
MOTIONS TO RECONSIDER DISMISSAL

If a case is dismissed for failure to make payments, or for failure to resume payments after moratorium, you may be able to get the relief without requirement of hearing if the following conditions are met:

1. You will need to collect the funds needed to reinstate the case, or, if sent directly by the debtor, verify that the funds have been received by our office. If you are holding them, we will need your verification that you are sending the funds that day, as certified funds or as a check from your trust account. Please make sure to verify the amount needed with our office to be sure that we have the right amount – we do try to make the Objections as accurate as possible, but with possible debtor refunds or additional months to the hearing, the numbers may need updating.
2. You complete the attached (see next page) proposed Order, which requires your client's signature(s) – it shows the debtor's agreement that, if the case is reinstated, and if payments are missed in the future, the case should be re-dismissed.
3. On the day you send the proposed Order to our office by mail, with signatures, send a Word (or WordPerfect) version of the proposed order to us via email (send to Kimberly Lamontagne at lamontagne@charleston13.com with the hearing date & case number in the subject). *If you send this Order when the Motion is filed, we will hold it until all funds are received, but please let us know when you believe the funds have been received and all conditions are met, so that we know to look for the payment – we have no way of linking receipts to hearings, so it's important that you notify us.*
4. If ALL of the following are met AT LEAST FIVE (5) BUSINESS DAYS BEFORE THE HEARING (but earlier if possible):
 - a. The case was dismissed for nonpayment (PI, noncompliance of PI or PIII order, or failure to comply with moratorium order)
 - b. This office has verified receipt of all funds needed to cure the arrears,
 - c. We have received the signed agreement (we cannot accept "/s/" or faxed signatures – need "wet" signatures for you and your clients),
 - d. No previous motion to reconsider has been filed,
 - e. The case was not dismissed with prejudice, and
 - g. No other parties have objected to the relief.

Then we will file a proposed Order allowing the relief, in hopes that the Order will be granted in time to remove the hearing from the calendar.

Keep in mind that the hearing is NOT removed upon our filing the proposed order, but upon the entering of the Order and removal from the calendar. Debtor's(s') and your appearance are mandatory unless the hearing is removed from the calendar.

If any of these elements are not met or if there are other grounds for an objection, the motion would need to stay on the docket, and your client's(s') appearance (and yours) will be necessary.

¹ For those of you who collect the funds from the debtor, to hold until the hearing – keep in mind that the case has been dismissed, so that we will refund the money to the debtor if the relief is not granted. Please do not hold the funds, but send them on with an email or fax to us that it has been sent.