

FILED

at ___ O'clock & ___ min.

FEB 10 2015

**UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF SOUTH CAROLINA**

United States Bankruptcy Court
Columbia, South Carolina (40)

IN RE:

COMMENCEMENT OF CHAPTER 13
CASES BY PRO SE DEBTORS VIA
TELEFAX AND/OR ELECTRONIC
MAIL

**THIRD AMENDED OPERATING
ORDER**

14-07'
DJS

CHAPTER 13 CASES

(Charleston Division Only)

All Chapter 13 bankruptcy cases filed by residents of the Charleston Division of the United States Bankruptcy Court for the District of South Carolina are assigned to the undersigned Judge under the present case assignment procedures. The Charleston Division is comprised of the following twelve counties: Allendale, Beaufort, Berkeley, Charleston, Clarendon, Colleton, Dorchester, Georgetown, Hampton, Horry, Jasper, and Williamsburg.

It appearing that under the Court's procedures, a *pro se* filer² of a bankruptcy case under any chapter ("*Pro Se* Filer") has been required to file a petition and other documents necessary to commence that case in paper form with the Clerk's Office, which is located at the J. Bratton Davis United States Bankruptcy Courthouse, 1100 Laurel Street, Columbia, South Carolina. *Pro Se* Filers often have difficulties making long distance travel and often need to file a Chapter 13 case at the last minute to stay foreclosure or other immediate collection efforts.

Fed. R. Bankr. P. 5001(a), which is entitled "Courts Always Open," expressly provides that "[t]he courts shall be deemed always open for the purpose of filing any pleading or other proper paper, issuing and returning process, and filing, making, or entering motions, orders and rules." While attorneys in this District have the ability and are, in fact, required to file petitions and other pleadings electronically via the Case Management/Electronic Case Files ("CM/ECF") system,³ a *Pro Se* Filer is not presently allowed to access CM/ECF. Unless a *Pro Se* Filer has

¹ This Operating Order amends the Second Amended Operating Order filed on September 5, 2014.

² If a *Pro Se* filer is the subject of an order of this Court barring the filing of documents with the Court, including a voluntary petition under Chapter 13, such documents filed by such filer will be stricken and will have no legal effect.

³ CM/ECF is the Federal Judiciary's case management system for all bankruptcy, district and appellate courts. CM/ECF allows courts to accept filings and provide access to filed documents over the Internet.

access to some additional means of filing a petition and those other documents necessary to commence a Chapter 13 case beyond physically delivering such documents by hand to the Clerk's Office in Columbia, the Court's availability to a *Pro Se* Filer may be unfairly limited.

In addition to filing documents with the Clerk's Office, Fed. R. Bankr. P. 5005(a)(1) provides that a bankruptcy judge "may permit the papers to be filed with the judge, in which event the filing date shall be noted thereon, and they shall be forthwith transmitted to the clerk."

In order to provide *Pro Se* Filers residing in the Charleston Division with better access to the Court and a means to file bankruptcy cases under Chapter 13 without the expense, delay, and potential prejudice of travel, it is hereby ORDERED that:

1. Pursuant to Fed. R. Bankr. P. 5005(a)(1) and 11 U.S.C. § 105, a ***Pro Se* Filer residing in the Charleston Division seeking to commence a Chapter 13 case** in this Court, is hereby permitted, except as provided in paragraph 3 below, to file those documents necessary to commence such case (each, a "Filing Document") with the undersigned Judge by telefax or electronic mail, which may include one or more of the following components necessary to meet the minimum requirements of a valid bankruptcy filing (See attached forms):
 - a) Chapter 13 bankruptcy petition (The required payment of the Chapter 13 filing fee of \$310.00 is addressed on page 3 of this Order),
 - b) names and addresses of all creditors (creditor matrix),
 - c) Statement of Social Security Number,
 - d) Statement of Compliance with Credit Counseling Requirement, and
 - e) application to pay filing fee in installments (if necessary).
2. Any Filing Document submitted to the Court must be **SIGNED** by the *Pro Se* Filer. Documents submitted by telefax should show a handwritten signature of the *Pro Se* Filer. Signatures on documents submitted by e-mail may be shown as a handwritten signature on a scanned document or by s/[Typed Debtor Name];
3. *Pro Se* Filers who filed a previous case by telefax or electronic mail are not eligible to file again using telefax or electronic mail and must file additional cases by U.S. Mail or in person at the J. Bratton Davis U.S. Bankruptcy Courthouse, 1100 Laurel Street, Columbia, SC 29201. **Any Chapter 13 filing by a *Pro Se* Filer who previously filed by telefax or email pursuant to this Order shall be null and void and have no legal effect, unless otherwise ordered;**

4. Prior to filing any Filing Document by telefax or electronic mail, a *Pro Se* Filer shall notify the Court of such filing by telephone at (803) 250-4003, and if not one is available, the *Pro Se* Filer shall leave a message at that number;
5. Any Filing Document submitted by a *Pro Se* Filer via telefax shall be submitted to the following telefax number: (803) 253-3368, and if that telefax number is unavailable, the following backup telefax number should be used, (803) 253-3464;
6. Any Filing Document submitted by a *Pro Se* Filer via electronic mail shall be submitted to the following electronic mail address, jwaites_prose@scb.uscourts.gov, in a portable document format (.pdf);
7. Any Filing Document filed by a *Pro Se* Filer via telefax or electronic mail shall include the following information on a cover sheet, an example of which is attached hereto as **Exhibit A**:
 - a) a brief statement by the *Pro Se* Filer explaining the time critical nature of the filing of the petition or other Filing Document,
 - b) the reason the *Pro Se* Filer cannot file the Filing Document in paper form at the Clerk's Office in Columbia in a timely fashion, and
 - c) the *Pro Se* Filer's relevant contact information;
8. Where any Filing Document requires an accompanying filing fee (Ex.: Fee for filing a Chapter 13 petition is \$310.00), such payment must be delivered in person or by U.S. Mail and received by the Clerk's Office at 1100 Laurel Street Columbia, SC 29201-2423 no later than 5 days following the filing of the petition;
9. If a *Pro Se* Filer elects to send payment for such fee via U.S. Mail, the Clerk's Office will only accept such payment in the form of a Cashier's Check or a Money Order made payable to **Clerk, U.S. Bankruptcy Court**. Cash **SHOULD NOT** be sent via U.S. Mail;
10. The original version of any Filing Document filed by a *Pro Se* Filer via telefax or electronic mail shall also be delivered in person or sent by U.S. Mail to the following address and received by the Clerk's Office no later than 5 days following the filing of the petition:

J. Bratton Davis United States Bankruptcy Courthouse
Attention: Clerk's Office (Pro Se Filer Original)
1100 Laurel Street
Columbia, SC 29201-2423

11. **The *Pro Se* Filer bears the risk of transmission—the failure to properly transmit a Filing Document may result in the determination that no filing was made;**
12. Any Filing Document transmitted to the Court by telefax or electronic mail is only valid when such document is received by the Court;
13. If the Court does not receive either the requisite filing fee or the original version of the Filing Document filed by a *Pro Se* Filer via telefax or electronic mail within the period set forth above, the Court may find that the *Pro Se* Filer's Chapter 13 petition is incomplete and the Court may dismiss the case without a hearing;
14. **Immediately following the submission of any Filing Document via telefax or electronic mail and no later than the next business day after such submission, the *Pro Se* Filer shall contact the Court by telephone at (803) 250-4003 to (i) confirm that the Court has received and filed of record the submission AND (ii) provide relevant information regarding the *Pro Se* Filer's case;**
15. All further filings by the *Pro Se* Filer should be submitted to the Court by U.S. Mail or in person at the J. Bratton Davis U.S. Bankruptcy Courthouse, 1100 Laurel Street, Columbia, SC 29201;
16. **This Order shall only apply to a Chapter 13 case filed by residents of the Charleston Division of the United States Bankruptcy Court for the District of South Carolina, which includes the counties of Allendale, Beaufort, Berkeley, Charleston, Clarendon, Colleton, Dorchester, Georgetown, Hampton, Horry, Jasper, and Williamsburg;**
17. **Any Chapter 13 filing by a person residing in the Court's other divisions (Columbia and Spartanburg) or any filing under another Chapter of the Bankruptcy Code submitted by telefax or email pursuant to this Order shall be null and void and have no legal effect, unless otherwise ordered by the Judge presiding in that case;**
18. The Clerk of Court is to promptly and prominently place a notice of this allowance/procedure on the Court's website within seven (7) days of the Order to provide the public with notice.

AND IT IS SO ORDERED.


UNITED STATES BANKRUPTCY JUDGE

Columbia, South Carolina
February 10, 2015

Exhibit A

Fax/Email Cover Sheet for Chapter 13 Emergency Filers in Charleston Division

Please Fax to (803) 253-3368. If unavailable, please fax to (803) 253-3464

Please Email to jwaites_prose@scb.uscourts.gov

Debtor's(s') Name(s): _____

Street Address: _____

City: _____ State: _____ County: _____ Zip Code: _____

Home Phone Number: _____ Cell Phone Number: _____

Work Phone Number: _____ Fax Number: _____

Best Time and Phone Number to Contact You: _____

Email Address(es): _____

Brief statement explaining why this filing is an emergency: _____

Reason why the filing document cannot be filed in person with the Clerk's Office in Columbia in a timely fashion: _____

NOTE: If you filed a previous case by telefax or electronic mail and it was dismissed, you are not eligible to file again using telefax or electronic mail and must file additional cases by U.S. Mail or in person at the J. Bratton Davis U.S. Bankruptcy Courthouse, 1100 Laurel Street, Columbia, SC 29201.

Exhibit B

Checklist for Filing a Bankruptcy Case by Fax in Charleston Division

- Fax/Email Cover Sheet for Chapter 13 Emergency Filers
- Chapter 13 Petition – **Signature Required.**
- Creditor Matrix (List of Creditor Names & Addresses) – **Signature Required.**
- Statement of Social Security Number – **Signature Required.**
- Statement of Compliance with Credit Counseling Requirement – **Signature Required** – Attach Certificate of Credit Counseling if you have received it from the Credit Counseling Agency.
- Filing Fee of \$310.00:
 - Submit Filing Fee of \$310.00 to the Court in form of Cashier's Check or Money Order (**DO NOT SEND CASH**) payable to **Clerk, U.S. Bankruptcy Court** by U.S. Mail or Deliver in Person to the J. Bratton Davis U.S. Bankruptcy Courthouse, 1100 Laurel Street, Columbia, SC 29201 no later than 5 days after filing the Chapter 13 Petition **OR**
 - Submit Application to Pay Filing Fee in Installments (if necessary) – **Signature Required.**

This checklist includes only those documents necessary to commence a Chapter 13 bankruptcy case. Other documents, including but not limited to, the Certificate of Credit Counseling, Schedules, Statements, Chapter 13 Plan, copies of payment advices, and Notice to Individual Debtor with Primarily Consumer Debts under 11 U.S.C. § 342(b), must be filed within 14 days of the filing of the petition unless a request for an extension of time to file such documents is granted by the Court.

