

**UNITED STATES BANKRUPTCY COURT  
EASTERN DISTRICT OF VIRGINIA  
Richmond Division**

**In re:**

**Motions Practice in the Richmond Division  
Only**

Richmond General Order 22-2

**ORDER CONCERNING MOTIONS PRACTICE  
IN THE RICHMOND DIVISION ONLY**

In response to the exigent circumstances created by the outbreak of Coronavirus Disease 2019 (COVID-19) in the United States and the Commonwealth of Virginia, Richmond Division General Order 20-5 was entered on May 29, 2020, implementing an amended Protocol in Response to Public Health Emergency (the “Protocol”) on an interim emergency basis beginning on May 31, 2020, and continuing until further notice. In light of the continuing levels of high transmission with respect to the COVID-19 pandemic in the Commonwealth and to address certain hearing-related ambiguities with Richmond General Order 22-1, it is hereby

**ORDERED** that Richmond General Order 22-1 is **VACATED** effective immediately; and it is further

**ORDERED** that the Protocol Concerning Motions Practice attached hereto is **ADOPTED** effective immediately, subject to further order of the Court; and it is further

**ORDERED** that the Clerk of the Court shall post this General Order on the Court’s website and distribute a copy to all registered CM/ECF users by email.

ENTERED: August 19, 2022

/s/ Kevin R. Huennekens  
KEVIN R. HUENNEKENS  
United States Bankruptcy Judge

/s/ Keith L. Phillips  
KEITH L. PHILLIPS  
United States Bankruptcy Judge

**UNITED STATES BANKRUPTCY COURT  
EASTERN DISTRICT OF VIRGINIA  
Richmond Division**

**PROTOCOL CONCERNING MOTIONS PRACTICE**

This protocol (the “**Protocol**”) applies in all bankruptcy cases and proceedings pending in the Richmond Division. To the extent of any inconsistency between this Protocol, the Local Bankruptcy Rules, and any applicable scheduling order, this Protocol shall govern. To the extent of any inconsistency between this Protocol and any applicable case management order, the case management order shall govern. Except as modified herein, applicable bankruptcy and non-bankruptcy law, including but not limited to Title 11 of the United States Code, the Federal Rules of Bankruptcy Procedure, and the Local Bankruptcy Rules, shall remain in full force and effect.

1. **Obligations of Parties and Counsel.** Parties and counsel are responsible for becoming familiar with this Protocol and monitoring the Court’s website and the dockets of their cases.
2. **Continuance of Hearings by the Court.** Hearings may be scheduled or rescheduled by the Court in its discretion, in which case parties shall be notified by the Clerk by such method as is reasonable under the circumstances.
3. **Continuance of Hearings by the Parties.** Routine matters set on the Court’s Wednesday dockets may usually be continued by contacting the courtroom deputies no later than 4:00 p.m. on the day prior to the Wednesday docket. Other motions may be continued, at the discretion of the Court, by consent of the parties only by motion and order.
4. **Procedures for Specific Types of Motions Pending.**
  - a. **Reaffirmation Agreements:** The Court will not conduct hearings on reaffirmation agreements for which there is a presumption of undue hardship under 11 U.S.C. § 524(m). Unless either (i) a response is filed by the counterparty to the agreement within fourteen (14) days of the date of the issuance of the notice of hearing on the reaffirmation agreements or (ii) the debtor(s) file a statement requesting alternate relief, the Court will issue an order not approving such agreement, but finding that the debtor(s) have complied with 11 U.S.C. §§ 521(a)(6) and 362(h). See *In re Husain*, 364 B.R. 211 (Bankr. E.D. Va. 2007); *In re Isom*, Case No. 07-31469, 2007 WL 2110318, 2007 Bankr. LEXIS 2437 (Bankr. E.D. Va. July 17, 2007).

- b. ***Motions to Extend the Automatic Stay Pursuant to 11 U.S.C. § 362(c)(3) and Impose the Automatic Stay Pursuant to 11 U.S.C. § 362(c)(4):*** Contemporaneously with any motion to extend or impose the automatic stay, the debtor(s) must file an affidavit(s) substantiating such motion. Upon expiration of the notice period, if no objections are timely filed and the debtor(s) has timely filed an affidavit(s), the Court may, in the exercise of the Court's discretion, cancel the hearing and the debtor(s) may submit a proposed order granting a motion to extend the automatic stay or motion to impose stay. The order may provide that the stay is extended effective as of the date the notice period expired.
- c. ***Motions to Approve Loan Modification:*** Upon expiration of the notice period, the Court may cancel the hearing and issue an order conditionally approving a loan modification agreement and scheduling a final hearing. In order for a loan modification to be approved on a final basis, the movant must submit a fully executed copy of the underlying loan agreement(s) and a proposed order.
- d. ***Applications to Approve Compensation:*** Upon expiration of the notice period, the movant may submit proposed orders approving applications to approve compensation. In Chapter 13 cases, such orders must be endorsed by the Chapter 13 trustee. For all other chapters, the proposed order must be endorsed by the United States trustee.
- e. ***Motions to Continue/Extend Deadlines:*** For motions to continue or extend any deadlines to which all necessary parties have consented, no notice period is required, and the parties may submit a consent order contemporaneously with the filing of the consent motion. For any other motion to continue or extend deadlines, unless expedited relief is requested, the movant must provide three (3) days' notice. Upon expiration of the notice period, the movant may submit an order granting the motion.
- f. ***Pre-trial Conferences:*** If all necessary parties are in agreement, in advance of any scheduled pre-trial conference, parties may contact the appropriate courtroom deputy to schedule a trial date. If the parties can select a mutually agreeable trial date and there is no other need to hold a pre-trial conference, the Court may enter a pre-trial order without convening the pre-trial conference.
- g. ***Motions for Relief from the Automatic Stay and Relief from the Co-Debtor Stay Subject to Standing Order 10-2:*** Upon expiration of the requisite notice period, in the absence of any response, the movant may submit proposed orders in compliance with Form B of Standing Order 10-2. Notwithstanding the foregoing, in Chapter 7 cases, if the Chapter 7 trustee has not abandoned the subject real or personal property, the proposed order must be endorsed by the Chapter 7 trustee.
- h. ***Consent Motions for Relief from the Automatic Stay Subject to Standing Order 10-2:*** As permitted by Rule 4001(d)(2) of the Federal Rules of Bankruptcy Procedure, no response period is required for a fully consensual motion for relief

from the automatic stay. For the avoidance of doubt, no hearing is required to be scheduled for a fully consensual motion for relief from stay.

5. **Procedures for Other Types of Motions Pending.** For any other motion not specified in paragraph 4 hereof, if the motion is properly noticed and served in accordance with applicable law, including the Federal Rules of Bankruptcy Procedure and the Local Bankruptcy Rules, and the specified response deadline passes without a timely objection being filed, the Court may, in the exercise of the Court's discretion, cancel the hearing and rule on the pleadings in accordance with Local Bankruptcy Rule 9013-1(L).
6. **Replies/Rebuttals When a Hearing Has Been Set or Requested.** The movant may not file a reply or rebuttal without first obtaining leave of Court.
7. **Remote Hearings.** In response to the continued challenges posed by the COVID-19 pandemic, unless ordered otherwise by the Court, all hearings will be conducted both in the courtroom and also remotely by videoconference using Zoom for Government.
  - a. ***Requirements for All Remote Participants:*** Per Standing Order 20-15, broadcasting, televising, recording, or photographing of bankruptcy court proceedings is strictly prohibited. All participants on a video conference are expected to conduct themselves as if they were physically in the courtroom. All participants must mute their audio when they are not speaking. All active participants (including witnesses) must enable both video and audio. The participants are expected to test their equipment to ensure that video/audio components are properly functioning prior to the hearing/trial and be prepared to proceed at the scheduled time. Problems stemming from the failure to make appropriate arrangements prior to the hearing/trial, or to adhere to this Protocol, may result in, inter alia, (i) the cancellation of the hearing/trial; (ii) the exclusion of an attorney, party or witness from testifying or participating at the hearing/trial; (iii) the termination of any participant's audio and/or video connection to the hearing/trial; and (iv) the imposition of sanctions.
  - b. ***For Matters to be Heard During Chapter 13 and Motion Day Dockets:*** Parties wishing to participate in hearings via Zoom for Government must transmit, via e-mail, a completed request form, linked [here](#) as a PDF-fillable request form, by the requesting party to the appropriate bankruptcy judge's chambers, as follows:

For Judge Huennekens' chambers:

[EDVABK-ZOOM-Judge\\_Huennekens@vaeb.uscourts.gov](mailto:EDVABK-ZOOM-Judge_Huennekens@vaeb.uscourts.gov)

For Judge Phillips' chambers:

[EDVABK-ZOOM-Judge\\_Phillips@vaeb.uscourts.gov](mailto:EDVABK-ZOOM-Judge_Phillips@vaeb.uscourts.gov)

NOTICE: This email address shall be used only to submit Zoom Requests. No other matters or requests will be considered by Chambers staff and under no circumstances will any such matters or requests be brought to the Judge's

attention. Failure to comply with these instructions may result in appropriate action, including but not limited to the imposition of sanctions.

Absent compelling circumstances, the request form should be submitted no later than two (2) business days prior to the hearing or proceeding. The appropriate bankruptcy judge's chambers will then provide the requesting party with a registration link. All participants must separately register for the video conference no later than one (1) business day prior to the hearing or proceeding. Persons that register will receive separate email notification on whether their registration has been approved or denied. In the event that registration is approved, the confirmation email will include the participant's unique link to the video conference.

- c. ***For All Other Matters:*** Unless otherwise ordered by the Court, the registration link will be provided to the moving party who shall provide appropriate notice. Parties wishing to participate in such hearings must pre-register using said link. Persons that register will receive separate email notification on whether their registration has been approved or denied. In the event that registration is approved, the confirmation email will include the participant's unique link to the video conference.
8. **Hearings Non-Evidentiary.** All counsel are encouraged to make liberal use of the Court's negative notice procedures. All self-scheduled hearings shall be treated as non-evidentiary hearings. To schedule an evidentiary hearing, the parties must contact the hearing judge's courtroom deputy.
9. **Evidence and Evidentiary Hearings.** The parties must contact the hearing judge's courtroom deputy to schedule evidentiary hearings. Unless otherwise ordered by the Court in advance, all witnesses shall appear in person for any evidentiary hearing, provided, however, a witness may attend remotely for an uncontested proffer. Any attorney or pro se litigant seeking to examine a witness or to offer other evidence (excluding evidence contained in a stipulation of fact) shall also appear in person. Parties are strongly encouraged to submit stipulations of fact in advance of any hearing, which stipulations should be electronically filed on CM/ECF. Unless otherwise ordered by the Court, parties must file any witness list, exhibit list, and all documentary evidence electronically on CM/ECF no later than twenty-four (24) hours in advance of the hearing/trial. Counsel should contact the Clerk's Office for instructions on how to provide any documentary evidence that is not in a suitable format to be filed electronically on CM/ECF.
10. **Notice of Hearings.** In light of the foregoing, Standing Order 21-12 no longer applies to hearings in the Richmond Division.
11. **Requests for Expedited Hearings and/or to Shorten Time.** Notwithstanding anything to the contrary herein, all requests for expedited hearings and/or to shorten time must be made in accordance with the Local Bankruptcy Rules and, in addition thereto, prior to

filing a motion for expedite hearing, the movant should contact the hearing judge's courtroom deputy for available hearing dates. For motions to incur debt, motions to sell real or personal property, or any other motion to which Rule 6004(h) of the Federal Rules of Bankruptcy Procedure would otherwise apply, if an expedited hearing is granted, Rule 6004(h) is hereby deemed waived.

12. **Deadlines.** Nothing herein shall prejudice the rights of any party to seek an extension of time or to request other relief.
13. This Protocol may be amended by further General Order, which shall be published on the Court's website and distributed by email to all CM/ECF users. Each Judge may vary this Protocol on a case-by-case basis in his discretion.