

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF VIRGINIA
NORFOLK DIVISION
NEWPORT NEWS DIVISION

In re:)
) NORFOLK STANDING ORDER 20-2
AMENDED PROTOCOL FOR)
HEARINGS IN THE NORFOLK AND)
NEWPORT NEWS DIVISIONS DUE TO)
COVID-19 OUTBREAK,) NEWPORT NEWS STANDING ORDER 20-2
)

ORDER IMPLEMENTING AMENDED TEMPORARY HEARING PROTOCOL FOR
BANKRUPTCY CASES PENDING IN THE NORFOLK AND NEWPORT NEWS
DIVISIONS

This Order is being issued in response to the recent outbreak of Coronavirus Disease 2019 (COVID-19) in the United States and the Commonwealth of Virginia. On March 11, 2020, the World Health Organization characterized the COVID-19 outbreak as a pandemic. On March 12, 2020, the Governor declared a state of emergency in the Commonwealth of Virginia due to the continued spread of COVID-19. On March 13, 2020, the President of the United States declared a national emergency as a result of the COVID-19 outbreak. To combat the spread of COVID-19, public health officials urge all people to stay at home and to practice “social distancing” when engaging in essential tasks.¹ On March 30, 2020, the Governor of Virginia issued a temporary “stay at home” order, effective until June 10, 2020, prohibiting all individuals in Virginia from leaving their homes except under certain limited circumstances.² In addition, persons may be required to self-isolate entirely if they are at high risk of contracting or suffering complications from COVID-19, have a travel history to an area where COVID-19 is widespread in the community, or have been exposed to or diagnosed with COVID-19.³

¹ See Va. Dep’t of Health, <https://www.vdh.virginia.gov/coronavirus/prevention-tips/> (last visited April 27, 2020).

² See Exec. Order 55, [https://www.governor.virginia.gov/media/governorvirginiagov/executive-actions/EO-55-Temporary-Stay-at-Home-Order-Due-to-Novel-Coronavirus-\(COVID-19\).pdf](https://www.governor.virginia.gov/media/governorvirginiagov/executive-actions/EO-55-Temporary-Stay-at-Home-Order-Due-to-Novel-Coronavirus-(COVID-19).pdf) (last visited April 27, 2020).

³ See Va. Dep’t of Health, <http://www.vdh.virginia.gov/coronavirus/frequently-asked-questions/special-populations-immunocompromised-or-underlying-health-conditions/> (last visited April 27, 2020); <http://www.vdh.virginia.gov/coronavirus/local-exposure/> (last visited

Accordingly, to reduce the need for persons to leave their homes and engage in interpersonal contact, there is good cause to implement a temporary protocol that eliminates the need for in-person hearings.

Now therefore it is hereby ORDERED that the Amended Norfolk and Newport News Hearing Protocol (the "Protocol"), attached as Exhibit A to this Standing Order, is effective and applies to all hearings scheduled from May 1, 2020, through and including June 10, 2020 (the "Protocol Period") in all cases and proceedings to be filed or already pending in the Norfolk and Newport News Divisions of the United States Bankruptcy Court for the Eastern District of Virginia.

IT IS SO ORDERED.

FOR THE COURT:


FRANK J. SANTORO
Chief United States Bankruptcy Judge

Dated: April 21, 2020 

EXHIBIT A

AMENDED NORFOLK AND NEWPORT NEWS HEARING PROTOCOL

CATEGORY 1: Hearings that will be removed from the docket by the parties.

- Confirmation Hearings for Chapter 13 Plans that will be removed from the docket:
 - Uncontested Plan Confirmations: The Chapter 13 Trustee shall docket a prompt hearing cancellation if (1) the deadline for objections has expired; (2) the Chapter 13 Trustee has filed a recommendation regarding plan confirmation; and (3) any objections filed have been resolved or withdrawn. The Chapter 13 Trustee should then submit the confirmation order in the ordinary course.
 - Contested Confirmations that Require Amendment of the Plan: The Chapter 13 Trustee or an objecting creditor shall docket a prompt hearing cancellation if a consent resolution to the trustee's or creditor's objection to confirmation anticipates the filing of an amended plan. An order resolving the objection to confirmation should be submitted in the ordinary course.
 - Plans that are Amended Prior to the Scheduled Confirmation Hearing: The Court will terminate a scheduled confirmation hearing and remove it from the docket if an amended plan is filed prior to the scheduled confirmation hearing.

- Additional Matters: The moving party shall remove hearings set on the following matters from the docket with a prompt hearing cancellation if (1) the response/objection deadline has expired; and (2) no objections were filed or any objections have been resolved or withdrawn. The moving party should then submit an appropriate order with the endorsements of all necessary parties in the ordinary course.
 - Motions to Approve Loan Modification (except *nunc pro tunc*)
 - Motions to Allow Late Claim
 - Motions to Vacate Dismissal
 - Motions to Reopen
 - Motions to Extend Stay
 - Motions to Incur Debt (except *nunc pro tunc*)
 - Motions to Sell (except *nunc pro tunc*)
 - Motions for Hardship Discharge
 - Motions to Waive Compliance with § 1328 Certification and/or Post-Petition Financial Management Course
 - Fee Applications
 - Objections to Exemptions
 - Motions for Relief (with consent from all necessary parties, including co-debtors if relief is requested under § 1301(c)(1) or (3))
 - Notice of Default Under Motion for Relief from Stay

- Section 707(b) Motions to Dismiss
- Chapter 13 Trustee Motions to Dismiss

If the Court's record reflects that any of the above-listed items is ripe for a hearing cancellation in a specific case, but it has not been promptly removed from the docket by the trustee or moving party, the Court reserves the right to docket a hearing cancellation for that matter. The trustee or moving party must thereafter tender an appropriate order or re-notice the matter for a new hearing date.

If the moving party is not represented by legal counsel, the Court will either terminate the hearing and prepare an appropriate order or continue the matter, depending on the facts and circumstances of the case.

CATEGORY 1(A): The Court will remove scheduled hearings and enter an appropriate order resolving the following matters if the applicable conditions are satisfied:

- Reaffirmation Agreements. In cases where the debtor filed bankruptcy with the assistance of counsel, the Court will terminate the hearing and enter an appropriate order on the Reaffirmation Agreement if, by 3:00 p.m. the day prior to the scheduled hearing, counsel files a certification that to the best of counsel's knowledge, information, and belief, formed after an inquiry reasonable under the circumstances:
 - (1) the debtor is in possession of the property securing the debt to be reaffirmed;
 - (2) the property is in good condition;
 - (3) payments on the debt to be reaffirmed are current; and
 - (4) if applicable, the property securing the debt is insured.

No hearing cancellation should be filed by counsel.

- Deficiency Notices (Deficiencies Cured): If the Court determines a deficiency notice has been fully cured by 3:00 p.m. the day prior to the scheduled hearing, the Court will terminate the hearing and enter an appropriate Order.

CATEGORY 2: Hearings that will be automatically rescheduled by the Court to a date at least 45 days in the future (Parties will not need to re-notice):

- Confirmation Hearings for Chapter 13 Plans where (1) the trustee has not filed a recommendation regarding plan confirmation at least 7 days prior to the Confirmation Hearing date; and/or (2) an objection remains pending as of the Confirmation Hearing date. In these instances, the Court will send a notice of rescheduled confirmation hearing.

CATEGORY 3: Matters on which hearings will be held (these matters include the following and any other item not otherwise listed in Category 1 or 2):

- Contested Motions to Dismiss
- Contested Motions to Approve Loan Modification
- Contested Motions to Extend Stay
- Contested Motions to Incur Debt
- Contested Motions to Sell
- Contested Motions to Vacate
- Contested Motions to Reopen
- Contested Motions for Relief from Stay (*Motions for Relief that come before the Court for hearing should involve a true dispute with one or more of the respondent parties. If a full settlement is anticipated, a hearing cancellation should be docketed.*)
- Motions to Impose Stay
- Motions to Withdraw as Counsel for the Debtor(s)
- Motions seeking *nunc pro tunc* relief
- Notice of Final Cure Payment/Motion for Determination of Final Cure Payment
- Pretrial Conferences/Motions for Default Judgment Hearings
- Deficiency Hearings (not cured)
- Orders Setting Hearing
- Reaffirmation agreements in cases where counsel has not filed a certification in accordance with Category 1(A).
- Reaffirmation agreements in cases where the debtor is not represented by legal counsel.

The Court reserves the right to continue any of the above items on a case-by-case basis in lieu of holding a hearing.

IMPORTANT: Unless otherwise ordered, all hearings will be conducted remotely by teleconference using CourtSolutions (<http://www.court-solutions.com>). The moving party must promptly advise the Court if a matter requires the submission of evidence or witness testimony, so that the Court may continue the matter to a future date.

Noticing Hearings Scheduled During the Protocol Period: For notices of hearing filed after the date of the entry of Standing Order 20-2, if the hearing is scheduled to be held during the Protocol Period, the notice of hearing must state that (1) the hearing will be conducted telephonically via CourtSolutions; and (2) any party who wishes to appear at the hearing should review Norfolk/Newport News Standing Order 20-2, available on the Court's website, for more information.

Required Appearances (the Court may require additional appearances on a case-by-case basis):

- (1) Counsel for the debtor(s);

- (2) The debtor, only if the debtor is not represented by legal counsel.
- (3) The case trustee and/or United States Trustee and/or his/her counsel, as required based upon the relevant chapter of the Bankruptcy Code and the nature of the matter;
- (4) Counsel for the creditor in cases where the creditor is the moving or objecting party; and
- (5) The creditor, only if the creditor is not represented by legal counsel.

How to Appear Telephonically via CourtSolutions:

- All parties must register to appear telephonically via CourtSolutions at least 24 hours prior to the scheduled hearing.
 - If you fail to appear, the Court may either continue the matter or dismiss the matter for failure to prosecute if you are the moving party or deem your opposition waived if you are the respondent.
- Sign up for a CourtSolutions account if you do not have one already (<https://www.court-solutions.com/Signup>).
 - More information regarding “fee waived” accounts for unrepresented parties, trustees, and members of the public/media may be found below.
- To register, make a single reservation with the judge and list all of your matters on his or her court docket by case number so that you will only pay one appearance fee. That single reservation will work multiple times a day with the same judge on that day. The fee is charged once per reservation per day per judge per attorney.
- You will receive a confirmation email from CourtSolutions when your hearing registration is approved. The confirmation email may appear in your junk/spam folder.
- Approved participants must follow the dial-in instructions contained in the confirmation email. To access the online Hearing Dashboard during the call, log into CourtSolutions no more than 15 minutes before the scheduled hearing time and click the large orange button labeled, “Open Hearing Dashboard” (which button will only appear on the day of the hearing). Accessing the Hearing Dashboard will also provide the user with dial-in instructions.
- For more information, visit <https://court-solutions.zendesk.com/hc/en-us/categories/200278849-Lawyers-and-Participants-Frequently-Asked-Questions> (last accessed April 27, 2020).

Parties Proceeding Without Legal Counsel: “If you are a *pro se* party, need to make an appearance, and cannot pay the appearance fee, when you sign up for an account, click the boxes ‘I am not an attorney’ and ‘Certified Indigent.’ If you reply with the name of your bankruptcy judge, case name, and case number, you will be given a no-fee account.” CourtSolutions, <https://calls.courtsolutionsllc.com/updates/hello-world/> (last accessed April 27, 2020).

Trustees: If you need a free account, during the registration process you should click the boxes “I am not an attorney” and “Certified Indigent.” In reply, you will receive an email. Please reply with your name, your jurisdiction, and your position. CourtSolutions will establish a free account and advise you when you can begin using your account.

See CourtSolutions, <https://calls.courtsolutionsllc.com/updates/united-states-trustees-chapter-13-trustees/> (last accessed April 27, 2020).

Non-Party Members of the Public and Press (listen only hearings): To create an account, click the boxes “I am not an attorney” and “Certified Indigent” when creating an account. You will receive an automated response email from CourtSolutions. In response to the automated email from CourtSolutions, state that you are a non-party member of the public or press and provide the name of the judge assigned to the case. Upon approval, CourtSolutions will notify you and designate your account for this matter as a fee waived account. You will then be able to register for hearings related to that case(s) without any cost to you. Your participation in such hearings will be on a listen-only basis. You must make a reservation for the hearing(s) through CourtSolutions and request a listen-only line.

Prohibition on Broadcasting, Televising, Recording, or Photographing Proceedings: Pursuant to Standing Order 20-15, broadcasting, televising, recording, or photographing bankruptcy court proceedings is strictly prohibited.

Final Points:

- Parties and counsel are responsible for familiarizing themselves with this Protocol.
- During the Protocol Period, there will be no chapter 13 confirmation hearings in Norfolk or Newport News. These hearings will either be cancelled (Category 1) or continued by the Court (Category 2).
- During the Protocol Period, represented debtors are not required appear at hearings. Counsel must make all reasonable efforts to contact clients who have hearings scheduled during the Protocol Period to advise them that they need not appear. Represented debtors are permitted to appear telephonically if they so desire.
- On motion, the Court may continue hearings, excuse required appearances, grant expedited hearings, or otherwise afford relief from this Protocol for good cause shown.
- Newly filed chapter 13 plans and other pleadings should still be set for hearing in the ordinary course.