

UNITED STATES BANKRUPTCY COURT
DISTRICT OF SOUTH CAROLINA

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U.S. BANKRUPTCY COURT
DISTRICT OF SOUTH CAROLINA

IN RE:)
)
ABROGATION OF CERTAIN)
OPERATING ORDERS)
)
)
_____)

ADMINISTRATIVE ORDER

Due to the enactment of revised Local Rules which either incorporated or rendered null certain Operating Orders, the following Operating Orders attached hereto are hereby abrogated effective December 1, 2008:

- Operating Order 08-02** (Local Rule 2090-2)
- Operating Order 07-06** (Local Rule 1019-1 and Exhibit A, Exhibit B, and Exhibit C to Local Rule 3015-1)
- Operating Order 06-11** (Local Rule 1007-2)

AND IT IS SO ORDERED.



JOHN E. WAITES
Chief Judge, United States Bankruptcy Court

Columbia, South Carolina
December 1, 2008

UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF SOUTH CAROLINA

FILED

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U.S. BANKRUPTCY COURT
DISTRICT OF SOUTH CAROLINA

IN RE:

LOCAL RULE 2090-2,

OPERATING ORDER 08-02

Pursuant to Local Civil Rule 83.I.08 DSC and Local Civil Rule 83.IX.04 DSC and upon agreement of the Judges of this Court, the Court implements SC LBR 2090-2, attached as Exhibit A, to coincide with the effective date of the District Court's revisions to Local Civil Rule 83.I.08 DSC and Local Civil Rule 83.IX.04 DSC.



John E. Waites, Chief Judge

Columbia, South Carolina,
April 10, 2008

EXHIBIT A

Local Rule 2090-2 Disciplinary Proceedings

United States District Court Local Civil Rule 83.1.08 DSC shall govern attorney discipline and disbarment in the bankruptcy court.

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UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF SOUTH CAROLINA

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U.S. BANKRUPTCY COURT
DISTRICT OF SOUTH CAROLINA

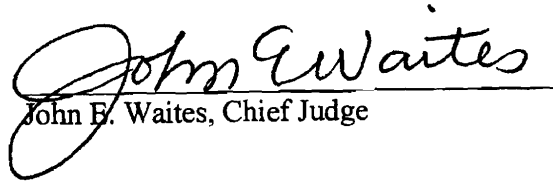
IN RE:

LOCAL RULE 1019-1 AND EXHIBIT A,
EXHIBIT B, AND EXHIBIT C TO
LOCAL RULE 3015-1,

OPERATING ORDER 07-06

In recognition of the decrease in volume of chapter 13 cases, the inability of many individuals within this District to afford representation before this Court following the enactment of the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005, and the fact that *pro se debtors are generally unable to effectively represent themselves in chapter 13 cases resulting, in the vast majority of cases, in dismissal prior to confirmation*, the Court seeks to promote attorney representation and access to justice by increasing the likelihood that attorneys will be fairly compensated for representing debtors in chapter 13 cases. Competent attorney representation not only better protects the interest of the debtors by serving to protect assets and assist debtors in receiving discharges but it also serves the interest of creditors by increasing the likelihood that the plans of debtors will be confirmed and performed. To these ends, revisions to the Court's local rules and forms are necessary to accomplish these objectives.

Following a public comment period and upon agreement of the Judges of the Court, the Court implements revised SC LBR 1019-1, attached as Exhibit A, effective in all cases filed on or after May 5, 2007, and the Court also revises Exhibit A, Exhibit B, and Exhibit C to SC LBR 3015-1, attached hereto as Exhibit B, which may be utilized in all chapter 13 cases filed within this District on or after May 5, 2007. Revised Exhibit A, Exhibit B, and Exhibit C to SC LBR 3015-1 shall become the mandatory forms for all cases filed on or after June 15, 2007.


John E. Waites, Chief Judge

Columbia, South Carolina,
May 4, 2007

Exhibit A

Local Rule 1019-1

Upon the conversion or dismissal of a case under chapter 13 of the Bankruptcy Code, the trustee shall, after first paying the balance of any sanctions as directed by the Court in an Order imposing sanctions and next paying any unpaid filing fees dispose of funds in the following manner, unless otherwise ordered by the Court:

- (a) If there is a confirmed plan in the case, the 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.
- (b) Applicable only to cases not governed by the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005, if there is neither a confirmed plan nor an order directing otherwise, the trustee shall pay any remaining funds to the debtor without regard to when the funds were received.
- (c) Applicable to cases governed by the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005, if there is neither a confirmed plan nor an order directing otherwise, the chapter 13 trustee shall disburse funds received prior to the entry of an order of dismissal or conversion in the following order:
 - 1. unless otherwise ordered, disburse the lesser of the amount of debtor's attorney's proof of claim, to the extent that the claim has not been satisfied; \$500.00; or the remaining balance of funds received by the trustee prior to dismissal or conversion. The attorney may seek a greater payment upon timely application to the Court made prior to the disbursement by the chapter 13 trustee; and
 - 2. as adequate protection, disburse funds received prior to entry of an order of dismissal or conversion 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; and
 - 3. any funds remaining after these payments, and all funds received after conversion or dismissal, shall be returned to the debtor.
- (d) Subject to the above, the trustee shall pay any funds that would be considered an asset of a converted case to any subsequent trustee, and the trustee shall pay to the Court any remaining balance of the filing fee owed to the Court.

- (e) In addition to the above, Interim Rule 1019, adopted by this Court as a local rule effective October 17, 2005, is applicable to cases governed by the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005 and is to be read in conjunction with any corresponding Federal Rule.

Exhibit B

EXHIBIT A TO SC LBR 3015-1

UNITED STATES BANKRUPTCY COURT
DISTRICT OF SOUTH CAROLINA

IN RE:

CASE NO: _____
CHAPTER: 13

NOTICE, CHAPTER 13
PLAN AND RELATED MOTIONS

Debtor(s).

**NOTICE OF: 1) DEADLINE FOR FILING OBJECTIONS TO CONFIRMATION OF CHAPTER 13 PLAN;
2) MOTION FOR VALUATION; 3) MOTION TO AVOID CERTAIN LIENS; AND
4) ASSUMPTION OR REJECTION OF EXECUTORY CONTRACTS**

The following chapter 13 plan (the "Chapter 13 Plan") and related motions (the "Related Motions") have been filed in the above-captioned case. They will be considered at the Confirmation Hearing, notice of which is given in the Notice of Meeting of Creditors. Any objections to the confirmation of the plan, to the payment of attorney's fees in accordance with the distribution set forth herein, to the Motion to Value Security, to the Motion to Avoid Judicial Lien or to Avoid a Nonpurchase Money, Nonpossessory Security Interest and Lien, or to the assumption or rejection of an executory contract, all as requested herein, must be made in writing, served upon the debtor(s), the undersigned counsel for the debtor(s), and filed with the Court, United States Bankruptcy Court, 1100 Laurel Street, Columbia, SC 29201, within twenty-five (25) days from the date of filing this Notice, Chapter 13 Plan and Related Motions. All objections must comply with South Carolina Local Bankruptcy Rule 9014-4 (SC LBR 9014-4). The Confirmation hearing is not required to be held unless a response, return, and/or objection is timely filed and served.

The Notice and Chapter 13 Plan shall be served on or before the date they are filed with the Court and according to Federal Rules of Bankruptcy Procedure, Rules 3015 and 2002. Related Motions shall be served on or before the date of their filing with the Court and according to Federal Rules of Bankruptcy Procedure, Rule 7004.

The Chapter 13 Plan and Related Motions propose to value the security of the following creditors:

The Chapter 13 Plan and Related Motions propose to avoid a judicial lien or to avoid a nonpurchase money, nonpossessory security interest and lien of the following creditors:

The Chapter 13 Plan and Related Motions propose the assumption of executory contracts as follows:

NOTE THAT A FAILURE TO OBJECT TO CONFIRMATION MAY CONSTITUTE AN IMPLIED ACCEPTANCE OF THE PLAN.

**REVIEW THE PLAN AND RELATED MOTIONS CAREFULLY
TO DETERMINE TREATMENT OF YOUR CLAIM**

If an objection is filed within twenty-five (25) days after the date of filing and such timely objection is filed before the Confirmation Hearing, the objection will be heard at the Confirmation Hearing, notice of which is given in the Notice of Meeting of Creditors. If an objection is filed within twenty-five (25) days after the date of filing and such timely objection is filed after the Confirmation Hearing, a hearing on the objection will be scheduled and notice of such hearing will be given.

If no objection is timely filed in accordance with SC LBR 9014-4, the Court, upon the recommendation of the chapter 13 trustee and without further hearing or notice, may enter an order confirming the plan following the Meeting of Creditors (11 U.S.C. § 341 meeting) and granting the other relief requested therein.

NOTICE

(TO BE COMPLETED ONLY IF FORM PLAN IS ALTERED)

The plan below contains language that is in addition to that approved for use in the Chapter 13 Plans in the United States Bankruptcy Court for the District of South Carolina, or otherwise alters the approved Form Plan. Such language is highlighted by ____ (state whether by bold type, italics, or underlining).

The unapproved language referred to above appears in Paragraph _____. Parties wishing to object to the inclusion of unapproved language or any other provision of the plan should review the Notice, Chapter 13 Plan and Related Motions for the correct procedure to be followed.

CHAPTER 13 PLAN AND RELATED MOTIONS

1. The future earnings and income of the debtor(s) are submitted to the supervision and control of the chapter 13 trustee, and the debtor(s) shall pay to the chapter 13 trustee the sum of \$_____ per month for a period of _____() months, or longer if necessary, for completion of this plan according to its terms, but not to exceed 60 months. The debtor's(s)' total obligation under this plan will not be less than (the base amount), regardless of the unsecured dividend stated in paragraph 6. In addition to the above, the debtor(s) will pay any portion of a recovery under a pre-petition claim or cause of action, that constitutes disposable income or is not exempt, to the chapter 13 trustee.
2. After the deduction from all disbursements of the allowed chapter 13 trustee's commission and expenses, the chapter 13 trustee shall make disbursements as follows:
3. Subject to review and objection, a proof of claim for the attorney's fees of the debtor(s) in the amount of \$_____ will be filed, and may be amended from time to time and shall be paid pursuant to this plan. Following confirmation of the plan and unless the Court orders otherwise, the chapter 13 trustee shall disburse \$500.00 for the attorney's proof of claim in the initial disbursement made by the chapter 13 trustee.¹ In addition to the initial disbursement by the chapter 13 trustee, the balance of the attorney's proof of claim shall be paid with all funds remaining each month after payment to secured and domestic support creditors as set forth herein.

In instances where an attorney assumes representation in pending pro se cases 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 other creditors.

4. Secured creditors will be treated as follows:
 - (a) Long term or mortgage debt - ARREARAGE ONLY (including, but not limited to, all past due payments and escrow amounts), to be paid to _____ at \$_____ or more per month, along with _____% interest. Regular payments will be made directly by the debtor(s), beginning _____ 20_____.
 - (b) Long term or mortgage debt - ARREARAGE ONLY (including, but not limited to, all past due payments and escrow amounts), to be paid to _____ at \$_____ or more per month, along with _____% interest. Regular payments will be made directly by the debtor(s), beginning _____ 20_____.
 - (c) The liens of the following creditors shall be satisfied as follows:

Payments of \$_____ or more per month, to _____ until the net balance/ value of the lien, plus _____% interest has been paid in full. If the lien is to be valued, the debtor(s) hereby move(s) to value the lien at \$_____ in accordance with SC LBR 3015-1 and the notice attached hereto. The basis of the debtor's(s)' value is as follows: valuation source, vehicle mileage (if applicable). Liens senior to the above-named creditor are held by the following creditors in the following amounts : _____.

¹ The chapter 13 trustee shall not disburse more than the unpaid balance on the attorney's proof of claim or balance of the funds received under Paragraph 1 in the initial disbursement.

Payments of \$ _____ or more per month, to _____ until the net balance/ value of the lien, plus _____% interest has been paid in full. If the lien is to be valued, the debtor(s) hereby move(s) to value the lien at \$ _____ in accordance with SC LBR 3015-1 and the notice attached hereto. The basis of the debtor's(s') value is as follows: vehicle mileage (if applicable). Liens senior to the above-named creditor are held by the following creditors in the following amounts : _____.

Payments of \$ _____ or more per month, to _____ until the net balance/ value of the lien, plus _____% interest has been paid in full. If the lien is to be valued, the debtor(s) hereby move(s) to value the lien at \$ _____ in accordance with SC LBR 3015-1 and the notice attached hereto. The basis of the debtor's(s') value is as follows: vehicle mileage (if applicable). Liens senior to the above-named creditor are held by the following creditors in the following amounts: _____.

Secured tax debt: Payments of \$ _____ or more per month, to _____ on its claim secured by a tax lien until the net balance/value of lien plus _____% interest has been paid in full. If the lien is to be valued, the debtor(s) hereby move(s) to value the lien at \$ _____ in accordance with SC LBR 3015-1 and the notice attached hereto. The basis of the debtor's(s') value is as follows: _____ Liens senior to the above-named creditor are held by the following creditors in the following amounts: \$ _____. Of the remaining tax claim, the amount of \$ _____ will be accorded priority unsecured tax status and the balance of the claim will be accorded general unsecured status and paid in accordance with paragraph 6(a) if a proof of claim is timely filed.

- (d) Other secured debt(s) to be treated as follows:
- (e) The following payments to mortgage creditors are current and the debtor(s) will continue making regular payments directly to:
- (f) The debtor(s) hereby move(s) to avoid the following non-possessory, non-purchase-money security interest liens pursuant to 11 U.S.C. § 522(f), and SC LBR 3015-1, and the notice attached hereto. If the debtor(s) intend(s) to avoid a security interest pursuant to other applicable sections of the United States Bankruptcy Code (Code), then the debtor(s) shall so state below and shall file and serve necessary pleadings on or before the date set for the initial meeting of creditors.

<u>Name of Creditor</u>	<u>Amount of Security Interest</u>	<u>Amount of Security Interest Not Avoided and to be Paid as Set In Paragraph 4(c) Above</u>
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- (g) The debtor(s) hereby move(s) to avoid the following judicial liens pursuant to 11 U.S.C. § 522(f), SC LBR 3015-1, and the notice attached hereto. If debtor(s) intend(s) to avoid a judicial lien pursuant to other applicable sections of the Code, the debtor(s) shall so state below and shall file and serve the necessary pleadings on or before the date set for the initial meeting of creditors.²

	Amt. of	Total Amt of	Amt of		Value	Value of	Amount of
<u>Name of Creditor</u>	<u>Judicial Lien</u>	<u>All Other Liens</u>	<u>Exemption Claimed</u>	=	<u>Enter Amount-</u>	<u>Debtor's Interest in Property</u>	=
<u>Avoided</u>						<u>to be Avoided</u>	<u>Judicial Lien Not to be</u>

² In certain cases, the Court's equity analysis for co-owned property pursuant to In re Ware, 274 B.R. 206 (Bankr. D.S.C. 2001) may be applicable. In such instances, the formula provided in Exhibit C to SC LBR 4003-1 may be utilized.

5. (a) All 11 U.S.C. § 507(a)(1) priority creditors (pre-petition domestic support obligations) shall be treated as follows:

To _____, the pre-petition domestic support obligations shall be paid in full, by paying \$_____ or more per month until the balance is paid in full, except as set forth in Paragraphs 2 and 3.

All post-petition domestic support obligations will be paid by the debtor(s) outside the plan and shall be kept current.

- (b) Except as set forth in Paragraphs 2 and 3 and subsequent to the above, all other 11 U.S.C. § 507 priority creditors (including, but not limited to, pre-petition taxes or other claims by governmental units) will have the allowed amounts of their pre-petition claims paid on a pro-rata basis. The debtor(s) shall pay all similar post-petition priority obligations to such creditors as they come due directly to such creditors.

6. Subsequent to the above, unsecured creditors will be treated as follows:

- (a) General unsecured creditors will be paid not less than _____% of their allowed claims, on a pro-rata basis. If no percentage is stated, then general unsecured claims will be paid 100% of their allowed claims, on a pro-rata basis. If the unsecured claims are entitled to full payment on their claims plus interest, then interest shall be paid at the rate of ____%.

- (b) The following creditors who hold unsecured consumer claims with co-debtors will be paid ____% of their allowed claims plus ____% interest on a pro-rata basis: _____

- (c) The following creditors who hold unsecured claims of the kind specified in 11 U.S.C. § 1328(a) will be paid ____% of their allowed claims plus ____% interest on a pro-rata basis: _____

7. The debtor(s) move(s) for the assumption of the executory contracts and leases listed below. The debtor agrees to abide by all terms of the agreements and to cure any pre-petition arrearage or defaults in the manner listed below.

<u>Creditor</u>	<u>Amount of regular payment</u>	<u>Amt. of default (state if none)</u>	<u>Cure provisions</u>	<u>Regular pymts, and cure pymts pd by debtor(s)/by trustee</u>
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An executory contract or lease not specifically mentioned above is treated as rejected.

8. 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(s). With respect to secured claims being paid through the plan, the holders of secured claims shall retain liens until the earlier of payment of the underlying debt, as determined under non-bankruptcy law, or discharge under 11 U.S.C. § 1328(a). If this case is dismissed or converted without completion of the plan, all liens shall be retained to the extent recognized by non-bankruptcy law. The terms of the debtor(s)' pre-petition agreement with a secured creditor shall continue to apply except as provided for in this plan, the Order confirming the plan or other Order of the Court. Completion of all plan payments shall impose an affirmative duty on secured creditors paid under the plan to satisfy liens as required by applicable law. Any party entitled to collect child support or alimony under applicable non-bankruptcy law may collect post-petition obligations from the income or assets of the debtor-parent/spouse without further order or relief from the automatic stay. Any claim for pre-petition child support or alimony must be collected in accordance with 11 U.S.C. § 507(a)(1) and 11 U.S.C. § 1322(a)(2).

To receive payment from the chapter 13 trustee, a secured creditor must file a proof of claim. Secured claims which are not filed within the time required by Fed. R. Bankr. P. 3002(c) may be disallowed or subordinated to other claims upon further order of the Court.

Confirmation of this plan does not bar a party in interest from objecting to a claim which is not filed in accordance with Fed. R. Bankr. P. 3001 or Fed. R. Bankr. P. 3002.

If property is to be released or otherwise surrendered pursuant to this plan, the creditors holding a lien on, or interest in, the property to be released must provide the chapter 13 trustee with acceptable evidence of perfection of the lien or interest, otherwise the property may not be released or surrendered.

Any creditor holding a claim secured by property which is removed from the protection of the automatic stay, whether by judicial action, voluntary surrender, or through operation of the plan, will receive no further distribution from the chapter 13 trustee, unless an itemized proof of claim for any deficiency is filed within a reasonable time after the removal of the property from the protection of the automatic stay. 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 funds that would have been paid to such a creditor will be distributed to other creditors, unless the Court orders otherwise. This also applies to creditors who may claim an interest in, or lien on, property which is removed from the protection of the automatic stay by another lienholder or released to another lienholder, unless the Court orders otherwise.

If a tax creditor files a claim which is allegedly a secured claim but does not timely object to confirmation of this plan, then the claim may be paid as a priority claim.

If a claim is listed in the plan as secured, and the creditor files a proof of claim as an unsecured creditor, the creditor may be treated as unsecured for purposes of distribution under the plan.

The debtor(s) will not incur indebtedness or sell property outside the ordinary course of business without permission of the Court.

The debtor(s) is/are 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(s).

If a claim is scheduled as unsecured, and the creditor files a proof of claim alleging that the claim is secured, but does not timely object to the confirmation of the plan, then the creditor may be treated as unsecured for purposes of distribution under the Plan. This paragraph is not intended to limit the right of a creditor affected by this paragraph to seek relief from the stay or to object to the discharge of the debt. Nothing in this paragraph shall be deemed to affect the lien rights of the creditor except as otherwise specifically provided under the plan or by order of the Court.

Nothing herein is intended to waive or affect adversely any rights of the debtor, chapter 13 trustee, or party with respect to any causes of action.

9. Pay order request or other plan provisions not inconsistent with the above:

CERTIFICATE OF SERVICE

The undersigned hereby certifies that he/she served the foregoing Notice, Plan and Related Motions on all creditors and parties in interest entitled to such notice. The parties served are individually listed on the accompanying list or mailing matrix.

Date: _____ BY: _____
District Court I.D.
Attorney for the Debtor/*Pro Se* Debtor

Debtor

Debtor

EXHIBIT B TO SC LBR 3015-1

UNITED STATES BANKRUPTCY COURT
DISTRICT OF SOUTH CAROLINA

IN RE:

CASE NO: _____
CHAPTER: 13

NOTICE OF PLAN MODIFICATION BEFORE
CONFIRMATION

Debtor(s).

TO: Trustee
Affected Creditor: _____

PLEASE TAKE NOTICE that pursuant to 11 U.S.C. § 1323 and Fed. R. Bankr. P. 2002(a)(6), the debtor is filing the attached modified plan and that the above-identified creditor is adversely affected thereby.

Any creditor wishing to object to the proposed modification of the plan must file an objection with the Court, United States Bankruptcy Court, 1100 Laurel Street, Columbia, South Carolina 29201 within twenty-five (25) days from the date of filing.

Pursuant to SC LBR 9014-4, any objection must be written and properly captioned in accordance with Fed. R. Bankr. P. 9004, set forth with particularity the reasons for the objection and be served on the attorney below, the chapter 13 trustee, and other parties in interest and filed with the Court not later than the deadline given above. Any objecting party failing to comply with this procedure may be denied the opportunity to appear and be heard by the Court and the modified plan may be confirmed.

If the modified plan adversely affects any party and the adversely affected party files an objection within twenty-five (25) days after the date of filing, the objection will be heard at the confirmation hearing, notice of which is given in the Notice of Meeting of Creditors. If the modified plan adversely affects any party and the adversely affected party files an objection within twenty-five (25) days after the date of filing and such timely objection is filed after the confirmation hearing, a hearing on the objection will be scheduled and notice of such hearing will be given.

The undersigned hereby certifies that he/she has properly served this notice and the accompanying plan and related motions on the parties listed above.

Date: _____, _____

Signature of Attorney/*Pro Se* Debtor

Typed/Printed Name/Address/Telephone
Facsimile/E-mail

District Court I.D. Number

EXHIBIT C TO SC LBR 3015-1

UNITED STATES BANKRUPTCY COURT
DISTRICT OF SOUTH CAROLINA

IN RE:

CASE NO: _____
CHAPTER: 13

NOTICE OF PLAN MODIFICATION AFTER
CONFIRMATION

Debtor(s).

TO: Debtor, Trustee, All Creditors, and other Parties in Interest

PLEASE TAKE NOTICE that pursuant to 11 U.S.C. § 1329(a), Fed. R. Bankr. P. 3015(g), and Fed. R. Bankr. P. 2002(a)(6), the moving party is filing the attached motion to modify confirmed plan, memorandum, and modified plan.

Any party wishing to object to the proposed modification of the plan must file an objection with the Court, United States Bankruptcy Court, 1100 Laurel Street, Columbia, South Carolina 29201 within twenty-five (25) days from the date of filing.

Pursuant to SC LBR 9014-4, any objection must be written and properly captioned in accordance with Fed. R. Bankr. P. 9004, set forth with particularity the reasons for the objection, and be served on the attorney below, the chapter 13 trustee, and other parties in interest and filed with the Court not later than the deadline given above. Any objecting party failing to comply with this procedure may be denied the opportunity to appear and be heard by the Court, and the modified plan may be confirmed.

If an objection is filed within twenty-five (25) days after the date of filing, a hearing on the objection will be scheduled and notice of such hearing will be given.

The undersigned hereby certifies that he/she has properly served this notice and the accompanying plan and related motions on the parties listed above.

Date: _____, _____

Signature of Attorney/*Pro Se* Debtor

Typed/Printed Name/Address/Telephone
Facsimile/E-mail

District Court I.D. Number

UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF SOUTH CAROLINA

FILED

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U.S. BANKRUPTCY COURT
DISTRICT OF SOUTH CAROLINA

IN RE:)
))
LOCAL RULE 1007-2)
_____)

Operating Order 06-11

The Committee on Rules of Practice and Procedure of the Judicial Conference of the United States has approved a revised Interim Rule 1007. Upon agreement of the Judges of this Court, Local Rule 1007-2(d), adopting Interim Bankruptcy Rule 1007, is hereby amended to adopt revised Interim Bankruptcy Rule 1007 effective October 1, 2006.

AND IT IS SO ORDERED.



John E. Waites, Chief Judge

Columbia, South Carolina
October 1, 2006.

4. *Text of Amendment to Proposed Interim Rule 1007.*

**Interim Rule 1007. Lists, Schedules, and Statements, and
Other Documents; Time Limits¹**

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(b) SCHEDULES, STATEMENTS, AND OTHER
DOCUMENTS REQUIRED.

(3) Unless the United States trustee has determined
that the credit counseling requirement of § 109(h) does not
apply in the district, an individual debtor must file the
~~certificate and debt repayment plan, if any, required by~~
~~§ 521(b), a certification under § 109(h)(3), or a request for a~~
~~determination by the court under § 109(h)(4).~~ a statement of
compliance with the credit counseling requirement, prepared

¹ The amendments are proposed to Interim Rule 1007. Therefore, the underlined additions and the strikeout deletions are to the Interim Rule adopted by the courts on or about October 17, 2005, and not to the existing national rule. This amendment is intended to operate along with the adoption of the amendments to Official Form 1, the voluntary petition.

12 as prescribed by the appropriate Official Form which must
13 include one of the following:

14 (A) an attached certificate and debt repayment
15 plan, if any, required by § 521(b);

16 (B) a statement that the debtor has received the
17 credit counseling briefing required by § 109(h)(1) but does
18 not have the certificate required by § 521(b);

19 (C) a certification under § 109(h)(3); or

20 (D) a request for a determination by the court
21 under § 109(h)(4).

22 * * * * *

23 (c) TIME LIMITS. In a voluntary case, the schedules,
24 and statements, and other documents required by subdivision
25 (b)(1), (4), (5), and (6) shall be filed with the petition or
26 within 15 days thereafter, except as otherwise provided in
27 subdivisions (d), (e), (f), and (h) of this rule. In an
28 involuntary case, the list in subdivision (a)(2), and the
29 schedules, statements, and other documents required by

30 subdivision (b)(1) shall be filed by the debtor within 15 days
31 of the entry of the order for relief. ~~The documents required by~~
32 ~~subdivision (b)(3) shall be filed with the petition in a~~
33 ~~voluntary case. The statement required by subdivision (b)(7)~~
34 ~~shall be filed by the debtor within 45 days after the first date~~
35 ~~set for the meeting of creditors under § 341 of the Code in a~~
36 ~~chapter 7 case, and no later than the last payment made by the~~
37 ~~debtor as required by the plan or the filing of a motion for~~
38 ~~entry of a discharge under § 1328(b) in a chapter 13 case.~~
39 ~~The statement required by subdivision (b)(8) shall be filed by~~
40 ~~the debtor not earlier than the date of the last payment made~~
41 ~~under the plan or the date of the filing of a motion for entry of~~
42 ~~a discharge under §§ 1141(d)(5)(B), 1228(b), or 1328(b). In~~
43 ~~a voluntary case, the documents required by paragraphs (A),~~
44 ~~(C), and (D) of subdivision (b)(3) shall be filed with the~~
45 ~~petition. Unless the court orders otherwise, if the debtor has~~
46 ~~filed a statement under subdivision (b)(3)(B), the documents~~
47 ~~required by subdivision (b)(3)(A) shall be filed within 15 days~~

48 of the order for relief. In a chapter 7 case, the debtor shall file
49 the statement required by subdivision (b)(7) within 45 days
50 after the first date set for the meeting of creditors under § 341
51 of the Code, and in a chapter 13 case no later than the date
52 when the last payment was made by the debtor as required by
53 the plan or the filing of a motion for a discharge under
54 § 1328(b). The debtor shall file the statement required by
55 subdivision (b)(8) no earlier than the date of the last payment
56 made under the plan or the date of the filing of a motion for
57 a discharge under §§ 1141(d)(5)(B), 1228(b), or 1328(b) of
58 the Code. Lists, schedules, statements, and other documents
59 filed prior to the conversion of a case to another chapter shall
60 be deemed filed in the converted case unless the court directs
61 otherwise. Except as provided in § 1116(3), any extension of
62 time for the filing of the schedules, statements, and other
63 documents required under this rule may be granted only on
64 motion for cause shown and on notice to the United States
65 trustee, ~~and to~~ any committee elected under § 705 or

66 appointed under § 1102 of the Code, trustee, examiner, or
67 other party as the court may direct. Notice of an extension
68 shall be given to the United States trustee and to any
69 committee, trustee, or other party as the court may direct.