ability to vacate, modify, or stay the effect of a consent order or which provide for conditional approval by the Court before notice and an opportunity for hearing or provisions in which the Court independently finds “all of the terms of the agreement to be fair and reasonable,” for such provisions presume a detailed determination which may not have been undertaken;
  - (P) Waivers that divest the Court of its power or discretion in a material way, or interfere with the exercise of the fiduciary duties of the debtor or unsecured creditors’ committee in connection with the operation of the business, administration of the estate, or the formulation of a reorganization plan, such as provisions that deprive the debtor or unsecured creditors’ committee of the ability to file a request for relief with the Court, to grant a junior post-petition lien, or to obtain future use of cash collateral.
- (2) Provisions that will normally be approved:
- (A) Withdrawal of consent to use cash collateral or termination of further financing, upon occurrence of a default or conversion to chapter 7;
  - (B) Securing any post-petition diminution in the value of the secured party’s collateral with a lien on post-petition collateral of the same type as the secured party had pre-petition, if such lien is subordinated to the compensation and expense reimbursement (excluding professional fees) allowed to any trustee thereafter appointed in the case;
  - (C) Securing new advances or value diminution with a lien on other assets of the estate, but only if the lien is subordinated to all the expenses of administration (including professional fees) of a superseding chapter 7 case;
  - (D) Reservations of rights under Bankruptcy Code § 507(b), unless the stipulation calls for modification of the Bankruptcy Code’s priorities in the event of a conversion to chapter 7;
  - (E) Reasonable reporting requirements, including access to books and records;
  - (F) Reasonable access for inspection of collateral, including access for purposes of appraisal and environmental impact studies;
  - (G) Requirement to segregate cash collateral and the use of lockbox agreements;

- (H) Reasonable reporting and controls regarding compliance with any budget approved by the Court, including provisions that material deviations from the budget constitute a default under the consent order or stipulation;
  - (I) Provisions requiring proof of insurance;
  - (J) Provisions providing a reasonable carve out for professional fees and costs;
  - (K) Default provisions which state that in the event of a default by the debtor or trustee (if applicable) under the provisions of the order or stipulation, the creditor may have its attorney file an affidavit attesting to the default, and the creditor thereby will be entitled to relief from the automatic stay without further notice or hearing upon entry of an order by the Court.
- (c) **Procedure Upon Default.** In the event a party seeks relief upon default under an order, settlement, or agreement covered by Fed. R. Bankr. P. 4001(d), the attorney for that party shall file with the Court a certification of noncompliance or affidavit attesting to default which specifies the grounds and a proposed order granting the relief sought. The requested relief, including any modification of the stay, is effective only upon entry of the order by the Court.

**Notes:**

(2008) Portions of this rule were restyled.

(2010) The objection period for agreements related to relief from the automatic stay was amended in Exhibit A to a multiple of seven as part of time computation amendments.

**EXHIBIT A TO SC LBR 4001-4**

UNITED STATES BANKRUPTCY COURT  
DISTRICT OF SOUTH CAROLINA

IN RE:

CASE NO:  
CHAPTER:

NOTICE AND MOTION PURSUANT TO FEDERAL  
RULE OF BANKRUPTCY PROCEDURE 4001(d)

DEBTOR(S)

**TO: All Creditors and Parties in Interest Entitled to Notice under Federal Rule of Bankruptcy Procedure 4001(d)**

The debtor/trustee and \_\_\_\_\_ hereby move the Court for an order approving the agreement between them which is described below and attached to this notice.

TAKE FURTHER NOTICE that any response, return and/or objection to this application, should be filed with the Court no later than (enter number of days) days from service of motion/application and a copy simultaneously served on all parties in interest.

TAKE FURTHER NOTICE that no hearing will be held on this application, except as required by the judge, unless a response, return and/or objection is timely filed and served, in which case, the Court will conduct a hearing on \_\_\_\_\_, \_\_\_\_, at \_\_\_\_ m., at \_\_\_\_\_, \_\_\_\_\_, South Carolina. No further notice of this hearing will be given.

(A) TYPE OF AGREEMENT: (Specify if the agreement involves (Indicate all that apply): (i) adequate protection, (ii) terms that prohibit or condition the use, sale, or lease of property, (iii) modification or termination of the automatic stay, (iv) use of cash collateral, (v) or creation of a lien.)

(B) The agreement and proposed order are attached.

(C) PROVISIONS OF THE AGREEMENT: (Pursuant to Rule 4001(d)(1)(B), a motion of a category or type enumerated in (i) B (v) in section (A) of this form shall consist of or (if the motion is more than five (5) pages in length) begin with a concise statement of the relief requested, not to exceed five (5) pages, that lists or summarizes and sets out the location within the relevant documents all material provisions of the agreement.) Set forth the agreement or a concise statement listing or summarizing the material provisions contained in the agreement and each provision's location within such agreement:

(I) USE OF CASH COLLATERAL (IF APPLICABLE): (If the agreement being noticed includes terms for the use of cash collateral, in addition to any material provisions summarized or listed under section (C), the following information is provided: (1) the name of each entity with an interest in the cash collateral; (2) the purposes for the use of the cash collateral; (3) the material terms, including duration, of the use of the cash collateral; and (4) any liens, cash payments, or other adequate protection that will be provided to each entity with an interest in the cash collateral or, if no additional adequate protection is proposed, an explanation of why each entity's interest is adequately protected.)

(II) OBTAINING CREDIT (IF APPLICABLE): (If the agreement is to (1) obtain credit and (2) includes terms or provisions that represent relief that is within a category or type enumerated as (i) - (v) under section (A) of this form the following information [and its location in the relevant documents] is provided:

Material provisions of the proposed credit agreement and the proposed order, including interest rate, maturity, liens, borrowing limits, and borrowing conditions.)

1. If the credit agreement or proposed order includes any provisions listed below, a statement must follow that briefly lists or identifies the applicable provision(s), identifies its specific location in the agreement and proposed order, and identifies any such provision that is proposed to remain in effect if interim approval is granted, but final relief is denied, as provided under Rule 4001(c)(2).

- a. A grant of priority or a lien on property of the estate under § 364(c) or (d);
- b. The providing of adequate protection or priority for a claim that arose before the commencement of the case, including granting of a lien on property of the estate to secure the claim, or the use of property of the estate or credit obtained under § 364 to make cash payments on account of the claim;
- c. A waiver or modification of Code provisions or applicable rules relating to the automatic stay;
- d. A waiver or modification of any entity's authority or right to file a plan, seek an extension of time in which the debtor has the exclusive right to file a plan, request the use of cash collateral under § 363(c), or request authority to obtain credit under § 364;
- e. The establishment of deadlines for filing a plan of reorganization, for approval of a disclosure statement, for a hearing on confirmation, or for entry of a confirmation order;
- f. A waiver or modification of the applicability of nonbankruptcy law relating to the perfection of a lien on property of the estate, or on the foreclosure or other enforcement of the lien;
- g. A release, waiver, or limitation on any claim or other cause of action belonging to the estate or the trustee, including any modification of the statute of limitations or other deadline to commence an action;
- h. The indemnification of any entity;
- i. A release, waiver, or limitation of any right under § 506(c); or
- j. The granting of a lien on any claim or cause of action arising under §§ 544, 545, 547, 548, 549, 553(b), 723(a), or 724(a).

(D) IMPACT ON PRE-PETITION CLAIMS: (Indicate terms, conditions, and/or facts that determine the validity, enforceability, priority, or the amount of pre-petition claims.)

(E) DEFAULT: (List events that constitute default of agreement.)

(F) RESULT OF DEFAULT: (Briefly state the consequences of the failure to abide by the terms of the agreement. State how the Court will be notified of the breach.)

(G) DESCRIPTION OF PROPERTY SUBJECT TO LIEN:

(H) APPRAISED VALUE OF PROPERTY SUBJECT TO LIEN: (List the values placed upon the collateral by the debtor/trustee and by the creditor. "Unknown" is unacceptable. Include the source of each value. If an appraisal exists [i.e. tax appraisal, blue book, formal appraisal] include the following information regarding each appraisal: the

date and type of appraisal, the appraised value, and the name of the appraiser. If an appraisal exists, it must be disclosed and addressed.)

(I) LIEN AMOUNT (IF APPLICABLE): (State the amount of the claim secured by each lien encumbering the collateral, the relative priority of the liens, and the name of each lienholder).

(J) MOVING PARTIES: (State the name, address, and telephone number of attorney for the debtor/trustee and for the creditor or other moving party.)

(K) LOCAL RULE DISCLOSURE: (Disclose the substantive information or language prescribed by SC LBR 4001-4.)

Date: \_\_\_\_\_

\_\_\_\_\_  
Signature of Attorney for Debtor or Trustee

\_\_\_\_\_  
Typed Printed Name

\_\_\_\_\_  
Address/Telephone/Facsimile/E-mail

\_\_\_\_\_  
District Court I.D. Number

\_\_\_\_\_  
Creditor

\_\_\_\_\_  
Signature of Attorney

\_\_\_\_\_  
Address/Telephone/Facsimile/E-mail

\_\_\_\_\_  
District Court I.D. Number

The minimum time period for response, return, and/or objection to use of cash collateral, obtaining credit, or an agreement relating to relief from the automatic stay, prohibiting or conditioning the use, sale, or lease of property, providing adequate protection, use of cash collateral, and obtaining credit is fourteen (14) days.

#### **LOCAL RULE 4001-5: RENTAL DEPOSITS**

Pursuant to 11 U.S.C. § 362(l), if the debtor is depositing rent with the Court, the debtor must remit to the Clerk of Court simultaneously with the filing of the petition:

- (a) a cashier's check, certified check, or United States Postal money order, made payable to the lessor indicated on the petition, in the amount of such rent; and
- (b) a copy of the applicable judgment for possession.

The Clerk of Court will promptly transmit the rent by first class mail, return receipt requested to the lessor at the address indicated on the petition.

**Notes:**

(2008) Former paragraph (b) was deleted as unnecessary and other portions of this rule were restyled.

## **LOCAL RULE 4003-1: EXEMPTIONS**

A debtor that is claiming property as exempt pursuant to S.C. Code Ann. § 15-41-30(A)(7) shall specify which unused exemption is the basis for the “wildcard claim.”<sup>1</sup>

### **Notes:**

(2008) This rule is new.

---

<sup>1</sup> Example: (A)(7) in the amount of \$ X .00 of unused Motor Vehicle Exemption.

## LOCAL RULE 4003-2: LIEN AVOIDANCE

- (a) **Applicability.** This local rule applies to cases under chapters 7, 11, and 12 of the Bankruptcy Code.
- (b) **Filing Requirements.** In a chapter 7, 11, or 12 case, a debtor seeking to avoid a lien pursuant to 11 U.S.C. § 522(f) shall use the passive notice procedure prescribed by SC LBR 9013-4 and must file with the Court simultaneously:
- (1) A passive notice (See Exhibit B to SC LBR 9013-4);
  - (2) The lien avoidance motion (See attached Exhibits A, C, and E); and
  - (3) A proposed order (See attached Exhibits B, D, and F).
- The above documents must substantially conform to the attached Exhibits in all material respects or the motion may not be considered or may be denied.
- (c) **Filing of Motions Following Closure of Case.** Unless otherwise ordered, following discharge and the closure of a case, a lien may be avoided pursuant to 11 U.S.C. § 522(f) and amended schedules may be filed in relation thereto without reopening the case pursuant to 11 U.S.C. § 350.

### Notes:

(2008) Portions of former SC LBR 4003-1 were incorporated into this rule pursuant to Fed. R. Bankr. P. 9029(a) and the Judicial Conference's prescribed numbering conventions. Former paragraphs (b)(3), (d), and (e) were deleted as unnecessary. Former paragraph (f) was deleted as unnecessary based upon the incorporation of the Interim Bankruptcy Rules into the Federal Rules of Bankruptcy Procedure.

(2011) Exhibits A, B, C, D, and E were amended to clarify that a debtor does not have to claim an exemption to avoid a lien.

**EXHIBIT A TO SC LBR 4003-2**

UNITED STATES BANKRUPTCY COURT  
DISTRICT OF SOUTH CAROLINA

IN RE:

CASE NO:  
CHAPTER:

MOTION TO AVOID JUDICIAL LIEN  
(11 U.S.C. § 522(F)(1)(A))<sup>1</sup>

DEBTOR(S)

TO THE TRUSTEE (if one is appointed) AND THE JUDGMENT LIEN CREDITOR LISTED BELOW:

| Name of creditor and description of property securing lien | Value of Debtor's interest in property | Total of all other liens | Exemption | Estimated judicial lien | Judicial lien not avoided | Judicial lien avoided |
|--|--|--------------------------|-----------|-------------------------|---------------------------|-----------------------|
|  |  |                          |           |                         |                           |                       |
|  |  |                          |           |                         |                           |                       |
|  |  |                          |           |                         |                           |                       |

The debtor hereby moves, in accordance with 11 U.S.C. § 522(f)(1)(A), to avoid the judicial lien held by each creditor named above in the amount listed above in the property claimed as exempt by the debtor. Each of the undersigned certifies the following:

(a) The judicial lien(s) referenced above represent a judgment which has been recorded in a county in which the debtor owns real estate or in which there is a levy/attachment on personal property; and

(b) The property on which the judicial lien is sought to be avoided is owned by the debtor and the debtor is entitled to an exemption therein.

Date: \_\_\_\_\_

\_\_\_\_\_  
Signature of Attorney/*Pro Se* Debtor

\_\_\_\_\_  
Typed Printed Name

\_\_\_\_\_  
Address/Telephone/Facsimile/E-mail

\_\_\_\_\_  
District Court I.D. Number

<sup>1</sup> This form is for use only in chapter 7, chapter 11 and chapter 12 cases.



**EXHIBIT B TO SC LBR 4003-2**

UNITED STATES BANKRUPTCY COURT  
DISTRICT OF SOUTH CAROLINA

IN RE:

CASE NO:  
CHAPTER:

ORDER AVOIDING JUDICIAL LIEN (11 U.S.C. § 522(F)(1)(A))<sup>1</sup>

DEBTOR(S)

Before the Court is the motion of the debtor to avoid the judicial lien held by the following creditor:

| Name of creditor and description of property securing lien | Value of Debtor's interest in property | Total of all other liens | Exemption | Estimated judicial lien | Judicial lien Not avoided | Judicial lien avoided |
|--|--|--------------------------|-----------|-------------------------|---------------------------|-----------------------|
|  |  |                          |           |                         |                           |                       |
|  |  |                          |           |                         |                           |                       |
|  |  |                          |           |                         |                           |                       |

The Court finds that the judicial lien of the above-named creditor impairs the exemptions to which the debtor would otherwise be entitled under 11 U.S.C. § 522(b) and Chapter 41 of Title 15, Code of Laws of South Carolina, 1976 (as amended), and that the judicial lien should therefore be avoided pursuant to 11 U.S.C. § 522(f)(1)(A) in the amount set forth above.

Therefore, IT IS ORDERED that the judicial lien held by the above-named creditor be, and hereby is, avoided in the amount set forth above. Any judicial lien set forth above which is avoided in full may be canceled of record at any time after thirty (30) days after a discharge in this case is granted.

\_\_\_\_\_  
UNITED STATES BANKRUPTCY JUDGE

Date: \_\_\_\_\_  
\_\_\_\_\_, South Carolina

<sup>1</sup> This form is for use only in chapter 7, chapter 11 and chapter 12 cases.

**EXHIBIT C TO SC LBR 4003-2**

UNITED STATES BANKRUPTCY COURT  
DISTRICT OF SOUTH CAROLINA

IN RE:

CASE NO:  
CHAPTER:

MOTION TO AVOID JUDICIAL LIEN  
(11 U.S.C. § 522(F)(1)(A)) EQUITY ANALYSIS/ CO-OWNED PROPERTY<sup>1</sup>

DEBTOR(S)

TO THE TRUSTEE (if one is appointed) AND JUDGMENT LIEN CREDITOR LISTED BELOW:

| Name of creditor and description of property securing lien | Debtor's share of the total equity in the property following deduction for consensual liens | Exemption | Estimated judicial lien | Judicial lien Not avoided | Judicial lien avoided |
|--|---|-----------|-------------------------|---------------------------|-----------------------|
|  |   |           |                         |                           |                       |
|  |   |           |                         |                           |                       |
|  |   |           |                         |                           |                       |
|  |   |           |                         |                           |                       |

The debtor hereby moves, in accordance with 11 U.S.C. § 522(f)(1)(A), to avoid the judicial lien of each creditor named above in the amount listed above in the property claimed as exempt by the debtor. Each of the undersigned certifies the following:

- (a) The judicial lien(s) referenced above represent a judgment which has been recorded in a county in which the debtor owns real estate or in which there is a levy/attachment on personal property; and
- (b) The property on which the judicial lien is sought to be avoided is owned by the debtor and the debtor is entitled to an exemption therein.

Date: \_\_\_\_\_

\_\_\_\_\_  
Signature of Attorney/*Pro Se* Debtor

\_\_\_\_\_  
Typed Printed Name

\_\_\_\_\_  
Address/Telephone/Facsimile/E-mail

\_\_\_\_\_  
District Court I.D. Number

<sup>1</sup> This form is for use in chapter 7, chapter 11, and chapter 12 cases when the Court's equity analysis for co-owned property is applicable pursuant to *In re Ware*, 274 B.R. 206 (Bankr. D.S.C. 2001). If there are multiple liens to be avoided, adapt this form to reflect the amounts and avoidance of the multiple liens. See *In re Ware*, 274 B.R. at 208 n. 2.

**EXHIBIT D TO SC LBR 4003-2**

UNITED STATES BANKRUPTCY COURT  
DISTRICT OF SOUTH CAROLINA

IN RE:

CASE NO:  
CHAPTER:

ORDER AVOIDING JUDICIAL LIEN (11 U.S.C. § 522(F)(1)(A)) EQUITY ANALYSIS/CO-OWNED PROPERTY<sup>1</sup>

DEBTOR(S)

Before the Court is the motion of the debtor to avoid the judicial lien held by the following creditor:

| Name of creditor and description of property securing lien | Debtor's share of total equity in the property following deduction for consensual liens | Exemption | Estimated judicial lien | Judicial lien not avoided | Judicial lien avoided |
|--|---|-----------|-------------------------|---------------------------|-----------------------|
|  |   |           |                         |                           |                       |
|  |   |           |                         |                           |                       |
|  |   |           |                         |                           |                       |
|  |   |           |                         |                           |                       |

The Court finds that the judicial lien of the above-named creditor impairs the exemptions to which the debtor would otherwise be entitled under 11 U.S.C. § 522(b) and Chapter 41 of Title 15, Code of Laws of South Carolina, 1976 (as amended), and that the judicial lien should therefore be avoided pursuant to 11 U.S.C. § 522(f)(1)(A) in the amount set forth above.

Therefore, IT IS ORDERED that the judicial lien held by the above-named creditor be, and hereby is, avoided in the amount set forth above. Any judicial lien set forth above which is avoided in full may be canceled of record at any time after thirty (30) days after a discharge in this case is granted.

UNITED STATES BANKRUPTCY JUDGE

Date: \_\_\_\_\_,  
\_\_\_\_\_, South Carolina

<sup>1</sup> This form is for use in chapter 7, chapter 11, and chapter 12 cases when the Court's equity analysis for co-owned property is applicable pursuant to In re Ware, 274 B.R. 206 (Bankr. D.S.C. 2001). If there are multiple liens to be avoided, adapt this form to reflect the amounts and avoidance of the multiple liens. See In re Ware, 274 B.R. at 208 n. 2.

**EXHIBIT E TO SC LBR 4003-2**

UNITED STATES BANKRUPTCY COURT  
DISTRICT OF SOUTH CAROLINA

IN RE:

CASE NO:  
CHAPTER:

MOTION TO AVOID SECURITY INTEREST  
(11 U.S.C. § 522(F)(1)(B))<sup>1</sup>

DEBTOR(S)

TO THE TRUSTEE (if applicable) AND THE SECURED CREDITOR LISTED BELOW:

Name and Address of Creditor

Type of Property/Date of Security Agreement

---

---

---

---

The debtor moves pursuant to 11 U.S.C. § 522(f)(1)(B) to avoid the nonpurchase-money, nonpossessory security interest held by each creditor named above in the property, which could be claimed as exempt by the debtor in the absence of liens.

Date: \_\_\_\_\_

\_\_\_\_\_  
Signature of Attorney/*Pro Se* Debtor

\_\_\_\_\_  
Typed Printed Name

\_\_\_\_\_  
Address/Telephone/Facsimile/E-mail

\_\_\_\_\_  
District Court I.D. Number

<sup>1</sup> This form is for use only in chapter 7, chapter 11 and chapter 12 cases.

**EXHIBIT F TO SC LBR 4003-2**

UNITED STATES BANKRUPTCY COURT  
DISTRICT OF SOUTH CAROLINA

IN RE:

CASE NO:  
CHAPTER:

ORDER AVOIDING NONPURCHASE-MONEY,  
NONPOSSESSORY SECURITY INTEREST

DEBTOR(S) (11 U.S.C. § 522(F)(1)(B))<sup>1</sup>

Before the Court is the motion of the debtor to avoid the security interest held by the following creditor:

Name and Address of Creditor

Type of Property/Date of Security Agreement

---

---

---

---

The Court finds that the security interest of the above-named creditor is nonpurchase-money and nonpossessory in nature and impairs an exemption to which the debtor would otherwise be entitled under 11 U.S.C. § 522(b) and Chapter 41 of Title 15, Code of Laws of South Carolina, 1976 (as amended). The security interest should therefore be avoided pursuant to 11 U.S.C. § 522(f)(1)(B).

Therefore, IT IS ORDERED that the nonpossessory, nonpurchase-money security interest held by the above-named creditor be, and hereby is, avoided.

\_\_\_\_\_  
UNITED STATES BANKRUPTCY JUDGE

Date: \_\_\_\_\_  
\_\_\_\_\_, South Carolina

<sup>1</sup> This form is for use only in chapter 7, chapter 11 and chapter 12 cases.

## **LOCAL RULE 4004-1: DISCHARGE- INDIVIDUAL CHAPTER 11**

(a) **Discharge Following the Completion of Plan Payments.** Following the completion of payments due under a confirmed plan, an individual debtor may file a Notice of Completion of Plan Payments and Request for Discharge. The Notice shall state whether the debtor has made all payments due under the plan, whether 11 U.S.C. § 1141(d)(3) is applicable, and whether the debtor is required to file the statements set forth in Fed. R. Bankr. P. 1007(b)(7) and (8). The Notice shall be served by the debtor on all creditors and the United States Trustee.

(b) **Discharge at Confirmation.**

An individual debtor seeking a discharge at confirmation shall provide conspicuous notice in bold print on the face of the plan and disclosure statement indicating that debtor seeks a discharge at confirmation. The debtor shall describe in the plan and disclosure statement the grounds constituting cause to grant the debtor a discharge at confirmation, whether 11 U.S.C. § 1141(d)(3) is applicable, and whether the debtor is required to file the statements set forth in Fed. R. Bankr. P. 1007(b)(7) and (8).

(c) **Discharge Prior to the Completion of Plan Payments.**

An individual debtor seeking a discharge following confirmation but prior to the completion of plan payments shall file a motion requesting discharge and serve the motion on all creditors and the United States Trustee. The Motion shall state whether the requirements of 11 U.S.C. § 1141(d)(5)(B)(i) and (ii) have been met; whether 11 U.S.C. § 1141(d)(3) is applicable, and whether the debtor is required to file the statements set forth in Fed. R. Bankr. P. 1007(b)(7) and (8).

(d) **Objections.**

Any party objecting to the granting of a discharge pursuant to paragraphs (a) or (c) shall, within twenty-one (21) days after service of the motion or notice, serve upon the debtor and debtor's counsel and file with the Court an objection. Any party objecting to the granting of a discharge pursuant to paragraph (b) shall, within the time period set forth by an order fixing the last day for filing written objections to confirmation, serve upon the debtor and debtor's counsel and file with the Court an objection.

### **Notes:**

(2010) This rule is new.

## **LOCAL RULE 4008-1: REAFFIRMATION AGREEMENTS**

A reaffirmation agreement or, for a debtor appearing *pro se*, a motion for approval of a reaffirmation agreement, must be accomplished by filing the form in compliance with Director's Form B 240A.

### **Notes:**

(2008) Former paragraph (a) was restyled. Former paragraph (b) was deleted as unnecessary based upon the incorporation of the Interim Bankruptcy Rules into the Federal Rules of Bankruptcy Procedure. Exhibit A was amended to require disclosure of when the agreement was filed and signed in relation to the 341 hearing. Part D of Exhibit A was amended to require an explanation of any difference between the income and expenses disclosed in Schedules I and J and that disclosed in Part D.

(2009) Reference to a local form was removed and Exhibit A was deleted. The current rule does contain a local form but requires parties to a reaffirmation agreement to file a form in substantial conformance with the Director's Form.

## LOCAL RULE 5011-1: WITHDRAWAL OF REFERENCE

- (a) **Form of Request; Place of Filing.** A request for withdrawal, in whole or in part, of the reference of a case or proceeding referred to the Bankruptcy Court, other than a *sua sponte* request by a bankruptcy judge, shall be by motion filed with this Court and must clearly and conspicuously state that "RELIEF IS SOUGHT FROM A UNITED STATES DISTRICT JUDGE."
- (b) **Designation of Record.** The moving party shall serve on the debtor, attorney for the debtor, any trustee appointed in the case, and any other interested party and file with this Court, together with the motion to withdraw the reference, a designation of those portions of the record of the case or proceeding that the moving party believes will be reasonably necessary or pertinent to the United States District Court's consideration of the motion. Within fourteen (14) days after service of the designation of record, any other party may serve and file a designation of additional portions of the record. If the record designated by any party includes a transcript of any hearing or trial, or a part thereof, that party shall immediately after filing the designation deliver to the Court a written request for the transcript and make satisfactory arrangements for payment of its cost. All parties shall take any action necessary to enable the Clerk's Office to assemble and transmit the record to the United States District Court.
- (c) **Responses to Motions to Withdraw the Reference; Reply.** Opposing parties must file with the Court, and serve on all parties set forth in subsection (b), their written responses to the motion to withdraw the reference within fourteen (14) days after being served with a copy of the motion.
- (d) **Transmittal to and Proceedings in the United States District Court.** When the record is complete for purposes of transmittal, but without awaiting the filing of any transcripts, the Clerk's Office shall promptly transmit to the United States District Court the motion, any filed objections or responses, and the portions of the record designated. Following transmittal, documents pertaining to the matter under review by the United States District Court shall be filed with the United States District Court, but all documents relating to other matters in the bankruptcy case, adversary proceeding, or contested matter shall continue to be filed with this Court.
- (e) **Stay.** The filing of a motion to withdraw the reference does not stay proceedings before the Court. Service of a motion seeking a stay pursuant to Fed. R. Bankr. P. 5011(c) shall be served upon the same parties as set forth in subsection (b). The motion shall be accompanied by a notice that the responding party has fourteen (14) days from the date of service of the motion in which to object or respond to the motion.

### Notes:

(2008) Portions of this rule were restyled.

(2009) The periods in paragraphs (b), (c), and (e) were amended to multiples of seven as part of time computation amendments.

**LOCAL RULE 5012-1: COMMUNICATION AND COOPERATION WITH FOREIGN COURTS AND FOREIGN REPRESENTATIVES**

Except for communications for scheduling and administrative purposes, the court in any case commenced by a foreign representative shall give at least twenty-one (21) days' notice of its intent to communicate with a foreign court or a foreign representative. The notice shall identify the subject of the anticipated communication and shall be given in the manner provided by Fed. R. Bankr. P. 2002(q). Any entity that wishes to participate in the communication shall notify the court of its intention not later than seven (7) days before the scheduled communication.

**Notes:**

(2008) This rule is an adoption of Interim Bankruptcy Rule 5012.

(2009) The time periods were amended to multiples of seven as part of time computation amendments.

## LOCAL RULE 5073-1: PHOTOGRAPHY, RECORDING DEVICES, AND BROADCASTING

- (a) **Prohibition Against Camera, Video, Transmitter, Receiver, and Recording Equipment.** Absent a Court order directing otherwise, no camera, video, transmitter, receiver, or recording equipment may be brought into the United States Bankruptcy Court for the District of South Carolina and any of its locations. The use of wireless communication devices<sup>1</sup> shall be governed by a separate Administrative Order, as may be amended from time to time.
- (b) **Authority to Impound.** Such equipment in violation of this rule may be impounded by the appropriate authority.
- (c) **Exemptions from Prohibition.**
- (1) Use of such equipment by an authorized representative of the Court for an official purpose;
  - (2) Use of the Court's videoconferencing system by an authorized representative of the Court to permit the judge to conduct proceedings from or to a remote location;
  - (3) Use of such equipment during ceremonial proceedings with the express permission of the Court and under the supervision of the Court; and
  - (4) A device required because of a person's disability.

### Notes:

(2008) Portions of this rule were restyled and a reference to a separate Administrative Order was added.

(2011) The title of the rule was amended to conform with the model numbering and naming conventions recommended by the Judicial Conference. Paragraph (a) was amended to remove reference to specific electronic devices and to broadly cover all such devices under the term "wireless communication devices" as recommended by the Judicial Conference.

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<sup>1</sup> Wireless communication devices include any electronic equipment with the ability to connect to the internet, send or receive messages, or make or receive a phone call.

## **LOCAL RULE 5075-1: DELEGATION OF NOTICING**

Pursuant to Fed. R. Bankr. P. 2002(m), and Fed. R. Bankr. P. 3019 and unless otherwise ordered, the Clerk of Court may delegate notice to an appropriate party, including, but not limited to the following:

- (a) Order/notice setting disclosure statement hearing;
- (b) Order approving disclosure statement/setting confirmation hearing;
- (c) Order concerning an objection to a claim;
- (d) Hearing notice on motion pursuant to 11 U.S.C. § 363;
- (e) Time fixed for filing objections and, if an objection is filed, the hearing to consider a proposed modification to plan pursuant to 11 U.S.C. § 1127(e); and
- (f) Notice pursuant to SC LBR 2081-2.

### **Notes:**

(2008) Portions of former SC LBR 2081-1 were revised and incorporated into this rule pursuant to Fed. R. Bankr. P. 9029(a) and the Judicial Conference's prescribed numbering conventions. Paragraphs (c), (d), and (f) are new.

## LOCAL RULE 6004-1: SALE OF PROPERTY

- (a) **Passive Notice Procedure.** Excluding chapter 11 cases, applications to sell property free and clear of liens pursuant to Fed. R. Bankr. P. 6004 and 11 U.S.C. § 363 must be made using the passive notice procedure prescribed by SC LBR 9013-4. The application should be in substantial conformance with Exhibit A and shall be served by the movant on all parties in interest.
- (b) **Order Approving Sale.** A proposed order approving a sale, in substantial conformance with Exhibit B, must specify the terms of the sale and not merely incorporate by reference the terms of the notice of sale. In order for a waiver of the stay of an order pursuant to Fed. R. Bankr. P. 6004 to be effective and included in any order approving sale, the sale application or notice must specifically request such waiver or the parties must have agreed to the waiver in writing.
- (c) **Report of Sale.** A report of sale, in substantial conformance with Exhibit C, must be filed by the moving party within fourteen (14) days after the closing of any sale of estate property.
- (d) **Chapter 11 Cases.** The passive notice procedure set forth herein is not applicable to chapter 11 cases. The information to be set forth in the notice, application, and proposed order approving sale and the report of sale shall otherwise be in conformance with this rule.

### Notes:

(2008) Portions of this rule were restyled. Former paragraphs (a) and (e) were deleted. Current paragraph (d) is new.

(2009) The period in paragraph (c) was amended to a multiple of seven as part of time computation amendments. Paragraph (b) and Exhibits A and B were restyled to refer to the applicable rule.

**EXHIBIT A TO SC LBR 6004-1**

UNITED STATES BANKRUPTCY COURT  
DISTRICT OF SOUTH CAROLINA

IN RE:

CASE NO:  
CHAPTER:

NOTICE AND APPLICATION FOR SALE OF  
PROPERTY FREE AND CLEAR OF LIENS

DEBTOR(S)

**TO: All Creditors and Parties in Interest**

YOU ARE HEREBY NOTIFIED that (the debtor or trustee, as applicable) is applying for approval to sell the property of the debtor's estate described below free and clear of all liens and encumbrances according to the terms and conditions stated below.

TAKE FURTHER NOTICE that any response, return, and/or objection to this application, should be filed with the Court no later than (enter number of days) days from service of the application and a copy simultaneously served on all parties in interest.

TAKE FURTHER NOTICE that no hearing will be held on this application, except as directed by the judge, unless a response, return and/or objection is timely filed and served, in which case, the Court will conduct a hearing on \_\_\_\_\_, \_\_\_\_, at \_\_\_\_\_ m., at \_\_\_\_\_, \_\_\_\_\_, South Carolina. No further notice of this hearing will be given.

TYPE OF SALE: (public, private)

PROPERTY TO BE SOLD: (specific legal description, includes identification numbers on all property where obtainable, vehicle ID numbers, serial numbers, tax ID numbers, lot and block number, street address including zip code, county, acreage, etc.)

PRICE: (gross sales price, terms of sale, or highest bid and with or without reserve if public auction)

APPRAISAL VALUE: (state value and source of appraisal; if no formal appraisal, put the trustee's estimated value)

BUYER: (full name, address, relationship to debtor and interest in the case, if any, or state if public auction) .

PLACE AND TIME OF SALE: (street address and mailing address, if different, time if public sale)

SALES AGENT/AUCTIONEER/BROKER: (name, mailing address, phone number to call with questions concerning the property or the sale)

COMPENSATION TO SALES AGENT/AUCTIONEER/BROKER/ETC.: (amount of commission, method of computation, and \$ \_\_\_\_\_ cap placed on expenses {if applicable} for this sale)

ESTIMATED TRUSTEE'S COMPENSATION: Reasonable compensation to be determined by the Court (but not to exceed the limits set in 11 U.S.C. § 326(a)).

LIENS/MORTGAGES/SECURITY INTERESTS ENCUMBERING PROPERTY: (name of each lienholder, lien position, estimated amount due, whether lienholder consents to sale, whether lien attaches to proceeds of sale or whether lien is to be satisfied upon sale)

DEBTOR'S EXEMPTION: (amount, type or not applicable)

PROCEEDS ESTIMATED TO BE PAID TO ESTATE: (net to estate after costs of sale, including all commissions and expenses, and payment of liens encumbering property)

STAY OF ORDER: (If appropriate, a request that the stay provided by Fed. R. Bankr. P. 6004 not apply to the final order may be included here)

Applicant is informed and believes that it would be in the best interest of the estate to sell said property by (public or private sale). Applicant also believes that the funds to be recovered for the estate from the sale of said property justify its sale and the filing of this application.

The Court may consider additional offers at any hearing held on this notice and application for sale. The Court may order at any hearing that the property be sold to another party on equivalent or more favorable terms.

The trustee or debtor in possession, as applicable, may seek appropriate sanctions or other similar relief against any party filing a spurious objection to this notice and application.

WHEREFORE, applicant requests the Court issue an order authorizing sale of said property and such other and further relief as may be proper.

Date: \_\_\_\_\_

\_\_\_\_\_  
Signature of Applicant

\_\_\_\_\_  
Typed Printed Name

\_\_\_\_\_  
Address/Telephone/Facsimile/E-mail

\_\_\_\_\_  
District Court I.D. Number

**EXHIBIT B TO SC LBR 6004-1**

UNITED STATES BANKRUPTCY COURT  
DISTRICT OF SOUTH CAROLINA

IN RE:

CASE NO:  
CHAPTER:

ORDER AUTHORIZING SALE OF ASSET

DEBTOR(S)

This proceeding comes before the Court on the application of \_\_\_\_\_ for authority to sell free and clear of liens the estate's interest in (specific legal description of property).

The Court has been informed that all parties in interest have been notified of the intention to sell said property and that no objection to the proposed sale has been received or filed by any party with the Court. The (trustee or debtor in possession) has represented to the Court that such sale is in the best interest of creditors of the estate. The (trustee or debtor in possession) also has informed the Court that liens claimed by \_\_\_\_\_ against said property (should attach to the proceeds of sale, or should be paid upon the sale) of said property. It is therefore,

ORDERED, ADJUDGED, AND DECREED, that the (trustee or debtor in possession) is authorized to sell and to convey the estate's interest in the above-described property, and that the liens claimed by the above-named creditors (shall attach to the proceeds of sale, or shall be paid upon the sale) of said property.

[(Include the following paragraph if the application/notice included a request for such relief. (See SC LBR 6004-1(c)) IT IS FURTHER ORDERED, ADJUDGED, AND DECREED, that the stay provided by Fed. R. Bankr. P. 6004 does not apply to this sale.]

UNITED STATES BANKRUPTCY JUDGE

Date: \_\_\_\_\_  
\_\_\_\_\_, South Carolina

THE APPLICANT:

Date: \_\_\_\_\_

\_\_\_\_\_  
Signature of Applicant

\_\_\_\_\_  
Typed Printed Name

\_\_\_\_\_  
Address/Telephone/Facsimile/E-mail

\_\_\_\_\_  
District Court I.D. Number

**EXHIBIT C TO SC LBR 6004-1**

UNITED STATES BANKRUPTCY COURT  
DISTRICT OF SOUTH CAROLINA

IN RE:

CASE NO:  
CHAPTER:  
  
REPORT OF SALE

DEBTOR(S)

DATE OF SALE: (month, day, year)

TYPE OF SALE: (public auction or private)

PROPERTY SOLD: (specific description or attach notice of sale)

PURCHASER: (name--if public auction attach tickets and buyer's list showing property purchased and names of purchasers)

PRICE: (gross sales price)

SALES AGENT, AUCTIONEER, BROKER, ETC: (name, date of order of employment; if none, so state)

COMMISSION PAID ON SALE: (include % and amount paid to sales agent, auctioneer, broker, etc.)

EXPENSES OF SALE: (itemize, name of party incurring them)

DEBTOR'S EXEMPTION: (amount, type, if applicable; if none, so state)

LIENS PAID FROM SALE PROCEEDS/ATTACHING TO PROCEEDS: (name of lienholder and amount; state if paid, if liens attach to proceeds of sale, if lienholder is partially paid, or if lienholder is not to be paid from proceeds of sale)

NET TO ESTATE: (what estate will net)

AMOUNT DISBURSED TO DATE/RETAINED BY TRUSTEE OR DEBTOR: (amount of sale proceeds trustee is still holding to be disbursed later)

Date: \_\_\_\_\_

\_\_\_\_\_  
Signature of Debtor/Trustee

\_\_\_\_\_  
Typed Printed Name

\_\_\_\_\_  
Address/Telephone/Facsimile/E-mail

\_\_\_\_\_  
District Court I.D. Number

## **LOCAL RULE 6007-1: ABANDONMENT OR DISPOSITION OF PROPERTY**

- (a) **Abandonment by Specific Notice.** Estate property may be abandoned pursuant to Fed. R. Bankr. P. 6007 by using the passive notice procedure prescribed by SC LBR 9013-4 and pursuant to a notice and order in substantial conformance with the attached Exhibits A and B.
  
- (b) **Abandonment at the Meeting of Creditors.** Except in chapter 11 cases, property may also be abandoned at a meeting of creditors in any case in which a trustee has been appointed and in which notice that estate property may be abandoned at the meeting has been given in the Notice of Meeting of Creditors. To effect abandonment in this manner, the trustee must announce the abandonment at the meeting of creditors and hear no objections. The trustee is responsible for clearly identifying the property abandoned at the meeting of creditors and ensuring entry on the Court's docket. An order in substantial conformance with Exhibit B shall thereafter be submitted to the Court.

### **Notes:**

(2008) Portions of this rule were restyled. Former paragraph (c) was deleted.

**EXHIBIT A TO SC LBR 6007-1**

UNITED STATES BANKRUPTCY COURT  
DISTRICT OF SOUTH CAROLINA

IN RE:

CASE NO:  
CHAPTER:

NOTICE AND APPLICATION FOR ABANDONMENT  
OF PROPERTY

DEBTOR(S)

**TO: All Creditors and Parties in Interest**

YOU ARE HEREBY NOTIFIED that (debtor or trustee, as applicable) proposes that the estate property described herein be abandoned according to the terms and conditions stated below. Applicant is informed and believes that it would be in the best interest of creditors and the estate to abandon the estate's interest in said property.

TAKE FURTHER NOTICE that any response, return and/or objection to this application, should be filed with the Court no later than (enter number of days) days from service of motion/application and a copy simultaneously served on all parties in interest.

TAKE FURTHER NOTICE that no hearing will be held on this application, except as directed by the judge, unless a response, return and/or objection is timely filed and served, in which case, the Court will conduct a hearing on \_\_\_\_\_, \_\_\_\_, at \_\_\_\_\_m., at \_\_\_\_\_, \_\_\_\_\_, South Carolina. No further notice of this hearing will be given.

PROPERTY TO BE ABANDONED: (specific description, include identification numbers on all property where obtainable, vehicle I.D. numbers, serial numbers, real estate legal description, etc.)

APPRAISAL VALUE: (list both the value placed upon the collateral by the debtor and, if applicable, by the party seeking the abandonment. "Unknown" is unacceptable. Include the source of each value. If an appraisal exists, i.e. tax appraisal, blue book, formal appraisal, include the following information regarding each appraisal: the date and type of appraisal, the appraised value, and the name of the appraiser. If an appraisal exists, it must be acknowledged and addressed.)

LIENS/SECURITY INTERESTS: (list the name of each party having a lien against the property to be abandoned. State the amount of each lien against the property. These liens total the sum of \$ \_\_\_\_\_)

MOVING PARTIES: (state the name, address, and telephone number of the trustee, the debtor, and their attorney, and of the moving party, if different)

WHEREFORE, applicant requests the Court issue an order authorizing the abandonment of the estate's interest in said property and for such other and further relief as may be proper.

Date: \_\_\_\_\_

\_\_\_\_\_  
Signature of Applicant

\_\_\_\_\_  
Typed Printed Name

\_\_\_\_\_  
Address/Telephone/Facsimile/E-mail

\_\_\_\_\_  
District Court I.D. Number

**EXHIBIT B TO SC LBR 6007-1**

UNITED STATES BANKRUPTCY COURT  
DISTRICT OF SOUTH CAROLINA

IN RE:

CASE NO:  
CHAPTER:

ORDER AUTHORIZING ABANDONMENT OF  
PROPERTY

DEBTOR(S)

This proceeding comes before the Court on the application of the party named below for the authority to abandon the estate's interest in the below-described property.

The Court has been informed that all parties in interest have been notified of the applicant's desire to have the estate's interest abandoned in said property, and that no objection to the proposed abandonment has been received or filed by any party with the Court. The applicant has represented to the Court that abandonment is in the best interest of creditors and the estate. It is, therefore,

ORDERED, ADJUDGED, AND DECREED, that the below-described property shall be deemed abandoned from the estate.

PROPERTY ABANDONED: (specific legal description, include identification numbers of all property where obtainable, vehicle I.D. numbers, serial numbers, real estate legal description, etc.)

UNITED STATES BANKRUPTCY JUDGE

Date: \_\_\_\_\_  
\_\_\_\_\_, South Carolina

THE APPLICANT:

Date: \_\_\_\_\_

\_\_\_\_\_  
Signature of Applicant

\_\_\_\_\_  
Typed Printed Name

\_\_\_\_\_  
Address/Telephone/Facsimile/E-mail

\_\_\_\_\_  
District Court I.D. Number

## LOCAL RULE 6070-1: FILING OF TAX INFORMATION

- (a) **Tax Information.** Pursuant to 11 U.S.C. § 521(f), certain tax information is required to be filed with the Court upon request. No tax information filed with the Court will be available to the public, and debtors providing tax information under 11 U.S.C. § 521 should redact personal information in accordance with the Fed. R. Bankr. P. 9037.
- (b) **Procedure for Request.** To gain access to a debtor's tax information pursuant to 11 U.S.C. § 521(f), the requesting party must file with the Court a written request that a debtor file copies of tax returns with the Court pursuant to 11 U.S.C. § 521(f). Such request shall be served upon the debtor and attorney for the debtor along with a copy of a proposed order as provided in subsection (c). The request must include a description of the movant's status in the case, a description of the specific tax information sought, a statement indicating that the information cannot be obtained by the movant from any other source, a statement showing the demonstrated need for the tax information, and the mailing address of the requesting party. A request will be considered after the expiration of fourteen (14) days from filing the request. A debtor may object to the request during this fourteen (14) day period and may assert any defense to access by the requesting party or may seek to condition access to and dissemination of the tax information. A hearing will be held on the debtor's objection.
- (c) **Order.** A proposed order should be submitted granting access to the tax information. The order must include a provision that the tax information will be treated as confidential and must specifically condition further dissemination of the tax information as appropriate under the circumstances of the particular case.
- (d) **Transmission of Tax Information.** The tax information requested as set forth above and approved by the Court will be mailed by the Clerk of Court by first class mail to the requesting party.

### Notes:

(2008) Portions of former SC LBR 4002-1 were incorporated into this rule pursuant to Fed. R. Bankr. P. 9029(a) and the Judicial Conference's prescribed numbering conventions.

(2009) The periods in paragraphs (b) were amended to multiples of seven as part of time computation amendments.

## LOCAL RULE 7026-1: DISCOVERY<sup>1</sup>

- (a) **Motions, Memoranda, and Responses.** All motions filed and served in connection with discovery, pursuant to Fed. R. Bankr. P. 7026 through 7037, shall be accompanied by a memorandum stating the pertinent facts and applicable legal authority relied upon and shall be filed and served no later than fourteen (14) days following the deadline for a response to the applicable discovery, except as provided in subsection (b). Any response to a motion filed in connection with discovery shall be filed and served within fourteen (14) days after service of the motion and shall state the pertinent facts and applicable legal authority relied upon in opposition to the motion. Motions regarding discovery may be considered and ruled upon by the Court on an *ex parte* basis or scheduled for hearing.
- (b) **Motions for Protective Orders and Objections to Discovery Process.** Any motion for a protective order shall be filed and served no later than the deadline for response to such discovery. Any objection to any interrogatory, deposition, request, or application under Fed. R. Bankr. P. 7026-7037 shall be in writing and shall also be served no later than the deadline for response to the applicable discovery. Any such motion or objection shall not extend the time within which the objecting party must otherwise answer or respond to any other discovery matter.
- (c) **Certification of Consultation.** Any motion concerning discovery matters must contain a certification that counsel has conferred and explored with opposing counsel, or has in good faith attempted to confer and explore, the possibility of resolving the discovery matters in controversy.
- (d) **Compliance with Discovery Orders.** After the Court has ruled on a discovery motion, any answer, production, designation, inspection, or examination required by the Court shall be completed within fourteen (14) days after the entry of the order of the Court, unless otherwise ordered by the Court.
- (e) **Extensions.** Extensions of time to respond to discovery may only be obtained by order of the Court following appropriate motion. Any agreement between counsel or parties relating to any extension of time is of no force or effect, and any extension granted by the Court will not alter the schedule of dates and procedure previously adopted by the Court unless so stated.

### Notes:

(2008) Portions of this rule were restyled. Paragraphs (b) and (c) were reordered.

(2009) The periods in paragraphs (a) and (d) were amended to multiples of seven as part of time computation amendments.

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<sup>1</sup> In addition to adversary proceedings, this local rule applies to discovery in contested matters pursuant to Fed. R. Bankr. P. 9014(c) and SC LBR 9013-1(b)(2).

## **LOCAL RULE 7030-1: DEPOSITIONS AND EXAMINATIONS**

- (a) At the beginning of each deposition or Rule 2004 examination, deposing counsel shall instruct the witness to ask deposing counsel, rather than the witness's own counsel, for clarifications, definitions, or explanations of any words, questions, or documents presented during the course of the deposition. The witness shall abide by these instructions.
- (b) All objections, except those which would be waived if not made at the deposition under Fed. R. Civ. P. 32(d)(3), and those necessary to assert a privilege, to enforce a limitation directed by the Court, or to present a motion pursuant to Fed. R. Civ. P. 30(d), shall be preserved.
- (c) Counsel shall not direct or request that a witness not answer a question, unless that counsel has objected to the question on the ground that the answer is protected by a privilege or a limitation on evidence directed by the Court or unless that counsel intends to present a motion under Fed. R. Civ. P. 30(d)(1). In addition, counsel shall have an affirmative duty to inform their clients that unless such an objection is made, the question must be answered. Counsel directing that a witness not answer a question on those grounds or allowing their clients to refuse to answer a question on those grounds shall move the Court for a protective order under SC LBR 7026-1 within five (5) business days of the suspension or termination of the deposition or examination. Failure to timely file such a motion will constitute waiver of the objection, and the deposition or examination may be reconvened.
- (d) Counsel shall not make objections or statements which might suggest an answer to a witness. Counsel's objections shall be stated concisely and in a non-argumentative and non-suggestive manner, stating the basis of the objection and nothing more.
- (e) Counsel and witnesses shall not engage in private, "off the record" conferences during depositions or during breaks or recesses regarding the substance of the testimony at the deposition or examination, except for the purpose of deciding whether to assert a privilege or to make an objection or to move for a protective order.
- (f) Any conferences which occur pursuant to, or in violation of, paragraph (e) are proper subjects for inquiry by deposing counsel to ascertain whether there has been any witness coaching and, if so, to what extent and nature.
- (g) Any conferences which occur pursuant to, or in violation of, paragraph (e) shall be noted on the record by the counsel who participated in the conference. The purpose and outcome of the conference shall be noted on the record.
- (h) Deposing counsel shall provide to opposing counsel a copy of all documents to be shown to the witness during the deposition or examination, either before the deposition or examination begins or contemporaneously with the showing of each document to the witness. If the documents are provided (or otherwise identified) at least three (3) business days before the deposition, then the witness and the witness's counsel do not have the right to discuss the documents privately during the deposition or examination. If the documents have not been so provided or identified, then counsel and the witness may have a reasonable amount of time to discuss the documents before the witness answers questions concerning the document.
- (i) If an objecting party or deponent demands, after good faith consultation, that the deposition be suspended pursuant to Fed. R. Civ. P. 30(d), the assigned judge's office shall be contacted to allow that judge to resolve the matter telephonically, if possible. If the assigned judge is not available, that judge's standing instructions for resolution of such matters, which may include referral to a another judge, shall be followed. These instructions shall be available from the judge's chambers and the Courtroom deputy clerk.

- (j) Violation of this Local Rule shall be deemed to be a violation of a court order and shall subject the violator to sanctions under Fed. R. Civ. P. 37(b)(2).

**Notes:**

(2010) This rule is new and incorporates provisions found in the local rules of the District Court.

## **LOCAL RULE 7067-1: DEPOSITING FUNDS WITH THE COURT<sup>1</sup>**

Any deposit of funds in the registry of the Court pursuant to Fed. R. Civ. P. 67 and 28 U.S.C. § 2041 shall be authorized by order which shall include:

- (a) A statement of the amount of funds to be invested;
- (b) A statement of the name of the depository approved by the Treasurer of the United States as a depository for such funds;
- (c) The designation of the type of account or investment instrument in which the funds are to be invested;
- (d) The following language:

"The Clerk of this Court shall deduct a registry fee determined on the basis of the rates published by the Director of the Administrative Office as approved by the Judicial Conference;"
- (e) The names and addresses of all parties claiming an interest in the funds; and
- (f) A statement that the funds shall be disbursed only upon further order of the Court.

A depository designated by the Court for the deposit of registry funds shall pledge sufficient collateral prior to receipt of the funds.

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<sup>1</sup> This rule does not apply to rent that is deposited by the debtor pursuant to 11 U.S.C. § 362(l). See SC LBR 4001-5.

## **LOCAL RULE 9010-2: POWER OF ATTORNEY**

When a petition is signed pursuant to a power of attorney the following is required:

- (a) The power of attorney must be: (a) a general power of attorney authorizing the attorney-in-fact to take any action which the principal could take; or (b) a special power of attorney authorizing the attorney-in-fact to file the petition;
- (b) The power of attorney must be in writing, signed by the principal, and properly executed; and
- (c) A copy of the power of attorney must accompany the petition.

### **Notes:**

(2008) Portions of former SC LBR 1002-1 were incorporated into this rule pursuant to Fed. R. Bankr. P. 9029(a) and the Judicial Conference's prescribed numbering conventions.

## LOCAL RULE 9011-1: ATTORNEYS- DUTIES

- (a) **Competency.** Attorneys admitted to practice pursuant to SC LBR 2090-1, prior to appearing in a matter or filing a paper with the Court, must possess a working knowledge of the United States Bankruptcy Code, the Federal Rules of Bankruptcy Procedure, the Federal Rules of Civil Procedure, the local rules, local administrative and operating orders, Chamber's Guidelines, and the appropriate local rules of the United States District Court.
- (b) **Extent of an Attorney's Duty to Represent.** Except as may be provided in an attorney's written agreement with a party concerning appeals and adversary proceedings, any attorney who files documents for or on behalf of a party in interest shall remain the responsible attorney of record for all purposes including the representation of the party at all hearings and in all matters that arise in conjunction with the case.
- (c) **Professional Conduct.** Any attorney admitted to practice before this Court, including admissions *pro hac vice*, shall maintain respect and courtesy and display professionalism, integrity, and civility in all Court proceedings and in all written and oral communications not only to this Court, its officers, and those who assist them, but also to opposing parties and their counsel, as well as to the trustees and those who assist them when a failure to do so affects the administration of a case or proceeding.
- (d) **Duty to Determine Eligibility.** A debtor and attorney for the debtor shall have the duty to ascertain that no previous court order, statute, or rule makes the debtor ineligible to file or bars the applicable filing of a petition in bankruptcy before this Court. The signing and filing of a petition by a debtor and/or attorney for the debtor will be deemed a certification to the Court that the debtor is eligible to file another petition and is not in violation of a previous order of dismissal with prejudice, statute, or rule.

### Notes:

(2008) Portions of former SC LBR 9010-1 and 9010-3 were revised and incorporated into this rule pursuant to Fed. R. Bankr. P. 9029(a) and the Judicial Conference's prescribed numbering conventions.

## **LOCAL RULE 9011-2: PRO SE PARTIES**

In any petition for relief, motion, adversary proceeding, or other document, or objections or responses thereto:

- (a) An individual may represent himself or herself.
- (b) An individual may represent an unincorporated business if that individual is the sole proprietor of that business.
- (c) All partnerships, corporations and other business entities must be represented by an attorney duly admitted to practice as specified in SC LBR 2090-1, except with respect to the filing of proofs of claim or interests and reaffirmation agreements.

### **Notes:**

(2008) Portions of former SC LBR 9010-1 were incorporated into this rule pursuant to Fed. R. Bankr. P. 9029(a) and the Judicial Conference's prescribed numbering conventions.

### LOCAL RULE 9011-3: SANCTIONS

- (a) **Notices of Deficiency.** In certain instances, failure to comply with an applicable rule or meet any prescribed deadline or requirement, or submission of an insufficient or incomplete filing, may result in a notice of deficiency from the Clerk's Office providing notice and the effect of failure to correct the deficiency or otherwise comply within the time period stated. Failure to so comply may result in the striking of a document, denial, dismissal, or other adverse ruling without further notice or hearing. Nothing herein precludes *ex parte* or *sua sponte* action by a judge if deemed appropriate.
- (b) **Petitions filed in Violation of Law.** If a petition is filed in violation of a previous order of dismissal with prejudice, statute, or rule, the Court, absent extraordinary circumstances, may dismiss the case and/or annul the automatic stay *ex parte*, provide *in rem* relief or take other sufficient action, with the Court retaining jurisdiction for the purpose of considering further action or sanctions.

**Notes:**

(2008) Portions of former SC LBR 9010-2 and 9010-3 were incorporated into this rule pursuant to Fed. R. Bankr. P. 9029(a) and the Judicial Conference's prescribed numbering conventions.

## LOCAL RULE 9013-1: MOTIONS PRACTICE GENERALLY

- (a) **Applicability.** This local rule applies to all motions for which the “passive notice” procedure of SC LBR 9013-4 is not approved.<sup>1</sup>
- (b) **General Requirements for Motions.**
- (1) **Service of Motion and Proposed Order.** The moving party shall file the motion and simultaneously serve copies of the motion, other than a motion under Fed. R. Bankr. P. 9011(c), and a proposed order, on all appropriate parties.
  - (2) **Scheduling Orders.** If the parties determine that a scheduling order may further the discovery process for certain contested matters, the parties may contact the courtroom deputy or chambers to request such an order.
  - (3) **Oral Argument or Testimony.** If the movant anticipates that a hearing in a contested matter may take one (1) hour or more, the movant should contact chambers or the courtroom deputy to secure an appropriate hearing time or date.
  - (4) **Submission of Order.** Proposed orders should be submitted in the manner provided by separate Operating Order, Guidelines for the Filing of Documents, as amended, or in the manner posted on the Court’s website pursuant to the Chambers Guidelines set forth therein for each Judge.
- (c) **Response or Objection to Motions.** Responses or objections to motions must be in the form prescribed by, and filed and served in accordance with, SC LBR 9014-1.
- (d) **Motions for Emergency Hearing.** A motion for an emergency hearing or a hearing to be held on less than fourteen (14) days’ notice should be filed as a separate document from the motion upon which relief is sought and should contain a complete and detailed explanation of the urgency of the request, including the proposed time for scheduling of a hearing, the potential for irreparable harm if relief is not granted, and the efforts made to communicate with other parties in interest to the motion in a good faith attempt to resolve the matter. The movant must contact the courtroom deputy or chambers upon the filing of a motion for an emergency hearing as provided in the Chambers Guidelines.

### Notes:

(2008) Portions of former SC LBR 9014-1 were incorporated into this rule pursuant to Fed. R. Bankr. P. 9029(a) and the Judicial Conference's prescribed numbering conventions.

(2009) The period in paragraph (d) was amended to a multiple of seven as part of time computation amendments.

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<sup>1</sup> "Motion" shall include any request for relief by this Court not requested by adversary proceeding.

## **LOCAL RULE 9013-2: BRIEFS AND MEMORANDA OF LAW**

Any memorandum or brief required to be filed by the Court, or filed by the parties in instances where they have determined that a memorandum would materially assist the Court in its determination of the issues, shall be filed and simultaneously served, with proof of such service filed with the Court, upon all appropriate parties no later than seven (7) days prior to the hearing on the matter, unless otherwise ordered by the Court. The memorandum shall contain:

- (a) A concise statement of the facts that pertain to the matter before the Court for ruling;
- (b) A brief argument relating to the matter before the Court with citations to applicable authorities; and
- (c) Copies of any unpublished decisions or decisions published in any specialized reporting services cited in the memorandum.

### **Notes:**

(2008) Portions of former SC LBR 9014-5 were incorporated into this rule pursuant to Fed. R. Bankr. P. 9029(a) and the Judicial Conference's prescribed numbering conventions.

(2009) The period to file a brief was amended to a multiple of seven as part of time computation amendments.

### **LOCAL RULE 9013-3: CERTIFICATE OF SERVICE**

Unless otherwise ordered, every plan, motion, pleading, objection, reply, or other document requesting relief and all amendments or attachments thereto shall be served by the filing party on all appropriate parties and their attorney of record in the proceeding pending before this Court and shall be accompanied by a certificate of service that indicates the names and addresses of the parties served with the document(s), the manner of service, and the date of service.

**Notes:**

(2008) This rule is new.

#### LOCAL RULE 9013-4: MOTIONS ON PASSIVE NOTICE<sup>1</sup>

- (a) **Applicability.** This rule applies only to motions approved for "passive" notice procedure.
- (b) **General Requirements.**
- (1) The Court has approved certain motions<sup>2</sup> for which "passive" notice may be used giving parties notice and an opportunity for a hearing. The date for such hearing is selected by the moving party according to the procedures set forth below.
  - (2) A list of the motions and applications approved for this procedure, which may be amended from time to time, is attached as Exhibit A. Only the motions and applications on the list may be noticed using this procedure. Use of the passive notice procedure for any motion or application not on the Court-approved list may result in the striking of the document.
  - (3) Counsel should make a reasonable and good faith effort to coordinate hearings on motions with the availability of opposing counsel, if known, and the trustee in the case.
  - (4) If the movant anticipates that a hearing in a contested matter may take one (1) hour or more, the movant should contact chambers or the courtroom deputy to ensure a hearing date is suitable before choosing one from the passive notice calendar dates.
- (c) **Procedure.** The moving party must comply with the following procedures:
- (1) **Select a Hearing Date.** The moving party must select a hearing date from the calendar posted on the Court's website, which indicates dates designated as days available to schedule passive notice motions. If the judge has more than one hearing date within the applicable time frames, the movant may select any of those dates. No hearing date further than sixty (60) days from the service of the motion may be used. The procedures below must also be followed:
    - (A) select a hearing date no less than seven (7) days following the last day for objections;
    - (B) schedule the motion in all cases in the same division as the case venue unless otherwise approved by the Court; and
    - (C) prepare a hearing notice in substantial conformance with Exhibit B and indicate the date, time of hearing and hearing location (complete address). The hearing notice shall be signed by the attorney representing the movant or by the movant only, if *pro se*.
  - (2) **Serve and transmit the motion.** No more than sixty (60) days prior to the scheduled hearing date, the moving party must serve on the debtor, attorney for the debtor, the trustee, if applicable, and any other interested party entitled to notice and must simultaneously file with the Court:
    - (A) the motion;
    - (B) the notice of hearing of the motion; and
    - (C) a proposed order.

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<sup>1</sup> Under the Court's passive notice procedures, motions are self-scheduled by the filing party.

<sup>2</sup> The use of the word "motion" herein also includes applications, objections, and notices where applicable as set forth in Exhibit A attached hereto.

- (3) **Response/Return or Objection to Motion.**
- (A) Any response, return, and/or objection to the motion must be in writing and properly captioned in accordance with Fed. R. Bankr. P. 9004 and SC LBR 9014-1 and set forth with particularity the reasons for opposition, citing applicable statutes, rules and controlling case law. The parties may be limited to arguing the matters raised in the objection.
  - (B) Prior to any scheduled hearing, the Court may consider withdrawals of objections, or settlements between the party requesting relief and the objecting parties indicated by consent order, and remove a matter from the hearing calendar.
  - (C) The time period for response, return and/or objection (the notice period) is specified in Exhibit A.
- (d) **Motion to Shorten Time.** In instances of a need for expedited relief, a motion to shorten the time for notice herein as allowed by the Federal Rules of Bankruptcy Procedure may be filed which details and supports the reasons for shortening notice and provides a proposed date for hearing (from the calendar posted on the Court's website) if objections or responses are filed. The Court will not shorten the time for notice to less than fourteen (14) days absent a sufficient showing of extraordinary circumstances.
- (e) **Hearings.** A hearing pursuant to the passive notice procedures herein, including notices issued pursuant to subsection (d), will appear on the hearing calendar only upon the timely filing of an objection or response or unless otherwise directed by the assigned Judge. In the event no response, return, or objection is timely filed, the Court may enter the proposed order or other order without further hearing.

**Notes:**

(2008) Portions of former SC LBR 9014-2 were incorporated into this rule.

(2009) The periods in paragraphs (c)(1)(A) and (d) and Exhibit A were amended to multiples of seven as part of time computation amendments.

(2010) The objection period for agreements related to relief from the automatic stay in Exhibit A was amended to a multiple of seven as part of time computation amendments. Exhibit A was also amended to allow trustees to use uniform notices approved by the EOUST and to add a motion to retain an asset to the list of approved passive matters.

**EXHIBIT A TO SC LBR 9013-4**

UNITED STATES BANKRUPTCY COURT  
DISTRICT OF SOUTH CAROLINA

MOTIONS/APPLICATIONS APPROVED FOR "PASSIVE" NOTICE (NOTICE AND OPPORTUNITY FOR HEARING)\*

\* The motions, applications, or notices marked with an asterisk are exhibits to the corresponding local rule that contain substantive language that must be included in either the notice or the separate motion or application. Other forms may be posted on the Court's website.

| Pleading  | No. of Days for Objection |
|---|---------------------------|
| First Motion to extend time to object to discharge or dischargeability of debt  | Fourteen (14)             |
| Motion of United States Trustee to extend time to file a motion to dismiss for substantial abuse  | Fourteen (14)             |
| In a chapter 13 case - motions for use of cash collateral; prohibit or condition the use, sale, or lease of property; or obtain credit  | Fourteen (14)             |
| Request for Chapter 13 Discharge (BAPCPA)*  | Fourteen (14)             |
| Consensual Motion to Modify Mortgage  | Fourteen (14)             |
| Agreement relating to relief from the automatic stay, prohibiting or conditioning the use, sale, or lease of property, providing adequate protection, use of cash collateral, and obtaining credit* | Fourteen (14)             |
| Motion to Substitute Collateral   | Fourteen (14)             |

| Pleading   | No. of Days for Objection |
|--|---------------------------|
| Motions to avoid lien*   | Twenty-eight (28)         |
| Motions to establish value (except if incorporated in another motion such as a motion to redeem) | Twenty-eight (28)         |

| Pleading                      | No. of Days for Objection |
|-------------------------------|---------------------------|
| Applications for final decree | Thirty (30)               |
| Objections to claims          | Thirty (30)               |

| Pleading  | No. of Days for Objection |
|---|---------------------------|
| Trustee's objection to exemptions   | Twenty-one (21)           |
| Motions to dismiss by chapter 7 debtor  | Twenty-one (21)           |
| Motions to dismiss by chapter 11 debtor   | Twenty-one (21)           |
| Motion to modify codebtor stay under 11 U.S.C. § 1301                                     | Twenty-one (21)           |
| Trustee's or debtor's motion to sell, use or lease property (excluding chapter 11 cases)* | Twenty-one (21)           |
| Motion to abandon property*   | Twenty-one (21)           |
| Motion for first moratorium on payments under chapter 12 and chapter 13                   | Twenty-one (21)           |
| Motion to modify confirmed plan under chapter 12  | Twenty-one (21)           |
| Motion to change venue  | Twenty-one (21)           |

<sup>1</sup> A summary of the application identifying the applicant and the amount requested must be incorporated into the notice. The application and proposed order are not required to be served on all creditors.

<sup>2</sup> Id.

<sup>3</sup> Notices by a trustee may conform with uniform notices approved by the Executive Office of the United States Trustee.

<sup>4</sup> The proposed order is not required to be served on all creditors by the trustee.

|   |                 |
|---|-----------------|
| Debtor's motion to convert a chapter 11 case to a chapter 12 or 13 case unless the case has previously been converted | Twenty-one (21) |
| Applications for fees <sup>1</sup>  | Twenty-one (21) |
| Application for payment of administrative claims or interests or other claim <sup>2</sup>                             | Twenty-one (21) |
| Motion for approval of settlement or compromise of controversy pursuant to Fed. R. Bankr. P. 9019 (SC LBR 9019-1)*    | Twenty-one (21) |
| Motions by the debtor to assume or reject leases/executory contracts pursuant to 11 U.S.C. § 365                      | Twenty-one (21) |
| Motions to redeem in chapter 7 cases pursuant to 11 U.S.C. § 722  | Twenty-one (21) |
| Trustee's notice of interim or final accounting in chapter 7 asset case <sup>3</sup>                                  | Twenty-one (21) |
| Trustee's notice of filing final report in chapter 12 case  | Twenty-one (21) |
| Motions to dismiss by chapter 13 trustee for debtor's failure to make plan payments <sup>4</sup>                      | Twenty-one (21) |
| Motion to establish a shortened mailing matrix pursuant to SC LBR 2081-2  | Twenty-one (21) |
| Request for Discharge Pursuant to SC LBR 4004-1(a) or (c)   | Twenty-one (21) |
| Motion to retain asset by trustee   | Twenty-one (21) |

**EXHIBIT B TO SC LBR 9013-4**

UNITED STATES BANKRUPTCY COURT  
DISTRICT OF SOUTH CAROLINA

IN RE:

CASE NO:  
CHAPTER:

NOTICE OF MOTION/  
APPLICATION AND  
OPPORTUNITY FOR HEARING<sup>1</sup>

DEBTOR(S)

TAKE NOTICE that (Movant) filed a \_\_\_\_\_

[ANY SUBSTANTIVE INFORMATION OR LANGUAGE PRESCRIBED BY THE U.S. CODE, FEDERAL RULES, THIS COURT'S LOCAL RULES AND EXHIBITS SHOULD BE INCLUDED IN EITHER THE NOTICE OR MOTION/APPLICATION AND OPPORTUNITY FOR HEARING.]

A copy of the motion and proposed order accompanies this notice.

TAKE FURTHER NOTICE that any response, return, and/or objection to this motion should be filed with the Court no later than (enter number of days) days from service of motion (enter number of days from filing of motion/application if using form for § 1301 motion) and a copy simultaneously served on all parties in interest.

TAKE FURTHER NOTICE that no hearing will be held on this motion, except at the direction of the judge, unless a response, return, and/or objection is timely filed and served, in which case the Court will conduct a hearing on \_\_\_\_\_, \_\_\_\_, at \_\_\_\_\_ m., at \_\_\_\_\_, \_\_\_\_\_, South Carolina. No further notice of this hearing will be given.

Date: \_\_\_\_\_

\_\_\_\_\_  
Signature of Attorney

\_\_\_\_\_  
Typed Printed Name

\_\_\_\_\_  
Address/Telephone/Facsimile/E-mail

\_\_\_\_\_  
District Court I.D. Number

<sup>1</sup> Do not use this passive notice form for relief pursuant to Fed. R. Bankr. P. 4001(d). Such notice shall be in the form attached as Exhibit A to SC LBR 4001-4.

## **LOCAL RULE 9014-1: WRITTEN OBJECTIONS**

When any order, plan, notice, statute, rule, pleading or any other document (any one of which is hereinafter referred to as the "document") requires parties in interest which oppose the relief sought in the document to make a written objection, return, or response, the following applies:

- (a) The objection must be in writing and properly captioned in accordance with Fed. R. Bankr. P. 9004 and set forth with particularity the reasons for opposition, citing applicable statutes, rules and controlling case law. The parties may be limited to arguing the matters raised in the objection.
- (b) Where opposing a motion for summary judgment, the objection or memorandum in support of objection should include a short and concise statement of the genuine issues of material facts which remain to be determined before judgment can be granted.
- (c) Prior to any scheduled hearing, the Court may consider withdrawals of objections, or settlements between the party requesting relief and the objecting parties indicated by consent order, and remove a matter from the hearing calendar.

### **Notes:**

(2008) Portions of former SC LBR 9014-4 were incorporated into this rule pursuant to Fed. R. Bankr. P. 9029(a) and the Judicial Conference's prescribed numbering conventions. Former paragraphs (b) and (e) were deleted pursuant to SC LBR 9011-3 and 9013-3.

## LOCAL RULE 9015-1: JURY TRIALS

- (a) **Demand.** Any demand for jury trial shall contain a statement indicating whether the demanding party consents to the jury trial being conducted by the bankruptcy judge.
- (b) **Statement of Entitlement and Consent.** Within the later of the time for filing a response to the pleading in which the right to jury trial is asserted, or fourteen (14) days after the right to jury trial is asserted if no responsive pleading is due, a party affected by the demand shall file any response or objection to the claim of the right to a jury trial and a statement whether that party consents to the jury trial being conducted by the bankruptcy judge.
- (c) **Memorandum.** In the event a hearing is scheduled to determine the existence of a right to jury trial, or as directed by the Court, the parties demanding and opposing trial by jury shall file and simultaneously serve on each other and any other affected party a memorandum of the relevant facts and authorities no later than seven (7) days before the hearing.

### Notes:

(2008) Portions of this rule were restyled.

(2009) The periods in paragraphs (b) and (c) were amended to multiples of seven as part of time computation amendments.

## **LOCAL RULE 9019-1: COMPROMISE AND SETTLEMENT**

Notice of settlement or compromise must be filed and served within fourteen (14) days after the report of settlement to the Court. A form in substantial conformance with Exhibit A may be used. Notice of settlement or compromise must: (1) provide parties in interest sufficient detail of the settlement to arrive at a reasoned basis for objecting to or accepting the settlement or compromise, (2) be signed by the attorneys for the settling parties and any *pro se* party to the dispute, and (3) be accompanied by a consent settlement order. If a notice of settlement or compromise is not timely filed and served, the Court may strike the pleading or objection of the party responsible for the delay or take other action that is just.

### **Notes:**

(2008) Portions of this rule were restyled.

(2009) The period to file a notice of settlement was amended to a multiple of seven as part of time computation amendments.

**EXHIBIT A TO SC LBR 9019-1**

UNITED STATES BANKRUPTCY COURT  
DISTRICT OF SOUTH CAROLINA

IN RE:

CASE NO:  
CHAPTER:

\_\_\_\_\_  
(If applicable, use  
adversary caption.)

Adv. Pro. No.

DEBTOR(S) NOTICE AND APPLICATION FOR SETTLEMENT  
AND COMPROMISE

TO: \_\_\_\_\_

YOU ARE HEREBY NOTIFIED THAT THE (debtor, trustee, as applicable) is applying for approval of the following compromise or settlement.

TAKE FURTHER NOTICE that any response, return and/or objection to this application, should be filed with the Court no later than (enter number of days) days from service of motion/application and a copy simultaneously served on all parties in interest.

TAKE FURTHER NOTICE that no hearing will be held on this application, except at the direction of the judge, unless a response, return and/or objection is timely filed and served, in which case, the Court will conduct a hearing on \_\_\_\_\_, \_\_\_\_, at \_\_\_\_\_ m., at \_\_\_\_\_, \_\_\_\_\_, South Carolina. No further notice of this hearing will be given.

NATURE OF DISPUTE: (Specifically state the dispute between the parties.)

AMOUNT DISPUTED: (Specifically state the monetary amounts which are the subject of the dispute.)

PROPOSED SETTLEMENT OR COMPROMISE: (Summarize the proposed resolution of the dispute and enclose a copy of the consent order.)

BENEFIT TO THE ESTATE: (Specifically state the benefits to the estate as a result of the settlement. Include the amount of any monetary benefit to be received. Also include any risks to the estate which may result from the failure to accept the proposed settlement or compromise.)

MOVING PARTIES: (Specifically state the names and addresses and telephone numbers of the attorney for the debtor or trustee, as applicable, and any other party proposing the settlement.)

The (name of party) hereby certifies that the terms set out above are complete and have been agreed upon by the moving parties named herein. [*This paragraph to be used when all settling parties are not signing this notice and application.*] WHEREFORE, the moving parties request the Court issue an order authorizing the settlement and compromise and such other and further relief as may be proper.

Date: \_\_\_\_\_

\_\_\_\_\_  
Signature of Debtor/Trustee

\_\_\_\_\_  
Typed Printed Name

\_\_\_\_\_  
Address/Telephone/Facsimile/E-mail

\_\_\_\_\_  
District Court I.D. Number

## LOCAL RULE 9019-2: MEDIATION

- (a) **Initiation of Mediation and Costs.** The Court recognizes that mediation may facilitate settlement of or the narrowing of issues in adversary proceedings and certain contested matters. To that end, any party may file and serve on all other parties to the proceeding a motion for mediation.<sup>1</sup> A party opposing mediation shall have fourteen (14) days to file and serve an objection to the request. After reviewing the request, any objections and, if appropriate, conducting a conference with the parties, the Court may order mediation. The Court may also, *sua sponte* or upon stipulation of all parties, order mediation. Unless the parties agree upon the sharing of the costs of the mediation, including fees of the mediator, the party responsible for or the division of such costs shall be determined by the Court. Election of mediation by agreement of the parties shall occur no later than the earlier of the filing of a joint pretrial order, the time of the final pretrial conference, or seven (7) days prior to the hearing scheduled in a contested matter.
- (b) **Order.** Any order to mediate shall designate the mediator, specify responsibility for the costs of mediation, and may contain additional provisions regarding the conduct and timing of mediation and the duties and compensation of the mediator. The Court may stay the proceeding, in whole or in part, to allow time to complete mediation, but such proceedings and/or hearings related thereto are not to be delayed absent Court approval which may require a showing of exceptional circumstances.
- (c) **Mediator.** The mediator may be selected from the list of mediators available through the Court or, upon the agreement of all the parties, may be some other person otherwise qualified by training or experience to mediate all or some of the issues involved. The mediator must promptly determine all conflicts or potential conflicts pursuant to applicable rules and disclose that circumstance to the parties in writing. If a dispute arises concerning the disqualifying effect of any conflict the Court shall resolve the issue and may appoint another mediator.
- (d) **Timing and Conclusion of Mediation.** Unless otherwise ordered, mediation shall be concluded within thirty (30) days of the order appointing a mediator. The mediator shall report to the Court in writing within seven (7) days following conclusion of mediation whether an agreement was reached by the parties and, if so, whether such agreement will resolve the proceeding and which party or parties will be responsible for the proposed order, stipulation, or notice of settlement. The proposed order, stipulation, or notice of settlement is due within fourteen (14) days of the mediator's report. If the proceeding is not resolved by mediation, the proceeding will be set for hearing, pre-trial conference, or trial in the ordinary course.

### Notes:

(2008) Portions of this rule were restyled.

(2009) The periods in paragraphs (a) and (d) were amended to multiples of seven as part of time computation amendments.

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<sup>1</sup> Mediation as described herein is contemplated to be non-binding unless the parties otherwise agree.

**LOCAL RULE 9029-1: OPERATING ORDERS, GUIDELINES REGARDING CASE MANAGEMENT,  
AND AMENDMENTS TO THE LOCAL BANKRUPTCY RULES**

Certain matters of practice and procedure may be addressed by operating orders or guidelines. Substantive amendments to these rules may be made by separate order and notice of such will be posted on the Court's website.

Technical correction to any local rule may be made by the Court at any time.

**Notes:**

(2008) Portions of this rule were restyled.

## **LOCAL RULE 9070-1: CUSTODY OF EXHIBITS**

- (a) **Marking of Exhibits.** Exhibits must be marked for identification in advance of a hearing. Parties must contact a courtroom deputy at least two (2) days prior to a hearing in order to receive instructions on the marking of exhibits and have available five (5) copies of exhibits for a hearing.
- (b) **Custody of Exhibits.** Exhibits admitted into evidence or marked for identification at a hearing or trial shall be claimed by the proponent within fourteen (14) days after expiration of the time for appeal, unless otherwise directed by the Court. If the party who offered the exhibit fails to claim it as provided herein, the Clerk of Court may provide notice to the attorneys of record and *pro se* parties advising that the exhibits will be destroyed if not claimed and removed within a specified time not less than fourteen (14) days thereafter.

### **Notes:**

(2008) Portions of former SC LBR 9017-1 were incorporated into this rule pursuant to Fed. R. Bankr. P. 9029(a) and the Judicial Conference's prescribed numbering conventions.

(2009) Periods were amended to multiples of seven as part of time computation amendments.

(2010) Paragraph (a) was added to reflect the process announced to the bar on December 1, 2009.