

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

In re:

**Bankruptcy Court Operations Under the
Exigent Circumstances Created by the
Outbreak of Coronavirus Disease 2019
(COVID-19) for the Richmond Division
Only**

Richmond General Order 20-1—Addendum

**ORDER CONCERNING BANKRUPTCY COURT OPERATIONS UNDER THE
EXIGENT CIRCUMSTANCES CREATED BY THE OUTBREAK OF CORONAVIRUS
DISEASE 2019 (COVID-19) FOR THE RICHMOND DIVISION ONLY**

Richmond Division General Order 20-1 was entered on March 13, 2020, implementing the Protocol in Response to Public Health Emergency (the “Protocol”) on an interim emergency basis. The Protocol provides that it may be amended by further Standing Order. In light of the foregoing, it is

ORDERED that the amendments to the Protocol, as reflected on the following, are hereby **ADOPTED** on an interim emergency basis effective March 17, 2020 through and including April 30, 2020; and it is further

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

ENTERED: March 17, 2020

/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 IN RESPONSE TO PUBLIC HEALTH EMERGENCY

Effective March 16, 2020 through April 30, 2020

This protocol (the “Protocol”) applies in all bankruptcy cases and proceedings during the period of March 16, 2020 through April 30, 2020 (the “Protocol Period”) pending in the Richmond Division. During the Protocol Period, to the extent of any inconsistency between this Protocol, the local bankruptcy rules, and any applicable scheduling order, this Protocol shall govern. While this Protocol is intended to minimize the number of hearings held and in-person attendance at any required hearings, the due process rights and appellate rights of all parties-in-interest must be protected.

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. Counsel must make reasonable efforts to communicate with clients prior to any scheduled hearing and must specifically advise the client whether, in light of this Protocol, the client must attend said hearing.
2. **Continuance of Hearings by the Court.** Hearings may be scheduled or rescheduled by the Court to be heard during the Protocol Period. The Clerk shall provide notice of any such hearings scheduled or rescheduled by the Court.
3. **Continuance of Hearings by the Parties.** All matters, including final evidentiary hearings and trials, may be continued for cause upon consent motion and order. Cause will be construed liberally and will include both health-related reasons and travel difficulties. Routine matters set on Wednesdays (for Judge Phillips, before 9:30AM and for Judge Huennekens, before 11:30AM) may be continued by agreement of the parties by telephone call to the courtroom deputies.
4. **Modified Procedures for Specific Types of Motions Pending During the Protocol Period.** Unless a hearing is specifically requested or an objection is timely filed, during the Protocol Period, the Court will not conduct hearings on the following matters, but, instead, will rule on the pleadings after expiration of any requisite notice period:
 - a. **Reaffirmation Agreements:** The Court will not conduct hearings on reaffirmation agreements in which the debtor(s) is represented by counsel but counsel could not certify that it would not impose an undue hardship. In such cases, unless a response is filed by the counterparty to the agreement within fourteen (14) days of the date of filing of the reaffirmation agreements, the Court may issue orders not approving such agreements, but finding that the debtors 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

(Bankr. E.D. Va. July 27, 2007). The Court will continue with its pre-Protocol Period procedures as to any other types of reaffirmation agreement.

- b. ***Motions to Extend the Automatic Stay Pursuant to 11 U.S.C. § 362(c)(3)***: Upon expiration of the notice period, if no objections are timely filed and the debtor(s) has filed an affidavit in support of the motion, the debtor(s) may submit a proposed order granting a motion to extend the automatic stay. The order may provide that the stay is extended nunc pro tunc to the date the notice period expired. **If no affidavit is submitted, a hearing will be required.** This procedure does not apply to motions to impose the automatic stay pursuant to 11 U.S.C. § 362(c)(4). For either motions to extend the automatic stay or to impose the automatic stay, if a hearing is required, counsel for debtors are encouraged to proceed upon affidavit. Where testimony is required, the Court will liberally entertain requests for bridge orders pending a subsequent evidentiary hearing.
- c. ***Motions to Approve Loan Modification***: Upon expiration of the negative notice period, movants may submit proposed orders granting motions to approve loan modifications. 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). If the movant does not have a fully executed copy of the underlying loan agreement(s), the movant may request an order conditionally approving the loan agreement, but not scheduling a final hearing.
- d. ***Applications to Approve Compensation***: Upon expiration of the negative 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 consented to by all necessary parties, no negative 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 seven (7) days' negative 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 negative 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.

5. **Remote Hearings.** Unless otherwise ordered by the court, all non-evidentiary hearings during the Protocol Period may be conducted remotely by teleconference using CourtSolutions. All parties are encouraged to make liberal use of this policy.
6. **Hearings Non-Evidentiary.** All counsel are encouraged to make liberal use of the Court's negative notice procedures. All self-scheduled hearings during the Protocol Period shall be treated as non-evidentiary hearings. To schedule an evidentiary hearing, the parties must contact the hearing judge's courtroom deputy.
7. **Evidence.** Parties are encouraged to limit the number of persons attending a hearing, always strongly encouraged to submit stipulations of fact in advance of any hearing, which stipulations should be electronically filed on CM/ECF.
 - a. **Documentary Evidence:** Notwithstanding anything to the contrary in the local bankruptcy rules or scheduling order, documentary evidence must be filed electronically on CM/ECF no later than 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.
 - b. **Witness Testimony:** Parties are further encouraged to use deposition testimony and affidavits where appropriate. Where the parties cannot proceed on the deposition transcript or affidavit, witnesses may participate remotely at the discretion and pursuant to the direction of the hearing judge.
8. **Hearing Judge.** During the Protocol Period, hearings may be held by the judge assigned to the case, or by any other bankruptcy judge.
9. **Request for Expedited Hearings.** During the Protocol Period, expedited hearings must be requested in accordance with the local rules. In addition, counsel must send an email to the appropriate emergency contact, as detailed on Exhibit A hereto.
10. **Time Sensitive Orders or Other Court Action.** Any time-sensitive request not otherwise provided by paragraph 9 hereof should be directed to the appropriate emergency contact, as detailed on Exhibit A hereto.
11. **Deadlines.** Unless otherwise modified by order of the Court, all deadlines remain in full force in effect. The Court will consider any timely request to modify/toll deadlines, which should be made by appropriate motion and order.

12. This Protocol may be amended by further Standing 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 or her discretion.

EXHIBIT A
EMERGENCY CONTACT INFORMATION

Hon. Kevin R. Huennekens	EDVABK-Emergency-Judge_Huennekens@vaeb.uscourts.gov
Hon. Keith L. Phillips	EDVABK-Emergency-Judge_Phillips@vaeb.uscourts.gov

EXHIBIT 1
BLACKLINE OF PROTOCOL

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