

MEDIATION PROGRAM

The United States Bankruptcy Court for the District of South Carolina recognizes that litigation of disputes in bankruptcy cases and adversary proceedings often imposes significant economic burdens on the parties and causes delay. Accordingly, the Court has implemented an informal mediation program to provide litigants with a means to resolve their disputes more quickly, at less cost, and without some of the burdens associated with litigation. The Court maintains the attached list of experienced bankruptcy attorneys who have agreed to mediate bankruptcy matters in a quick time frame and at a reduced hourly rate. Pursuant to SC LBR 9019-2, the Court may order mediation of a matter upon agreement of the parties to the matter, on motion of a party to the matter or the U.S. Trustee, or *sua sponte* using the form order attached. Inquiries may be made to chambers of the presiding judge.

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

IN RE:

[INSERT DEBTOR'S NAME]

Debtor(s).

[INSERT PLAINTIFF'S NAME]

Plaintiff,

vs.

[INSERT DEFENDANT'S NAME]

Defendant.

[CASE NUMBER]

[ADVERSARY NUMBER]

[CHAPTER NO.]

MEDIATION ORDER

THIS MATTER comes before the Court for consideration of mediation, as requested by the parties.

Therefore, it is ordered that mediation be scheduled and completed in this proceeding on or before **[insert deadline]**. Upon completion of the mediation, counsel for the Plaintiff shall advise the Court in writing only that the mediation has occurred, the date of the mediation, whether the case was settled in whole or in part, and whether a trial is required.

The Court appoints **[insert attorney's name]** of the **[insert firm name]** law firm to serve as mediator in this matter.

All parties and their trial counsel, having authority to settle and to adjust pre-existing settlement authority if necessary, are required to attend the mediation in person unless excused by the Court for good cause shown. Insurer representatives **[if applicable]** with decision-making authority also are required to attend in person, unless excused by the Court, if their agreement would

be necessary to achieve a settlement. Every person who is excused from attending in person must be available to participate by telephone, unless otherwise ordered. At the mediation, parties, their insurer representatives and their primary trial counsel should be prepared to participate in a mutual, good faith effort to negotiate a fair and reasonable settlement. All necessary discovery should be completed prior to mediation unless otherwise agreed to by counsel for all parties. Lack of discovery or settlement authority is no excuse for failure to appear and/or participate.

This order shall be served on all counsel of record. Counsel are responsible for notifying and ensuring the presence of parties and insurer representatives as described above. If a case has been mediated previously, counsel shall notify the Court immediately in writing. All costs of mediation shall be divided equally between the parties and paid within ten (10) days of submission by the mediator. Since a portion of the cost of mediation shall be incurred by the trustee in administration of the estate, at this stage, the Court limits the hourly rate of the mediator and his associates to \$_____ per hour and the total cost of mediation to \$_____ absent further order. In his discretion, the mediator may require costs, including fees, to be paid in advance of the mediation conference.

Communications made in connection with or during the mediation are confidential and protected by Federal Rule of Evidence 408 and Federal Rule of Civil Procedure 68. If a settlement is not reached at mediation, settlement discussions are neither admissible at trial nor to be disclosed to the presiding judge.

If any reason exists why any party or counsel should not participate in this mediation, the Court is to be advised of these reasons in writing.

AND IT IS SO ORDERED.

UNITED STATES BANKRUPTCY JUDGE

Columbia, South Carolina,
_____, 20__.

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*certified as a mediator