

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

In re:

**General Procedures in the Richmond
Division Only**

Richmond General Order 23-2

**ORDER CONCERNING GENERAL PROCEDURES
IN THE RICHMOND DIVISION ONLY**

It is hereby **ORDERED** that the General Procedures Concerning Motions Practice attached hereto are **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: February 10, 2023

/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**

GENERAL PROCEDURES CONCERNING MOTIONS PRACTICE

These general procedures (the “**Procedures**”) apply in all bankruptcy cases and proceedings pending in the Richmond Division except for “Chapter 11 Cases” as such term is defined in Exhibit 15 to the Local Bankruptcy Rules. To the extent of any inconsistency between these Procedures and the Local Bankruptcy Rules, this Procedures shall govern. To the extent of any inconsistency between this Procedures and any scheduling order or applicable case management order, the scheduling order or 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 Procedures 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 (i) a fully executed copy of the underlying loan agreement(s) and a proposed order; or (ii) a proposed order endorsed by the debtor, the Chapter 13 trustee, and the lender.
- d. ***Applications to Approve Compensation:*** Upon expiration of the notice period, the movant may submit proposed orders approving applications to approve compensation.
 - i. 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.
 - ii. In Chapter 7 cases, no hearing is required for an application for compensation for a professional properly engaged by the Chapter 7 trustee that (1) requests \$5000 or less in fees; and (2) is filed contemporaneously with the Chapter 7 trustee's final report.
- 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.
 - i. ***Motion to Approve Compromise Pursuant to Rule 9019 of the Federal Rules of Bankruptcy Procedure:*** For the avoidance of doubt, all motions to approve compromise pursuant to Rule 9019 of the Federal Rules of Bankruptcy Procedure (the “Bankruptcy Rules”) shall be scheduled for hearing on twenty-one (21) days’ notice, as provided in Bankruptcy Rule 2002. Upon expiration of the notice period, 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).
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.**¹ Unless ordered otherwise, all hearings will be conducted in person in the courtroom.
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. 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

¹ Meetings of creditors are not hearings conducted by the Court and, as such, do not fall within the parameter of this paragraph 7.

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.

- a. ***Exhibit Lists:*** The Exhibits List must be typewritten, double-spaced, and should briefly describe each Exhibit to be introduced at trial.

- b. ***Exhibits:***

- i. Exhibits must be numbered to correspond with the numbers assigned on the Exhibits List to such Exhibit. Each Exhibit should be labeled sequentially, numerically or alphabetically, on a colored adhesive label, in accordance with the following:

Plaintiff	Yellow Label	Numerically beginning No. 1
Defendant	Blue Label	Alphabetically, e.g., A, B, C, . . . AA, AB, etc.
Government	Yellow Label	Numerically beginning No. 101

In cases with more than one party, please identify the appropriate party on each Exhibit's label. In the case of a group of photographs or checks, please affix a separate label to each photograph or check, and number as follows:

Plaintiff	1-A, 1-B, 1-C, etc.
Defendant	A-1, A-2, A-3, etc.
Government	101-A, 101-B, 101-C, etc.

Unless such position would affect the readability of the Exhibit, the adhesive labels should be affixed at the bottom of the Exhibit.

- ii. Should a party seek to examine a witness at an evidentiary hearing or trial concerning an Exhibit, the party shall provide a copy of the exhibit to the witness. To do so, the party may either (1) provide the Court with a firmly bound and tabbed physical copy of the Exhibit(s) no later than one (1) business day prior to the evidentiary hearing or trial; or (2) utilize Courtroom technology to display the Exhibit(s). For the latter, the party is expected to have conducted all necessary testing and to be prepared to proceed at the scheduled hearing/trial time. The Court's IT department may be contacted for assistance and training in advance of the hearing. In the absence of exigent circumstances, any such request must be made no later than seven (7) days prior to the hearing/trial. Technical problems stemming from the failure to make appropriate arrangements prior to the hearing/trial may result in, inter alia, (i) cancellation of the hearing/trial; and (ii) the exclusion of evidence.

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 Procedures 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 Procedures on a case-by-case basis in his discretion.