

UNITED STATES BANKRUPTCY COURT

SOUTH CAROLINA

Clerk's Instruction: Filing of Documents in Clerk's Office (CI-5005-1¹)

All pleadings, including proposed orders, shall be filed with or submitted to the clerk's office, rather than directly to a bankruptcy judge, unless otherwise ordered by a judge. The clerk's office will accept pleadings via the following means: 1) electronically filed through CM/ECF (hereinafter referred to as e-filing); 2) submitting documents on a disk or CD (hereinafter disk/CD filing); and 3) conventional (paper) form (hereinafter conventional filing).

In an emergency, disk/CD or conventional filings may be made after public business hours (9:00 a.m. - 4:30 p.m.) by making prior arrangements to do so with the clerk, chief deputy, or intake process manager during public business hours.

The court has implemented a new electronic filing system, CM/ECF (Case Management/Electronic Case Files). Operating Order 02-08 along with the accompanying Administrative Procedures and Commentary sets forth the procedures which must be followed by all electronic filers. A detailed participant guide is also available on the web page (www.scb.uscourts.gov) for the most recent instructions on filing documents electronically. All regular practitioners in this court are strongly encouraged to become CM/ECF e-filers and file their documents electronically via the Internet. The court offers training and on-going support for CM/ECF e-filers. If you wish to become CM/ECF certified e-filer you may complete the steps outlined on the web page and send a registration form to:

Clerk of Court
ATTN: CM/ECF Help Desk
P.O. Box 1448
Columbia, SC 29202

Filing of documents on disk/CD or conventionally in the United States Bankruptcy Court for the District of South Carolina may be made at the clerk's office from 9:00 a.m. to 4:30 p.m. on all days except Saturdays, Sundays, the legal holidays listed in Federal Rules of Bankruptcy Procedure 9006(a) (Fed. R. Bankr. P. 9006(a)), and other times as may be ordered by the court.

Those who are registered CM/ECF participants may e-file documents 24 hours a day, 7 days a week regardless of legal holidays (except for increments of time when the computer system must be down for maintenance and upgrades, which will be announced via the web page).

Should expedited processing of disk/CD or conventional filings be required during a term of court in a division of the district not regularly staffed by the clerk, the court may, upon a showing of compelling need by a party, direct the courtroom deputy clerk to file a judgment, final order or other paper. The party requesting such action shall arrange for prompt service of the paper and shall execute and deliver a certificate of service to the courtroom deputy clerk at the time of filing.

¹See SC LBR 5005-1

The clerk will not accept for filing any petition or document not accompanied by the filing fee prescribed by 28 U.S.C. § 1930 and the Appendix thereto (Bankruptcy Court Miscellaneous Fee Schedule). (See South Carolina Local Bankruptcy Rule 5005-1 (SC LBR 5005-1)).

The following criteria regarding the form of documents presented for filing with this court must be met. Personnel specifically assigned to receive petitions and documents are required to verify that certain rules and requirements have been met with regard to all filings before forwarding pleadings to a bankruptcy judge for his consideration. Should documents submitted for filing not meet the following criteria or not contain the following information, the court may issue an Order Returning Document(s) or an Order Striking Document(s). (SC LBR 5005-1)).

A. All Documents.

1. The original signature of the attorney is required (for e-filers or disk/CD filers, a typed name preceded by /s/, e.g., “/s/ Jane Doe”). The signature line must always be followed by the printed, (or typed) name, District Court I.D. number, full address, telephone number and facsimile number.
2. All documents submitted by non-attorneys must bear the original signature (for e-filers or disk/CD filers, a typed name preceded by /s/, e.g., “/s/ Jane Doe”). The signature line must always be followed by the printed, (or typed) name, full address, telephone number and facsimile number (if any).
3. All documents must show the case name, full case number with judge’s initials, and chapter.
4. In compliance with the Privacy Policy of the Judicial Conference of the United States, and the E-Government Act of 2002, parties shall refrain from including, or shall partially redact where inclusion is required or necessary, the following personal data identifiers from all documents and pleadings filed with the court, including exhibits thereto, whether e-filed, disk/CD filed, or conventionally filed, unless otherwise ordered by the court or required by statute, the Federal Rules of Bankruptcy Procedure or the Official Bankruptcy Forms (other than Bankruptcy Official Form 21):
 - a. Social Security Numbers. If an individual’s social security number must be included in a pleading, only the last four digits of that number should be used.
 - b. Names of minor children. If the involvement of a minor child must be mentioned, only the initials of that child should be used. On Schedule I of Official Bankruptcy Form 6, list relationship and age of the debtor’s dependents (i.e., son, age 6).
 - c. Dates of birth. If an individual’s date of birth must be included in a pleading, only the year should be used. On Schedule I of Official Bankruptcy Form 6, list the age of each of the debtor’s dependents.
 - d. Financial account numbers. If financial account numbers are relevant, only the last four digits of these numbers should be used. On Schedules D, E, and F of Official

Bankruptcy Form 6, debtors, if they so choose, may include their full account numbers to assist the trustee and creditors.

- e. Exercise caution when filing documents containing the following: any personal identifying number, such as a driver's license number; medical records, treatment and diagnosis; employment history; individual financial information; and proprietary or trade secret information.

Attorneys are strongly urged to share this information with all clients so that an informed decision about the inclusion of certain materials may be made. If a redacted document is filed, it is the sole responsibility of counsel and the parties to be sure that all documents and pleadings comply with the rules of this court requiring redaction of personal data identifiers. The clerk will not review documents for redaction. Further, the filing party – not the clerk – is responsible for redacting Social Security Numbers and other personal identifiers such as those in a. through e. above. If documents are filed with the full Social Security Number or other personal identifiers, the documents will be available electronically with all of the information they contained when filed.

In compliance with the E-Government Act of 2002, a party wishing to file a document containing the personal data identifiers above may file an unredacted document under seal. This document shall be retained by the court as part of the record. The court may, however, still require the party to file a redacted copy for the public file.

B. Disk/CD Filed Documents

If filing parties are not e-filers, documents must be submitted to the clerk in an electronic media containing the document in electronic format in accordance with the following procedures, together with a conventional (paper) certificate¹, signed under penalty of perjury, which describes the document to be filed and which authorizes its filing. The signature line on documents on the disk/CD should be shown as “/s/ Jane Doe”). The signature line must always be followed by the printed, (or typed) name, District Court I.D. number, full address, telephone number and facsimile number.

To file documents on disk or CD, the filer must provide the document in PDF format on a virus-free, 3.5 inch disk or CD with a permanent label attached that lists:

1. the name of the debtor for a voluntary petition, or for an existing case, the case name, case number including judge's initials, and chapter;
2. the name and telephone number of the attorney filing the disk/CD;
3. the party on whose behalf the document is being filed;
4. the title of the document on the disk/CD, (e.g. Motion for Relief from Stay) and;
5. the PDF file name for each document on the disk/CD. The file name must be in the format approved by the clerk.

¹ See attached form

Each disk/CD must contain documents for only one case. However, multiple documents from the same case may be placed on a single disk/CD. The clerk's office will retain the disk/CD for 90 days, and then it will be discarded. The clerk will enter on the docket the document contained in the electronic media.

C. Conventional (Paper) Documents:

1. Inability to File Electronically. A filing party may submit an "Affidavit of Inability to File Electronically and Request for Waiver,"¹ certifying that he or she is unable to comply with the electronic filing requirements (whether e-filing or disk/CD filing). The Affidavit shall state the circumstances which may justify an exception from electronic filings. The waiver is not intended for parties who regularly practice in this court.

The requirement to request a waiver does not apply to parties who are not represented by counsel (*pro se* filers).

2. If a stamped copy is needed to acknowledge the filing of an action with the court, i.e., "Original Filed," one copy must be provided with the original at the time of filing for this purpose. If the filing is via U.S. Postal Service or other mail delivery service, a metered or self-addressed, stamped envelope, large enough to accommodate the return copy, must also be provided. (Note: Only one copy will be stamped.)

D. Specific Documents:

1. Petition for Relief (new case).

- a. Total fees to be paid (28 U.S.C. § 1930(a)) upon filing (Includes filing fee, administrative fee and trustee surcharge fee):

Chapter 7	\$ 209.00
Chapter 9	\$ 839.00
Chapter 11	\$ 839.00
Chapter 11	
Railroad	\$1,039.00
Chapter 12	\$ 239.00
Chapter 13	\$ 194.00

- b. Installment payments may be authorized upon proper application only in voluntary cases filed by an individual. (Fed.R.Bankr.P. 1006(b)(1) and SC LBR 1006-1 and South Carolina Local Official Form (SC LOF) 1006-1). The application must be accompanied by the following minimum payments:

¹See attached form

Chapter 7	\$ 89.00
Chapter 11	\$339.00
Chapter 12	\$114.00
Chapter 13	\$ 74.00

Note: If paid in installments, the filing fee must be paid in full before any payment is made to an attorney or other person rendering services to the debtor in connection with the case. (Fed. R. Bankr. P. 1006(b)(3)).

- c. An administrative fee of \$39.00 is required to be paid simultaneously with the filing of the petition in chapter 7, 9, 11, 12 and 13 cases; and a trustee surcharge fee of \$15.00 is required to be paid simultaneously with the filing of the petition in chapter 7 cases. (28 U.S.C. § 1930(b)).
- d. The chapter of the Bankruptcy Code under which the petition is filed (7, 9, 11, 12 or 13) must be specified.
- e. The address of the debtor must be specified, and the last four digits of the social security number and full tax identification number (if one is assigned) of the debtor must be specified. (Fed. R. Bankr. P. 1005).
- f. All petitions must be submitted with a mailing matrix in accordance with SC LBR 1007-1.
- g. In chapter 11 cases, a list of the twenty (20) largest unsecured creditors must be submitted (Fed. R. Bankr. P. 1007(d)).
- h. The original signature of the petitioner is required. (Unless a power of attorney is used. See, Fed. R. Bankr. P. 1008, SC LBR 1002-1,).
- i. The petition shall include the attorney disclosure statement of compensation. (Fed. R. Bankr. P. 2016(b)).
- j. A single petition in the name of both an individual and a corporation or one in the name of two or more corporations shall not be submitted for filing. Separate petitions must be filed for each separate legal entity, and appropriate motions to consolidate made in accordance with Fed. R. Bankr. P.1015. (The only joint case authorized under the United States Bankruptcy Code is that of a husband and wife filing a joint petition (11 U.S.C. § 302)).
- k. A voluntary petition or consent to an involuntary petition filed by a corporation shall be accompanied by a copy of the corporate resolution or other appropriate authorization, duly attested to, authorizing such filing.
- l. Fed.R.Bankr.P. 1007 requires a verified statement containing the debtor's Social

Security Number be submitted, and Bankruptcy Official Form B21 should be used to meet this requirement.

2. Notice/Motion to Convert:
 - a. Pursuant to the Appendix to 28 U.S.C. § 1930(b) a \$15.00 trustee surcharge fee is due:
 1. By the debtor when filing a notice of conversion of a Chapter 11, 12 or a chapter 13 case to chapter 7.
 2. By the moving party when filing a motion for conversion of a case to chapter 7.
 - b. Pursuant to 28 U.S.C. § 1930(a) for converting on request of the debtor a case under chapter 7 or 13 to a case under chapter 11, the debtor shall pay a fee of \$645.00 which is due within forty-eight hours (48) of the signing of the order granting the conversion.
3. Proofs of Claim or Interest.
 - a. The original signature of the claimant is required (for e-filers or disk/CD filers, a typed name preceded by /s/, e.g., “ /s/ Jane Doe”).
 - b. The amount of the claim must be specified.
 - c. The case name, case number including judge’s initials, trustee’s initials, and chapter under which the bankruptcy case is filed (7, 9, 11, 12 and 13) must be specified on the form.
4. Adversary Proceedings.
 - a. The original signature of the attorney is required (for e-filers or disk/CD filers, a typed name preceded by /s/, e.g., “ /s/ Jane Doe”). The signature line must always be followed by the printed, (or typed) name, District Court I.D. number, full address, telephone number and facsimile number.
 - b. The chapter under which the bankruptcy case is filed must be specified.

- c. In chapter 7 or 13 cases, a filing fee of \$150.00 must accompany the complaint unless it is filed by the debtor or trustee.¹
 - d. In chapter 11 cases, a filing fee of \$150.00 must accompany the complaint.²
 - f. The adversary proceeding cover (Form B104) sheet must accompany the complaint with all disk/CD and conventional filings.
 - g. The complaint must contain the bankruptcy case number. All subsequent documents must, in addition, contain the adversary proceeding number.
5. 11 U.S.C. § 362 Motions.
- a. The original signature of the attorney is required (for e-filers or disk/CD filers, a typed name preceded by /s/, e.g., “/s/ Jane Doe”). The signature line must always be followed by the printed, (or typed) name, District Court I.D. number, full address, telephone number and facsimile number.
 - b. The \$150.00 filing fee must accompany the motion. (Appendix to 28 U.S.C. § 1930(b)).
6. Motions to Reopen a Bankruptcy Case.
- a. The original signature of the attorney is required (for e-filers or disk/CD filers, a typed name preceded by /s/, e.g., “/s/ Jane Doe”). The signature line must always be followed by the printed, (or typed) name, District Court I.D. number, full address, telephone number and facsimile number.
 - b. The following filing fees must be paid upon the filing of the motion: (Appendix to 28 U.S.C. § 1930)

Chapters 7 and 13	-	\$ 155.00
Chapter 9	-	\$ 800.00
Chapter 11	-	\$ 800.00
Chapter 11 Railroad	-	\$1,000.00
Chapter 12	-	\$ 200.00

7. Lien Avoidance and Valuation of Security Motions.

¹If a trustee or the debtor in possession is the plaintiff, the fee is payable only from the estate and to the extent there is any estate realized. An affidavit should accompany the adversary proceeding which attests to the reason the fee is absent whenever the adversary proceeding is submitted without the applicable fee.

²Ibid.

- a. Accompanying documents required by SC LBR 4003-1 and 3012-1, using appropriate local official forms (SC LOF 3012-1(a) and (b) and SC LOF 4003-1(a), (b), (c) or (d)) must be filed with the motion. (See SC LBR 3015-1 and SC LOF 3015-1(a) for requirements of such motions in chapter 13 cases).
- b. The original signature of the attorney is required (for e-filers or disk/CD filers, a typed name preceded by /s/, e.g., “/s/ Jane Doe”). The signature line must always be followed by the printed, (or typed) name, District Court I.D. number, full address, telephone number and facsimile number.

Attachment 1 to Clerk's Instruction 5005-1

Affidavit of Inability to File Electronically and Request for Waiver

The undersigned hereby certifies to the court that he/she is unable to file documents electronically (either by e-filing through Case Management/Electronic Case Files (CM/ECF) or by using a 3.5 inch disk or Compact Disk (CD)) for the following reasons:

_____ (Describe in detail) _____

Therefore, the undersigned requests that the court waive the requirement that documents be filed electronically until _____ (insert date) _____.

Date: _____

Signature

Typed/Printed Name/Address/Telephone

District Court I.D. Number

Attachment 2 to Clerk's Instruction 5005-1

**Certificate and Authorization Re: Electronic Filing
Via 3.5 Inch Disk or Compact Disk (Disk/CD)**

Under penalty of perjury, the undersigned hereby certifies that the following documents are contained on the attached disk/CD and authorizes them to be filed in Case No. (or Adversary No.)

_____.

_____ (list each document separately) _____

Signature

Typed/Printed Name/Address/Telephone

District Court I.D. Number