

CHAPTER 13 MATTERS (Judge Duncan)

Effective June 12, 2012, chapter 13 cases assigned to Judge Duncan will be subject to the procedures set forth in Chambers' Guidelines except as follows:

General chapter 13 calendar.

Seven (7) days prior to the first scheduled confirmation hearing date the chapter 13 trustee will send hearing notes by electronic mail to each attorney. The notes will indicate:

- a. The filing date of the plan being considered at the hearing,
- b. The trustee's objections to confirmation, if any,
- c. The documents that are outstanding,
- d. Recommendations, if any, for an amended plan,
- e. Recommendations for confirmation or entry of a form order, and
- f. Whether the attorney and/or the debtor must attend the upcoming hearing.

The calendar of these confirmation hearings will be called by the trustee with limited availability of Judge Duncan. The trustee and debtor may request through the courtroom deputy clerk of court, not less than two business days prior to the first scheduled confirmation hearing, a determination of specifically identified issues by Judge Duncan. This request may be granted and a hearing will be held following the initial call of the calendar or the matters may be set for a later dispute calendar date.

Debtor's counsel shall file, after receipt of the hearing notes and on or before two business days prior to the first scheduled confirmation hearing, a plan summary in lieu of hearing in the form attached hereto as Exhibit A. If the summary is not timely filed, confirmation of the plan may be denied with leave to file an amended plan within ten (10) days of the entry of the order denying confirmation. Prior to filing the amended plan, counsel shall contact Chambers and obtain a second confirmation hearing date and a form notice of confirmation hearing. Counsel shall serve the amended plan and notice of the confirmation hearing on all creditors. If the attorney fails to contact Chambers prior to filing an amended plan, fails to file an amended plan, or fails to serve all creditors with the amended plan and notice of the confirmation hearing within ten (10) days of the entry of the order denying confirmation, the case may be dismissed without further notice or hearing.

If a form CI or CII order is entered following the first scheduled confirmation hearing, a continued confirmation hearing may be set. This continued confirmation hearing date will ordinarily be at least six weeks from the date of the first scheduled confirmation hearing. If a plan or amended plan is recommended for confirmation within forty-five (45) days from the entry of the CI or CII order, then the continued hearing will be removed from the calendar. Otherwise the continued confirmation hearing will be held. At the continued confirmation hearing the Court will consider confirmation of the plan or amended plan, may review the attorney's fees to determine whether they are appropriate under the circumstances of the case, and may consider dismissal of the case, if appropriate. Counsel must appear and provide a presentation in support of confirmation. These continued confirmation hearings will ordinarily

be scheduled in the afternoon on Judge Duncan's monthly chapter 13 dispute day. Copies of the form CI and CII orders are attached as Exhibit B.

Statements of Dispute.

Judge Duncan's procedures for confirmation hearings moved to a dispute date will remain the same. If an objection to confirmation is filed and the confirmation hearing is moved to Judge Duncan's chapter 13 dispute date, a joint statement of dispute must be filed by 12:00 p.m. on the day immediately following the first scheduled confirmation hearing date. Joint statements of dispute must specifically identify by name the witnesses to be called. The burden of ensuring that a joint statement of dispute is submitted falls on the objecting party. Failure to timely submit a joint statement of dispute may result in the objection to confirmation being stricken and the plan being confirmed unless the objecting party separately files a statement of dispute and notes the inability, after reasonable effort, to file a joint statement.

Modification after Confirmation.

If a plan is modified after confirmation, no hearing is necessary, absent an objection by the trustee or an affected creditor, unless there is an adverse effect on unsecured creditors.

Proposed modifications after confirmation that do not affect unsecured creditors may be filed with the court and served on all affected creditors and the trustee. Exhibit B to SC LBR 3015-2 should be used. Following the expiration of the time for objections the trustee may, in the absence of objections, recommend confirmation and Judge Duncan will consider the matter without a hearing.

If there is an adverse effect on unsecured creditors, contact Chambers prior to filing the modified plan. Chambers will provide the attorney with a confirmation hearing date and a notice of confirmation hearing which must be served with the proposed modified plan on all creditors and filed on CM/ECF as a separate docket entry from the modified plan. Exhibit B to SC LBR 3015-2, without paragraph I. B., should be used as the template for the modification after confirmation. All hearings on modification of plans after confirmation will be scheduled on a chapter 13 dispute date.

EXHIBIT A

UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF SOUTH CAROLINA

IN RE:

Debtor

C/A No.

Plan Summary In Lieu of Hearing

Chapter 13

Plan filed: _____ Plan Payments \$ _____ / _____ months

Above () Below () Median Disposable Income \$ _____

Primary reason for filing: _____

Modifications to the form plan? Yes () No ()

Primary Residence: 1st mortgage current arrears in plan balance in plan other
2nd mortgage current arrears in plan balance in plan other

Other real estate and subordinate liens on primary residence (describe treatment and include any basis for valuation):

Automobile: 1 balance in plan value in plan. Basis for value: _____

2 balance in plan value in plan. Basis for value: _____

Other Secured Debts and Treatment: (describe treatment and include any basis for valuation)

Judicial Lien Avoidance: Amount of Judicial Lien: \$ _____ Total of Other Liens: \$ _____

Exemption Claimed: \$ _____ Value of Property: \$ _____ Judicial Lien Avoided: \$ _____

All allowed, unsecured priority claims are paid in full through the Plan. Yes () No ()

Estimate dividend to general unsecured creditors: _____ %

Date:

Attorney for Debtor

EXHIBIT B

C1 Order Duncan

The Plan as presently filed may be confirmed if the trustee recommends confirmation. If the plan is not confirmed within forty-five (45) days, a further confirmation hearing will be held on _____ at _____ a.m./p.m. At that hearing, the Court may also review the attorney's fees being charged in this case to determine their reasonableness under the circumstances of the case. The Court may also consider dismissal of the case pursuant to SC LBR 3015-3, if appropriate.

CII Order Duncan

The Plan does not currently comply with the requirements of Chapter 13. Therefore, confirmation of the plan as presently filed is denied. The debtor is/are given ten (10) days from the date of this Order within which to propose and file an amended plan, along with an affidavit which certifies that a copy of such amended plan was mailed to the holder of any claim whose rights may have been adversely affected by an amendment to the plan as previously filed. If no such amended plan and/or certificate of mailing is filed, this case may be dismissed without further notice or hearing. If filed, the amended plan may be confirmed without further notice or hearing upon the trustee's recommendation. If no plan is confirmed within forty-five (45) days, a further confirmation hearing will be held on _____ at _____ a.m./p.m. At that hearing, the Court may also review the attorney's fees being charged in this case to determine their reasonableness under the circumstances of the case. The Court may also consider dismissal of the case pursuant to SC LBR 3015-3, if appropriate.