

United States Bankruptcy Court
District of South Carolina

LOCAL RULES
Effective as of 6/1/2013



DAVID R. DUNCAN
Chief United States Bankruptcy Judge

JOHN E. WAITES
United States Bankruptcy Judge

HELEN E. BURRIS
United States Bankruptcy Judge

LOCAL RULE 1007-1: LIST OF CREDITORS

The requirement of a list of creditors pursuant to Fed. R. Bankr. P. 1007(a) shall be met by the filing of a mailing matrix as provided herein. The debtor must file the mailing matrix with the petition.

It is not necessary to include the debtor, joint debtor, attorney for the debtor, case trustee, the United States trustee, or the judge assigned to the case on the matrix because these, where applicable, will automatically be added by the Court's Case Management/Electronic Case Filing ("CM/ECF") system.

It is the debtors responsibility to verify and ensure that the information on the mailing matrix is identical to that on the schedules, statements, and lists. The debtor shall update the mailing matrix as needed throughout the pendency of the case.

Please see the Court's website for an updated [creditor address list](#) containing the preferred addresses of creditors.

Notes:

(2008) Portions of this rule were restyled and procedures to ensure the integrity of the mailing matrix were clarified.

(2013) Portions of this rule were revised to conform with inclusion of various operating orders in the local rules.

LOCAL RULE 1007-2: MAILING

- (a) **Return Addressee.** The party delegated notice is designated as the return addressee for the notice delegated to the party. The debtor or, if applicable, the debtor's attorney is designated as the return addressee for the notice of the commencement of a case and meeting of creditors, any delegated notice, and any order confirming a plan (if the debtor is the plan proponent), dismissing a case, or discharging a debtor.
- (b) **Duty to Provide Accurate Address.** The debtor or the debtor's attorney shall file and, if appropriate, docket¹ a statement providing the Court with a correct address of any creditor or party in interest whose address appears invalid or undeliverable based either on the debtor's receipt of returned mail or a notice filed by the Court's noticing agent. The statement shall specifically reference the former address of the creditor or party in interest to ensure proper modification of the list of creditors. If the debtor is unable to determine a correct address for a creditor or party in interest, the debtor shall file or docket a statement specifying the creditor's name and indicating that a correct address cannot be found, the Clerk of Court is then authorized to delete that creditor or party in interest and the incorrect address from the list of creditors.

Notes:

(2013) This new rule incorporates provisions found in former Operating Order 08-05.

¹ The duty to docket applies to electronic filers.

LOCAL RULE 1015-1: AMENDING PETITIONS TO ADD SPOUSE AND SEPARATING A JOINT PETITION

- (a) **Joinder of Spouse.** When a debtor has filed a petition under the Bankruptcy Code and subsequently the debtor's spouse seeks to join the case, the joining debtor must file a petition under the same chapter as the pending case and pay the appropriate fees. The petition shall be accompanied by all schedules, statements and lists required for that chapter. The joining debtor may then move for joint administration of the two cases.

- (b) **Division of Joint Case.** When one debtor in a case commenced by the filing of a joint petition seeks to maintain a separate case, that debtor shall file a motion to divide the joint case and shall pay the applicable fee. The new case number shall be assigned to the case of the movant unless otherwise ordered by the Court.
 - (1) **Conversion.** If one of two joint debtors seeks conversion to a chapter other than that under which the joint case is pending, in addition to filing a motion to divide the joint case and paying the applicable fee, as provided in the preceding section, a motion to convert must be filed.

 - (2) **Dismissal of debtor from a joint case.** When a debtor seeks to dismiss one debtor from a joint case, a motion to divide is not required.

Notes:

(2008) Portions of this rule were restyled. Former paragraph (b)(3) was deleted as unnecessary.

(2012) Technical amendments were made to paragraph (b) to refer to a motion to separate as a motion to divide pursuant to 28 USC 1930.

(2013) Technical amendments were made to paragraphs (a) and (b).

LOCAL RULE 1017-2: DISMISSAL OR SUSPENSION- CASE OR PROCEEDING

- (a) **Dismissal for failure to pay filing fee or file documents.** The Court may enter an order dismissing a voluntary case without further notice or hearing upon the certification by the Clerk of Court, the United States Trustee, or the case trustee that the debtor failed to pay the filing fee pursuant to Fed. R. Bankr. P. 1006 or failed to file or provide lists, schedules, statements, and other documents required pursuant to 11 U.S.C. § 521 or SC LBR 3015-4 within the time periods established therein or by Fed. R. Bankr. P. 1007(c) and 1019(1)(B).
- (b) **Dismissal for failure to attend a Meeting of Creditors.** In a voluntary case, upon certification to the Court by the United States Trustee or case trustee that either the debtor or attorney for the debtor has not appeared at the meeting of creditors, a continued meeting of creditors, or a special meeting of creditors, or that the debtor or attorney for the debtor has appeared but was unprepared to proceed, the Court may dismiss the case without further notice or hearing.
- (c) **Dismissal for failure to provide financial information.** In a voluntary chapter 7 case, upon certification by the United States Trustee or case trustee that the debtor failed to provide required documentation and financial information, including tax returns, at the meeting of creditors pursuant to Fed. R. Bankr. P. 4002 or otherwise as required by statute or rule, the Court may dismiss the case without further notice or hearing.
- (d) **Dismissal for failure to timely file, distribute, or confirm plan.** The Court may enter an order dismissing or converting a chapter 13 case if confirmation of the plan is denied or upon the certification by the Clerk of Court, the United States Trustee, or the case trustee that the debtor has failed to timely meet the filing requirements of Fed. R. Bankr. P. 3015(b).
- (e) **Motion to Dismiss or Convert Pursuant to 11 U.S.C. § 1112.** Any party filing a motion to dismiss or convert a case pursuant to 11 U.S.C. § 1112 shall either: (1) ensure that the Court has an available hearing date that both allows for applicable notice and falls within the time required by statute, the Federal Rules of Bankruptcy Procedure, and Local Rules or (2) specially request by separate emergency motion that such a hearing be scheduled. The absence of such a request shall be deemed a waiver of the scheduling and ruling deadlines imposed by the statute and the rules.
- (f) **Notice.** Notice of this local rule shall be provided in the Notice of Meeting of Creditors.

Notes:

(2008) Portions of former SC LBR 1007-2, 2003-1, and 3015-2 were revised and incorporated into this rule pursuant to Fed. R. Bankr. P. 9029(a) and the Judicial Conference's prescribed numbering conventions.

(2011) Paragraph (d) was amended to include cause for dismissal or conversion currently included in the Meeting of Creditors Notice. Paragraph (e) was added and former paragraph (e) was moved to paragraph (f).

(2013) Technical amendments were made to paragraphs (a) and (e).

LOCAL RULE 1073-1: ASSIGNMENT OF CASES

- (a) **Manual Assignment of Certain Cases.** The filing party shall not use the “Judge/Trustee Assignment” feature in CM/ECF in the following categories of cases:
- (1) Any chapter 12 case re-filed within one year of the closure or dismissal of the previous case, whichever is later;
 - (2) Any chapter 7 or chapter 12 cases that relate to a chapter 7, chapter 11, or chapter 12 case currently pending or that was pending within one year prior to the current case; or
 - (3) Cases under any chapter where there is a simultaneous case pending by the same debtor.
- (b) **Certification Regarding Judge Assignment.** The filing party of any case described in paragraph (a) shall file a “Certification Regarding Judge Assignment” in CM/ECF simultaneous with the filing of the case. For any case described in paragraph (a), the Clerk of Court shall make the judge assignment, notify filing counsel of the assignment, and note the assignment on the court docket in an expeditious fashion.
- (c) **Effect of Common Assignment.** The common assignment of related cases shall not constitute consolidation or joint administration pursuant to Fed. R. Bankr. P. 1015 nor shall it constitute substantive consolidation. Such a determination shall be made only upon proper motion and notice.
- (d) **Failure to Comply.** The Clerk of Court is authorized to reassign any case not in compliance with this rule.

Notes:

(2008) Portions of former SC LBR 2081-2 were revised and incorporated into this rule pursuant to Fed. R. Bankr. P. 9029(a) and the Judicial Conference's prescribed numbering conventions.

(2010) This rule was amended to incorporate provisions of Operating Order 09-05 and other instances where the Judge/Trustee assignment is not used in the filing of a case. Exhibit A was replaced by the CM/ECF event "Certification Regarding Judge Assignment."

(2013) Former paragraphs (a)(1) through (5) were deleted as unnecessary. Paragraph (d) was revised to allow for the Clerk to reassign a case.

LOCAL RULE 2002-1: NOTICES

(a) **Duty of Certain Filers to Update Mailing Matrix.** Upon the filing of a proof of claim and/or notice of appearance utilizing CM/ECF, the filing party shall add or substitute the address listed therein on the mailing matrix for purposes of receiving further notices. Failure to comply may be deemed a waiver of the right to receive notice.

(b) **Designation of Addresses.** A creditor filing a notice of preferred address pursuant to 11 U.S.C. § 342(f) shall file the notice with the agency or agencies¹ that provide noticing services to the court.²

A creditor who has filed an 11 U.S.C. § 342(f) notice of preferred address may, in a chapter 7 or 13 case, provide the court with an 11 U.S.C. § 342(e) case specific address by filing a designation, which shall be in substantial conformance with Exhibit A.

(c) **Delegation of Re-Noticing.** If noticing is delegated and the notice is returned as undeliverable,³ the debtor or the party sending the notice shall re-notice the returned item upon the correction of the address.

Notes:

(2008) Portions of this rule were restyled. Former paragraph (c) was deleted as unnecessary based upon the incorporation of the Interim Bankruptcy Rules into the Federal Rules of Bankruptcy Procedure.

(2009) The period in Exhibit A was amended to a multiple of seven as part of time computation amendments.

(2013) Paragraphs (a) and (b) were restyled and paragraph (c) was added to incorporate provisions found in former Operating Order 08-05.

¹ The Court's noticing agent is the Bankruptcy Noticing Center.

² Forms and registration information are available on the Court's website.

³ If the movant is a governmental unit or not otherwise a "person" as defined by 11 U.S.C. § 101(41), it may request that the Clerk of Court re-notice the document following the correction of the address.

LOCAL RULE 2015-3: TRUSTEE AND DEBTOR-IN-POSSESSION REPORTS

- (a) **Monthly Reports.** In accordance with 11 U.S.C. §§ 704(a)(8), 1107(a), 1203, and Fed. R. Bankr. P. 2015, the debtor-in-possession or, if applicable, the trustee, shall file with the Court a financial report for the preceding month not later than the 20th day of each month. This report must conform to the format provided by the United States Trustee. The original report must be signed by the debtor or, if applicable, the trustee.
- (b) **Post-Confirmation Reports.** Following the entry of an order confirming a plan of reorganization, the debtor or trustee, pursuant to Fed. R. Bankr. P. 2015(a), shall continue to file monthly operating reports until such time as the case is closed by the Court.
- (c) **Report of Substantial Consummation.** Within ninety (90) days after the date the order confirming plan of reorganization is entered, or whatever time period the Court may require, the debtor, trustee, or other plan proponent shall file a report of substantial consummation, a final report and an application for a final decree. Failure to timely comply may be deemed a failure to prosecute the case and may constitute grounds for dismissal or conversion without further notice or hearing or other sanction.

Notes:

(2008) Portions of former SC LBR 2015-1 and 2081-1 were revised and incorporated into this rule pursuant to Fed. R. Bankr. P. 9029(a) and the Judicial Conference's prescribed numbering conventions.

(2013) Technical amendments were made to paragraph (c).

LOCAL RULE 2016-1: COMPENSATION OF PROFESSIONAL PERSONS

- (a) **Chapter 11 Cases.** In a chapter 11 case, a professional paid a retainer shall maintain the retainer in a trust account and shall not draw on the retainer post-petition without approval of the court. A trustee, examiner, attorney for the debtor or any professional person employed under 11 U.S.C. §§ 327, 328, or 1103 may apply for allowance of compensation and reimbursement of expenses on or after thirty (30) days after the date of the order for relief. A second application may be made on or after sixty (60) days after the first application, and a third application may be made on or after ninety (90) days after the second application. After one hundred eighty (180) days following the date of the order for relief, applications may not be made more than once every one hundred twenty (120) days, unless the Court orders otherwise.
- (b) **Chapter 13 Cases.**
- (1) **Expedited Fee Approval Procedure.** An attorney representing debtor(s) in a chapter 13 case may obtain approval of attorney's fees without the filing of a formal fee application and a hearing when the attorney and the debtor(s) agree in writing that the fee for representation will be equal to or less than the amount set forth in Chambers Guidelines at the time of the filing of the case (collectively, the "Expedited Fee Amount").¹ Unless the Court orders otherwise, the Expedited Fee Amount is deemed conditionally approved for disbursement upon confirmation of the plan as a result of the attorney's filing of the Attorney Fee Disclosure Statement ("Statement") pursuant to Fed. R. Bankr. P. 2016(b) and by the insertion of the appropriate amount due in the chapter 13 plan and service thereof. The Statement and Plan shall clearly indicate the fee agreed upon, the fee paid to date, and the fee to be paid through the chapter 13 plan. The Statement shall also define any charges or potential charges for supplemental fees described in paragraph (b)(2).
- (2) **Application for Supplemental Fees.** If expressly authorized by a conspicuous provision of a written fee agreement attached to the Statement, the debtor(s) and attorney may agree to supplemental compensation of the attorney for additional work necessary as a result of any matters involving the default under or variance from the terms of the confirmed plan, adversary proceedings, appeals or for other complicating factors not present in the typical chapter 13 case.
- (A) **Supplemental Fees Below Chambers' Guidelines Threshold.** If an agreement for a supplemental fee is made between the debtor(s) and attorney and the total supplemental fee sought in the case does not exceed the supplemental fee threshold set forth in the Chambers' Guidelines, such fee may be asserted:
- (i) **Before Confirmation.** A supplemental fee arising before confirmation may be asserted by filing a timely Application for Approval of Chapter 13 Attorney Fees ("Application") and may be conditionally approved for disbursement upon plan confirmation via the procedure set forth in paragraph (1). The Statement and Application shall contain sufficient information to determine if the supplemental fee charged is fair and reasonable.

¹ This amount includes all typical costs and expenses other than filing fees and costs paid to non-attorney third parties for services necessary for the case, such as credit reports, credit counseling, and financial management course fees.

(ii) **After Confirmation.** Within a reasonable time after the completion of the additional services, the attorney shall file an amended Statement and Application that clearly indicate the fee agreed upon, the fee paid to date directly from the debtor(s) and the fee to be paid through the chapter 13 plan. The amended Statement and Application shall contain sufficient information to determine if the supplemental fee charged is fair and reasonable. Unless an objection to approval of the fee is filed within twenty (20) days of service of the amended Statement and Application or unless the Court orders otherwise, the supplemental fee shall be conditionally approved for disbursement subject to the terms of the confirmed plan and this rule.

(B) **Supplemental Fee Above Chambers' Guidelines Threshold.** Within a reasonable time after the completion of the additional services, the attorney may request a supplemental fee above the supplemental fee threshold set forth in the Chambers' Guidelines by filing an Application and amended Statement, which must contain sufficient information to determine if the total supplemental fee is fair and reasonable, and a proposed order. The attorney shall be entitled to the supplemental fee only after such fee is approved by order of the Court.² Compensable services under this paragraph are limited to those rendered in the event of unforeseen circumstances.

(3) **Formal Application for Compensation.** In lieu of paragraph (b)(1) and (b)(2), the attorney may apply for compensation pursuant to Fed. R. Bankr. P. 2002(a)(6) and 2016(a) for actual services rendered and expenses incurred. The Application and proposed order shall clearly indicate all compensation for the attorney that has been approved in the case prior to the Application and report any pending Applications. Attorneys electing this procedure shall estimate fees in the chapter 13 plan for confirmation purposes.

Notes:

(2008) Portions of former SC LBR 2081-1(c)(2) were incorporated into paragraph (a) pursuant to Fed. R. Bankr. P. 9029(a) and the Judicial Conference's prescribed numbering conventions. Paragraph (b) is new.

(2013) A technical amendment was made to paragraph (a) to reference § 328. Paragraph (b) was amended to incorporate the Operating Order Setting Procedures for Approval of Attorney's Fees in Chapter 13 Cases. Certain provisions of the former Operating Order were excluded as these provisions are addressed by other rules.

² An order approving the supplemental fee may be entered prior to the hearing on the fee application in the discretion of the judge.

LOCAL RULE 2081-2: REQUIREMENTS FOR COMPLEX CHAPTER 11 CASE

- (a) **Designation as Complex.** A party filing a chapter 11 bankruptcy petition¹ who believes that the case should be classified as a complex chapter 11 case shall file with the petition a motion for designation as complex chapter 11 case. Factors to be considered in determining whether to move for designation as complex chapter 11 case must be addressed in the motion for consideration by the Court and must include:
- (1) The need for hearings or orders on an emergency or expedited basis following the filing of the petition;
 - (2) The size of the case, either in number of parties, creditors, or employees, or amount of assets or indebtedness, whether claims against the debtor and/or equity interests are publicly traded; and
 - (3) The need for simplification of noticing or hearing procedures.
- (b) **Affidavit in Support.** A party in a chapter 11 case filing a motion for designation as complex shall file an affidavit accompanying the motion setting forth:
- (1) The nature of the debtor's business and a concise statement of the circumstances leading to the debtor's filing under chapter 11;
 - (2) The following information with respect to each of the holders of the twenty (20) largest unsecured claims, excluding insiders: the name, address, telephone number, name of the person familiar with the debtor's account, the amount of the claim, and an indication of whether the claim is contingent, unliquidated, disputed, or partially secured;
 - (3) The following information with respect to each of the holders of the five largest secured claims: the name, address, the amount of the claim, a brief description and an estimate of the value of the collateral securing the claim, and whether the claim or lien is disputed;
 - (4) The names of the individuals who comprise the debtor's existing senior management, their tenure with the debtor, and a brief summary of their relevant responsibilities and experience;
 - (5) The names, addresses, and positions of the debtor's professionals, including local counsel and any noticing agent, as of the date of the petition.
 - (6) a summary of the debtor's assets and liabilities; and
 - (7) the location of the debtor's substantial assets, the location of its books and records, and the nature, location, and value of any assets held by the debtor outside the territorial limits of the United States.
- (c) **Content of Order Designating Case as Complex Chapter 11.** If the Court determines that the case qualifies for treatment as a complex chapter 11 case, the initial order for a complex chapter 11 case may address:
- (1) Emergency or expedited hearings to be held within the first two (2) business days of the filing of the petition, or whatever time period demonstrated by the attorney for the debtor as necessary, and the filing and service of the necessary motions and notices related thereto;
 - (2) Hearings to be held within the first two (2) weeks after the filing of the petition and the filing and service of the necessary motions and notices;

¹ This rule is contemplated to include a party filing an involuntary petition.

- (3) Omnibus hearings to be held monthly to consider, among other things, other expedited motions filed, served, and noticed at least seven (7) business days prior to the date being used for the omnibus hearing, unless otherwise ordered by the Court; and
- (4) Final hearings on the foregoing matters and other matters to be scheduled and heard as the Court deems appropriate.

Notices relating to such hearings are to be served by the attorney for the debtor unless otherwise directed.

Parties seeking emergency or expedited relief shall strictly comply with SC LBR 9013-1. Misuse of the expedited scheduling process may subject a party to sanctions.

- (d) **Shortened Mailing Matrix and Service of Notices.** The debtor may, within seven (7) days after the filing date of the petition, file and serve on all parties in the case a motion and notice, using the passive notice procedures of SC LBR 9013-4, to establish a shortened mailing list that will apply to the extent permitted by Fed. R. Bankr. P. 2002. The notice shall provide parties with the option of receiving notices served by debtor or other party in interest via electronic mail or by facsimile, pursuant to Fed. R. Bankr. P. 9036, in lieu of service by first class mail.
- (e) **Initial Status Conference.** The Court, in its initial order for complex chapter 11 cases, may set a status conference to be held within six (6) weeks of the filing of the petition, and following the meeting of creditors held pursuant to 11 U.S.C. § 341, or at such other times as designated by the Court. The status conference will be conducted pursuant to 11 U.S.C. § 105(d) and may include issues addressed by the Court in its initial order for complex chapter 11 cases, and may include other scheduling and procedural issues addressed by any other party in the case which files a motion entitled “Motion Regarding Administrative Issues to be Heard at Status Conference” not later than seven (7) days prior to the date set for the status conference. Such a motion will be served upon debtor’s counsel, all secured creditors, the twenty (20) largest unsecured creditors (or unsecured creditors’ committee, if one is appointed), any existing official committees, and any party that files a request specifically seeking notice of such status conferences.

Notes:

(2008) Portions of this former SC LBR 2081-3 were incorporated into this rule pursuant to Fed. R. Bankr. P. 9029(a) and the Judicial Conference's prescribed numbering conventions.

(2009) The period in paragraph (e) was amended to a multiple of seven as part of time computation amendments.

(2013) Paragraph (a)(2) was amended to remove reference to a specific amount of indebtedness. Former paragraph (c) was deleted as unnecessary. Technical amendments were made to paragraph (a) and new paragraph (c). Paragraphs (b)(5), (6), and (7) were added.

LOCAL RULE 2090-1: ATTORNEYS- ADMISSION TO PRACTICE AND DUTIES¹

- (a) An attorney who is admitted to practice in the United States District Court for the District of South Carolina is admitted to practice in this Court.
- (b) An attorney, not otherwise admitted to practice in this Court, may move for admission to practice in this Court *pro hac vice* as provided in the Local Rules of the United States District Court for the District of South Carolina. Attorneys admitted *pro hac vice* and their local counsel are required to sign all pleadings and keep each other fully informed and engaged in all material aspects of the case. Failure to adhere to this requirement may result in the revocation of *pro hac vice* status, reduction in fees, or other sanctions. Local counsel should be prepared to actively participate in all hearings in the case.

Notes:

(2008) Portions of former SC LBR 9010-1 were revised and incorporated into this rule pursuant to Fed. R. Bankr. P. 9029(a) and the Judicial Conference's prescribed numbering conventions.

(2013) Paragraph (b) was amended to clarify the duties of local counsel.

¹ This local rule is promulgated in compliance with the United States District Court for the District of South Carolina's Local Rules regarding bankruptcy practice.

LOCAL RULE 3015-1: CHAPTER 13-FILING A PLAN

Every chapter 13 debtor must complete Exhibit A¹ or file a plan in substantial conformance with Exhibit A. Service of the plan is hereby delegated to the debtor pursuant to Fed. R. Bankr. P. 2002(b). If the debtor proposes changes to Exhibit A or proposes an alternative plan format, the debtor shall file and serve with the plan a cover sheet that identifies and summarizes the changes.

Notes:

(2008) Former SC LBR 3015-1 was revised and restyled. Portions of former SC LBR 3015-1 were incorporated into other local rules pursuant to Fed. R. Bankr. P. 9029(a) and the Judicial Conference's prescribed numbering conventions.

(2009) The objection period in Exhibit A was amended to a multiple of seven as part of time computation amendments.

(2011) Section IV(A) in Exhibit A was amended to allow attorneys to receive up to \$1,000 from the initial disbursement. The certificate of service section in Exhibit A was amended to clarify that the specific list of the names and addresses of parties served with the plan should be attached to the plan filed with the Court. Sections II(A) and (B) were amended to clarify that a debtor does not have to claim an exemption to avoid a lien.

(2013) The rule was amended to require a statement where the debtor proposes changes that differ from Exhibit A. Section II(B) of Exhibit A was amended to conform with amendments made to the exhibits of SC LBR 4003-2. Section (I)(B) of Exhibit A was amended to clarify that the deadline to object runs from the date of the service of the plan.

¹ The referenced Exhibit is incorporated into and made part of this rule as if fully set out within its text.

EXHIBIT A TO SC LBR 3015-1

UNITED STATES BANKRUPTCY COURT
DISTRICT OF SOUTH CAROLINA

IN RE:

CASE NO:
CHAPTER:

NOTICE, CHAPTER 13 PLAN,
MOTIONS TO VALUE SECURITY, AVOID JUDICIAL
LIEN, AVOID A NONPURCHASE-MONEY,
NONPOSSESSORY SECURITY INTEREST AND
LIEN, AND/OR TO ASSUME OR REJECT AN
EXECUTORY CONTRACT/UNEXPIRED LEASE

DEBTOR(S)

I. NOTICE TO CREDITORS AND PARTIES IN INTEREST: The debtor¹ has filed a chapter 13 bankruptcy case and listed you as a creditor or interested party. The debtor has filed the following chapter 13 plan and motions which may affect your rights. **Failure to object may constitute an implied acceptance of and consent to the relief requested in this document.**

A. ADDITIONS, MODIFICATIONS, OR DELETIONS: All additions or modifications to the Court’s form plan (See exhibits to SC LBR 3015-1 and 3015-2, “SC LBR” refers to the SC Local Bankruptcy Rules, available at www.scb.uscourts.gov) are highlighted by italics. Deletions are noted as “Not Applicable” or by striking through the deleted provisions. If changes to this form or if an alternative plan is proposed, a cover sheet that summarizes and identifies the changes shall be filed and served herewith.

B. DEADLINE FOR FILING OBJECTIONS, NOTICE OF HEARING ON CONFIRMATION OF CHAPTER 13 PLAN AND MOTIONS: Objections to the motions and any provision of the plan must be made in accordance with SC LBR 9014-1, properly served, and filed with the United States Bankruptcy Court, 1100 Laurel Street, Columbia, SC 29201, within twenty-eight (28) days from the date this document is served. Timely objections will be heard at the confirmation hearing, notice of which is given separately in the Notice of Meeting of Creditors. If a timely objection is filed after the confirmation hearing, a separate hearing on the objection will be scheduled and notice of such a hearing will be given. If no timely objection is filed, the Court, upon recommendation of the chapter 13 trustee and without further hearing or notice, may enter an order confirming the plan and granting the motions.

II. MOTION TO VALUE SECURITY, AVOID JUDICIAL LIEN, AVOID A NONPURCHASEMONEY, NONPOSSESSORY SECURITY INTEREST AND LIEN, AND/OR TO ASSUME OR REJECT AN EXECUTORY CONTRACT/UNEXPIRED LEASE. The debtor requests that confirmation of this plan alter the rights of the following creditor:

A. Nonpossessory, Nonpurchase-Money Lien: The debtor moves, pursuant to 11 U.S.C. § 522(f), to avoid the following nonpossessory, nonpurchase-money security interest and lien in household goods:

Name of creditor and description of property securing lien	Value of Debtor’s interest in property	Total of all other liens	Exemption	Estimated security interest/debt	Security interest Not avoided (see IV(B)(4) below)	Security interest to be avoided (see IV(E) below)

¹ When used herein, the term "debtor" shall apply as applicable either in the singular or in the plural, if there are joint debtors in the case.

B. Judicial Lien: The debtor moves, pursuant to 11 U.S.C. § 522(f), to avoid the following judicial lien:²

Name of creditor and description of property securing lien	Estimated judicial lien	Total of all senior/unavoidable liens	Applicable Exemption and Code Section	Value of the debtor's interest in property	Judicial lien not avoided	Judicial lien avoided

C. Valuation of Security: The debtor moves, in accordance with 11 U.S.C. § 506, to establish the value of a lien as follows:

Name of creditor and description of property securing lien	Value of Debtor's interest in property	Holder and amount of superior liens	Estimate of creditor's claim	Value of lien (see IV(B)(4) below)	Unsecured claim after valuation (see IV(E) below)

D. Assumption or Rejection of Executory Contract/Unexpired Lease: The debtor moves for the assumption of the following executory contract and/or unexpired lease. The debtor agrees to abide by all terms of the agreement and to cure any pre-petition arrearage or default in the manner below. Any executory contract or unexpired lease not specifically mentioned is rejected.

Name of Creditor and lease or contract to be assumed	Amount of regular payment	Estimated amount of Default (state if none)	Cure Provisions for any default paid by (Debtor or trustee)	Regular payments to be paid by Debtor directly to creditor beginning (month/year)

III. THE CHAPTER 13 PLAN: PAYMENT OBLIGATIONS OF THE DEBTOR.

A. Payments from the debtor to the chapter 13 trustee (the "trustee"): The debtor submits to the supervision and control of the trustee all or such portion of future earnings or other future income as is necessary for the execution of the plan. In addition, the debtor will pay to the trustee any portion of a recovery under a pre-petition claim or cause of action that constitutes disposable income or is not exempt.

The debtor shall pay to the trustee the sum of \$ _____ per month for a period of _____ months, unless all allowed claims (other than long-term claims) are fully paid pursuant to the plan.

B. Payments from the debtor directly to creditors: The debtor shall pay all post-petition priority obligations, including but not limited to taxes and post-petition domestic support, and pay regular payments on assumed executory contracts or leases, directly to the holder of the claim as the obligations come due, unless otherwise ordered by the Court. The debtor may be required to pay some or a portion of pre-petition debts directly to a creditor in addition to required payments to the trustee, as indicated in paragraph II(D) above and/or in the paragraphs that follow.

² For co-owned property, see *In re Ware*, 274 B.R. 206 (Bankr. D.S.C. 2001) and Exhibit C to SC LBR 4003-2.

IV. PLAN DISTRIBUTIONS TO CREDITORS. To receive a distribution from the trustee, a proof of claim, including adequate supporting documentation, must be filed with the Court. If a claim designated in this plan as secured is filed as an unsecured claim and the plan is confirmed, the claim may be treated as unsecured for purposes of plan distributions by the trustee. If a creditor files a proof of claim alleging that the claim is secured, but does not timely object to the confirmation of the plan and the claim is treated as unsecured in a confirmed plan, the claim may be treated as unsecured for purposes of plan distributions by the trustee. Confirmation of this plan does not bar a party in interest from objecting to a claim. The trustee, after the deduction of the trustee's commission and expenses, or the debtor, as indicated, shall make payments as follows:

A. Attorney for the debtor:

1. The debtor and the debtor's attorney have agreed to an attorney's fee in the amount of \$_____ for the services identified in the Rule 2016(b) disclosure statement filed in this case. The amount of \$_____ was paid prior to the filing of the case. The remaining fee shall be disbursed by the trustee as follows: Following confirmation of the plan and unless the Court orders otherwise, the trustee shall disburse \$1,000.00 to the attorney from the initial disbursement.³ Thereafter, the balance of the attorney's compensation as allowed by the Court shall be paid, to the extent then due, with all funds remaining each month after payment of allowed secured claims and pre-petition arrearages on domestic support obligations. In instances where an attorney assumes representation in a pending *pro se* case 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 creditors.

2. If, as an alternative to the above treatment, the debtor's attorney has received a retainer and cost advance and agreed to file fee applications for compensation and expenses in this case pursuant to 11 U.S.C. § 330, the retainer and cost advance shall be held in trust until fees and expense reimbursements are approved by the Court. Prior to the filing of this case, the attorney has received \$_____ and for plan confirmation purposes only, the fees and expenses of counsel are estimated at \$_____ or less.

B. Secured Creditor Claims: The plan treats secured claims as follows:

1. General Provisions: The terms of the debtor's pre-petition agreement with a secured creditor shall continue to apply except as modified by this plan, the order confirming the plan, or other order of the Court. Holders of secured claims shall retain liens to the extent provided by 11 U.S.C. § 1325(a)(5)(B)(i). Secured creditors paid the full secured claim provided for by this plan shall timely satisfy any liens in the manner required by applicable law or order of this Court. Any creditor holding a claim secured by property that is removed from the protection of the automatic stay by order, surrender, or through operation of the plan will receive no further distribution from the chapter 13 trustee on account of any secured claim. This also applies to creditors who may claim an interest in, or lien on, property that is removed from the protection of the automatic stay by another lienholder or released to another lienholder, unless the Court orders otherwise. Any funds that would have been paid to any such creditor will be distributed according to the remaining terms of the plan. (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 creditor affected by this provision may file an itemized proof of claim for any unsecured deficiency within a reasonable time after the removal of the property from the protection of the automatic stay. Secured creditors that will be paid directly by the debtor may send standard payment and escrow notices, payment coupons, or inquiries about insurance, and such action will not be considered a violation of the automatic stay.

2. Long-term or mortgage debt. No default: The debtor is current on obligations to (creditor name) and will continue regular payments directly to that creditor. Description of collateral:

³ The chapter 13 trustee shall not at any time disburse to the debtor's attorney more than: (a) the unpaid balance of (1) the fee to be paid under the plan pursuant to paragraph 1 herein, or (2) the fee previously applied for and authorized pursuant to paragraph 2 herein, plus (b) any supplemental fee then applied for and authorized under the terms of the applicable Procedures for Approval of Attorney's Fees in Chapter 13 Cases.

3. Long term or mortgage debt. Curing default: 11 U.S.C. 1322(b)(3) and/or (5):

a. Arrearage payments. The trustee shall pay the arrearage as stated in the creditor's allowed claim or as otherwise ordered by the Court to (creditor name) at the rate of \$ (payment amount) or more per month, for (collateral description), along with (percentage)% interest. The creditor shall apply trustee payments solely to those designated arrearages, i.e., those arrearages accruing before the month specified in (b) below. For so long as the debtor complies with this plan, a creditor may not declare a default based on any payment delinquency to be cured by this paragraph and the creditor shall not impose any post-petition fee on account of any arrearage paid by the trustee.

b. Maintenance of regular non-arrearage payments. Beginning (month and year), the Debtor shall pay directly to the creditor non-arrearage payments arising under the agreement with the secured creditor. The creditor shall apply each payment under this paragraph solely to post-petition obligations that accrue during or after the month specified herein.

4. Secured portion of claims altered by valuation and lien avoidance: The trustee shall pay (creditor name) the sum of \$ (payment amount) or more per month, along with (percentage) % interest until the secured claim of \$ (amount of secured claim) established above is paid in full. The remaining portion of the allowed claim will be treated as a general unsecured claim.

5. Other secured debts (allowed claim to be paid in full without valuation or avoidance of lien): The trustee shall pay (creditor name) the sum of \$ (payment amount) or more per month, along with (percentage) % interest until the allowed secured claim is paid in full.

6. Surrender of property: The debtor will surrender the following property upon confirmation of the plan. The order confirming plan shall terminate the automatic stay as to that property: (Name of creditor and property address or collateral description). Any creditor affected by this provision may file an itemized proof of claim for any unsecured deficiency within a reasonable time after the surrender of the property.

7. Secured tax debt: The trustee shall pay (creditor name) the sum of \$ (payment amount) or more per month until the (net balance or value) of creditor's secured claim plus (percentage) % interest has been paid. If the lien is to be valued, the debtor shall file a separate motion to value the claim and establish priority of any remaining tax obligations. If a tax priority creditor files a claim designated as secured, is not treated as secured in this paragraph, and does not timely object to confirmation of this plan, then the claim may be paid as a priority claim for purposes of distributions from the trustee.

C. Priority Creditors: Priority claims shall be paid as follows:

1. Domestic Support Claims. 11 U.S.C. § 507(a)(1):

a. Pre-petition arrearages. The trustee shall pay the pre-petition domestic support obligation arrearage to (name of DSO creditor), at the rate of \$ (amount) or more per month until the balance, without interest, is paid in full.

b. The debtor shall pay all post-petition domestic support obligations as defined in 11 U.S.C. § 101(14A) on a timely basis directly to the creditor.

c. Any party entitled to collect child support or alimony under applicable non-bankruptcy law may collect those obligations coming due after this case was filed from the income or assets of the debtor-parent/spouse without further order or relief from the automatic stay. (Any claim for child support or alimony due before this case was filed must be collected in accordance with 11 U.S.C. § 507(a)(1) and 11 U.S.C. § 1322(a)(2).)

2. Other Priority debt. The trustee shall pay all remaining pre-petition 11 U.S.C. § 507 priority claims on a *pro rata* basis.

D. Executory Contracts and Unexpired Leases: Regular payments that arise post-petition under an executory contract or lease that is being assumed shall be paid directly by the debtor according to the terms of the contract or lease. Pre-petition defaults will be cured by payments of the sum of \$ (payment amount) or more per month by the trustee or the debtor according to paragraph II(D). Claims arising from the rejection of executory contracts or leases shall be general unsecured claims unless otherwise ordered by the Court.

E. General Unsecured Creditors: General unsecured creditors shall be paid allowed claims *pro rata* by the trustee to the extent that funds are available after payment of all other allowed claims. The debtor (does/does not) propose to pay 100% of general unsecured claims.

V. PROPERTY OF THE ESTATE, STATUS AND OBLIGATIONS OF THE DEBTOR AFTER CONFIRMATION: Upon confirmation of the plan, property of the estate will remain property of the estate, but possession of property of the estate shall remain with the debtor. The chapter 13 trustee shall have no responsibility regarding the use or maintenance of property of the estate. The debtor is 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. Nothing herein is intended to waive or affect adversely any rights of the debtor, the trustee, or party with respect to any causes of action owned by the debtor.

Date: _____

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

Debtor _____

Debtor _____

CERTIFICATE OF SERVICE

The above signing parties certify that the foregoing Notice, Plan and Motions was served on all creditors and parties in interest entitled to such notice on the above stated date. The list of the specific names and addresses of parties served with the plan is attached to the plan filed with the Court.

LOCAL RULE 3015-2: CHAPTER 13- AMENDMENTS TO PLAN

After compliance with Local Rule 3015-1, a debtor's proposed amendment or modification to the plan shall be presented to the Court as follows:

- (a) **Before confirmation.** The debtor must complete, serve, and file with the Court a notice in substantial conformance with Exhibit A with proper proof of service. Service must be made on all parties which may be adversely affected by the amendment.
- (b) **Exception.** If the sole purpose of the amendment is to increase payments of the plan (paragraph (III)(A) of Exhibit A to SC LBR 3015-1), the debtor may complete and file a form in substantial conformance with Exhibit C, as applicable. The filing of an amendment, which does not adversely affect the plan treatment of any creditor or party in interest, shall be deemed to meet the notice requirements of Fed. R. Bankr. P. 3015(g).
- (c) **After confirmation.** The debtor must complete, serve, and file with the Court a notice in substantial conformance with Exhibit B with proper proof of service. Service must be made on all creditors and parties in interest. If the debtor proposes substantial changes to Exhibit A or proposes an alternative plan format, the debtor shall file and serve with the plan a cover sheet that identifies and summarizes the changes.

Notes:

(2008) Portions of former SC LBR 3015-1 were incorporated into this rule pursuant to Fed. R. Bankr. P. 9029(a) and the Judicial Conference's prescribed numbering conventions.

(2009) The objection period in Exhibit B was amended to a multiple of seven as part of time computation amendments.

(2013) Exhibit B was amended to clarify that the deadline to object runs from the date of service.

EXHIBIT B TO SC LBR 3015-2

UNITED STATES BANKRUPTCY COURT
DISTRICT OF SOUTH CAROLINA

IN RE:

CASE NO:
CHAPTER:

NOTICE OF PLAN MODIFICATION AFTER
CONFIRMATION, MOTIONS TO VALUE SECURITY,
AVOID JUDICIAL LIEN, AVOID A NONPURCHASE-
MONEY, NONPOSSESSORY SECURITY INTEREST
AND LIEN, AND/OR TO ASSUME OR REJECT AN
EXECUTORY CONTRACT/UNEXPIRED LEASE

DEBTOR(S)

I. NOTICE TO CREDITORS AND PARTIES IN INTEREST: The above-captioned debtor¹ proposed a chapter 13 plan and motions that were previously confirmed by this court; debtor now moves, pursuant to 11 U.S.C. § 1329(a), Fed. R. Bankr. P. 3015(g), and Fed. R. Bankr. P. 2002(a)(5), to **modify the plan as follows**:

(Include a brief explanation of the change made, the reason for the change and the specific creditor directly affected by the change. This information replaces the Motion for Modification previously required for plan amendment).

This modification to the chapter 13 plan and motions may affect your rights. Failure to object may constitute an implied acceptance of and consent to the relief requested.

A. ADDITIONS, MODIFICATIONS, OR DELETIONS: All additions or modifications to the Court's form plan are highlighted by italics. (See SC LBR 3015-2, "SC LBR" refers to the SC Local Bankruptcy Rules, available at www.scb.uscourts.gov) Deletions are noted as "Not Applicable" or by striking through the deleted provisions. If changes are substantial or if an alternative plan is proposed, a cover sheet that summarizes and identifies the changes shall be filed and served herewith.

B. DEADLINE FOR FILING OBJECTIONS, OPPORTUNITY FOR NOTICE AND HEARING ON CONFIRMATION OF MODIFIED CHAPTER 13 PLAN AND MOTIONS: Objections to the motions and any provision of the plan must be made in accordance with SC LBR 9014-1, properly served, and filed with the United States Bankruptcy Court, 1100 Laurel Street, Columbia, SC 29201, within twenty-eight (28) days from the date this document is served. Timely objections will be scheduled for hearing and separate notice of such a hearing will be given. If no timely objection is filed, the Court, upon recommendation of the chapter 13 trustee and without further hearing or notice, may enter an order confirming the modified plan and granting the motions.

II. (Repeat text of Exhibit A to SC LBR 3015-1 hereafter)

¹ When used herein, the term "debtor" shall apply as applicable either in the singular or in the plural, if there are joint debtors in the case.

LOCAL RULE 3016-1: CHAPTER 11 PLAN

- (a) **Deadline.** Unless otherwise ordered by the Court, and except in a statutorily defined small business case where the debtor should comply with the deadlines required by 11 U.S.C. § 1121(e), a disclosure statement and plan of reorganization shall be filed by the debtor or trustee not later than one hundred eighty (180) days after the entry of the order for relief. The debtor, trustee, or other plan proponent shall prosecute its disclosure statement and plan in a timely manner.
- (b) **Amendments.** At the hearing on the disclosure statement or plan, the Court may consider for approval written amendments made prior to the hearing.
- (c) **Denial of Confirmation.** If any plan of reorganization or disclosure statement filed by the debtor, trustee, or other plan proponent is not confirmed or approved by the Court, any amendment, modification, or supplement necessary to correct the deficiency must be filed within fourteen (14) days or whatever time period the Court may require. Failure to timely comply may be deemed a failure to prosecute the case and may constitute grounds for dismissal or conversion without further notice or hearing.

Notes:

(2008) Portions of former SC LBR 2081-1 were incorporated into this rule pursuant to Fed. R. Bankr. P. 9029(a) and the Judicial Conference's prescribed numbering conventions.

(2009) The period in paragraph (c) was amended to a multiple of seven as part of time computation amendments.

(2012) A footnote was added to paragraph (a) to clarify the deadline in small business cases.

(2013) Technical amendments were made to paragraphs (a) and (b). The footnote regarding small business cases was moved to the body of paragraph (a).

LOCAL RULE 3018-1: BALLOTS IN CHAPTER 11 CASES

At least seven (7) days prior to the hearing on confirmation of a chapter 11 plan, the plan proponent shall file with the Court a ballot tally of the votes cast for and against the plan, and shall certify to the Court in writing the amount and number of allowed claims or allowed interests of each class accepting or rejecting the plan. The ballot tally shall include an identification of each class and whether or not it is impaired; for each impaired class, the number of ballots received, the number of ballots voting to accept, and their aggregate dollar amount; a concluding paragraph indicating whether the plan has received sufficient acceptance to be confirmed; a completed ballot report and, appended thereto, copies of all ballots not counted for any reason and a statement why the same were not counted; and a representation that all ballots were counted for the classes for which those ballots were filed except for ballots appended to the report.

The Court may refuse to recognize, in connection with the confirmation of a plan, a timely filed ballot which is not signed, which does not clearly indicate acceptance or rejection of the plan, or which does not clearly indicate its inclusion in a specific class of claims or interests under the plan.

Upon motion at the confirmation hearing, the Court may extend the time for balloting and/or may permit the modification or withdrawal of ballots.

Notes:

(2009) The ballot period was amended to a multiple of seven as part of time computation amendments.

(2013) The requirement to serve the ballot tally and certification was removed.

LOCAL RULE 4001-1: MOTIONS REGARDING THE AUTOMATIC STAY

This rule applies to motions for relief from the automatic stay of 11 U.S.C. § 362(a), motions to extend or impose the automatic stay pursuant to 11 U.S.C. § 362(c)(3) and (c)(4), and motions for an order confirming termination of the automatic stay pursuant to 11 U.S.C. § 362(j), 11 U.S.C. § 362(h), and 11 U.S.C. § 521(a)(6). **Chambers Guidelines** must be considered in connection with this Local Rule because the judges may have differing procedures or requirements related thereto.

(a) **Motions for Relief from the Automatic Stay Pursuant to 11 USC § 362(a).**

- (1) **Hearing date.** The movant shall select a hearing date from a list of available dates posted on the Court's website and prepare a hearing notice in substantial conformance with Exhibit A under the following guidelines.
 - (A) For all divisions, the hearing shall be scheduled before the judge to whom the case is assigned;
 - (B) If a hearing date is required within the thirty (30) day period pursuant to 11 U.S.C. § 362(e) and either the judge required to hear the motion is not scheduled for that location within that time, or the movant is unable to select a hearing date which is at least twenty-one (21) days from the date of the service/transmittal of the motion, the movant must contact a courtroom deputy for scheduling assistance which may include scheduling the motion for hearing in another division, if deemed necessary; and
 - (C) If the movant fails to properly select a hearing date or selects a hearing date which is more than thirty (30) days after the moving party makes its request for relief, the movant will be deemed to have waived its rights under 11 U.S.C. § 362(e) relating to the automatic lifting of the stay. In such instance, the stay shall remain in effect until further order of the Court.
- (2) **Service and transmittal of the motion.** At least twenty-one (21) days before the scheduled hearing date, the movant shall serve on the debtor, attorney for the debtor, any trustee serving in the case, any committee elected or appointed in the case, and any other party in interest entitled to notice pursuant to Fed. R. Bankr. P. 4001(a), and shall file with the Court:
 - (A) The 11 U.S.C. § 362 motion;
 - (B) The movant's completed certification of facts in substantial conformance with Exhibit B;
 - (C) The notice of hearing on the motion in substantial conformance with Exhibit A; and
 - (D) A blank certification of facts form (applicable to service on *pro se* parties only).
- (3) **Objections.** Any party objecting to the relief sought in the motion shall, within fourteen (14) days after service thereof, serve upon the movant and other appropriate parties and file with the Court an objection to the motion and its responding certification of facts. Failure to complete, serve and file a responding certification of facts or to complete fully the certification of facts shall be deemed an agreement to the terms contained in the movant's certification.
- (4) **Default.** If no objection is filed and served upon the movant within fourteen (14) days after the service of items (A)-(D), subparagraph (a)(2), the movant shall:

- (A) File a certificate stating that no objection has been served upon the movant or filed with the Court; and
 - (B) Submit a proposed order granting the relief sought in the motion.
- (5) **Settlement.**
- (A) **Consent.** Any settlement of a motion to modify the automatic stay, where the trustee, if any, is not a party to the settlement, must indicate that the trustee did not object to the relief requested.
 - (B) **Default.** If a prior settlement order provided for *ex parte* relief from the automatic stay, the attorney for the movant of the original motion may submit a certification of the debtor's noncompliance and a proposed order granting the relief sought. Any proposed order shall specifically state the details of the default, including the specific time period for which payments were not made. Modification of the stay is effective only upon entry of the order.
- (6) **Resumption of Payments.** Absent grounds under Fed. R. Civ. P. 59(e) or 60, the Court will not rescind an order granting stay relief based solely on an agreement of the parties. However, in chapter 13 cases, upon agreement of the parties and the consent of the trustee, the Court may enter an order allowing the resumption of payments by a trustee on a claim for arrearage on a long-term debt. Any order to this effect must provide (i) that the chapter 13 trustee shall resume payments to the holder of the claim pursuant to the chapter 13 plan and (ii) that upon the future failure by debtor to pay according to the agreement between the debtor and creditor, the creditor may continue collection actions under nonbankruptcy law without further order. The Court will not normally consider more than one such order relating to the same claim during the pendency of the case.
- (7) **Form of motion.** Any motion for the approval of an agreement pursuant to Fed. R. Bankr. P. 4001(d) should be prepared using a form in substantial conformance with the form approved by the Court (see Exhibit A to SC LBR 4001-4).
- (8) **Continuances.** A request for a continuance by the movant or consent to a continuance by movant shall be deemed a waiver of the automatic lifting of the stay pursuant to 11 U.S.C. § 362(e).
- (9) **General matters.** Neither consent/settlement orders nor default orders should contain provisions which attempt to make the order binding upon a trustee or creditors in the event of the conversion of the case to another chapter or provisions which purport to limit the effect of the automatic stay in the event of a dismissal and refile of the case. Such provisions require a showing of cause before the Court after a hearing.
- (b) **Motions to Extend the Automatic Stay Pursuant to 11 U.S.C. § 362(c)(3).**
- (1) **Hearing date.** Motions pursuant to 11 U.S.C. § 362(c)(3) shall be scheduled to be heard prior to the expiration of thirty (30) days following the filing of the case. The movant shall select a hearing date from a list of available dates posted on the Court's website and prepare a hearing notice attached as Exhibit A under the following guidelines.
 - (A) Motions under paragraph (b) are to be scheduled before the judge to whom the case is assigned;

- (B) The hearing shall first be scheduled when motions to extend or impose the automatic stay pursuant to 11 U.S.C. § 362(c)(3) and (c)(4) are specially designated to be heard;
 - (C) If a hearing date set forth in subparagraph (1)(B) is unavailable, then the hearing shall be scheduled when motions for relief from the automatic stay are being heard in the same division as the case;
 - (D) If a hearing date set forth in subparagraphs (1)(B) or (C) is unavailable, then the hearing shall be scheduled in any division where motions for relief from the automatic stay are being heard; and
 - (E) If none of the above-referenced hearing dates are available, then the movant must contact a courtroom deputy for scheduling assistance.
- (2) **Filing, service, and transmittal of the motion.** All motions filed by the debtor pursuant to 11 U.S.C. § 362(c)(3) must be filed with the petition; all motions filed by parties in interest, including any trustee serving in the case, must be filed within seven (7) days following the filing of the case. All motions must clearly set forth specific and detailed grounds in support of the motion. At least fourteen (14) days before the scheduled hearing date, the movant shall serve on all creditors sought to be stayed, the United States Trustee, and any trustee serving in the case, and shall file with the Court:
- (A) The 11 U.S.C. § 362 motion; and
 - (B) The notice of hearing on the motion in substantial conformance with Exhibit A.
- (3) **Objections.** Any party objecting to the relief sought in the motion shall, within fourteen (14) days after service thereof, serve upon the movant and other appropriate parties and file with the Court an objection to the motion.
- (c) **Motions to Impose the Automatic Stay Pursuant to 11 U.S.C. § 362(c)(4).**
- (1) **Hearing date.** If time permits, the movant shall follow the procedures set forth in subsection (b) for selection of a hearing date. As an alternative to the procedures set forth in subsection (b), the movant may request a hearing on an emergency basis pursuant to SC LBR 9013-1(d) and in the manner posted on the Court’s website pursuant to the Chambers Guidelines set forth therein for each Judge. Such motions, if granted, shall be scheduled subject to the availability of the Court.
 - (2) **Filing, service, and transmittal of the motion.** All motions filed by the debtor pursuant to 11 U.S.C. § 362(c)(4) must be filed with the petition; all motions filed by parties in interest, including any trustee serving in the case, must be filed within seven (7) days following the filing of the case. Any objection shall be filed within the time period required by SC LBR 4001-1(b)(3). All motions must clearly set forth specific and detailed grounds in support of the motion. Motions sought to be scheduled on an emergency basis must also be accompanied by items (A)-(B), subparagraph (b)(2) and, if granted, shall be served on an expedited basis. Motions not scheduled on an emergency basis shall be filed and served and objections shall be made in accordance with the procedures set forth in paragraph (b).
- (d) **Motion for an Order Confirming Termination of the Automatic Stay Pursuant to 11 U.S.C. § 362(j), 11 U.S.C. § 362(h), and 11 U.S.C. § 521(a)(6).**
- (1) **Hearing date.** It is not necessary to select a hearing date as motions for an order confirming termination of the automatic stay may be considered on an *ex parte* basis.

- (2) **Filing of the motion.** Motions for an order confirming termination of the automatic stay shall specifically recite facts and the applicable statutory authority upon which the stay has been terminated.
- (3) **Order.** The order confirming termination of the automatic stay will be served by the movant upon all creditors and parties in interest.

Notes:

(2008) Former paragraphs (a)(6), (7), (8), (10), (13), and (14) were deleted based upon similar provisions in the Chambers Guidelines. Former paragraphs (a)(4) and (11) and (b)(2)(B) were deleted. Former paragraphs (a)(1)(D), (b)(1)(F), and (e) were deleted based upon SC LBR 9011-3. Former paragraphs (a)(2)(E) and provisions in other paragraphs were removed because certificates of service are now addressed by SC LBR 9013-3. Other paragraphs were renumbered and restyled based upon these changes. Paragraphs (a)(3), (a)(4), and (b)(3) were amended to extend the objection period from 10 to 14 days.

(2009) The periods in paragraphs (a)(1)(B), (a)(2), (b)(2), and (c)(2) were amended to multiples of seven as part of time computation amendments.

(2012) A technical change was made to the title of the rule to broadly refer to all motion types contained in the rule.

(2013) A technical change was made to paragraph (a)(1)(B) to provide that motions may be scheduled in other divisions if necessary.

(2013) Paragraphs (a)(5), (6), and (8) were added from the Chambers Guidelines and other paragraphs renumbered. Paragraph (d)(3) was amended to delegate service of an order confirming termination of the automatic stay to the movant. Portions of (a)(2)(D) were deleted as unnecessary. Exhibit C was added.

EXHIBIT C TO SC LBR 4001-1

UNITED STATES BANKRUPTCY COURT
DISTRICT OF SOUTH CAROLINA

IN RE:

CASE NO:
CHAPTER:

ORDER ALLOWING RESUMPTION OF PAYMENTS

DEBTOR(S)

THIS MATTER comes before the Court pursuant to a Motion to Reconsider Order Granting Relief from the Automatic Stay or a Motion for Resumption of Payments under chapter 13 plan filed by the Debtor(s) on _____.

Upon consideration of the Motion and record in this case, the Court finds that insufficient grounds have been stated pursuant to Fed. R. Civ. P. 60 for relief from the Order granting relief from the automatic stay. However, upon the consent of the parties and the chapter 13 trustee, the Court authorizes the trustee to resume payments to _____ ("Creditor") to cure the pre-petition arrearage pursuant to the previously confirmed chapter 13 plan under the following conditions:

- 1) By the consent evidenced below, the chapter 13 trustee recommends resumption of these payments as in the best interests of all creditors because it promotes the likelihood of a successful reorganization.
- 2) A written forbearance agreement, separate and distinct from any settlement order previously entered in this case, has been entered between Debtor(s) and Creditor and clearly provides the terms upon which the Creditor shall forbear from collecting against the subject collateral. The terms of the forbearance agreement include the resumption of payments through the chapter 13 trustee to the Creditor according to the plan. A copy of said forbearance agreement has been provided to the chapter 13 trustee, but shall not be filed with the Court.
- 3) The parties agree that a resumption of payments in this fashion may be requested and granted only once in the chapter 13 case and that upon the trustee's receipt of written request from either Debtor(s) or Creditor, the resumption of payments may be terminated by the trustee without further direction or order from the Court.
- 4) Creditor has a duty to advise the chapter 13 trustee in writing of any future default in the forbearance agreement and/or any other cause which leads to Creditor's renewal of efforts to liquidate or collect against the subject collateral. Upon that event, the trustee may discontinue payments under the plan without further direction or order from the Court.

AND IT IS SO ORDERED.

LOCAL RULE 5005-4: ELECTRONIC FILING

- (a) **Record of the Court.** All pending, reopened, and newly filed cases and proceedings in the Court shall be assigned to the Case Management/Electronic Case Filing system (CM/ECF). The docket of the cases and proceedings shall be available electronically. The electronic record is the official record of this Court.
- (b) **Manner of Filing.** Except as provided, all documents, including proofs of claim, shall be electronically filed utilizing the CM/ECF system.
- (c) **Exceptions to Mandatory Electronic Filing.**
 - (1) **Pro Se Parties.** Parties without legal representation may effect filings in paper form; however, proofs of claim and related documents may be electronically filed through the Court's website.
 - (2) **CM/ECF Participants and Represented Parties.**

- (A) **CM/ECF Unavailable.** If CM/ECF cannot be accessed during regular business hours of the Clerk's Office, the filer shall contact the CM/ECF Help Desk at the Clerk's Office to confirm that CM/ECF is not accessible and make suitable arrangements with the Clerk of Court for the filing to occur.

If CM/ECF cannot be accessed after regular business hours of the Clerk's Office, and the filing is time sensitive and will be made untimely as the result of a technological failure of CM/ECF, the filer shall either electronic mail the document to the CM/ECF Help Desk at cmecf_helpdesk@scb.uscourts.gov or send the document to the attention of the Clerk's Office by facsimile to 803-253-3368.

- (B) **CM/ECF Available.** If the filer is unable to file electronically notwithstanding the general availability of CM/ECF,¹ filing of a time-sensitive document may be made by filing the paper document with the Clerk of Court, electronically mailing the document to the CM/ECF Help Desk at cmecf_helpdesk@scb.uscourts.gov or sending the document to the attention of the Clerk's Office by facsimile to 803-253-3368.
- (C) **Certification of Inability to File Electronically.** Any document submitted under paragraphs (c)(2)(A) or (B) shall be accompanied by a certification setting forth in detail the reasons for the filer's failure to submit the documents electronically, the time sensitive nature of the filing, and a request to receive the documents conventionally.
- (D) **Determination of Filing.** The Clerk's Office shall immediately submit to the Judge assigned to the case the submitted document and certification for consideration, with or without hearing, and determine the allowability of the filing or an extension to file. The Court may strike the pleading, deny relief, and require electronic filing if the submission is found to be an abuse of the Court's exceptions to electronic filing. If the document is determined to be submitted consistent with Paragraph (c)(2)(A) or (c)(2)(B) of this rule, the document shall be deemed filed at the time the Clerk's Office or help desk received it by facsimile or electronic mail unless otherwise ordered.

¹ If the inability to electronically file is expected to persist, due to natural disaster or other reasons beyond the control of the filer, the request for an alternative means of filing may govern multiple cases if requested and approved by the applicable judge of the United States Bankruptcy Court.

Notes:

(2013) This new rule incorporates provisions previously found in Operating Order 08-07.

LOCAL RULE 5070-1: CALENDARS AND SCHEDULING

- (a) **Conflicts and Protection.** The court does not honor general requests for calendaring or scheduling protection. Counsel or a party proceeding *pro se* who asserts a conflict with a scheduled hearing must, absent an agreement to continue that has been approved by the court, move for a continuance for each matter affected by the conflict.
- (b) **Self Scheduling.** Matters described in SC LBR 4001-1, 6004-1, and 9013-4 may be self-scheduled by counsel. Relief may be denied without a hearing for any matter incorrectly scheduled, noticed, or docketed.

Notes:

(2013) Paragraph (a) of this new rule incorporates provisions of the Chambers Guidelines. Paragraph (b) is new.

LOCAL RULE 5073-1: PHOTOGRAPHY, RECORDING DEVICES, AND BROADCASTING

- (a) **Prohibition Against Camera, Video, Transmitter, Receiver, and Recording Equipment.** Absent a Court order directing otherwise, no camera, video, transmitter, receiver, or recording equipment may be brought into the United States Bankruptcy Court for the District of South Carolina at any of its locations.
- (b) **Exemptions from Prohibition.**
- (1) Use of such equipment by an authorized representative of the Court for an official purpose;
 - (2) Use of the Court's videoconferencing system by an authorized representative of the Court to permit the judge to conduct proceedings from or to a remote location;
 - (3) Use of such equipment during ceremonial proceedings with the express permission of the Court and under the supervision of the Court;
 - (4) A device required because of a person's disability; and
 - (5) As otherwise permitted by a judge of the court.
- (c) **Wireless Communication Devices.**

Wireless Communication Devices (such as laptop computers, cell phones, PDAs, tablet computers, and other wireless devices) are allowed in the courthouse locations, excluding [Spartanburg](#),¹ under the following terms and conditions:

- (1) Wireless Communication Devices may be brought into the courthouse locations by an attorney (or support staff accompanying the attorney). Litigants, witnesses, *pro se* parties, members of the media, and the public may bring wireless communication devices into the courthouse only in connection with a hearing or trial and only with the prior authorization of the presiding judge. All Wireless Communication Devices are subject to security screening.
- (2) All Wireless Communication Devices must be programmed or rendered to be inaudible upon entering a courtroom or areas adjacent to a courtroom or judicial chambers.
- (3) Any party bringing a Wireless Communication Device into the United States Bankruptcy Court shall use the device only for purposes of evidence presentation, research, e-mailing, note taking, communication, and scheduling in connection with a matter pending before the Court and other legitimate business purposes. Under no circumstances may a device be used to conduct broadcasting,² televising, recording, or photographing in any courthouse location.
- (4) Use is permitted only to the extent that it does not interfere with judicial proceedings, including a 341 meeting conducted in the courthouse, or with the ability of the public to observe proceedings. A presiding judge or trustee at a 341 meeting may order the discontinuance of the use of such Wireless Communication Devices at any time.

Notes:

(2008) Portions of this rule were restyled and a reference to a separate Administrative Order was added.

(2011) The title of the rule was amended to conform with the model numbering and naming conventions recommended by the Judicial Conference. Paragraph (a) was amended to remove reference to specific electronic

¹ The policy of the United States District Court for the District of South Carolina governs wireless communication devices for the Spartanburg Division.

² Broadcasting is construed in the broadest sense and includes commentary about court proceedings on the internet or to a third party.

devices and to broadly cover all such devices under the term "wireless communication devices" as recommended by the Judicial Conference.

(2013) Paragraph (c) was added to incorporate the Administrative Order on the Use of Electronic Devices. Former paragraph (b) was deleted as unnecessary.

LOCAL RULE 5075-1: DELEGATION OF NOTICING AND SERVICE OF ORDERS¹

In addition to notice delegated by SC LBR 4001-1, 6004-1, and 9013-4 and pursuant to Fed. R. Bankr. P. 2002 and 3019, noticing and service of orders are delegated as follows:

(a) Chapter 11.

- (1) Order/notice setting disclosure statement hearing is delegated to the plan proponent;
- (2) Order approving disclosure statement/setting confirmation hearing is delegated to the plan proponent;
- (3) Notice pursuant to SC LBR 2081-2 is delegated to the party filing the petition;
- (4) Hearing notice and order on motion pursuant to 11 U.S.C. § 363 is delegated to the movant;
- (5) Time fixed for filing objections and, if an objection is filed, the hearing to consider a proposed modification to plan pursuant to 11 U.S.C. § 1127(e) is delegated to the plan proponent; and
- (6) any other order the Court or Clerk's office specifically requests to have noticed by a party.

(b) Chapter 13.

- (1) Service of any chapter 13 plan or amended or modified plan, any embedded motions, and notice of time for filing objections, as further specified in SC LBR 3015-1 and 3015-2 to the debtor.

(c) All Chapters.

- (1) Order on motion to reconsider dismissal to the movant;
- (2) Order approving fees to the applicant;
- (3) Order on a motion pursuant to 11 U.S.C. §362(c) or (d) to the movant; and
- (4) Order of conversion to the movant or applicant.

Notes:

(2008) Portions of former SC LBR 2081-1 were revised and incorporated into this rule pursuant to Fed. R. Bankr. P. 9029(a) and the Judicial Conference's prescribed numbering conventions. Paragraphs (c), (d), and (f) are new.

(2013) Substantial amendments are made to delegate noticing of certain matters without further order.

¹ Where a notice requires scheduling or a deadline, the noticing party shall contact a Courtroom Deputy for the applicable date.

LOCAL RULE 5080-1: FEES

(a) Form of Payment.

- (1) **Electronic Filers.**¹ All parties electronically filing documents shall use the Internet Credit Card Module of CM/ECF for the payment of fees.
- (2) **Non-Electronic Filers.** All other parties shall pay fees in the form of cash, certified check, United States Postal Money Order, or credit card. All payments shall be made in the exact amount and the Clerk of Court shall not accept credit card payments from debtors. All funds shall be made payable to “Clerk, United States Bankruptcy Court.”

(b) **Timing of Payments.** Unless the Court orders otherwise or the filing party moves to waive the fee, all fees required by 28 U.S.C. § 1930 or other applicable rule or law shall be paid on the same day as the documents are filed. Failure to pay may result in the striking of the pleading or other adverse action.

(c) **Refunds.** Absent a separate order of the Court, the Clerk of Court is authorized to make a refund only in limited circumstances, such as when payment of the fee was unintentionally submitted twice through technical error or is caused by an error in the operation of the Court’s CM/ECF system.

Notes:

(2013) This new rule incorporates provisions found in former Operating Order 08-07.

¹ SC LBR 5005-4 generally mandates electronic filing for all documents except documents filed by those without legal representation. Other exceptions and requirements are also noted in SC LBR 5005-4.

LOCAL RULE 6004-1: SALE OF PROPERTY

- (a) **Passive Notice Procedure.** Excluding chapter 11 cases, applications to sell property free and clear of liens pursuant to Fed. R. Bankr. P. 6004 and 11 U.S.C. § 363 must be made using the passive notice procedure prescribed by SC LBR 9013-4. The application should be in substantial conformance with Exhibit A and shall be served by the movant on all parties in interest.
- (b) **Order Approving Sale.** A proposed order approving a sale, in substantial conformance with Exhibit B, must specify the terms of the sale and not merely incorporate by reference the terms of the notice of sale. Please consult each judge's preferences for the contents of orders in Chambers Guidelines. In order for a waiver of the stay of an order pursuant to Fed. R. Bankr. P. 6004 to be effective and included in any order approving sale, the sale application or notice must specifically request such a waiver or the parties must have agreed to the waiver in writing. The judge may require a hearing on waiver of the stay.
- (c) **Report of Sale.** A report of sale, in substantial conformance with Exhibit C, must be filed by the moving party within fourteen (14) days after the closing of any sale of estate property.
- (d) **Chapter 11 Cases.** The passive notice procedure set forth herein is not applicable to chapter 11 cases; however, the moving party may self-schedule a hearing in accordance with SC LBR 9013-4. The information to be set forth in the notice, application, and proposed order approving sale and the report of sale shall otherwise be in conformance with this rule.

Notes:

(2008) Portions of this rule were restyled. Former paragraphs (a) and (e) were deleted. Current paragraph (d) is new.

(2009) The period in paragraph (c) was amended to a multiple of seven as part of time computation amendments. Paragraph (b) and Exhibits A and B were restyled to refer to the applicable rule.

(2012) A technical amendment was made to the exhibits to remove the judge's signature line, which is unnecessary for electronically signed orders.

(2013) Paragraph (b) was amended to refer to the Chambers Guidelines and paragraph (d) was amended to allow for self-scheduled hearings.

LOCAL RULE 7001-1: ADVERSARY PROCEEDINGS- GENERAL

- (a) **Scheduling Orders.** A scheduling or other pre-trial order may be entered according to procedures described in the Chambers Guidelines. **Chambers Guidelines** must be considered in connection with this Local Rule because the judges may have differing procedures or requirements related thereto.

- (b) **Extensions of Time.** A party which has asserted a claim against another party in an original or amended pleading may grant to that party, prior to the expiration of the original deadline, and without a Court order, one extension of time to respond to the pleading. The extension may not exceed fourteen (14) days. All such extensions must be in writing and in the form of a certification of extension, properly captioned in accordance with Fed. R. Bankr. P. 9004, signed by a party to the extension agreement, and filed with the Court prior to the expiration of the original response deadline. Further extensions may be granted only pursuant to a motion demonstrating exceptional circumstances or consent orders which propose extensions or agreements between counsel which meet these requirements.

Notes:

(2013) Portions of the Chambers Guidelines were moved to this new rule.

LOCAL RULE 7026-1: DISCOVERY¹

- (a) **Motions, Memoranda, and Responses.** All motions filed and served in connection with discovery, pursuant to Fed. R. Bankr. P. 7026 through 7037, shall be accompanied by a memorandum stating the pertinent facts and applicable legal authority relied upon and shall be filed and served no later than fourteen (14) days following the deadline for a response to the applicable discovery, except as provided in subsection (b). Any response to a motion filed in connection with discovery shall be filed and served within fourteen (14) days after service of the motion and shall state the pertinent facts and applicable legal authority relied upon in opposition to the motion. Motions regarding discovery may be considered and ruled upon by the Court on an *ex parte* basis or scheduled for hearing.
- (b) **Motions for Protective Orders and Objections to Discovery Process.** Any motion for a protective order shall be filed and served no later than the deadline for response to such discovery. Any objection to any interrogatory, deposition, request, or application under Fed. R. Bankr. P. 7026-7037 shall be in writing and shall also be served no later than the deadline for response to the applicable discovery. Any such motion or objection shall not extend the time within which the objecting party must otherwise answer or respond to any unobjected discovery matter.
- (c) **Certification of Consultation.** Any motion concerning discovery matters must contain a certification that counsel has conferred and explored with opposing counsel, or has in good faith attempted to confer and explore, the possibility of resolving the discovery matters in controversy.
- (d) **Compliance with Discovery Orders.** After the Court has ruled on a discovery motion, any answer, production, designation, inspection, or examination required by the Court shall be completed within fourteen (14) days after the entry of the order of the Court, unless otherwise ordered by the Court.
- (e) **Extensions.** Parties may grant informal extensions of time for the purpose of resolving disputes concerning discovery only if the extension does not alter or conflict with the deadline for concluding discovery set forth in the scheduling order. Any other extensions of time to respond to discovery may only be obtained by order of the Court following appropriate motion.

Notes:

(2008) Portions of this rule were restyled. Paragraphs (b) and (c) were reordered.

(2009) The periods in paragraphs (a) and (d) were amended to multiples of seven as part of time computation amendments.

(2013) A technical amendment was made to paragraph (b). Paragraph (e) was amended to allow for informal extensions of time.

¹ In addition to adversary proceedings, this local rule applies to discovery in contested matters pursuant to Fed. R. Bankr. P. 9014(c) and SC LBR 9013-1(b)(2).

LOCAL RULE 7030-1: DEPOSITIONS AND EXAMINATIONS

- (a) At the beginning of each deposition or Rule 2004 examination, deposing counsel shall instruct the witness to ask deposing counsel, rather than the witness's own counsel, for clarifications, definitions, or explanations of any words, questions, or documents presented during the course of the deposition. The witness shall abide by these instructions.
- (b) All objections, except those which would be waived if not made at the deposition under Fed. R. Civ. P. 32(d)(3), and those necessary to assert a privilege, to enforce a limitation directed by the Court, or to present a motion pursuant to Fed. R. Civ. P. 30(d), shall be preserved.
- (c) Counsel shall not direct or request that a witness not answer a question, unless that counsel has objected to the question on the ground that the answer is protected by a privilege or a limitation on evidence directed by the Court or unless that counsel intends to present a motion under Fed. R. Civ. P. 30(d)(1). In addition, counsel shall have an affirmative duty to inform their clients that unless such an objection is made, the question must be answered. Counsel directing that a witness not answer a question on those grounds or allowing their clients to refuse to answer a question on those grounds shall move the Court for a protective order under SC LBR 7026-1 within five (5) business days of the suspension or termination of the deposition or examination. Failure to timely file such a motion will constitute waiver of the objection, and the deposition or examination may be reconvened.
- (d) Counsel shall not make objections or statements which might suggest an answer to a witness. Counsel's objections shall be stated concisely and in a non-argumentative and non-suggestive manner, stating the basis of the objection and nothing more.
- (e) Counsel and witnesses shall not engage in private, "off the record" conferences during depositions or during breaks or recesses regarding the substance of the testimony at the deposition or examination, except for the purpose of deciding whether to assert a privilege or to make an objection or to move for a protective order.
- (f) Any conferences which occur pursuant to, or in violation of, paragraph (e) are proper subjects for inquiry by deposing counsel to ascertain whether there has been any witness coaching and, if so, to what extent and nature.
- (g) Any conferences which occur pursuant to, or in violation of, paragraph (e) shall be noted on the record by the counsel who participated in the conference. The purpose and outcome of the conference shall be noted on the record.
- (h) Deposing counsel shall provide to opposing counsel a copy of all documents to be shown to the witness during the deposition or examination, either before the deposition or examination begins or contemporaneously with the showing of each document to the witness. If the documents are provided (or otherwise identified) at least three (3) business days before the deposition, then the witness and the witness's counsel do not have the right to discuss the documents privately during the deposition or examination. If the documents have not been so provided or identified, then counsel and the witness may have a reasonable amount of time to discuss the documents before the witness answers questions concerning the document.
- (i) If an objecting party or deponent demands, after good faith consultation, that the deposition be suspended pursuant to Fed. R. Civ. P. 30(d), the assigned judge's office shall be contacted to allow that judge to resolve the matter telephonically, if possible.
- (j) Violation of this Local Rule may be deemed to be a violation of a court order and shall subject the violator to sanctions under Fed. R. Civ. P. 37(b)(2).

Notes:

(2010) This rule is new and incorporates provisions found in the local rules of the District Court.

(2013) Provisions of paragraph (i) were deleted as unnecessary. A technical amendment was made to paragraph (j).

LOCAL RULE 9011-1: ATTORNEYS- DUTIES

- (a) **Competency.** Attorneys admitted to practice pursuant to SC LBR 2090-1, prior to appearing in a matter or submitting a filing with the Court, must possess a working knowledge of the United States Bankruptcy Code, the Federal Rules of Bankruptcy Procedure, the Federal Rules of Civil Procedure, the local rules, local administrative and operating orders, Chamber's Guidelines, and the applicable local rules of the United States District Court.
- (b) **Extent of an Attorney's Duty to Represent.** Except as may be provided in an attorney's written agreement with a party concerning appeals and adversary proceedings, any attorney who files documents for or on behalf of a party in interest shall remain the responsible attorney of record for all purposes including the representation of the party at all hearings and in all matters that arise in conjunction with the case.
- (c) **Professional Conduct.** Any attorney admitted to practice before this Court, including admissions *pro hac vice*, shall maintain respect and courtesy and display professionalism, integrity, and civility in all Court proceedings and in all written and oral communications not only to this Court, its officers, and those who assist them, but also to opposing parties and their counsel, as well as to the trustees and those who assist them.
- (d) **Duty to Determine Eligibility.** A debtor and attorney for the debtor shall have the duty to ascertain that no previous court order, statute, or rule makes the debtor ineligible to file or bars the applicable filing of a petition in bankruptcy before this Court. The signing and filing of a petition by a debtor and/or attorney for the debtor will be deemed a certification to the Court that the debtor is eligible to file another petition and is not in violation of a previous order of dismissal with prejudice, statute, or rule.

Notes:

(2008) Portions of former SC LBR 9010-1 and 9010-3 were revised and incorporated into this rule pursuant to Fed. R. Bankr. P. 9029(a) and the Judicial Conference's prescribed numbering conventions.

(2013) Technical amendments were made to paragraphs (a) and (c).

LOCAL RULE 9011-2: PRO SE PARTIES

In any petition for relief, motion, adversary proceeding, or other document, or objections or responses thereto:

- (a) An individual may represent himself or herself.
- (b) An individual may represent an unincorporated business if that individual is the sole proprietor of that business.
- (c) All partnerships, corporations and other business entities must be represented by an attorney duly admitted to practice as specified in SC LBR 2090-1, except with respect to the filing of proofs of claim or interests and reaffirmation agreements or unless allowed by the court.

Notes:

(2008) Portions of former SC LBR 9010-1 were incorporated into this rule pursuant to Fed. R. Bankr. P. 9029(a) and the Judicial Conference's prescribed numbering conventions.

(2013) Paragraph (c) was amended.

LOCAL RULE 9011-3: SANCTIONS

- (a) **Notices of Deficiency.** Failure to comply with a notice of deficiency, if issued, the Local Rules, or Chambers Guidelines may result in the striking of a document, denial, dismissal, or other adverse ruling without further notice or hearing. Nothing herein precludes *ex parte* or *sua sponte* action by a judge.
- (b) **Petitions by Barred Debtors.** If a petition is filed in violation of a previous order of dismissal with prejudice, statute, or rule, the Court may dismiss the case and/or annul the automatic stay *ex parte*, provide *in rem* relief or take other action, with the Court retaining jurisdiction for the purpose of considering further action or sanctions including barring further filings with the Court.

Notes:

(2008) Portions of former SC LBR 9010-2 and 9010-3 were incorporated into this rule pursuant to Fed. R. Bankr. P. 9029(a) and the Judicial Conference's prescribed numbering conventions.

(2013) Paragraphs (a) and (b) were restyled.

LOCAL RULE 9011-4: SIGNATURES

- (a) **Electronic Signatures.** Filing any document using a CM/ECF login and password or the Court's claim interface constitutes the filer's signature for purposes of signing the document under Fed. R. Bankr. P. 9011 and any other applicable authority relating to signatures. The filer's name on the document must be displayed in one of the following ways: by a "/s/" and the name of the person typed in the space where the signature would otherwise appear (e.g., /s/Jane Doe), by a scanned original document containing original signatures, or by an image of the original signature either by facsimile or digital signature. All signatories must provide their name, address, telephone number, electronic mail address, facsimile number, United States District Court identification number (where applicable), and any other information as directed by Judge, local rule or order. In instances where there is a discrepancy between the login and signature upon the electronic filing of a document, or in instances in which multiple signatures are included, both the filer whose login was used and the signatory/signatories are responsible attorneys for both Fed. R. Bankr. P. 9011 and SC LBR 2090-1 purposes.
- (b) **Original Signatures.** The electronic filing of a bankruptcy petition; lists; schedules and statements, all amendments thereto; original plans; amended plans; claims; monthly or periodic financial reports; affidavit; and/or unsworn declaration constitutes an attorney's representation that the original signature of the debtor(s) or other signing party has been affixed to the original document. With regard to documents signed by debtor(s), the electronic filing by the attorney constitutes the attorney's representation that the debtor(s) authorized the filing of the documents. Unless otherwise provided by statute, rule, or order, the party filing a document is not required to obtain or retain original signatures on other electronically filed documents, including consent orders, where the person whose signature is displayed has expressly authorized in writing, including a writing transmitted by e-mail, that the document be filed with that person's electronic signature affixed.
- (c) **Retention of Original Signature.** The filing party must retain the original ("wet") signature in paper form of any document that requires an original signature under paragraph (b) and must retain any documentation memorializing the consent of counsel or a party to the filing of a document with counsel's or a party's signature where permitted by these rules and where original signatures are not required until the case or adversary proceeding is closed and all maximum allowable times for appeals in that case or adversary proceeding have expired, and, if applicable, the time within which a discharge of the debtor may be revoked has passed. In the event a case is dismissed, all original signed petitions or other documents signed by debtor or other verifying party shall be maintained by the attorney of record or, if there is no attorney of record, the party originating the document for a period of three (3) years. Under order of the Court, an original document or petition must be provided for review to parties.
- (d) **Local Counsel.** Unless ordered by the Court upon a showing of exceptional circumstances, an attorney acting as local counsel for an attorney admitted *pro hac vice* must sign all documents filed with the Court.

Notes:

(2013) This new rule incorporates provisions found in former Operating Order 08-07.

LOCAL RULE 9013-1: MOTIONS PRACTICE GENERALLY

- (a) **Service of Motion and Proposed Order.** The moving party shall file the motion and simultaneously serve copies of the motion, other than a motion under Fed. R. Bankr. P. 9011(c), and a proposed order, on all appropriate parties. For self-scheduled motions under SC LBR 9013-4, the movant shall also file and serve a copy of the hearing notice on all appropriate parties.
- (b) **Response or Objection to Motions.** Absent Court approval, no extension of the time permitted to respond to any motion, objection, or other contested matter is effective.
- (c) **Scheduling Orders.** If discovery is necessary to prepare for a hearing in a contested matter, a scheduling order may be requested by any party after consulting with all other parties. Whether all parties consent to the entry of a scheduling order should be noted.

Notes:

(2008) Portions of former SC LBR 9014-1 were incorporated into this rule pursuant to Fed. R. Bankr. P. 9029(a) and the Judicial Conference's prescribed numbering conventions.

(2009) The period in paragraph (d) was amended to a multiple of seven as part of time computation amendments.

(2013) Former paragraph (a) was deleted to conform with amendments to SC LBR 9013-4 and the remaining paragraphs re-lettered. Paragraphs (a) and (b) were amended and paragraph (c) added to include portions of the Chambers Guidelines. Former paragraph (d) was moved to SC LBR 9075-1(a).

LOCAL RULE 9013-2: BRIEFS AND MEMORANDA OF LAW

- (a) Any memorandum or brief required to be filed by the Court, or filed by the parties in instances where they have determined that a memorandum would materially assist the Court in its determination of the issues, shall be filed and simultaneously served, with proof of such service filed with the Court, upon all appropriate parties no later than seven (7) days prior to the hearing on the matter, unless otherwise ordered by the Court. The memorandum shall contain:
- (1) A concise statement of the facts that pertain to the matter before the Court for ruling;
 - (2) A brief argument relating to the matter before the Court with citations to applicable authorities; and
 - (3) Copies of any unpublished decisions or decisions published in any specialized reporting services cited in the memorandum.
- (b) Joint Statements of Dispute may be required by the presiding judge. **Chambers Guidelines** must be considered in connection with this Local Rule because the judges may have differing procedures or requirements related thereto.

Notes:

(2008) Portions of former SC LBR 9014-5 were incorporated into this rule pursuant to Fed. R. Bankr. P. 9029(a) and the Judicial Conference's prescribed numbering conventions.

(2009) The period to file a brief was amended to a multiple of seven as part of time computation amendments.

(2013) The rule was amended to add paragraph (b) and reference joint statements of dispute may be required by the presiding judge.

LOCAL RULE 9013-4: SELF-SCHEDULED MOTIONS

(a) General Requirements.

- (1) Only the motions¹ and applications on these lists may be noticed using this procedure. Use of this procedure for any motion or application not on the Court-approved list may result in the striking of the document. Notice of the following motions shall be provided by the movant in accordance with this rule:
 - (A) **Passive Motions.** A list of motions that shall be noticed passively² is attached as Exhibit A; and
 - (B) **Non-Passive Motions.** A list of motions that shall be noticed for a definite hearing³ is attached as Exhibit C.
- (2) Counsel should make a reasonable and good faith effort to coordinate hearings on motions with the availability of opposing counsel, if known, and the trustee in the case.
- (3) If the movant anticipates that a hearing in a contested matter may take one (1) hour or more, the movant should contact chambers or the courtroom deputy to ensure a hearing date is suitable before choosing one from the notice calendar dates.

(b) Procedure. The moving party must comply with the following procedures:

- (1) **Select a Hearing Date.** The moving party must select a hearing date from the calendar posted on the Court's website, which indicates dates designated as days available for self-scheduled motions. If the judge has more than one hearing date within the applicable time frames, the movant may select any of those dates. No hearing date further than sixty (60) days from the service of the motion may be used. The procedures below must also be followed:
 - (A) select a hearing date no less than seven (7) days following the last day for objections;
 - (B) schedule the motion in all cases in the same division as the case venue unless otherwise approved by the Court; and
 - (C) prepare a hearing notice in substantial conformance with Exhibit B for motions set forth in Exhibit A or a hearing notice in substantial conformance with Exhibit D for motions set forth in Exhibit C. The hearing notice shall indicate the date, time of hearing and hearing location (complete address). The hearing notice shall be signed by the attorney representing the movant or by the movant only, if *pro se*.
- (2) **Serve and transmit the motion.** No more than sixty (60) days prior to the scheduled hearing date, the moving party must serve on the debtor, attorney for the debtor, the trustee, if applicable, and any other interested party entitled to notice and must simultaneously file with the Court:
 - (A) the motion;
 - (B) the notice of hearing of the motion; and

¹ The use of the word "motion" herein also includes applications, objections, and notices where applicable as set forth in Exhibits A and C attached hereto.

² Passive motions are those motions where relief will likely be granted without a hearing if no objection is filed.

³ In the discretion of the court, matters noticed for a hearing may be removed if no objection is filed.

(C) a proposed order.

(3) Response/Return or Objection to Motion.

(A) Any response, return, and/or objection to the motion must be in writing and properly captioned in accordance with Fed. R. Bankr. P. 9004 and SC LBR 9014-1 and set forth with particularity the reasons for opposition, citing applicable statutes, rules and controlling case law. The parties may be limited to arguing the matters raised in the objection.

(B) Prior to any scheduled hearing, the Court may consider withdrawals of objections, or settlements between the party requesting relief and the objecting parties indicated by consent order, and remove a matter from the hearing calendar.

(C) The time period for response, return and/or objection (the notice period) is specified in Exhibit A and Exhibit C.

(c) **Motion to Shorten Time.** In instances of a need for expedited relief, a motion to shorten the time for notice herein as allowed by the Federal Rules of Bankruptcy Procedure may be filed which details and supports the reasons for shortening notice and provides a proposed date for hearing (from the calendar posted on the Court's website) if objections or responses are filed. The Court will not shorten the time for notice to less than fourteen (14) days absent a sufficient showing of extraordinary circumstances.

(d) **Hearings on Passive Notice.** A hearing pursuant to the passive notice procedures herein, including notices issued pursuant to subsection (c), will appear on the hearing calendar only upon the timely filing of an objection or response or unless otherwise directed by the assigned Judge. In the event no response, return, or objection is timely filed, the Court may enter the proposed order or other order without further hearing.

Notes:

(2008) Portions of former SC LBR 9014-2 were incorporated into this rule.

(2009) The periods in paragraphs (c)(1)(A) and (d) and Exhibit A were amended to multiples of seven as part of time computation amendments.

(2010) The objection period for agreements related to relief from the automatic stay in Exhibit A was amended to a multiple of seven as part of time computation amendments. Exhibit A was also amended to allow trustees to use uniform notices approved by the EOUST and to add a motion to retain an asset to the list of approved passive matters.

(2012) Exhibit A was amended to clarify that the passive notice procedure is available to the trustee and debtor in possession for abandonment of property.

(2013) The rule was renamed to accommodate self-scheduling of other types of motions. Former paragraph (a) was deleted and the remaining paragraphs re-lettered. Paragraphs (a) and (b) were restyled to allow for self-scheduling of definite hearings. Exhibits C and D were added.

EXHIBIT C TO SC LBR 9013-4

UNITED STATES BANKRUPTCY COURT
DISTRICT OF SOUTH CAROLINA

MOTIONS/APPLICATIONS APPROVED FOR SELF-SCHEDULED HEARINGS

* The motions, applications, or notices marked with an asterisk are exhibits to the corresponding local rule that contain substantive language that must be included in either the notice or the separate motion or application. Other forms may be posted on the Courts website.

Pleading	No. of Days for Objection
Motion to Reconsider Dismissal	Fourteen (14)
Motion to Withdraw as Counsel	Fourteen (14)
Motions for use of cash collateral; prohibit or condition the use, sale, or lease of property; or obtain credit (chapter 7, 11, and 12 cases)	Fourteen (14)
Contested Application to Employ (Applicant to Notice Hearing)	See SC LBR 2014-1
Motion to Reopen	Fourteen (14)
Motion for Hardship Discharge	Fourteen (14)
Reaffirmation Agreement with Presumption of Undue Hardship (Noticed by Debtor(s))	Fourteen (14)

Pleading	No. of Days for Objection
Trustees or debtors motion to sell, use or lease property (chapter 11 cases)*	Twenty-one (21)
Motion for determination of tax liability	Twenty-eight (28)

EXHIBIT D TO SC LBR 9013-4

UNITED STATES BANKRUPTCY COURT
DISTRICT OF SOUTH CAROLINA

IN RE:

CASE NO:
CHAPTER:

NOTICE OF HEARING

DEBTOR(S)

TAKE NOTICE that (Movant) filed a _____

[ANY SUBSTANTIVE INFORMATION OR LANGUAGE PRESCRIBED BY THE U.S. CODE, FEDERAL RULES, THIS COURT'S LOCAL RULES AND EXHIBITS SHOULD BE INCLUDED IN EITHER THE NOTICE OR MOTION/APPLICATION AND OPPORTUNITY FOR HEARING.]

A copy of the motion and proposed order accompanies this notice.

TAKE FURTHER NOTICE that any response, return, and/or objection to this motion should be filed with the Court no later than (enter number of days) days from service of motion (enter number of days from filing of motion/application if using form for § 1301 motion) and a copy simultaneously served on all parties in interest.

TAKE FURTHER NOTICE that the Court will conduct a hearing on _____, ____, at _____m., at _____, _____, South Carolina. No further notice of this hearing will be given.

Date: _____

Signature of Attorney

Typed Printed Name

Address/Telephone/Facsimile/E-mail

District Court I.D. Number

LOCAL RULE 9014-1: WRITTEN OBJECTIONS

When any order, plan, notice, statute, rule, pleading or any other document (any one of which is hereinafter referred to as the "document") requires parties in interest which oppose the relief sought in the document to make file an objection, return, or response, the following applies:

- (a) The objection must be in writing and properly captioned in accordance with Fed. R. Bankr. P. 9004 and set forth with particularity the reasons for opposition, citing applicable statutes, rules and controlling case law. The parties may be limited to arguing the matters raised in the objection.
- (b) Where opposing a motion for summary judgment, the objection or memorandum in support of objection should include a short and concise statement of the genuine issues of material facts which remain to be determined before judgment can be granted.
- (c) Prior to any scheduled hearing, the Court may consider withdrawals of objections, or settlements between the party requesting relief and the objecting parties indicated by consent order, and remove a matter from the hearing calendar.
- (d) If no objection is filed within the applicable time period, the Court may grant the movant relief without further hearing.

Notes:

(2008) Portions of former SC LBR 9014-4 were incorporated into this rule pursuant to Fed. R. Bankr. P. 9029(a) and the Judicial Conference's prescribed numbering conventions. Former paragraphs (b) and (e) were deleted pursuant to SC LBR 9011-3 and 9013-3.

(2013) Paragraph (d) is new.

LOCAL RULE 9018-1: DOCUMENTS SUBMITTED UNDER SEAL

Requests to seal documents pursuant to 11 U.S.C. § 107 or Fed. R. Bankr. P. 9018 shall be made by motion. If the motion itself contains confidential information, the movant shall file and serve electronically a redacted version clearly marked as such and shall submit the unredacted version to chambers.¹ The order authorizing the filing of such documents under seal shall be entered electronically unless otherwise directed by the Court. Following entry of the order, sealed documents shall be electronically filed using the appropriate CM/ECF event for sealed documents.

Notes:

(2013) This new rule incorporates provisions found in former Operating Order 08-07.

¹ Contact the court for the submission of in camera documents.

LOCAL RULE 9019-1: COMPROMISE AND SETTLEMENT¹

Notice of settlement or compromise must be filed and served within ten (10) days after the report of settlement to the Court. A form in substantial conformance with Exhibit A may be used. Notice of settlement or compromise must: (1) provide parties in interest sufficient detail of the settlement to arrive at a reasoned basis for objecting to or accepting the settlement or compromise, (2) be signed by the attorneys for the settling parties and any *pro se* party to the dispute, and (3) be accompanied by a consent settlement order. If a notice of settlement or compromise is not timely filed and served, the Court may strike the pleading or objection of the party responsible for the delay or take other action that is just.

Notes:

(2008) Portions of this rule were restyled.

(2009) The period to file a notice of settlement was amended to a multiple of seven as part of time computation amendments.

(2013) The time period to file a report of settlement was changed from 14 to 10 days.

¹ Chambers Guidelines must be considered in connection with this Local Rule because the judges may have differing procedures or requirements related thereto.

LOCAL RULE 9019-2: MEDIATION

- (a) **Initiation of Mediation and Costs.** Any party may file and serve on all other parties to the proceeding a motion for mediation.¹ A party opposing mediation shall have fourteen (14) days to file and serve an objection to the request. After reviewing the request, any objections and, if appropriate, conducting a conference with the parties, the Court may order mediation. The Court may also, *sua sponte* or upon stipulation of all parties, order mediation.² Unless the parties agree upon the sharing of the costs of the mediation, including fees of the mediator, the division of such costs shall be determined by the Court. Election of mediation by agreement of the parties shall occur no later than the earlier of the filing of a joint pretrial order, the time of the final pretrial conference, or seven (7) days prior to the hearing scheduled in a contested matter.
- (b) **Proposed Order.** Any order to mediate shall designate the mediator, specify responsibility for the costs of mediation, and may contain additional provisions regarding the conduct and timing of mediation and the duties and compensation of the mediator.³ The Court may stay the proceeding, in whole or in part, to allow time to complete mediation, but such proceedings and/or hearings related thereto are not to be delayed absent Court approval which may require a showing of exceptional circumstances.
- (c) **Selection of the Mediator.** The mediator may be selected from the list of mediators available via the Court or, upon the agreement of all the parties, may be some other person otherwise qualified by training or experience to mediate all or some of the issues involved. The mediator must promptly determine all conflicts or potential conflicts pursuant to applicable rules and disclose that circumstance to the parties in writing. If a dispute arises concerning the disqualifying effect of any conflict the Court shall resolve the issue and may appoint another mediator.
- (d) **Timing and Conclusion of Mediation.** Unless otherwise ordered, mediation shall be concluded within thirty (30) days of the order appointing a mediator. The mediator shall report to the Court in writing within seven (7) days following conclusion of mediation whether an agreement was reached by the parties and, if so, whether such agreement will resolve the proceeding and which party or parties will be responsible for the proposed order, stipulation, or notice of settlement. The proposed order, stipulation, or notice of settlement is due within fourteen (14) days of the mediator's report. If the proceeding is not resolved by mediation, the proceeding will be set for hearing, pre-trial conference, or trial in the ordinary course.

Notes:

(2008) Portions of this rule were restyled.

(2009) The periods in paragraphs (a) and (d) were amended to multiples of seven as part of time computation amendments.

(2013) Footnotes 2 and 3 and Exhibit A were added to incorporate provisions of the Chambers Guidelines.

¹ Mediation as described herein is contemplated to be non-binding unless the parties otherwise agree.

² A list of approved mediators may be obtained by contacting the Court.

³ Parties submitting a proposed order should submit an order in substantial conformance with Exhibit A.

EXHIBIT A TO SC LBR 9019-2

UNITED STATES BANKRUPTCY COURT
DISTRICT OF SOUTH CAROLINA

IN RE:

CASE NO:
CHAPTER:

DEBTOR(S)

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.

LOCAL RULE 9027-1: REMOVAL

Following removal to this Court pursuant to 28 U.S.C. § 1441 or 1452, the attorney for the party who sought removal shall electronically file copies of all documents previously filed in the removed case together with the Notice of Removal.

Notes:

(2013) This new rule incorporates provisions found in former Operating Order 08-07.

LOCAL RULE 9036-1: NOTICE BY ELECTRONIC TRANSMISSION

The electronic transmission of documents through CM/ECF to electronic filers constitutes sufficient notice and service of the document, except with respect to those documents to which the service requirements of Fed. R. Bankr. P. 7004 apply. Electronic transmission also constitutes Notice of Judgment or Order pursuant to Fed. R. Bankr. P. 9022.

Notes:

(2013) This new rule incorporates provisions of former Operating Order 08-07.

LOCAL RULE 9037-1: REDACTION OF PRIVACY INFORMATION

- (a) **Unredacted Documents.** Unless otherwise ordered by the Court, once a document containing private information is filed with the Court, a motion and proposed order¹ are required to disable public access to the document and a corrected document must be filed. If the filer is also the movant and does not wish to file a corrected document, the motion and proposed order should additionally include a withdrawal of the underlying document. The motion must contain specific information detailing how the pleading violates Fed. R. Bankr. P. 9037.
- (b) **Transcripts.** Access to transcripts filed with the Court will initially be restricted to allow interested parties the opportunity to review transcripts and request redaction. Upon submission of a proper request, transcripts published or otherwise made available to the public by the Court shall limit privacy protected information to the following:
1. the last four digits of the social security number and taxpayer identification number;
 2. the year of the individual's birth;
 3. the minor's initials; and
 4. the last four digits of the financial account number.
- (c) **Sealing.** The Clerk of Court is authorized, but not required, to seal any document that appears to be filed in violation of Fed. R. Bankr. P. 9037. The sealed document will be forwarded to the presiding judge to determine if the document should remain under seal and whether the filing party should be instructed to submit a redacted document.

Notes:

(2013) This rule is new. Paragraph (a) incorporates provisions of the Chambers Guidelines. Paragraph (b) incorporates Operating Order 08-04.

¹ Parties should submit proposed orders in substantial conformance with the attached exhibits. Exhibit A addresses those circumstances where a party that is not the filer of the document is seeking an order disabling public access due to privacy information. Exhibit B addresses those circumstances where the filer of the document is seeking an order disabling public access on its own motion

EXHIBIT A TO SC LBR 9037-1

UNITED STATES BANKRUPTCY COURT
DISTRICT OF SOUTH CAROLINA

IN RE:

CASE NO:
CHAPTER:

DEBTOR(S)

**ORDER DISABLING PUBLIC ACCESS TO FILED DOCUMENTS AND
DIRECTING FILING OF A CORRECTED PLEADING**

This matter comes before the Court on the motion of (name of movant) to disable public access to filed documents not in compliance with Federal Rule of Bankruptcy Procedure 9037. It appears that (name of filer) has filed a (name of pleading) which contains (description). Accordingly, pursuant to Federal Rule of Bankruptcy Procedure 9037(d), it is hereby:

ORDERED that the Clerk of Court shall disable public access to (name of pleading) filed by (name of filer) on (date of filing). Access to (name of pleading) may still be provided by the Clerk of Court to Debtor(s), Debtor's (s') attorney, the Trustee, if any, and the United States Trustee upon request.

Name of filer, by service of a copy of this Order, is directed to amend the (name of pleading) filed in this case within twenty (20) days from entry of this Order with any privacy information redacted.

EXHIBIT B TO SC LBR 9037-1

UNITED STATES BANKRUPTCY COURT
DISTRICT OF SOUTH CAROLINA

IN RE:

CASE NO:
CHAPTER:

DEBTOR(S)

**ORDER DISABLING PUBLIC ACCESS TO FILED DOCUMENTS AND
DIRECTING FILING OF A CORRECTED PLEADING**

This matter comes before the Court by (name of filer) on its own motion to disable public access to documents inadvertently filed with unredacted privacy information as set forth in Federal Rule of Bankruptcy Procedure 9037. The privacy information contained in the documents are (description). Accordingly, pursuant to Federal Rule of Bankruptcy Procedure 9037(d), it is hereby:

ORDERED that the Clerk of Court shall disable public access to (name of document) filed by (name of filer) on (date of filing). Access to (name of pleading) may still be provided by the Clerk of Court to Debtor(s), Debtor's(s)' attorney, the Trustee, if any, and the United States Trustee upon request.

(Name of filer) is directed to amend the (name of pleading) filed in this case within twenty (20) days from entry of this Order with any privacy information redacted.

LOCAL RULE 9070-1: EXHIBITS IN ADVERSARIES AND CONTESTED MATTERS¹

Unless otherwise provided by a court order:

- (a) **Submission of Exhibits.** Exhibits for a hearing or trial are to be submitted to the courtroom deputy in advance in accordance with Chambers Guidelines and exchanged with the opposing party. The party submitting the exhibits shall note any stipulation to the admission of the exhibits.
- (b) **Marking of Exhibits.** Exhibits must be marked for identification in advance of a hearing or trial. Parties must contact a courtroom deputy at least two (2) days prior to the hearing or trial in order to receive instructions on the marking of exhibits.
- (c) **Custody of Exhibits.** Exhibits admitted into evidence or marked for identification at a hearing or trial shall be claimed by the proponent within fourteen (14) days after expiration of the time for appeal, unless otherwise directed by the Court. If the party who offered the exhibit fails to claim it as provided herein, the Clerk of Court may provide notice to the attorneys of record and *pro se* parties advising that the exhibits will be destroyed if not claimed and removed within a specified time not less than fourteen (14) days thereafter.

Notes:

(2008) Portions of former SC LBR 9017-1 were incorporated into this rule pursuant to Fed. R. Bankr. P. 9029(a) and the Judicial Conference's prescribed numbering conventions.

(2009) Periods were amended to multiples of seven as part of time computation amendments.

(2010) Paragraph (a) was added to reflect the process announced to the bar on December 1, 2009.

(2013) The title of the rule was restyled and the introductory clause added. Paragraph (a) was added from the Chambers Guidelines and the remaining paragraphs re-lettered. Technical amendments were made to paragraph (b).

¹ Chambers Guidelines must be considered in connection with this Local Rule because the judges may have differing procedures or requirements related thereto.

LOCAL RULE 9075-1: EMERGENCY ORDERS

- (a) **Motions for Emergency or Expedited Hearing.** A motion for an emergency hearing or a hearing to be held on less than fourteen (14) days' notice should be filed as a separate document from the motion upon which relief is sought and should contain a complete and detailed explanation of the urgency of the request, including the proposed time for scheduling of a hearing, the potential for irreparable harm if relief is not granted, and the efforts made to communicate with other parties in interest to the motion in a good faith attempt to resolve the matter.
- (b) **Ex Parte Relief.** A pleading seeking *ex parte* relief, such as a temporary restraining order, shall be accompanied by a proposed order.
- (c) **Immediate Turnover.** In an adversary proceeding seeking immediate turnover of property, the filing party must also file a Motion For Immediate Turnover and a request for an expedited hearing on the motion.¹

Notes:

(2013) This new rule incorporates provisions of the Chambers Guidelines and SC LBR 9013-1(d).

¹ The Motion for Immediate Turnover should refer to the complaint and ask for the substantive relief of an immediate turnover. The request for an expedited hearing on the motion should be filed as a separate document.