

TO: All Debtor Attorneys
FROM: James Wyman, Chapter 13 Trustee
RE: 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.¹ 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, and if there is a future dismissal for any reason, the case would be dismissed with prejudice for a period of one (1) year.
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 Kristen at ozegovich@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 motion is filed within 30 days of dismissal,
 - f. 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 with the “with prejudice” language, 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.

UNITED STATES BANKRUPTCY COURT FOR THE DISTRICT OF SOUTH CAROLINA

In re: Debtor(s).	Case No. Chapter 13 CONSENT ORDER GRANTING MOTION TO RECONSIDER DISMISSAL
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This matter comes before the Court upon the Debtor's(s') Motion to Reconsider Dismissal. The Trustee filed an Objection to the Motion. No other parties in interest have objected to the relief. Since that time, however, the debtor(s) have paid all funds to the Trustee to bring the Chapter 13 case current, the Trustee has verified the receipt of these funds, and all remaining issues as raised in the Trustee's Objection have now been resolved. All parties consent to the relief requested, but agree that if payments are missed in the future, the case should be dismissed, and that if the case is dismissed in the future, that the dismissal should be with prejudice, as indicated by their signatures below.

NOW, THEREFORE, upon the consents of the parties, as indicated by their signatures below,

IT IS HEREBY ORDERED that relief is granted from the Order of Dismissal entered _____, and the case is reinstated as of the date of entry of this Order, and

IT IS FURTHER ORDERED that this case may be dismissed upon written request of the trustee, without further notice or hearing, if the debtor(s) fail(s) to make future payments as they become due.

IT IS FURTHER ORDERED that any subsequent dismissal of the case will be with prejudice for a period of one (1) year from the date of entry of this Order, as to Chapters 11, 12 or 13.

AND IT IS SO ORDERED.

WE SO CONSENT:

Debtor(s) – if joint filing, each must sign

Debtor's attorney

James M. Wyman
Chapter 13 Trustee