

## CHAMBERS GUIDELINES

These guidelines supplement other rules and procedures found in the Court's [Local Rules](#) and applicable [Operating Orders](#). The Court's [CM/ECF Participant's Guides](#) provide further information about the CM/ECF events mentioned herein.

### HEARINGS

#### **A. Telephonic/Videoconference Participation at Hearings**

Requests to participate by telephone or videoconference must be made: (a) by filing the "Request to Appear Remotely" event in CM/ECF (except as permitted by SC LBR 5005-4(c), in which case option (b) should be utilized); or (b) by non-CM/ECF users, via email to chambers or courtroom staff. Such requests should be made as soon as possible, but no later than two (2) business days before the date of the hearing. If a request is made to chambers or courtroom staff directly, it must include an explanation for the remote appearance request, the extent of the party or counsel's participation at the hearing, whether evidence or testimony will be presented, and should advise that all opposing counsel/parties consent. Counsel and parties should anticipate attending the hearing in person unless the Court approves the request for remote appearance.

#### **B. Scheduling Orders**

A request for a scheduling order pursuant to SC LBR 9013-1(d) may be made by filing the "Request for Scheduling Order (text entry only)" CM/ECF event sufficiently in advance of the first scheduled hearing to permit time for removal from the calendar.

#### **C. Settlement**

Settlement of a matter on the hearing calendar should be reported by filing a "Notice of Settlement and Request for Removal from the Court Hearing Calendar" in CM/ECF. The parties may be excused from appearance if this event is docketed no later than 10:00 a.m. on the business day prior to the hearing.

#### **D. Withdrawal**

A proponent may withdraw a pleading before a response or objection is filed. After a response or objection is filed, withdrawal shall be made only with the consent of all responding parties. The "Withdrawal from the Court Calendar" event in CM/ECF should be used when possible. The consensual withdrawal of a contested matter may be made by the proponent no later than 10:00 a.m. on the business day prior to the hearing.

#### **E. Continuance**

A consensual request to continue a hearing may be made using the "Request for Continuance" event in CM/ECF. The request must be made **as soon as possible** and no later than 10:00 a.m. on the business day prior to the hearing, propose a date and time for the continued hearing from the

dates available on the published calendar, and state the specific reason for the request. Continuances are not effective until granted by Court order.

Absent the consent of all parties in interest, a written motion must be filed and served. The motion must report the movant's good faith effort to consult with all opposing counsel, the reason for the request, the assent of those parties consenting to a continuance, a proposed date and time for the continued hearing, and the availability, if known, of opposing counsel.

#### **F. Calendar Removal Request**

If the parties seek to have a matter removed from the calendar other than by settlement, withdrawal, or request for continuance, a separate calendar removal request should be filed using the corresponding CM/ECF event.

### **11 U.S.C. § 362 MOTIONS**

The Court provides the following automated events to assist with the processing of § 362 Motions.

#### **A. Default**

If no response to a request for relief pursuant to § 362 is timely filed, the movant may file the CM/ECF event "Certification of No Response and Request for 362 Default Order." For removal from the calendar, the Certification must be filed no later than 10:00 a.m. on the business day prior to the hearing. The filing of this event generates an automated proposed order. There is no need to file a calendar removal request, affidavit of default, or proposed order.

#### **B. Settlement**

An order settling a § 362 motion may be requested by filing the CM/ECF event "Request for Settlement Order on Motion for Relief from Stay" or a proposed order and calendar removal request. If the CM/ECF event is used, no calendar removal request is needed. If the Request or proposed order is timely filed, the motion will be removed from the hearing calendar once the settlement order is entered. Language providing for relief upon default under the terms of the settlement order should provide relief from stay "may" be granted, not that it "shall" be granted.

#### **C. Default of § 362 Settlement Order**

In the event of default under the terms of a settlement order, file the CM/ECF event "Default of 362 Settlement Order" and state the details of the default, including with specificity the payments that have not been received since entry of the settlement order. The filing of this CM/ECF event generates an automated proposed order. There is no need to file an affidavit of default or proposed order.

## **CHAPTER 13 CASES**

### **A. Attorney's Fees**

The expedited Chapter 13 debtor's attorney's fees amount for purposes of SC LBR 2016-1(b)(1) is \$4,300.00 for consumer cases and \$4,800.00 for business cases. After confirmation, and to the extent funds are available after deduction of the trustee's commission, the trustee may disburse up to \$1,500.00 to counsel as part of the initial disbursement under the Chapter 13 plan.

### **B. Chapter 13 General Docket**

In advance of any confirmation hearing, the Chapter 13 trustee will post information or notify debtor's counsel or the debtor regarding deficiencies in a debtor's plan, schedules or statements, any other recommendations regarding confirmation of a Chapter 13 plan, and any other matters involving the trustee. The trustee shall assist the Court in identifying matters that are resolved and do not require a formal hearing, and with the scheduling and continuance of confirmation hearings. The trustee shall file any recommendation or request on the CM/ECF docket beginning at the time the applicable objection period for any matter has passed and continuing to the date of the hearing, including making recommendations on the hearing record. Settlements, trustee recommendations, and other agreed-upon dispositions shall be noted in the records of the Court and approved by the judge at the appropriate time. If the trustee is informed of a resolution of a matter and the trustee has agreed to such resolution, the trustee may excuse the attendance of other parties (whether the hearing is held telephonically or in-person) and report the resolution on the record.

### **C. Plan Modifications**

If a modified or amended Chapter 13 plan is filed within 28 days of the confirmation hearing scheduled for a prior plan, the debtor shall file and serve, along with the subsequent plan, the local form Notice of Confirmation Hearing setting the hearing for a future date that would allow full notice as required by the rules. In such case, the Chapter 13 trustee may file a request to have the original confirmation hearing date mooted by the filing of the subsequent plan. To the extent deficiencies exist in the case as reflected on the Chapter 13 trustee's posting or notification to debtor's counsel or the debtor and a request to moot the original scheduled hearing is not filed, the Court will hold the original confirmation hearing to address any deficiencies and/or other issues. To ensure the Chapter 13 trustee has sufficient time to review all pleadings, counsel should consult with the Chapter 13 trustee prior to filing any amendments or modifications to a Chapter 13 plan within 7 days of the confirmation hearing on the prior plan.

## **LOSS MITIGATION/MORTGAGE MODIFICATION ORDERS**

### **A. Order Lifting the Automatic Stay for Consensual Loss Mitigation/Mortgage Modification.**

If litigants need an order from the Court to facilitate this process, CM/ECF automated events are available for Chapter 7 and 13 cases that generate orders modifying the stay to permit the debtor to enter consensual negotiations with the creditor. This event does not require consent. In a Chapter 7 case, the request may only be filed if the trustee has filed a report of no distribution or a report of abandonment of the specific property on which the debtor intends to pursue loss

mitigation.

**B. Loan Modification Documents.**

The CM/ECF event “Loan Modification Documents” permits Chapter 13 debtors to upload documents evidencing a loan modification agreement. No further action is taken by the Court in response to this filing.

**C. Request for Order Directing Chapter 13 Trustee to Cease Payments.**

The CM/ECF event “Request for Order Directing Ch 13 Trustee to Cease Payments” requires the debtor input the corresponding claim number according to the Court’s claim register and link the request to the Loan Modification Documents filed on the docket. If the trustee consents to the Request, an automated order is generated for the Court to consider.