

Valuation Dispute Mediation Program

In an effort to facilitate communication and settlement of contested valuation issues in Chapter 13 cases and in order to reduce costs of contested hearings, mediation is ordered in cases involving valuation of secured claims on real estate and large value personal property, such as manufactured homes, tractor trailers or RVs (but excluding automobiles). By court order, a mediator is selected and appointed to perform up to 2 hours of service in preparing for and conducting the mediation sessions. The mediator is compensated by a fee of \$500, to be equally divided between the debtor(s) and creditor.

Duty of Counsel: Upon the filing of an objection involving the valuation of a secured claim on real estate or large value personal property, the objecting party and the debtor shall immediately notify Chambers of the valuation dispute by an email to [judgewaites_porders@scb.uscourts.gov](mailto:judgetwaites_porders@scb.uscourts.gov) with a copy to the Chapter 13 Trustee and opposing counsel.

UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF SOUTH CAROLINA

IN RE:

DEBTOR NAME,

Debtor(s).

C/A No. *CASE NO-jw*

Chapter 13

ORDER APPOINTING MEDIATOR

This matter comes before the Court on the confirmation of the proposed chapter 13 plan of reorganization and motion to value filed by *DEBTOR NAME* (“Debtor(s)”). *CREDITOR NAME* (“Creditor”) has filed an objection to confirmation of Debtor(s)’ proposed plan and related motion regarding the Debtor(s)’ valuation of the property securing Creditor’s claim.

The Court believes mediation of this valuation dispute would be useful to aid in the efficient resolution of the dispute and to avoid further delay. Therefore, the Court appoints ***NAME OF MEDIATOR***.¹ (“Mediator”) to mediate this matter. If the Mediator is unable to mediate this case, the Mediator shall notify the Court of the need for the appointment of another mediator no later than 3 days after the service of this Order.

To provide adequate time to discuss settlement and to prepare for mediation, the Court hereby continues the hearing on Creditor’s objection to confirmation to *FUTURE DISPUTE HEARING DATE* (“Continued Hearing”).² Further, the Court orders that the mediation be scheduled and completed prior to the Continued Hearing.

MEDIATION SCHEDULE:

The parties shall abide by the following mediation schedule:

- Within 14 days from the date of this Order, the parties shall exchange all proposed evidence that is intended to be presented at the Continued Hearing.³
- Within 20 days from the date of this Order, the parties shall provide to the Mediator all evidence exchanged and shall file a proposed joint statement of dispute with the Court.
- Within 27 days from the date of this Order, a mediation session shall be conducted.

¹ If *NAME OF MEDIATOR* is unable to mediate this case, the parties may request the appointment of another mediator by the Court. *NAME OF MEDIATOR*’s contact information is as follows:

MEDIATOR’S CONTACT INFORMATION

² This continuance affects only the hearing on Creditor’s objection to confirmation. All other matters related to confirmation may be heard at their originally scheduled date in the discretion of the chapter 13 Trustee.

³ Such proposed evidence includes: appraisal reports, photographs of the property and affidavits regarding the value of the property (including Debtor(s)’ affidavit if Debtor(s)’ opinion of value would be presented at hearing).

COMPENSATION OF MEDIATOR:

Fees and costs for the Mediator shall total \$500.00 for up to two hours of mediation services, and shall be equally divided between Debtor(s) and Creditor.⁴ The Mediator's fees shall be paid under the following schedule:

- Within 7 days after the date of this Order, the parties shall pay \$150.00 to the Mediator as an administrative fee, which includes file creation, conflict check, initial review of the case and preparation for the mediation session.
- Unless the Mediator has been previously notified of a settlement of the dispute, the parties shall pay the remaining \$350.00 to the Mediator within 20 days from the date of this Order.

The Mediator shall immediately advise the Court if any party fails to timely pay the compensation pursuant to the terms of this Order.

MEDIATION SESSION:

The mediation session shall be conducted on a date set by the Mediator in person or via telephone on a conference call established by Debtor(s)' Counsel. The mediation session shall be attended by Debtor(s), Debtor(s)' Counsel, Creditor's Counsel and a representative of Creditor with settling authority for this matter. Debtor(s)' Counsel shall provide the phone number to the Mediator and Creditor's Counsel no later than 2 business days before the scheduled mediation.

Upon completion of the mediation session, the Mediator shall advise the Court in writing that the mediation has occurred, the date of the mediation, whether and how the issues were settled in whole or in part, and whether a further hearing is required.

At the mediation session, parties and their primary trial counsel should be prepared to participate in mutual good faith efforts to negotiate a fair and reasonable settlement.

The failure of any party or counsel to cooperate or otherwise comply with the provisions of this order or act in good faith shall be reported to the Court by the mediator.

Counsel for Debtor(s) and Creditor shall be responsible for notifying and ensuring the presence of the parties at the mediation.

AND IT IS SO ORDERED.

⁴ If the mediator contemplates that additional time would be required due to unusual circumstances, the parties may agree to additional fees or the Court may authorize such fees.