

UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF SOUTH CAROLINA

IN RE:

[*Debtors' Names*],

Debtor(s).

C/A No. [*C/A No.*]

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 [*Debtors' Names*] (“Debtor(s)”). [*Creditor's 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 [*Mediator's Name*].¹ to mediate this matter. Upon completion of the mediation, the mediator shall advise the Court in writing that the mediation has occurred, the date of the mediation, whether the issues were settled in whole or in part, and whether a further hearing is required.

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 [*Hearing Date*] (“Continued Hearing”).² Further, the Court orders that the mediation be scheduled and completed prior to the Continued Hearing. No later than 10 business days prior to the Continued Hearing, counsel for the Debtor(s) and counsel for the Creditor shall exchange all proposed evidence that counsel intends to present to the Court at the Continued Hearing, including 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). No later than 7 business days prior to the Continued Hearing, counsel shall provide to the mediator all proposed evidence that has been exchanged by the parties. Upon the submission of the proposed evidence to the mediator, the parties and the mediator shall conclude the mediation session and the mediator shall file a mediation report with the Court on or before [*Two Business Days Prior to the Continued Hearing*].

¹ If [*Mediator*] is unable to mediate this case, the parties may request the appointment of another mediator by the Court. [*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. If the parties reach a resolution of Creditor’s objection prior to the Continued Hearing, the Court may remove the Continued Hearing, and the proposed chapter 13 plan and any amendments thereto may be confirmed prior to that date.

Fees and costs for the mediator shall total \$400.00 for two hours, and shall be equally divided between Debtor(s) and Creditor and received by the mediator no later than 7 business days prior to the Continued Hearing and with the parties' proposed evidence.³ The mediator shall immediately advise the Court if any party fails to timely pay the compensation pursuant to the terms of this Order. Each 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. Any 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 1 business day prior to the scheduled mediation.

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

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.

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

This order shall be served on Counsel for Debtor(s) and Creditor. Such counsel shall be responsible for notifying and ensuring the presence of parties.

AND IT IS SO ORDERED.

³ In the event of a settlement of issues before mediation takes place, the mediator is entitled to fees for time spent in preparation for mediation at the hourly rate of \$200/hour, but such fee request shall not exceed \$400.00 absent further order. If the mediator contemplates that additional time would be required due to the unusual circumstances of the matter, the mediator may request that the Court set an additional fee amount with notice to the Debtor(s) and Creditor.