

UNITED STATES BANKRUPTCY COURT
MIDDLE DISTRICT OF NORTH CAROLINA
OFFICE OF THE CLERK
P.O. BOX 26100
GREENSBORO, NORTH CAROLINA 27420-6100

June 10, 2022

To: Bankruptcy Attorneys

From: U.S. Bankruptcy Court Clerk's Office - Middle District of North Carolina

Re: Proposed Local Rule Revisions- the 3000 and 4000 Series

The Local Rules Committee is seeking public comment on proposed revisions to the Local Rules in the 3000 and 4000 series. A redlined version of the rules and a clean version of the rules, as they will read with the proposed revisions, are attached.

The comment period for these proposed revisions will run for 30 days from the date of this notice. Further announcement on the proposals will be made after the conclusion of the 30 days, after all comments are taken into consideration. Comments should be addressed to:

Local Rules Committee
U.S. Bankruptcy Court
P.O. Box 26100
Greensboro, NC 27420-6100

or

ncmbml_localrules@ncmb.uscourts.gov

LOCAL RULE 3001-1

CLAIMS AND EQUITY SECURITY INTERESTS - GENERAL; ELECTRONIC FILING OF CLAIMS

(a) ~~Electronic~~ **Filing of Proofs of Claim and Transfers of Claims.**

In all cases, proofs of claim ~~shall~~ **must** be filed electronically ~~with the clerk~~ according to the ~~procedures guidelines~~ established and published from time to time by the clerk. Those ~~procedures guidelines~~ are available from the clerk's office and are maintained on the court's website at, www.ncmb.uscourts.gov. ~~To correctly file a transfer of claim, the filer must attach and complete Director's Form B2100A. Supporting documentation may be attached within the same filing.~~

(b) **Procedures for Effect of Electronic Filing of Proofs of Claim.**

(1) ~~When filing proofs of claim, the claimant shall comply with the requirements of Bankruptcy Rule 3001(e) and (d) regarding the attachment of documentation in electronic format sufficient to establish the validity and status of the claim.~~ (2) The electronic filing of a proof ~~electronically with the clerk of claim or a transfer of claim~~ shall constitute the filing claimant's approved signature by law. ~~and~~ The provisions of 18 U.S.C. § 152 ~~shall~~ apply to such filing.

(2) (3) The electronic filing of a proof of claim ~~electronically or a transfer of claim in accordance with the clerk's procedures~~ shall constitute entry of the proof of claim document in the claims register records maintained by the clerk pursuant to under Bankruptcy Rule 5003 of the Federal Rules of Bankruptcy Procedure.

~~(c) Procedures for Electronic Filing of Transfers of Claims~~

~~(1) The filing of a transfer of claim electronically with the clerk shall constitute the filing claimant's approved signature by law and the provisions of 18 U.S.C. § 152 shall apply to such filing.~~

~~(2) The filing of a transfer of claim shall require the attachment of Director's Form B2100A properly completed by the filing claimant. Supporting documentation may be attached within the same filing.~~

~~(3) The filing of a transfer of claim electronically in accordance with the clerk's procedures shall constitute entry of the transfer of claim pursuant to Bankruptcy Rule 5003.~~

LOCAL RULE 3003-1

CHAPTER 11 CLAIMS

(a) **Period for Filing Chapter 11 Claims in a Case ~~other~~ Other than under Subchapter V.**

In a chapter 11 case other than under subchapter V, non-governmental units ~~shall~~ **must** file proofs of claim (if required to be filed) within 90 days after the date first set for the meeting of creditors

~~called pursuant to under 11 U.S.C. § 341(a), except as otherwise specified by order of the court, unless the court orders otherwise prior to the expiration of such period.~~

(b) Period for Filing Chapter 11 Claims in a Case under Subchapter V ~~Case.~~

In a chapter 11 case under subchapter V, non-governmental units ~~shall~~ **must** file proofs of claim (if required to be filed) within 70 days after the order for relief, ~~except as otherwise specified by order of the court entered prior to expiration of the period provided herein, unless the court orders otherwise prior to expiration of such period.~~

(c) Debtor Notification ~~of Chapter 11 Creditor~~ of Disputed, Contingent, or Unliquidated Claim.

In ~~a~~ chapter 11 cases, the debtor ~~shall~~ **must** notify each creditor whose claim is listed on the schedules as contingent, disputed, or unliquidated of that fact on or before: ~~(i)~~ 14 days after filing the schedules; ~~(ii)~~ 14 days after the addition of such creditor to the schedules; or ~~(iii)~~ 14 days after an amendment to the schedules which designates the ~~affected~~ creditor's claim as contingent, disputed, or unliquidated for the first time; ~~and Within 3 business days after service has been made, the debtor shall~~ file a certificate of service ~~with the clerk's office within 3 business days after service of the notification.~~ Failure to timely notify a creditor that its claim is listed as disputed, contingent, or unliquidated ~~shall~~ **will** result in the creditor's claim being deemed filed in the amount listed as disputed, contingent, or unliquidated, as though a proof of claim had been filed by the creditor.

LOCAL RULE 3011-1
UNCLAIMED FUNDS

(a) Definitions.

For purposes of this rule:

- (1) "Applicant" is the party submitting the application for payment of unclaimed funds, and the "Claimant" is the party entitled to payment of the unclaimed funds (the Applicant and Claimant may be the same);
- (2) "U.S. Attorney" is the United States Attorney for the Middle District of North Carolina;
- (3) "U.S. person" includes an individual who is a United States citizen or United States resident alien; a partnership, corporation, company or association created or organized in the United States or under the laws of the United States; an estate (other than a foreign estate); or a domestic trust (as defined in 26 C.F.R. 301.7701-7);
- (4) "Owner of Record" is the original payee entitled to funds appearing in the records of the court; and
- (5) "Proof of identity" includes documents such as an unredacted copy of a driver's license, another state-issued identification card, or a United States passport that includes the individual's current address.

(b) Deposit of Unclaimed Funds into the United States Treasury.

All unclaimed funds collected by the court will be deposited into the United States Treasury.

(c) Procedure for Disbursing Unclaimed Funds.

(1) Application for Payment of Unclaimed Funds.

The Applicant seeking disbursement of unclaimed funds must submit an application for payment of unclaimed funds (Form 1340) to the clerk's office in Greensboro at the following address: Attn: Finance Department, P.O. Box 26100, Greensboro, NC 27402-6100. The Applicant must also submit supporting documentation as described in subsection (c)(2) and a proposed order in substantial conformance with the court's standard order granting an application for payment of unclaimed funds, which can be found on the court's website, www.ncmb.uscourts.gov. The application and supporting documentation should not be submitted through the court's CM/ECF System.

(2) Supporting Documentation.

In addition to Form 1340, the Claimant's identity and right to the funds must be shown through supporting documentation. If there are joint Claimants, supporting documentation must be provided for both Claimants. Supporting documentation includes:

(A) Payee Information. The Claimant's social security or tax identification number must be provided to the court on either:

- (i) AO-213 or Form W-9 signed by the Claimant, if the Claimant is a U.S. person; or
- (ii) AO-215 and Form W-8 signed by the Claimant, if the Claimant is not a U.S. person.

A U.S. person who wishes to receive payment via electronic funds transfer must use AO-213.

(B) Owner of Record Information – Individual. If the Claimant is an individual and is the Owner of Record (the original payee entitled to the funds appearing on the records of the court), then the Claimant must provide:

- (i) their proof of identity;
- (ii) their notarized signature on Form 1340;
- (iii) the reasons why the original check was not received or negotiated; and
- (iv) proof of name change if the Owner of Record's name has changed since the funds were deposited with the court.

(C) Owner of Record Information – Business or Government Entity. If the Claimant is a business or government entity and is the Owner of Record, then the Claimant must provide:

- (i) proof of identity of the authorized representative who signs Form 1340;
- (ii) a notarized statement of the signing representative's authority;
- (iii) the reasons why the original check was not received or negotiated; and
- (iv) proof of name change if the Owner of Record's name has changed since the funds were deposited with the court.

(D) Successor Claimant Information – Individual. If the Claimant is an individual and is a successor to the Owner of Record (entitled to the funds as a result of assignment, purchase, merger, acquisition, succession, or other means), then the Claimant must provide:

- (i) their proof of identity;
- (ii) their notarized signature on Form 1340;
- (iii) documentation sufficient to establish the chain of ownership of the claim or the transfer of the claim from the Owner of Record to the Claimant;
- (iv) the full name and address of the Owner of Record; and
- (v) a brief statement of the facts by which the Claimant acquired the rights as successor in interest to the Owner of Record.

(E) Successor Claimant Information – Business or Government Entity. If the Claimant is a business or government entity and is a successor to the Owner of Record, then the Claimant must provide:

- (i) proof of identity of the authorized representative who signs Form 1340;
- (ii) a notarized statement of the signing representative's authority;
- (iii) if applicable, a notarized power of attorney signed by an authorized representative of the Claimant;
- (iv) documentation sufficient to establish the chain of ownership or the transfer of the claim from the Owner of Record to the Claimant;
- (v) the full name and address of the Owner of Record;
- (vi) a brief statement of the facts by which the Claimant acquired the rights as successor in interest to the Owner of Record; and

- (vii) if applicable, proof of sale of the company, prior and new owners, and a copy of the terms of any purchase agreement or stipulation by prior and new owners of the Claimant's right of ownership to the unclaimed funds.
- (F) Successor Claimant Information – Deceased Claimant's Estate. If the estate of a deceased Claimant seeks disbursement of the unclaimed funds, then the estate must provide:
 - (i) proof of identity of the estate representative who signs Form 1340;
 - (ii) certified copies of probate documents, including a copy of the death certificate and documents authorizing the representative to act on behalf of the Claimant or the Claimant's estate in accordance with applicable state law; and
 - (iii) documentation sufficient to establish the Claimant's identity and entitlement to the funds.
- (G) Claimant Representative Information. If the Applicant is the Claimant's attorney or other representative, then the Applicant must provide:
 - (i) proof of identity of the Applicant who signs and submits Form 1340;
 - (ii) a brief statement of the Applicant's authority to claim the funds on behalf of the Claimant;
 - (iii) a notarized power of attorney signed by the Claimant (or the Claimant's authorized representative) on whose behalf the Applicant is acting;
 - (iv) documentation sufficient to establish the Claimant's identity and entitlement to the funds, as set forth in subsections (B) through (F);
 - (v) the reasons why the original check was not received or negotiated; and
 - (vi) the full name of the Owner of Record;
 - (vii) the current address (if available) of the Owner of Record;
 - (viii) if the Applicant is asserting a claim on behalf of a successor to the Owner of Record, the full name, current address, social security or tax identification number of the successor, and a brief statement of the facts by which the successor acquired rights to the funds.

Unless the court orders otherwise, if the Applicant is the Claimant's attorney, any disbursement of unclaimed funds will be issued in the name of the Claimant but will be mailed to the Applicant.

(3) Service.

The Applicant must serve a copy of Form 1340, all supporting documentation, and the proposed order on the U.S. Attorney, the Owner of Record (if appropriate), the bankruptcy administrator, the trustee (if any), the debtor, the debtor's attorney (if any), and any other party who may have an interest in the funds. A certificate of service must be submitted with the application. Failure to serve these papers in the manner prescribed may result in denial of the application without a hearing.

(d) Objections.

Any objection to the application must be filed with the court within 21 days after the application is submitted and served on all parties listed in subsection (c)(3). If no timely objection is filed, the application and supporting documents may be considered by the court without a hearing.

(e) Fraud.

Any request for unclaimed funds presented to the court that appears to be based upon fraud will be referred to the U.S. Attorney for investigation and prosecution.

LOCAL RULE 3014-1

ELECTION UNDER § 1111(b) ~~BY SECURED CREDITOR IN SUBCHAPTER V CASE~~

Subchapter V Case.

In a case under subchapter V of chapter 11 in which 11 U.S.C. § 1125 of the Bankruptcy Code does not apply, ~~an election of application of § 1111(b)(2) of the Bankruptcy Code by~~ a class of secured creditors may ~~be made at any time~~ elect to apply 11 U.S.C. § 1111(b)(2) within 14 days ~~after of~~ the filing of the plan or within such later time as the court may fix prior to expiration of ~~the such period provided herein.~~

LOCAL RULE 3018-1

BALLOTS - VOTING ON PLANS

(a) ~~Unless otherwise ordered, all~~ **Original Ballots.**

All original ballots shall must be filed with the clerk's office clerk by the voting parties. Ballots may not be submitted through the court's CM/ECF System.

(b) **Summary of Voting.**

~~Any The~~ proponent of a plan shall must file a summary voting on the plan of ballots as they appear in the Bankruptcy record not later than 3 business days prior to the hearing on confirmation, ~~unless otherwise set by the court.~~

LOCAL RULE 4001-1
AUTOMATIC STAY - RELIEF FROM

~~(a) — Lifting of Stay Upon Abandonment~~

~~In chapter 7, 11, 12 and 13 cases, the abandonment of property pursuant to 11 U.S.C. § 554 shall have the effect of lifting the automatic stay (of 11 U.S.C. § 362(a)) with respect to the property abandoned.~~

~~(b) — Secured Creditor Inquiry with Chapter 13 Debtor or Co-debtor~~

~~(1) — In chapter 13 cases after confirmation, affected allowed secured creditors may inquire of the debtor or the co-debtor in writing of the following:~~

~~(A) — the status of insurance coverage on property used as collateral;~~

~~(B) — whether insurance premiums are paid directly by the debtor or co-debtor;~~

~~(C) — the location, inspection, and appraisal of the collateral; and~~

~~(D) — the status of direct payments.~~

~~(2) — Copies of all inquiries shall be sent to the debtor's attorney and the chapter 13 standing trustee.~~

~~(c) — Payment History~~

~~Where a ground presented by a motion for relief from stay includes the debtor's failure to make payments that became due after the filing of the bankruptcy case, the moving party shall include with the motion a reasonably understandable post-petition account history.~~

~~(a) **Motion Requirements.**~~

~~In a motion for relief from stay, the following must be included if applicable:~~

~~(1) the amount of the movant's debt as of the petition date and as of the time of the filing of the motion;~~

~~(2) a brief description of the movant's security interest, with copies of documents evidencing the security interest and its perfection attached to the motion;~~

~~(3) a general description of the property subject to stay;~~

~~(4) a list of all liens encumbering the property that are identified in the debtor's schedules, if any, or otherwise known to the movant;~~

- (5) the basis for relief (e.g., property not necessary for reorganization, debtor has no equity, property is not property of the estate, or specific facts constituting “cause”);
- (6) a valuation of the property, the basis of the valuation, and the date of the valuation; and
- (7) if the basis for relief includes the debtor’s failure to make payments that became due after the filing of the bankruptcy case, a reasonably understandable post-petition account history.

(b) Proposed Orders.

A proposed order granting relief stemming from a motion for relief from stay must, if applicable:

- (1) include a description of the property subject to the stay;
- (2) if the modification of the stay is conditional, set forth separately and with specificity each condition upon which relief is to be granted;
- (3) state whether the relief is in satisfaction of the claims secured by the property;
- (4) state that the creditor has 120 days for personal property and 180 days for real property from entry of the order granting the relief to file a deficiency claim, unless the court, for good cause shown by motion filed before the expiration of such period, extends the same; and
- (5) in chapter 7 and chapter 13 cases, state that upon disposition of the subject property, the movant must provide an explanation of any surplus to the trustee, the debtor’s attorney, and the debtor within 14 days and send payment of such surplus to the trustee within 60 days, pending further order of the court regarding its distribution.

(c) Cessation of Payment in Chapter 13 Cases.

When an order terminating the automatic stay is entered or a notice of termination of the automatic stay is filed with respect to any property, the trustee is authorized to cease payments upon all claims in the case secured by such property.

(d) Lifting of Stay Upon Abandonment.

The abandonment of property under 11 U.S.C. § 554 will have the effect of lifting the automatic stay with respect to that property.

(e) Secured Creditor Duties in All Cases.

- (1) A secured creditor who is receiving direct payments from a debtor must send to the debtor all payment coupons or statements of account and other correspondence that the creditor provides to its non-bankruptcy borrowers if (A) the debtor has indicated, in the Statement of Intention or chapter 13 plan, the intent to retain the secured creditor’s collateral by complying with the terms of the contract or (B) the debtor so requests.
- (2) If a secured creditor does not provide the payment coupons or statements of account referred to in subsection (e)(1), then, upon request by the debtor, that secured creditor must provide the debtor with a telephone number or other means to access account

information that would normally be provided by the payment coupons or statements of account.

(3) A secured creditor must respond promptly to a trustee's or debtor's reasonable requests for account information.

(4) The automatic stay and discharge injunction are each modified as follows:

(A) a secured creditor may contact a debtor in writing about the payment of property taxes due and the status of insurance coverage on property used as collateral;

(B) if there are direct payments to a creditor, the creditor may contact the debtor in writing about any payment in default; and

(C) if there are direct payments to a creditor, the creditor may send all payment coupons or statements of account and other correspondence to the debtor that the creditor sends to its non-debtor borrowers as described in subsection (e)(1).

(f) Stay of Eviction, Unlawful Detainer, or Similar Action.

(1) Deposit of Rent.

Any deposit of rent made by or on behalf of a debtor under 11 U.S.C. § 362(l)(1)(B) must be in the form of a certified check or money order, made payable to the order of the lessor and delivered to the clerk upon the filing of the petition and the certification under 11 U.S.C. § 362(l)(1)(A) (Official Form 101A).

(2) Filing of Judgment.

A debtor proceeding with the certification under 11 U.S.C. § 362(l)(1)(A) must file a copy of the pre-petition judgment for possession of the debtor's residence with the petition.

(3) Transmission to Lessor.

Upon receipt of: (A) a certified check or money order made payable to the order of a lessor, (B) a copy of the judgment for possession, and (C) the certification under 11 U.S.C. § 362(l)(1), the clerk will transmit the certified check or money order promptly to the lessor by certified mail to the address listed on the petition.

**LOCAL RULE 4003-1
EXEMPTIONS**

Claiming Exemptions.

Each debtor who is an individual and is claiming exempt property ~~pursuant to~~ under the laws of the ~~State~~ state of North Carolina and 11 U.S.C. § 522(b)(1) and (3) ~~shall~~ must claim such exemptions on Local Form ~~#91-C, which form is~~ 91C, available from the clerk's office; and maintained on the court's website, www.ncmb.uscourts.gov, the debtor's filing of Local Form ~~#91-C~~ 91C must be referenced in Schedule

~~‘C’~~ C of the debtor's schedules. Each debtor who is an individual and is claiming exempt property pursuant to under 11 U.S.C. § 522(b)(2) or pursuant to 11 U.S.C. § 522(b)(1) and (3) under a state's laws other than the laws of the State state of North Carolina shall must claim such exemptions on Schedule ~~‘C’~~.

LOCAL RULE 4008-1
REAFFIRMATION

(a) ~~Counsel-Attorney~~ Certification ~~Requirements~~ with Respect to Obligations Secured by Personal Property.

The obligation to ~~under Local Rule 3090-1(e)(4)~~ represent a debtor in connection with any reaffirmation agreement shall ~~include~~ includes the obligation ~~of debtor's counsel~~ to make reasonable efforts to obtain and review the underlying loan documents of any ~~obligation debt~~ proposed to be reaffirmed. ~~Debtor's counsel shall~~ The debtor's attorney must not execute an affidavit of the kind contemplated by 11 U.S.C. § 524(c)(3) in connection with any reaffirmation agreement purporting to reaffirm a debt secured by personal property, including without limitation any vehicle, unless ~~counsel the attorney~~ has reviewed documentation reflecting a perfected, non-avoidable lien on the personal property.

~~(b) Creditor Memorandum Regarding Non-dischargeability.~~

~~If a proposed reaffirmation agreement seeks to reaffirm a debt claimed to be nondischargeable, the creditor shall file a memorandum setting forth the basis for the nondischargeability, together with a declaration(s) establishing a prima facie case. Debtor's counsel shall not execute an affidavit of the kind contemplated by 11 U.S.C. § 524(c)(3) in connection with any reaffirmation agreement purporting to reaffirm an allegedly non-dischargeable debt prior to reviewing the declaration(s) from the creditor as required by this subsection.~~

(b) Supporting Documentation.

If ~~counsel for the debtor~~ debtor's attorney signs an affidavit under subsection (a) ~~of this rule,~~ evidence of a perfected, non-avoidable lien shall must be attached to any filed reaffirmation agreement or shall must be filed as a supplemental filing by ~~counsel for the debtor~~ the attorney within 3 business days of the filing of the reaffirmation agreement, with copies of such served on the trustee.

~~(d)(c) Reaffirmation Agreement Without Counsel Certification.~~

Any reaffirmation agreement that is unaccompanied by ~~a certification of counsel an affidavit from the debtor's attorney~~ as contemplated ~~under by~~ 11 U.S.C. § 524(c)(3) shall will be considered by the court under 11 U.S.C. § 524(c)(6) and/or (d).

LOCAL RULE 3001-1

CLAIMS & EQUITY SECURITY INTERESTS – GENERAL; ELECTRONIC FILING OF CLAIMS

(a) Filing of Proofs of Claim and Transfers of Claims.

In all cases, proofs of claim must be filed electronically according to the guidelines established and published from time to time by the clerk. Those guidelines are maintained on the court's website, www.ncmb.uscourts.gov. To correctly file a transfer of claim, the filer must attach and complete Director's Form B2100A. Supporting documentation may be attached within the same filing.

(b) Effect of Electronic Filing.

- (1) The electronic filing of a proof of claim or a transfer of claim constitutes the filing claimant's approved signature by law. The provisions of 18 U.S.C. § 152 apply to such filing.
- (2) The electronic filing of a proof of claim or a transfer of claim constitutes entry of the document in the records maintained by the clerk under Rule 5003 of the Federal Rules of Bankruptcy Procedure.

LOCAL RULE 3003-1

CHAPTER 11 CLAIMS

(a) Period for Filing Chapter 11 Claims in a Case Other than under Subchapter V.

In a chapter 11 case other than under subchapter V, non-governmental units must file proofs of claim (if required to be filed) within 90 days after the date first set for the meeting of creditors under 11 U.S.C. § 341(a), unless the court orders otherwise prior to the expiration of such period.

(b) Period for Filing Chapter 11 Claims in a Case under Subchapter V.

In a chapter 11 case under subchapter V, non-governmental units must file proofs of claim (if required to be filed) within 70 days after the order for relief, unless the court orders otherwise prior to expiration of such period.

(c) Debtor Notification of Disputed, Contingent, or Unliquidated Claim.

In a chapter 11 case, the debtor must notify each creditor whose claim is listed on the schedules as contingent, disputed, or unliquidated of that fact on or before: (1) 14 days after filing the schedules; (2) 14 days after the addition of such creditor to the schedules; or (3) 14 days after an amendment to the schedules which designates the creditor's claim as contingent, disputed, or unliquidated for the first time and file a certificate of service within 3 business days after service of the notification. Failure to timely notify a creditor that its claim is listed as disputed, contingent, or unliquidated will result in the creditor's claim being deemed filed in the amount listed as disputed, contingent, or unliquidated, as though a proof of claim had been filed by the creditor.

LOCAL RULE 3011-1
UNCLAIMED FUNDS

(a) Definitions.

For purposes of this rule:

- (1) “Applicant” is the party submitting the application for payment of unclaimed funds, and the “Claimant” is the party entitled to payment of the unclaimed funds (the Applicant and Claimant may be the same);
- (2) “U.S. Attorney” is the United States Attorney for the Middle District of North Carolina;
- (3) “U.S. person” includes an individual who is a United States citizen or United States resident alien; a partnership, corporation, company or association created or organized in the United States or under the laws of the United States; an estate (other than a foreign estate); or a domestic trust (as defined in 26 C.F.R. 301.7701-7);
- (4) “Owner of Record” is the original payee entitled to funds appearing in the records of the court; and
- (5) “Proof of identity” includes documents such as an unredacted copy of a driver’s license, another state-issued identification card, or a United States passport that includes the individual’s current address.

(b) Deposit of Unclaimed Funds into the United States Treasury.

All unclaimed funds collected by the court will be deposited into the United States Treasury.

(c) Procedure for Disbursing Unclaimed Funds.

- (1) Application for Payment of Unclaimed Funds.

The Applicant seeking disbursement of unclaimed funds must submit an application for payment of unclaimed funds (Form 1340) to the clerk’s office in Greensboro at the following address: Attn: Finance Department, P.O. Box 26100, Greensboro, NC 27402-6100. The Applicant must also submit supporting documentation as described in subsection (c)(2) and a proposed order in substantial conformance with the court’s standard order granting an application for payment of unclaimed funds, which can be found on the court’s website, www.ncmb.uscourts.gov. The application and supporting documentation should not be submitted through the court’s CM/ECF System.

- (2) Supporting Documentation.

In addition to Form 1340, the Claimant’s identity and right to the funds must be shown through supporting documentation. If there are joint Claimants, supporting documentation must be provided for both Claimants. Supporting documentation includes:

- (A) Payee Information. The Claimant's social security or tax identification number must be provided to the court on either:
- (i) AO-213 or Form W-9 signed by the Claimant, if the Claimant is a U.S. person; or
 - (ii) AO-215 and Form W-8 signed by the Claimant, if the Claimant is not a U.S. person.

A U.S. person who wishes to receive payment via electronic funds transfer must use AO-213.

- (B) Owner of Record Information – Individual. If the Claimant is an individual and is the Owner of Record (the original payee entitled to the funds appearing on the records of the court), then the Claimant must provide:

- (i) their proof of identity;
- (ii) their notarized signature on Form 1340;
- (iii) the reasons why the original check was not received or negotiated; and
- (iv) proof of name change if the Owner of Record's name has changed since the funds were deposited with the court.

- (C) Owner of Record Information – Business or Government Entity. If the Claimant is a business or government entity and is the Owner of Record, then the Claimant must provide:

- (i) proof of identity of the authorized representative who signs Form 1340;
- (ii) a notarized statement of the signing representative's authority;
- (iii) the reasons why the original check was not received or negotiated; and
- (iv) proof of name change if the Owner of Record's name has changed since the funds were deposited with the court.

- (D) Successor Claimant Information – Individual. If the Claimant is an individual and is a successor to the Owner of Record (entitled to the funds as a result of assignment, purchase, merger, acquisition, succession, or other means), then the Claimant must provide:

- (i) their proof of identity;
- (ii) their notarized signature on Form 1340;

- (iii) documentation sufficient to establish the chain of ownership of the claim or the transfer of the claim from the Owner of Record to the Claimant;
 - (iv) the full name and address of the Owner of Record; and
 - (v) a brief statement of the facts by which the Claimant acquired the rights as successor in interest to the Owner of Record.
- (E) Successor Claimant Information – Business or Government Entity. If the Claimant is a business or government entity and is a successor to the Owner of Record, then the Claimant must provide:
 - (i) proof of identity of the authorized representative who signs Form 1340;
 - (ii) a notarized statement of the signing representative’s authority;
 - (iii) if applicable, a notarized power of attorney signed by an authorized representative of the Claimant;
 - (iv) documentation sufficient to establish the chain of ownership or the transfer of the claim from the Owner of Record to the Claimant;
 - (v) the full name and address of the Owner of Record;
 - (vi) a brief statement of the facts by which the Claimant acquired the rights as successor in interest to the Owner of Record; and
 - (vii) if applicable, proof of sale of the company, prior and new owners, and a copy of the terms of any purchase agreement or stipulation by prior and new owners of the Claimant’s right of ownership to the unclaimed funds.
- (F) Successor Claimant Information – Deceased Claimant’s Estate. If the estate of a deceased Claimant seeks disbursement of the unclaimed funds, then the estate must provide:
 - (i) proof of identity of the estate representative who signs Form 1340;
 - (ii) certified copies of probate documents, including a copy of the death certificate and documents authorizing the representative to act on behalf of the Claimant or the Claimant’s estate in accordance with applicable state law; and
 - (iii) documentation sufficient to establish the Claimant’s identity and entitlement to the funds.

- (G) Claimant Representative Information. If the Applicant is the Claimant's attorney or other representative, then the Applicant must provide:
- (i) proof of identity of the Applicant who signs and submits Form 1340;
 - (ii) a brief statement of the Applicant's authority to claim the funds on behalf of the Claimant;
 - (iii) a notarized power of attorney signed by the Claimant (or the Claimant's authorized representative) on whose behalf the Applicant is acting;
 - (iv) documentation sufficient to establish the Claimant's identity and entitlement to the funds, as set forth in subsections (B) through (F);
 - (v) the reasons why the original check was not received or negotiated; and
 - (vi) the full name of the Owner of Record;
 - (vii) the current address (if available) of the Owner of Record;
 - (viii) if the Applicant is asserting a claim on behalf of a successor to the Owner of Record, the full name, current address, and social security or tax identification number of the successor, and a brief statement of the facts by which the successor acquired rights to the funds.

Unless the court orders otherwise, if the Applicant is the Claimant's attorney, any disbursement of unclaimed funds will be issued in the name of the Claimant but will be mailed to the Applicant.

(3) Service.

The Applicant must serve a copy of Form 1340, all supporting documentation, and the proposed order on the U.S. Attorney, the Owner of Record (if appropriate), the bankruptcy administrator, the trustee (if any), the debtor, the debtor's attorney (if any), and any other party who may have an interest in the funds. A certificate of service must be submitted with the application. Failure to serve these papers in the manner prescribed may result in denial of the application without a hearing.

(d) Objections.

Any objection to the application must be filed with the court within 21 days after the application is submitted and served on all parties listed in subsection (c)(3). If no timely objection is filed, the application and supporting documents may be considered by the court without a hearing.

(e) Fraud.

Any request for unclaimed funds presented to the court that appears to be based upon fraud will be referred to the U.S. Attorney for investigation and prosecution.

LOCAL RULE 3014-1
ELECTION UNDER 11 U.S.C. § 1111(b)

Subchapter V Case.

In a case under subchapter V of chapter 11 in which 11 U.S.C. § 1125 does not apply, a class of secured creditors may elect to apply 11 U.S.C. § 1111(b)(2) within 14 days after the filing of the plan or within such later time as the court may fix prior to expiration of such period.

LOCAL RULE 3018-1
BALLOTS - VOTING ON PLANS

(a) Original Ballots.

All original ballots must be filed with the clerk by the voting parties. Ballots may not be submitted through the court's CM/ECF System

(b) Summary of Voting.

The proponent of a plan must file a summary of voting on the plan not later than 3 business days prior to the hearing on confirmation.

LOCAL RULE 4001-1
AUTOMATIC STAY - RELIEF FROM

(a) Motion Requirements.

In a motion for relief from stay, the following must be included if applicable:

- (1) the amount of the movant's debt as of the petition date and as of the time of the filing of the motion;
- (2) a brief description of the movant's security interest, with copies of documents evidencing the security interest and its perfection attached to the motion;
- (3) a general description of the property subject to stay;
- (4) a list of all liens encumbering the property that are identified in the debtor's schedules, if any, or otherwise known to the movant;

- (5) the basis for relief (e.g., property not necessary for reorganization, debtor has no equity, property is not property of the estate, or specific facts constituting “cause”);
- (6) a valuation of the property, the basis of the valuation, and the date of the valuation; and
- (7) if the basis for relief includes the debtor’s failure to make payments that became due after the filing of the bankruptcy case, a reasonably understandable post-petition account history.

(b) Proposed Orders.

A proposed order granting relief stemming from a motion for relief from stay must, if applicable:

- (1) include a description of the property subject to the stay;
- (2) if the modification of the stay is conditional, set forth separately and with specificity each condition upon which relief is to be granted;
- (3) state whether the relief is in satisfaction of the claims secured by the property;
- (4) state that the creditor has 120 days for personal property and 180 days for real property from entry of the order granting the relief to file a deficiency claim, unless the court, for good cause shown by motion filed before the expiration of such period, extends the same; and
- (5) in chapter 7 and chapter 13 cases, state that upon disposition of the subject property, the movant must provide an explanation of any surplus to the trustee, the debtor’s attorney, and the debtor within 14 days and send payment of such surplus to the trustee within 60 days, pending further order of the court regarding its distribution.

(c) Cessation of Payment in Chapter 13 Cases.

When an order terminating the automatic stay is entered or a notice of termination of the automatic stay is filed with respect to any property, the trustee is authorized to cease payments upon all claims in the case secured by such property.

(d) Lifting of Stay Upon Abandonment.

The abandonment of property under 11 U.S.C. § 554 will have the effect of lifting the automatic stay with respect to that property.

(e) Secured Creditor Duties in All Cases.

- (1) A secured creditor who is receiving direct payments from a debtor must send to the debtor all payment coupons or statements of account and other correspondence that the creditor provides to its non-bankruptcy borrowers if (A) the debtor has indicated, in the Statement of Intention or chapter 13 plan, the intent to retain the secured creditor’s collateral by complying with the terms of the contract or (B) the debtor so requests.
- (2) If a secured creditor does not provide the payment coupons or statements of account referred to in subsection (e)(1), then, upon request by the debtor, that secured creditor must provide the debtor with a telephone number or other means to access account

information that would normally be provided by the payment coupons or statements of account.

- (3) A secured creditor must respond promptly to a trustee's or debtor's reasonable requests for account information.
- (4) The automatic stay and discharge injunction are each modified as follows:
 - (A) a secured creditor may contact a debtor in writing about the payment of property taxes due and the status of insurance coverage on property used as collateral;
 - (B) if there are direct payments to a creditor, the creditor may contact the debtor in writing about any payment in default; and
 - (C) if there are direct payments to a creditor, the creditor may send all payment coupons or statements of account and other correspondence to the debtor that the creditor sends to its non-debtor borrowers as described in subsection (e)(1).

(f) Stay of Eviction, Unlawful Detainer, or Similar Action.

- (1) Deposit of Rent.

Any deposit of rent made by or on behalf of a debtor under 11 U.S.C. § 362(l)(1)(B) must be in the form of a certified check or money order, made payable to the order of the lessor and delivered to the clerk upon the filing of the petition and the certification under 11 U.S.C. § 362(l)(1)(A) (Official Form 101A).

- (2) Filing of Judgment.

A debtor proceeding with the certification under 11 U.S.C. § 362(l)(1)(A) must file a copy of the pre-petition judgment for possession of the debtor's residence with the petition.

- (3) Transmission to Lessor.

Upon receipt of: (A) a certified check or money order made payable to the order of a lessor, (B) a copy of the judgment for possession, and (C) the certification under 11 U.S.C. § 362(l)(1), the clerk will transmit the certified check or money order promptly to the lessor by certified mail to the address listed on the petition.

**LOCAL RULE 4003-1
EXEMPTIONS**

Claiming Exemptions.

Each debtor who is an individual and is claiming exempt property under the laws of the state of North Carolina and 11 U.S.C. § 522(b)(1) and (3) must claim such exemptions on Local Form 91C, available from the clerk's office and maintained on the court's website, www.ncmb.uscourts.gov. Local Form 91C must be referenced in Schedule C of the debtor's schedules. Each debtor who is an individual and is

claiming exempt property under 11 U.S.C. § 522(b)(2) or 11 U.S.C. § 522(b)(1) and (3) under a state's laws other than the laws of the state of North Carolina must claim such exemptions on Schedule C.

LOCAL RULE 4008-1
REAFFIRMATION

(a) Attorney Certification with Respect to Obligations Secured by Personal Property.

The obligation to represent a debtor in connection with any reaffirmation agreement includes the obligation to make reasonable efforts to obtain and review the underlying loan documents of any debt proposed to be reaffirmed. The debtor's attorney must not execute an affidavit of the kind contemplated by 11 U.S.C. § 524(c)(3) in connection with any reaffirmation agreement purporting to reaffirm a debt secured by personal property, including without limitation any vehicle, unless the attorney has reviewed documentation reflecting a perfected, non-avoidable lien on the personal property.

(b) Supporting Documentation.

If the debtor's attorney signs an affidavit under subsection (a), evidence of a perfected, non-avoidable lien must be attached to any filed reaffirmation agreement or must be filed as a supplemental filing by the attorney within 3 business days of the filing of the reaffirmation agreement, with copies of such served on the trustee.

(c) Reaffirmation Agreement Without Counsel Certification.

Any reaffirmation agreement that is unaccompanied by an affidavit from the debtor's attorney as contemplated by 11 U.S.C. § 524(c)(3) will be considered by the court under 11 U.S.C. § 524(c)(6) and/or (d).