

**Hon. David R. Duncan**  
**Chief United States Bankruptcy Judge**  
**District of South Carolina**

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**Communication**

Communications concerning a case or proceeding should be in the form of a filed, written document (i.e., motion, memorandum, or other pleading). Procedural assistance may be obtained by communication with chambers staff, courtroom services, or case administrator members of Judge Duncan's team. Other forms of communication concerning a case or proceeding (e.g., facsimile, mail, email, hand delivery, face to face, or telephone) are prohibited unless expressly authorized by local rule, chambers guideline, or other specific authorization. Do not provide the court with copies of correspondence to others.

**Proposed Orders**

Do not include a signature cover page or a signature line for the judge with proposed orders. If you include applicant, movant, or consenting party information or signatures at the conclusion of the order please move these to the bottom of the page or to a subsequent page, leaving sufficient room for the judge's electronic signature after the text of the order and before the party information. Other than for consent orders the strong preference is that party information and signatures be omitted. Consistent with SC LBR 1001-1(c), do not include instructional footnotes or document identification information in any proposed order, including coding or file numbers that indicate a proposed order is internal to a law firm.

**Contested Matters**

This section does not apply to adversary proceedings.

Duty to Consult Concerning Attendance of Witnesses.

In order to comply with Federal Rule of Bankruptcy Procedure 9014(e), parties shall timely consult with each other regarding a contested matter and shall be prepared to go forward and present witnesses at the first scheduled hearing unless expressly excused by the Court.

### Scheduling Orders in Contested Matters.

Time constraints imposed by statute or rule may preclude formal discovery in contested matters. If the parties agree that discovery will be helpful one of them should request a scheduling order using CM/ECF. The request should be made sufficiently in advance of the first scheduled hearing to permit removal from the calendar. In the absence of an agreement, and after advance consultation, either party may request entry of a scheduling order well in advance of the first scheduled hearing and shall be prepared to go forward in the event the request is denied unless a motion for continuance has been filed and granted.

### Settlements of Contested Matters.

Settlements should be reported by filing a Notice of Settlement and Request for Removal from the Court Hearing Calendar in CM/ECF. If the Notice of Settlement event is docketed prior to 10:00 a.m. on the business day before the hearing the parties will be excused from appearance.

Settlements of § 362 motions should be made using the Request for Settlement Order on Motion for Relief from Stay CM/ECF event and must be filed by the same deadline. If this event is used, there is no need to file a calendar removal request. If the request is timely filed, the motion will come off the calendar once the order is entered. Parties should not propose their own orders unless there is a need to do so.

### Defaults on § 362 Motions.

If no response has been filed to a request for relief pursuant to § 362, and the objection time has run (as calculated in accordance with Fed. R. Bankr. P. 9006(f), the “mailbox rule”), the proponent of the motion shall file a Certification of Default and Request for Order Lifting the Stay in CM/ECF. For removal from the calendar, the Certification must be filed by 10:00 a.m. on the business day before any hearing scheduled on the motion. If this event is used, there is no need to file a calendar removal request. The timely utilization of this event will remove the proceeding from the calendar. Parties should not propose their own orders unless there is a need to do so.

### Withdrawal.

Absent consent of all objecting parties, the pleading initiating a contested matter may not be withdrawn by its proponent once an objection, response or reply is filed. A proponent may withdraw a pleading initiating a contested matter before an objection, response, or reply is filed using the Withdrawal event in CM/ECF. The consensual withdrawal of a contested request for relief may be made by the proponent before 10:00 a.m. on the business day prior to the hearing and shall be made using the Withdrawal from the Court Calendar (text only) event in CM/ECF.

### Continuance.

Consensual first requests for a continuance of self scheduled matters may be made using the Request for Continuance event in CM/ECF. The request must be made before 10:00 a.m. the

business day prior to the hearing in order to be considered. Subsequent requests will be considered only upon timely, written motion of the party requesting the continuance. Judge Duncan may consider the request in chambers, conduct a telephonic hearing, or set the request for continuance for a separate hearing. Requests for continuance shall propose a date and time for the continued hearing from Judge Duncan's published calendar and the request is a representation that all counsel agree to appear at such date and time.

Matters set for hearing by the Court may be continued only upon timely, written motion. The motion must report the good faith effort to consult with all opposing counsel, state the reason for the request, report the assent of those parties consenting to a continuance, and propose dates for the continued hearing, including the availability, if known after consultation, of opposing counsel.

Extraordinary circumstances justifying the belated consideration of a request for continuance, such as sudden illness or other emergency, should be reported to Judge Duncan's chambers or to courtroom services prior to the hearing and memorialized by motion filed the same day or as soon thereafter as is practical.

#### Calendar Removal Request.

If the parties are seeking to have a matter removed from the calendar other than by settlement, withdrawal or request for continuance as noted above, a separate calendar removal request should be filed using CM/ECF.

#### Submission of Exhibits.

Counsel shall provide the original and two copies of all exhibits to be introduced at trial or a hearing to the courtroom deputy clerk of court sufficiently in advance of the hearing to permit pre-marking the exhibits for identification. Advance consultation is prudent. Counsel shall also provide a sufficient number of copies of all such exhibits, including the mark for identification, for all opposing counsel at trial plus one for the witness stand. See also the instructions for electronic exhibits.

#### Proposed Orders.

The local rules require the submission of proposed orders in connection with the filing of a number of different motions. The form proposed order set forth in the local rules should be used whenever available. Any other proposed order should not contain extensive findings of fact; rather it should state the relief requested and the basis for relief (for example - with a claims objection the proposed order might state "the claim should be disallowed because the statute of limitations for suing on the underlying debt has expired"), that no response has been filed, and that relief is granted.

Do not include a signature cover page or a signature line for the judge with proposed orders. If you include applicant, movant, or consenting party information or signatures at the conclusion of the order please move these to the bottom of the page or to a subsequent page, leaving sufficient

room for the judge's electronic signature after the text of the order and before the party information. Other than for consent orders the strong preference is that party information and signatures be omitted. Consistent with SC LBR 1001-1, do not include instructional footnotes or document identification information in any proposed order, including coding or file numbers that indicate a proposed order is internal to a law firm.

For orders due after a hearing, CM/ECF participants should file the proposed order on the CM/ECF docket unless otherwise instructed.

### **Adversary Proceedings**

#### Extensions of Time for Filing of Responsive Pleadings in Adversary Proceedings.

Further extensions of time under SC LBR 7001-1(b) will generally be limited to thirty days and will generally not be repeated.

#### Pretrial Procedures.

Once the issues are joined, my chambers will send a letter by email to the parties substantially in the form of Exhibit A and will enter an order substantially in the form of Exhibit B. As set forth in the order, an Adversary Proceeding Report must be filed electronically in the adversary proceeding following the parties' discussion of these issues. After the Adversary Proceeding Report is filed, a scheduling order will issue. See Exhibit C. The request for a scheduling order other than the form order should be made in the Adversary Proceeding Report.

#### Submission of Exhibits.

See the sample scheduling order attached to these chambers guidelines as Exhibit C for general instructions concerning trial exhibits in adversary proceedings. The actual scheduling order entered in the adversary proceeding should be consulted for any variation. Counsel must consult with the courtroom deputy in order to pre-mark the exhibits. Counsel shall also provide a sufficient number of copies of all such exhibits, including the mark for identification, for all opposing counsel at trial plus one for the witness stand. See also the instructions for electronic exhibits.

#### Dismissal of Adversary Proceedings.

If a stipulation of dismissal is allowed by Fed. R. Bankr. P. 7041, do not request entry of an order of dismissal by the court.

### **Electronic Exhibits.**

Coordinate the use of the equipment for electronic evidence presentation with the courtroom deputy sufficiently in advance of trial or a hearing to ensure compatibility of your electronic devices with the Court's equipment. Generally counsel should meet with the courtroom deputy two business days in advance of trial. Paper copies of each electronic document, pre-marked for

identification, must be submitted for the record by the applicable times set forth in these guidelines or relevant orders. If electronic presentation of evidence is to be used, only one paper copy need be submitted. A copy of electronic evidence other than documents (VHS tapes, DVDs, audio recordings, photographs, etc.) must be submitted in a format as is most practical, within the deadlines set forth in these guidelines or relevant orders.

### **Chapter 11 Attorney Fees.**

Applications for professional fees by counsel for the debtor in possession will be heard by Judge Duncan at the time noticed for the passive hearing whether there are objections or not.

### **Chapter 13 Matters.**

The monthly court calendar for hearing chapter 13 matters includes two general chapter 13 days and a dispute day. The type of case matter to be scheduled for a general chapter 13 day or dispute day is identified on Exhibit D attached hereto and shall be scheduled accordingly. Matters which are incorrectly scheduled may be stricken, determined, rescheduled or continued.

### Confirmation Hearings.

Seven (7) days prior to the first scheduled confirmation hearing date the chapter 13 trustee will post hearing notes on 13Network.com. Information regarding access to or questions related to 13Network.com should be directed to the office of the chapter 13 trustee. The notes will indicate either:

- A. That previously requested documents have not been received and the trustee will recommend dismissal of the case under SC LBR 3015-4 unless the documents are filed with the court or provided to the trustee, as applicable, overnight. If the documents are filed or provided as requested the trustee will then forward the information required in B. on the sixth (6<sup>th</sup>) day prior to the confirmation hearing; otherwise the case may be dismissed.
- B. That the trustee will be prepared to go forward, absent a timely filed objection from another party in interest, premised upon the following information:
  - a. The filing date of the plan being considered at the hearing,
  - b. The trustee's objections to confirmation, if any,
  - c. Recommendations, if any, for an amended plan,
  - d. Recommendations for confirmation or entry of a form order, and
  - e. Whether the attorney and/or the debtor must attend the upcoming hearing.

The calendar of confirmation hearings on a general chapter 13 day will be called by the trustee with limited availability of Judge Duncan. The trustee and debtor may request through chambers, 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 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 E. If the summary is not timely filed counsel shall appear at the confirmation hearing and provide a presentation in support of confirmation. Otherwise confirmation of the plan may be denied, the case may be dismissed, and/or attorney fees may be reduced. A plan summary in lieu of hearing shall be contemporaneously filed with any amended plan called for by the trustee, discussed at the first scheduled confirmation hearing, or thereafter filed for any reason. If the confirmation hearing is continued or an objection to confirmation is filed and the confirmation hearing is moved to a chapter 13 dispute date, no plan summary in lieu of hearing needs to be filed.

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 on Judge Duncan's monthly chapter 13 dispute day. Copies of the form CI and CII orders are attached as Exhibit F.

#### Statements of Dispute.

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 second business 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 overruled 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. Please use the joint statement of dispute form attached as Exhibit G.

Joint statements of dispute are not required for other contested matters.

#### Modification after Confirmation.

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 approval 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 hearing date and a notice of 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.

#### Duty to Consult Concerning Attendance of Witnesses.

In order to comply with Fed. R. Bankr. P. 9014(e), the trustee, parties, and counsel shall timely consult with each other regarding disputed matters and discuss settlement possibilities. If a matter is not fully resolved prior to the conclusion of the first confirmation hearing, and it is reported as a disputed matter that will require presentation to the Judge for determination, it shall be scheduled for an available dispute date, at which witnesses shall appear.

#### Dispute Calendar.

Matters identified in Exhibit D to be originally scheduled on the dispute calendar are matters likely to require the presentation of testimony or other evidence or oral argument. Parties and counsel should be fully prepared to proceed with a dispositive hearing on such matters unless removed by the Court upon a report of settlement or withdrawal, or unless counsel are otherwise advised by the Court. A Statement of Dispute is not required prior to the hearing with respect to those matters originally scheduled on the dispute calendar. Settlement of disputed matters or withdrawal of pleadings should be immediately reported to chambers so as to permit efficient preparation for matters scheduled before the Court. Submission of settlement orders and withdrawal of pleadings are to be formally filed with the Court.

#### Attorney Fees.

The expedited fee amount for purposes of SC LBR 2016-1(b)(1) for all cases assigned to Judge Duncan is \$3,500 for a consumer case and \$4,000 for a business case.

For general bankruptcy matters, the supplemental fee amount for purposes of SC LBR 2016-1(b)(2)(A) is \$1,200. For general bankruptcy work fee requests of \$1,200 or less, the Application for Approval of Chapter 13 Attorney Fees and Notice of Opportunity to Object, attached hereto as Exhibit H, should be used. For loss mitigation or mortgage loan modification work, the supplemental fee amount is \$1,500. For loss mitigation or mortgage loan modification fee requests of \$1,500 or less, the Application for Approval of Chapter 13 Attorney Fees and Notice of Opportunity to Object-Loss Mitigation and Mortgage Loan Modification, attached hereto as Exhibit I, should be used.

*Fees charged must match the complexity and scope of work described in the application.*

## **Requests for Loss Mitigation/Mediation and Notification of Permanent Loan Modifications**

If litigants need an order from the court to facilitate a loss mitigation/mediation or permanent loan modification, parties may use CM/ECF events designed for these requests.

*Request for Loss Mitigation/Mediation.* The event will generate an order modifying the stay to permit the debtor to enter into negotiations with the creditor. See Exhibit J attached to chambers guidelines. This event itself does not require consent.

*Notification of Permanent Loan Modification.* The event permits debtors to upload documents evidencing an agreed permanent loan modification. The chapter 13 trustee receives electronic notice of this filing and will docket an electronic consent or contact the debtor's attorney to discuss any problems. The trustee's electronic consent generates an order modifying the stay, if needed, and authorizes the trustee to stop making payments on the mortgage arrears, if any are to be paid pursuant to the plan. See Exhibit K attached to chambers guidelines.

Further information on using these events can be found in the Participant's Guides on the Court's website.

## **Motions to Extend or Impose the Automatic Stay**

Judge Duncan convenes a hearing on 11 U.S.C. § 362(c)(3) or (4) motions. The Debtor must testify and demonstrate that the filing is in good faith.

## **Request for Waiver of Stay of Orders**

Fed. R. Bankr. P. 4001(a)(3) and 6004(h), respectively, provide for 14-day stays of orders granting motions for relief from an automatic stay and orders for the use, sale, or lease of property other than cash collateral. Judge Duncan requires a hearing before ordering otherwise. Counsel should be prepared to show cause for the request.

Exhibit A

UNITED STATES BANKRUPTCY COURT  
DISTRICT OF SOUTH CAROLINA  
1100 Laurel Street  
COLUMBIA, SOUTH CAROLINA 29201-2423

Chambers of  
David R. Duncan  
*Chief Judge*

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In Re: \*\*

Dear Counsel:

With the issues joined in the above-referenced adversary proceeding, the Court has entered today an Order that requires the parties to conduct a discovery conference pursuant to Federal Rule of Civil Procedure 26(f), make initial disclosures required by Rule 26(a)(1) including the intention to use an expert witness and the name of the expert, and report to the Court regarding the proposed discovery plan so that the Court may issue a scheduling order pursuant to Rule 16(b). In addition, this Order requires the parties to confer and report on whether this adversary proceeding contains any non-core causes of action and/or core causes of action that this Court does not have constitutional authority to finally adjudicate, whether the parties consent to this Court finally adjudicating any such causes of action, and whether the parties consent to this Court conducting a jury trial if a jury trial has been requested.

If discovery is needed, experience has shown that allowing approximately thirty to sixty days for discovery with a subsequent deadline for motions and a pretrial conference is sufficient for the typical adversary proceeding. However, you may consider and request other action.

Please confer pursuant to the terms of the Order within **fourteen (14) days** of its entry date and, within **twenty-one (21) days** of the Order's entry date, electronically file the Adversary Proceeding Report ("Report") that is attached to the Order and this letter. The Report should be electronically filed under the event "**Adversary Proceeding Report (Judge Duncan).**"

Sincerely,

Enclosure

**Exhibit B**

**UNITED STATES BANKRUPTCY COURT  
DISTRICT OF SOUTH CAROLINA**

IN RE:

\*,

Debtor(s).

C/A No.\*-dd  
Chapter

\*,

Plaintiff(s),

ADV. PRO. \*-dd

v.

**ORDER**

\*,

Defendant(s).

Chapter \*

TO: PLAINTIFF(S) AND DEFENDANT(S) ABOVE-NAMED:

The captioned adversary proceeding was filed with this Court on the \_\_\_ day of \_\_\_, 20\_\_\_. The issues having been joined, the court enters this Order to expedite the disposition of this proceeding.

In accordance with Fed.R.Civ.P. 26 the parties must, as soon as practical, and in any event within **fourteen (14) days** of the entry date of this Order, confer to consider the matters required in the Rule, including the possibilities for a prompt settlement or resolution of the case and make the initial disclosures required by Rule 26(a)(1), including the intention to use an expert witness and the name of the expert, if known. Within **twenty-one (21) days** of the entry date of this Order, the parties shall further submit to the Court after the conference the attached Adversary Proceeding Report (“Report”) indicating the period of time requested for discovery. It is not necessary to file a detailed report outlining the proposed discovery plan. If the parties believe a detailed discovery plan is necessary, they are to advise chambers immediately, and a

telephonic conference will be scheduled.

The parties are further directed to confer, as soon as practical, and in any event within **fourteen (14) days** of the entry of this Order, on whether any of the causes of action in this adversary proceeding constitute non-core proceedings under 28 U.S.C. § 157 and/or core proceedings that this Court does not have constitutional authority to finally adjudicate, *see Executive Benefits Ins. Agency v. Arkison*, 134 S. Ct. 2165, 189 L. Ed. 2d 83 (2014); *Stern v. Marshall*, 131 S. Ct. 2594, 180 L. Ed. 2d 475 (2011). If this adversary proceeding contains such causes of action, the parties shall confer and advise the Court through the attached Report with respect to whether they consent to this Court finally adjudicating this adversary proceeding. *See Wellness Int'l Network, Ltd. v. Sharif*, 135 S. Ct. 1932, 191 L. Ed. 2d 911 (2015). Even if all parties do not consent to a final adjudication in this Court and in the absence of an Order by the United States District Court of the District of South Carolina granting a party's motion to withdraw the reference of this adversary proceeding to this Court, the adversary proceeding shall remain in this Court and the parties shall be expected to conform to the rules and orders of this Court. If the parties have not consented to a final adjudication in this Court of an adversary proceeding containing such causes of action and a dispositive motion is filed, this Court, when appropriate, shall prepare proposed findings of fact and conclusions of law and submit them for review by the District Court.

Finally, if there is a request for a jury trial on any of the causes of action in this adversary proceeding, the parties shall confer on whether they consent to this Court conducting a jury trial. *See* 28 U.S.C. § 157(e). If the parties do not consent to a jury trial conducted by this Court, a party will need to move after all dispositive motions have been decided, for the withdrawal of the

reference to this Court of this adversary proceeding.

Exhibit B page 3

Attached to this Order is the Report that must be filed with this Court after the discussions described in this Order have taken place. The signatures of all parties must be reflected in the Report. If a party is represented by counsel in this adversary proceeding, that counsel may sign the Report on behalf of the party. This Report should be filed electronically under the event “**Adversary Proceeding Report (Judge Duncan)**” no later than **twenty-one (21) days** after the entry date of this Order.

**AND IT IS SO ORDERED.**

Exhibit B page 4  
**UNITED STATES BANKRUPTCY COURT  
 DISTRICT OF SOUTH CAROLINA**

IN RE:  * ,  _____ Debtor(s).	C/A No.*-dd Chapter
* ,  _____ Plaintiff(s),	ADV. PRO. *-dd
v.  * ,  _____ Defendant(s).	Chapter *

**ADVERSARY PROCEEDING REPORT**

As part of complying with the Order to which this Adversary Proceeding Report (“Report”) is attached, the parties are directed to complete and sign this Report and file it electronically under the event “**Adversary Proceeding Report (Judge Duncan)**.” Only the Report should be filed, not the Order to which it is attached.

1. How much time are the parties requesting for discovery? Please check one of the responses below. If choosing the third option, please indicate the number of days requested and the reason(s) a longer discovery period is needed.

Discovery Period of 30 days with an opportunity for motions and a pretrial within approximately 60 days.

Discovery Period of 60 days with an opportunity for motions and a pretrial within approximately 90 days.

Longer Discovery Period - Parties request \_\_\_\_\_ days for discovery, with pretrial approximately 30 days later. Reason(s) for longer discovery period are:

No discovery is needed. The Court may set the matter for trial. Estimate on time needed for trial is \_\_\_\_\_ hours, days (circle one). A separate letter with available trial dates is attached.

A more immediate settlement or pretrial conference with the Court would be beneficial, either in person or by telephone. Plaintiff(s)' counsel will coordinate the scheduling of such a conference.

2. Does a party assert this adversary proceeding contains non-core causes of action?

\_\_\_\_\_ Yes \_\_\_\_\_ No

Please list below the causes of action that a party asserts are non-core and the party or parties making the assertion (*i.e.* Negligence – John Doe and Jane Doe). If all parties agree a particular cause of action is non-core, please indicate all parties (*i.e.* Battery – All Parties).

3. Does a party assert this adversary proceeding contains core causes of action that this Court does not have constitutional authority to finally adjudicate?

\_\_\_\_\_ Yes \_\_\_\_\_ No

Please list below the causes of action that a party asserts are core causes of action that this Court does not have constitutional authority to finally adjudicate and the party or parties making the assertion (*i.e.* Negligence – John Doe and Jane Doe). If all parties agree a particular cause of action falls within this category, please indicate all parties (*i.e.* Battery – All Parties).

4. If a party or parties assert this adversary proceeding contains non-core causes of action or core causes of action that this Court does not have constitutional authority to finally adjudicate, do all parties consent to this Court finally adjudicating this adversary proceeding?<sup>1</sup> If all parties agree that all of the causes of action in this adversary proceeding are core proceedings that this Court has constitutional authority to finally adjudicate, please check "Not applicable."

\_\_\_\_\_ Yes      \_\_\_\_\_ No      \_\_\_\_\_ Not applicable

5. If a jury trial has been requested for some or all of the causes of action in this adversary proceeding, do all parties consent to this Court conducting a jury trial?<sup>2</sup> If no jury trial has been requested, please check "Not applicable."

\_\_\_\_\_ Yes      \_\_\_\_\_ No      \_\_\_\_\_ Not applicable

**ALL PARTIES OR THEIR COUNSEL MUST SIGN BELOW. BY SIGNING BELOW, YOU ARE REPRESENTING TO THE COURT AND AGREEING THAT THE REPRESENTATIONS CONTAINED IN THIS REPORT ARE ACCURATE AND BINDING ON YOUR CLIENT.<sup>3</sup> IF YOU ARE A PARTY TO THIS ADVERSARY PROCEEDING, YOU ARE REPRESENTING TO THE COURT AND AGREEING THAT THE REPRESENTATIONS CONTAINED IN THIS REPORT ARE ACCURATE AND BINDING ON YOU.**

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Print Name

Contact Information: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Counsel for \_\_\_\_\_

**ATTACH ADDITIONAL SIGNATURE PAGES AS NEEDED**

<sup>1</sup> In the absence of the parties answering "Yes" to question 5, this Court will not consider a "Yes" answer to question 4 to constitute consent to a jury trial conducted by this Court.

<sup>2</sup> This Court will not consider a "Yes" answer to question 5 to be a concession that there is a right to a jury trial on any particular cause of action. If a party wants a determination as to whether a jury trial has been properly requested with respect to a particular cause of action, an appropriate motion must be filed.

<sup>3</sup> If the attorneys representing parties in this adversary proceeding prefer to sign this Report electronically, they may attach pages containing their electronic signatures.

**Exhibit C**

**UNITED STATES BANKRUPTCY COURT  
DISTRICT OF SOUTH CAROLINA**

In re,  ,  Debtor.	C/A No. -DD  Adv. Pro. No. -DD  Chapter
,	<b>ORDER:</b>
Plaintiff,	<b>SETTING DISCOVERY SCHEDULE</b>
v.	<b>FIXING DATES TO FILE MOTIONS</b>
,	<b>REQUIRING PREPARATION AND FILING OF A PRETRIAL ORDER</b>
Defendant.	<b>SETTING PRETRIAL HEARING</b>

TO: PLAINTIFF AND DEFENDANT ABOVE-NAMED:

The issues having been joined and the parties having apprised the Court of the need for discovery, this scheduling order is entered to expedite the disposition of this proceeding in accordance with Fed. R. Civ. P. 16(b), made applicable herein by Fed. R. Bankr. P. 7016.

1. Motions to join other parties and to amend the pleadings shall be filed and served on or before \_\_\_\_\_, **2016**. Upon the amendment of any pleading to join a new party, the amending party shall forthwith provide a copy of this scheduling order, as from time to time amended, to the new party or its attorney.

2. Discovery shall be concluded on or before \_\_\_\_\_, **2016**. Parties shall timely comply with all discovery requests and parts thereof, except those to which timely and specific objection is made. Discovery shall be served upon counsel or parties as appropriate, but shall not be filed with the Court except as ordered by the Court. The party responsible for service of the discovery requests or responses shall retain the original and be the custodian thereof until the same shall be used at a hearing or at trial. Motions to compel, objections to discovery, and motions for protective orders shall be filed in accordance with SC LBR 7026-1. Counsel's attention is specifically drawn to SC LBR 7026-1(c) and (e).

3. All motions other than those governed by paragraph one, including motions for summary judgment and final evidentiary motions, shall be filed and served on or before \_\_\_\_\_, **2016**. Any objections or other responses to such a motion shall be filed and served within 14 days of service of a copy of the motion. If no objection or response is filed the Court may grant the motion without a hearing. If objections or responses are filed the motion will be heard at the pretrial conference unless otherwise scheduled by the Court. The filing of a motion for summary judgment pursuant to this paragraph shall suspend the requirement of the submission of the proposed Pretrial Stipulation set forth in paragraph 4 below. In that event, the proposed Pretrial Stipulation shall be required on a date set at the pretrial conference. If a date is not set, the proposed Pretrial Stipulation shall be submitted no later than ten (10) business days before the trial. The filing of other motions shall not suspend the proposed Pretrial Stipulation requirement.

4. Counsel and parties appearing *pro se* are hereby ordered to prepare and file, no later than **4:30 p.m. on \_\_\_\_\_, 2016** a proposed Joint Pretrial Stipulation. The parties need not agree on every matter contained therein to submit a proposed Joint Pretrial Stipulation. In the event counsel for the parties or parties appearing *pro se* are unable to agree on a joint submission, after demonstrated efforts, each shall submit a separate

proposed Pretrial Stipulation no later than the date herein. The proposed Pretrial Stipulation, joint or separate, shall set forth:

- a. The facts which are admitted and require no proof.
- b. The facts which remain to be litigated (evidence at trial will be limited to these issues). To the extent that parties are unable to agree on the facts, the pretrial stipulation should set forth each party's version of the facts.
- c. The issues to be determined.
- d. A list of exhibits to be introduced at the hearing, in the sequence proposed to be introduced, with a description of each sufficient for identification, together with a statement of any objections thereto (with specific evidentiary grounds stated), and a statement confirming the fact that the parties have exchanged copies of said exhibits. The original and two copies of all paper exhibits shall be submitted to the courtroom deputy clerk at the same time as the Pretrial Stipulation. Trial exhibits are not to be filed on CM/ECF. Failure to exchange and submit exhibits in a timely fashion may result in the Court denying admission of the exhibits. At trial the proponent of an exhibit shall provide copies, pre-marked for identification, for all opposing counsel and for the witness stand. Consult Chambers Guidelines for information concerning electronic evidence presentation.
- e. The rule(s) of bankruptcy procedure, the section(s) of the Bankruptcy Code or other statutory basis for relief, and case law on which the parties rely. The presentation of authority may be made by separate trial brief, filed contemporaneously with the Pretrial Stipulation.
- f. A separate list by each party of those witnesses whom each will present at the trial and those witnesses whom each may present at trial. Testimony will be limited to that from the witnesses so identified, except as may otherwise be permitted by law. The statement by a party that a witness will be present may be relied on by the opposing party unless notice to the contrary is given in sufficient time prior to trial to allow the opposing party to subpoena the witness or obtain the testimony of the witness. Witnesses to be used only for impeachment need not be identified.
- g. A separate list by each party of any witnesses whose testimony will be offered by deposition together with a statement of objections, if any, by opposing parties to the use of any portions of said depositions.

5. Failure to timely submit a Pretrial Stipulation and exhibits or to appear at the pre-trial conference may result in the Court's striking the proceeding from its calendar.

6. In accordance with Fed. R. Civ. P. 26(a)(2)(A), each party shall disclose any expert witness to be used in this proceeding in a manner that complies with the provisions of Rule 26(a)(2), including providing a written report when such report is required under Rule 26(a)(2)(B) and complying with Rule 26(a)(2)(C) when a written report is not required. Disclosure of the intention to use an expert witness and the name of the expert should have been made during the initial meeting of counsel or the parties following joinder of the issues. Subsequent disclosures of expert witnesses, if permitted, must be made in a timely manner that allows a reasonable opportunity for the opposing party to retain a rebuttal expert prior to the conclusion of discovery and allows for a reasonable opportunity for expert witnesses to be deposed prior to conclusion of discovery.

7. If this adversary proceeding requires a change of schedule from that heretofore stated, a party in interest may timely move to amend this order. The movant must indicate the reasons therefore and whether all parties consent. A showing of exceptional circumstances must be shown for such modification affecting the trial calendar. An agreement to modify a deadline or a request to so modify is not effective absent entry of an amended scheduling order by the Court. In the event the parties agree that discovery is concluded or unnecessary and that they are ready for trial, a trial date may be immediately requested. Such a request shall estimate the time necessary for trial.

8. A deadline established by this order will be extended only upon a showing of good cause. In the absence of disabling circumstances, the deadline for completion of discovery will not be extended unless there has been active discovery and a good faith effort to comply with the discovery schedule. Attorneys may not privately agree to continue discovery beyond the deadline established herein except in writing and only if the extension will not alter the other deadlines established herein.

9. **A pre-trial conference will be held before this Court on \_\_\_\_\_, 2016 at \_\_\_ a.m. at United States Bankruptcy Court, \_\_\_\_\_** to determine the trial date, hear any outstanding motions and consider any other matters appropriate under the circumstances of the case. The pre-trial conference shall be attended by the attorneys who will conduct the trial for each of the parties, or by parties appearing *pro se*. The Court expects that the attorneys for each party participating in this conference will be prepared to estimate the time necessary for trial and shall have authority to enter into stipulations, to discuss settlement, and to make admissions regarding all matters that the participants may reasonably anticipate to be discussed. The Court may also enter orders setting a date for a further pretrial conference, a date for the filing of further proposed pretrial stipulations or briefs, and/or a trial date.

AND IT IS SO ORDERED.

**Exhibit D**

<b>Scheduling Chart</b>			
<b>Self-Scheduled Chapter 13 Matters<sup>1</sup> assigned to Judge Duncan</b>			
<b>Chapter 13 Motion/Application Passively Scheduled (SC LBR 9013-4 Exhibit A)</b>	<b>General Calendar</b>	<b>Dispute</b>	<b>362</b>
Co-Debtor Stay Relief Pursuant to 11 U.S.C. § 1301			X
Discharge pursuant to SC LBR 3015-5(a)/11 U.S.C. § 1328(a)	X		
Moratorium on Payments (first motion)	X		
Use of cash collateral; prohibit or condition the use, sale, or lease of property; sell property or obtain credit*	X		
Convert or Dismiss (by Chapter 13 Trustee- for non-payment)	X		
Convert or Dismiss (by Chapter 13 Trustee- for reasons other than non-payment)		X	
Approval of Settlement Pursuant to Fed. R. Bankr. P. 9019*	X		
Change Venue		X	
Credit Counseling or Financial Management Exemption or Waiver	X		
Divide a Case or for Joint Administration	X		
Exemption Objection (by Trustee)	X		
Exemption Objection (by creditor or party in interest)		X	
Allowance of Administrative Claims or Interests	X		
Approve Fees (SC LBR 2016-1(b)(2)(B) and (b)(3))	X		
Claim Objection (by Chapter 13 Trustee)	X		
Claim Objection (by debtor or party in interest)		X	
Stay Relief Pursuant to 11 U.S.C. § 362(d)			X
Assume or reject leases/executory contracts pursuant to 11 U.S.C. § 365	X		
Substitute Collateral	X		
<b>Chapter 13 Motion/Application Non-Passive (SC LBR 9013-4 Exhibit C)</b>	<b>Consent</b>	<b>Dispute</b>	<b>362</b>
Determine Final Cure and Payment Under Fed. R. Bankr. P. 3002.1(h)			X
Determine Post-Petition Fees, Expenses, and Charges under Fed. R. Bankr. P. 3002.1(e)			X
Hardship Discharge Pursuant to 3015-5(b)/11 U.S.C. § 1328(b)		X	
Continue Case Administration After Death of Debtor and/or Designate a Person to Act for Debtor	X		
Employ <i>Nunc Pro Tunc</i>		X	
Reconsider Dismissal		X	
Reopen		X	
Withdraw as Counsel		X	
Value Tax Claim and Establish Priority		X	
Extend or Impose the Stay Pursuant to 11 U.S.C. § 362(c)(3) or (4)			X
Reconsider Stay Relief			X
Convert or Dismiss by Creditor or Party in Interest		X	
Convert or Dismiss by Debtor (previous conversion)		X	
<b>Hearings on Chapter 13 matters not listed in SC LBR 9013-4 will be scheduled by the Court</b>			

<sup>1</sup> See SC LBR 9013-4, Self-Scheduled Calendar Dates and Chambers Guidelines under “Chapter 13 Matters” available at [www.scb.uscourts.gov](http://www.scb.uscourts.gov)

\*Such matters may include requests to substitute collateral/use insurance proceeds and similar relief.

Consult the text of Chambers Guidelines for the requirements in connection with modification of a plan after confirmation.

**Exhibit E**

UNITED STATES BANKRUPTCY COURT  
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: 1<sup>st</sup> mortgage  current  arrears in plan  balance in plan  other  
2<sup>nd</sup> 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 F

### **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 and any amendments considered for confirmation is denied. An amended or further amended plan, if not already filed, may be filed within ten (10) days from the entry of this order, 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, if required, and/or certificate of mailing is filed, this case may be dismissed without further notice or hearing. An 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.

**Exhibit G**

UNITED STATES BANKRUPTCY COURT  
DISTRICT OF SOUTH CAROLINA

IN RE:

Debtor.

C/A No.

(JOINT) STATEMENT OF DISPUTE  
AND STIPULATION  
Chapter

The undersigned hereby certify that after consultation, the hearing on [type of hearing] originally scheduled for [date and time], after good faith efforts cannot be settled and remains contested so as to require the presentation of evidence and/or argument to the Court for determination. The following information is presented by way of stipulation of the parties:

1. Issues to be decided by the Court.
2. Position of Party/Parties (state w/ specificity).
3. Names of Witnesses to be called at the hearing.
4. Exhibits/Evidence to be presented.
5. Statutory, Case Law or other Applicable Authority.
6. Estimated Length of Hearing.
7. Telephone and Facsimile Number, Electronic Mail address of Counsel/Party/Parties.

\_\_\_\_\_  
(DATED)

\_\_\_\_\_  
(SIGNATURE)

\_\_\_\_\_  
(DATED)

\_\_\_\_\_  
(SIGNATURE)

**Exhibit H**

UNITED STATES BANKRUPTCY COURT  
DISTRICT OF SOUTH CAROLINA

IN RE:

CASE NO.

APPLICATION FOR APPROVAL OF CHAPTER 13 ATTORNEY FEES  
AND NOTICE OF OPPORTUNITY TO OBJECT

**I hereby request payment of attorney fees and costs as set forth below and represent to the court as follows:**

1. This request for payment is expressly authorized by a conspicuous provision of a written fee agreement filed with the court and incorporated herein.

2. Pursuant to SC LBR 2016-1(b), I hereby request payment of the following fees and expenses (only mark sections applicable to this request):

a. Expedited Fee Amount:

\$ \_\_\_\_\_

b. Supplemental Fees Before Confirmation:

\$ \_\_\_\_\_ for \_\_\_\_\_ (statement of work)

c. Supplemental Fees After Confirmation:

\$ \_\_\_\_\_ for \_\_\_\_\_ (statement of work).

*You must indicate one option below:*

\_\_\_\_\_ The total fees are less than the amounts set forth in SC LBR 2016-1 and applicable Chambers Guidelines. Any objection must be filed within twenty-one (21) days of service of this Application. The fees requested will be conditionally approved for disbursement absent an objection or an order to the contrary, subject to the terms of the confirmed plan.

\_\_\_\_\_ The total fees exceed the amounts set forth in SC LBR 2016-1 and applicable Chambers Guidelines. Exhibit B to SC LBR 9013-4 accompanies this Application.

d. Alternative Procedure Fees:

\$ \_\_\_\_\_ for \_\_\_\_\_ (statement of work). A detailed description of the services rendered, the time expended, and the amounts requested and Exhibit B to SC LBR 9013-4 accompany this Application.

3. Fees and expenses set forth above total \$ \_\_\_\_\_, which includes all amounts charged through the date hereof. I have received \$ \_\_\_\_\_ in attorney fees and costs directly from the debtor. I request that the remaining amount of \$ \_\_\_\_\_ be paid through the Chapter 13 plan.

**Exhibit I**

UNITED STATES BANKRUPTCY COURT  
DISTRICT OF SOUTH CAROLINA

IN RE:

CASE NO.

APPLICATION FOR APPROVAL OF CHAPTER 13 ATTORNEY FEES AND NOTICE  
OF OPPORTUNITY TO OBJECT  
**LOSS MITIGATION AND MORTGAGE LOAN MODIFICATION**

**I hereby request payment of attorney fees and costs as set forth below and represent to the court as follows:**

1. This request for payment is expressly authorized by a conspicuous provision of a written fee agreement filed with the court and incorporated herein.

2. Pursuant to SC LBR 2016-1(b), I hereby request payment of the following fees and expenses, in addition to any other compensation requested in this case:

\$\_\_\_\_\_ for loss mitigation and mortgage loan modification work described as follows:

\_\_\_\_\_

\_\_\_\_\_

Of this amount set forth in (2) above, \$\_\_\_\_\_ is due directly from Debtor(s) and \$\_\_\_\_\_ should be added to the amount paid through the Chapter 13 plan.

*(Amounts in (2) above should be fees charged for loss mitigation and mortgage loan modification work ONLY. Do not include amounts for the base fee of SC LBR 2016-1(b)(1) nor for 2016-1(b)(2) general bankruptcy matters on this form. However, you must also amend your Attorney Fee Disclosure Statement when required by SC LBR 2016-1 or other applicable authority).*

Any objection must be filed within twenty-one (21) days of service of this Application. The fees requested will be conditionally approved for disbursement absent an objection or an order to the contrary, subject to the terms of the confirmed plan.

**Exhibit J**

**UNITED STATES BANKRUPTCY COURT  
DISTRICT OF SOUTH CAROLINA**

IN RE:

C/A No.

Chapter 13

Debtor(s).

**ORDER AUTHORIZING LOSS  
MITIGATION/MEDIATION**

*John and Jane Doe* (“Debtors”) requested an order from this Court authorizing modification of the automatic stay to engage in Loss Mitigation/Mediation with creditor *XYZ Bank* its agents, servicers, successors or assigns (“Creditor”) in connection with property located at *123 Maple Lane, Anywhere, USA* (“the Property”). The automatic stay of 11 U.S.C. § 362 is lifted to the extent necessary for Debtor(s) and Creditor to engage in and complete any loss mitigation related to the Property. The parties may negotiate and enter into a consensual loan modification agreement including, if applicable, a trial modification, permanent loan modification, and the execution of any other conforming and amended documents. For so long as the case remains pending in this Court, Debtor shall promptly provide notice of any permanent loan modification by filing notice with the Court. Debtor shall notify the chapter 13 trustee of the status of loss mitigation within 120 days of the entry of this order. The chapter 13 trustee shall, unless otherwise ordered, continue to make disbursements to the Creditor as provided in the confirmed plan.

**AND IT IS SO ORDERED.**

**Exhibit K**

**Generated order if no previous loss mitigation order:**

**UNITED STATES BANKRUPTCY COURT  
DISTRICT OF SOUTH CAROLINA**

IN RE:

,

Debtor(s).

C/A No.

Chapter 13

**ORDER**

Based upon the consents of the trustee and those contained in the proposed mortgage modification, the automatic stay is lifted to permit Debtor(s) to enter into a loan modification agreement. The trustee shall cease making payments to the mortgage holder. Notice and service of this event is delegated pursuant to SC LBR 5075-1.

**AND IT IS SO ORDERED.**

**Generated order if there was a previous loss mitigation order:**

**UNITED STATES BANKRUPTCY COURT  
DISTRICT OF SOUTH CAROLINA**

IN RE:

,

Debtor(s).

C/A No.

Chapter 13

**ORDER**

The automatic stay was previously modified to permit the parties to engage in loss mitigation. With the trustee's consent and pursuant to that order the parties have entered into a loan modification. The trustee shall cease making payments to the mortgage holder. Notice and service of this event is delegated pursuant to SC LBR 5075-1.

**AND IT IS SO ORDERED.**