

UNITED STATES BANKRUPTCY COURT
MIDDLE DISTRICT OF NORTH CAROLINA

LOCAL BANKRUPTCY RULES



These rules are current as of: June 13, 2024

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LOCAL RULE 1001-1

SHORT TITLE; SCOPE OF RULES; CONSTRUCTION

(a) Short Title.

These are the Local Bankruptcy Rules of the United States Bankruptcy Court for the Middle District of North Carolina, which may be referred to as the “Local Rules” (hereinafter, the “rules”).

(b) Applicability.

- (1) **Scope of Rules.** The Federal Rules of Bankruptcy Procedure and these rules govern practice and procedure in all bankruptcy cases and adversary proceedings in this district. These rules supersede all previous Local Rules of the United States Bankruptcy Court for the Middle District of North Carolina.
- (2) **Construction of Rules.** These rules supplement the Federal Rules of Bankruptcy Procedure, and they will be construed so as to be consistent with the Federal Rules of Bankruptcy Procedure and applicable Federal Rules of Civil Procedure. To the extent that an order entered in a particular case or proceeding conflicts with these rules, the order will control.
- (3) **Supplements to Rules.** Nothing in these rules precludes the court from entering General, Administrative, or Standing Orders or guidelines to supplement the rules, copies of which may be obtained from the clerk and are available on the court’s website, www.ncmb.uscourts.gov.

(c) Modification or Suspension.

The court may modify or suspend the requirements set forth in these rules in the interest of justice.

(d) Sanctions for Noncompliance with Rules.

Failure to comply with the Federal Rules of Bankruptcy Procedure, these rules, or any order of the court may result in denial of the relief requested, dismissal, or other sanctions, including the assessment of damages and attorneys’ fees caused by the failure.

LOCAL RULE 1002-1

PETITION – GENERAL

(a) Automatic Dismissal Without a Hearing.

A petition will be dismissed without a hearing if the petition is filed by a person who, under an order of the court, may not be a debtor at the time of filing.

(b) Dismissal after Notice and an Opportunity for Hearing.

A petition may be dismissed after notice and an opportunity for hearing if:

- (1) the petition is not signed by the debtor(s);
- (2) the debtor does not: (i) pay the filing fee; (ii) file an application to pay the filing fee in installments (Official Form 103A); or (iii) in a case under chapter 7, file an application to have the chapter 7 filing fee waived (Official Form 103B);
- (3) the debtor does not file a master mailing list or matrix with the petition;
- (4) a debtor in a chapter 11 case does not file the list of 20 largest unsecured creditors (Official Form 104 for an individual debtor or Official Form 204 for a non-individual debtor) with the petition;
- (5) an individual debtor does not separately file a statement about the debtor's Social Security number (Official Form 121) contemporaneously with the petition; or
- (6) the debtor is a partnership, corporation, or other business entity (other than an individual conducting business as a sole proprietorship) and is not represented by an attorney admitted to practice before the court.

(c) Petition Authorized by a Power of Attorney.

When a petition is signed on behalf of the debtor by a person acting under the authority of a power of attorney, a copy of the power of attorney must be filed with the petition. The power of attorney must be valid under applicable non-bankruptcy law and be:

- (1) a general power of attorney, authorizing the attorney-in-fact to take any action the debtor could take with respect to claims, litigation, or similar legal proceedings; or
- (2) a special power of attorney, specifically authorizing the attorney-in-fact to file the petition.

LOCAL RULE 1006-1

FEES - INSTALLMENT PAYMENTS

(a) Chapter 13 Cases.

In a chapter 13 case, a meeting of creditors held under 11 U.S.C. § 341 will not be concluded until the entire filing fee is paid.

(b) Chapter 7 Cases.

In a chapter 7 case, a debtor will not receive a discharge until the entire filing fee is paid unless the court has entered, and not vacated, an order waiving the filing fee.

LOCAL RULE 1007-1
LISTS, SCHEDULES & STATEMENTS

(a) Resolution Authorizing Business Entity to File Petition.

Within 14 days after the filing of a voluntary petition by a business entity (other than an individual conducting business as a sole proprietorship), the debtor must file a copy of the signed resolution of the debtor's board of directors, managers, general partners, or other governing body authorizing the filing of the petition.

(b) Schedule of Creditors.

Any schedule of creditors containing more than five creditors should be alphabetized.

(c) Identification of Valuation Method.

If an individual debtor states a value of property listed in Schedule A/B (Official Form 106A/B), the method of valuation used must be identified.

(d) Payment Advices or Other Evidence of Payment Received.

- (1) Documents not Required to be Filed with the Court. Unless the court orders otherwise, a debtor is not required to file copies of payment advices or other evidence of payment, if any, received from an employer within 60 days before the filing of the petition.
- (2) Copies of Documents to be Provided Before Meeting of Creditors. Unless the court orders otherwise with respect to a party in interest, on timely written request by the bankruptcy administrator, trustee, or any party in interest, a debtor in a chapter 7, 11, or 12 case must provide copies of payment advices or other evidence of payment, if any, received from an employer within 60 days before the filing of the petition to the requesting party at least 7 days before the date first set for the meeting of creditors under 11 U.S.C. § 341. To be considered timely, a request must be received at least 14 days before the date first set for the meeting of creditors.
- (3) Copies of Documents to be Provided at Meeting of Creditors. A debtor in a chapter 7, 11, or 12 case must provide copies of payment advices or other evidence of payment, if any, received from an employer within 60 days before the filing of the petition for examination by the bankruptcy administrator, trustee, or any party in interest requesting examination of the documents at the meeting of creditors held under 11 U.S.C. § 341.
- (4) Copies of Documents to be Provided on Request. On written request by the bankruptcy administrator, trustee, or any party in interest, a debtor in a chapter 13 case must provide copies of payment advices or other evidence of payment, if any, received from an employer within 60 days before the filing of the petition for examination within 7 days after the request unless the court orders otherwise.

LOCAL RULE 1007-2

MAILING - LIST OR MATRIX

(a) Mailing List or Matrix Required upon Filing.

All voluntary chapter 7, 11, 12, and 13 petitions must be accompanied by an alphabetized list or matrix containing the names and addresses of all parties in interest, including all creditors; appropriate governmental agencies; the taxing authority for each parcel of real estate in which the debtor holds an interest; if the debtor is a corporation or a limited liability company, the name and title of the managing agent; and if the debtor is a partnership, each member of the partnership.

(b) Mailing List or Matrix Required upon Chapter 13 Conversion.

A debtor in a chapter 13 case who files a motion to convert or a notice of voluntary conversion to any other chapter must simultaneously file an alphabetized list or matrix containing the names and addresses of any creditors not previously listed in the debtor's schedules.

LOCAL RULE 1009-1

AMENDMENTS TO LISTS & SCHEDULES

(a) Service of Amendments to Petitions, Lists, Schedules, and Statements.

Any amendment to a petition, list, schedule (including Local Form 91C), or statement must be accompanied by a certificate of service. When an amendment is attached or submitted as a supplement to a motion, service of the motion is sufficient. The debtor must give notice of any amendment to a claim for property exemptions or any amendment to the petition to all creditors and other parties in interest.

(b) Amendments to Schedules and Mailing List or Matrix to Add Creditors.

If an amendment adds one or more creditors, the filer must serve a copy of the meeting of creditors notice on the affected creditor(s) and file a certificate of service.

LOCAL RULE 1015-1

JOINT ADMINISTRATION/CONSOLIDATION

Spouses Filing Joint Petition.

The estates of spouses filing a joint petition will be deemed consolidated for administrative purposes under 11 U.S.C. § 302(b) unless the court orders otherwise on motion filed within 14 days after the conclusion of the meeting of creditors held under 11 U.S.C. § 341.

LOCAL RULE 1019-1

CONVERSION – PROCEDURE FOLLOWING

(a) Disposition of Funds Held by Chapter 13 Trustee.

- (1) Retaining Funds. If a chapter 13 case is converted to a chapter 7 case, the trustee may retain possession of any funds collected but not yet disbursed at the time of the conversion pending:
 - (A) final determination as to whether the debtor converted the case in bad faith; and
 - (B) final determination as to whether all or any portion of the collected but undisbursed funds constitute prepetition wages or property acquired by the debtor before the filing of the petition.
- (2) Objection or Motion Relating to Distribution of Funds. Any objection or motion related to the distribution of funds held by the trustee must be filed within 10 days after the case is converted.

(b) Final Report and Account.

If a chapter 13 case is converted to a chapter 7 case, the trustee must file a final report and account by the later of (1) 45 days after the conversion, or (2) 14 days after entry of a final order on any objection or motion described in subsection (a)(2). Filing constitutes transmission of the final report and account to the bankruptcy administrator.

LOCAL RULE 2002-1

NOTICE TO CREDITORS & OTHER INTERESTED PARTIES

(a) Limitation of Notice in Chapter 13 Cases.

After 70 days following the filing of a chapter 13 petition or the date of an order converting a case to chapter 13, all notices required by Rule 2002(a) of the Federal Rules of Bankruptcy Procedure may be mailed only to the debtor; the trustee; all indenture trustees; creditors that hold claims for which proofs of claim have been filed; creditors, if any, that are still permitted to file claims because an extension was granted under Rule 3002(c)(1) or (c)(2) of the Federal Rules of Bankruptcy Procedure; and parties in interest who expressly request notice.

(b) Recording Notice on the Public Records.

In a chapter 13 case, the trustee is authorized to record on the public records any documents the trustee deems advisable for the purpose of giving notice of the case.

LOCAL RULE 2004-1

DEPOSITIONS & EXAMINATIONS

(a) Required Conference.

A party requesting an examination under Rule 2004 of the Federal Rules of Bankruptcy Procedure must confer, or make a good-faith attempt to confer, with the party whose examination is requested to set a mutually agreeable date.

(b) Content of Motion for Examination Under Rule 2004.

A motion for examination under Rule 2004 of the Federal Rules of Bankruptcy Procedure must state the proposed date, time, and location of the examination and indicate whether the debtor and the party whose examination is requested (if different) consent to the examination as proposed.

(c) Service of Motion for Examination Under Rule 2004.

A motion for examination under Rule 2004 of the Federal Rules of Bankruptcy Procedure must be served on the debtor, the trustee (if any), the party whose examination is requested, and any other party required to be served by the Federal Rules of Bankruptcy Procedure.

LOCAL RULE 2007.1-1

TRUSTEES & EXAMINERS (CH. 11)

(a) Election of Trustee in a Chapter 11 Case other than under Subchapter V.

- (1) Request for an Election. A request to convene a meeting of creditors for the purpose of electing a trustee in a chapter 11 reorganization case (other than one under subchapter V) must be filed and transmitted to the bankruptcy administrator in accordance with Rule 5005 of the Federal Rules of Bankruptcy Procedure within the time prescribed by 11 U.S.C. § 1104(b). Pending court approval of the person elected, the person appointed trustee under 11 U.S.C. § 1104(d) will serve as trustee.
- (2) Manner of Election and Notice.
 - (A) Election. An election of a trustee under 11 U.S.C. § 1104(b) must be conducted in the manner provided by Rules 2003(b)(3) and 2006 of the Federal Rules of Bankruptcy Procedure.
 - (B) Notice. Notice of the meeting of creditors convened under 11 U.S.C. § 1104(b) must be given in the manner and within the time provided by Rule 2002(a) of the Federal Rules of Bankruptcy Procedure.
 - (C) Proxy. A proxy for the purposes of voting in the election may be solicited only by a creditor's committee appointed under 11 U.S.C. § 1102 or by any other party entitled to solicit a proxy under Rule 2006 of the Federal Rules of Bankruptcy Procedure.

- (3) Resolution of Disputes. If it is necessary to resolve a dispute regarding the election, the bankruptcy administrator must promptly file a report informing the court of the dispute. If a motion to resolve the dispute is not filed within 14 days after such report is filed, the bankruptcy administrator must file a motion to approve the appointment of a trustee.

(b) Appointment of Trustee in a Subchapter V Case.

If the court has not appointed one or more standing trustees to serve in cases under subchapter V of chapter 11, the bankruptcy administrator must promptly file a notice identifying the disinterested individual who will serve as the trustee in a subchapter V case, including the individual's name and address.

LOCAL RULE 2014-1

EMPLOYMENT OF PROFESSIONALS

(a) Proposed Arrangement for Compensation of Professional in a Chapter 11 Case.

An application to employ a professional in a chapter 11 case must disclose the proposed arrangement for compensation of the professional and be signed by the debtor, committee, or trustee (if any). If there is a retainer, the application must disclose all prepetition fees and expenses drawn down against the retainer. Any written retainer agreement must be attached to the application.

(b) Service of Application to Employ Professional in a Chapter 11 Case.

An application to employ a professional in a chapter 11 case must be served on the bankruptcy administrator, the debtor, the attorney for the debtor, all secured creditors, members of any creditors' committee, attorneys for any creditors' committee, and the trustee (if any). If there is no committee, the movant must serve the application on the 20 largest unsecured creditors in the case.

LOCAL RULE 2016-1

COMPENSATION OF PROFESSIONALS

Quarterly Fee Applications in a Chapter 11 Case.

A quarterly application for the interim allowance of fees in a chapter 11 case must be filed on or before the 21st day of the month following the end of the calendar quarter for which the professional seeks such interim allowance; late filed applications will be processed in the succeeding quarter.

LOCAL RULE 2072-1
NOTICE TO OTHER COURTS

(a) Parties to Receive Notice.

A debtor must promptly send notice of a bankruptcy filing to the following persons:

- (1) the clerk of any court where the debtor is a party to a pending civil action or proceeding;
- (2) all parties of record to any pending civil action or proceeding to which the debtor is also a party unless:
 - (A) the debtor files a statement with the bankruptcy court, identifying the other parties to and describing the details of the pending action or proceeding, and the debtor certifies that the interests of the other parties will not be affected by the filing; and
 - (B) the court, after reviewing the statement, does not otherwise determine that such notice should be sent;
- (3) if a pending civil action or proceeding in which the debtor is a party has been referred to a designated judge, to such judge; and
- (4) if the debtor is a party to an arbitration, to the arbitrator or arbitration panel, as applicable.

(b) Content of Notice.

The notice must include the caption and file number of the civil action or proceeding for which it is being sent, as well as the name and address of the bankruptcy administrator and any trustee in the bankruptcy case.

LOCAL RULE 2090-1
ATTORNEYS - ADMISSION TO PRACTICE

(a) Attorneys Licensed in this Judicial District.

Except as otherwise provided in this rule, only those persons admitted to practice before the United States District Court for the Middle District of North Carolina are permitted to practice before the court.

(b) Special Appearance.

- (1) Procedure. An attorney who is a member in good standing of the bar of any United States District Court or the highest court of any state or the District of Columbia may specially appear before the court in a case or proceeding by: (a) associating with a member of the bar of the United States District Court for the Middle District of North Carolina, (b) registering as a filing user in the court's CM/ECF System, and (c) entering a Notice of

Special Appearance and Request for Notices in the case or proceeding, detailing the identity of local counsel. No motion is required.

- (2) **Disciplinary Jurisdiction.** By entering a special appearance, an attorney submits to the disciplinary jurisdiction of the court for any alleged misconduct of that attorney arising in the course of or in the preparation for such case or proceeding.
- (3) **Duties of Local Counsel.** A member of the bar of the United States District Court for the Middle District of North Carolina who accepts employment in association with a specially appearing attorney is responsible to the court for the conduct of the case or proceeding and must review and sign all pleadings and papers, except for certificates of service. Such member must be present during pretrial conferences and all hearings unless otherwise permitted by the court.

(c) Government Representation.

An attorney who is an employee of a governmental agency may represent that governmental agency before the court without associating with a member of the bar of the United States District Court for the Middle District of North Carolina.

LOCAL RULE 2090-2

ATTORNEYS - DISCIPLINE & DISBARMENT

(a) Standards of Conduct.

The court adopts the Rules of Professional Conduct of the North Carolina State Bar, as adopted by the Supreme Court of North Carolina and amended from time to time, except as otherwise provided by a specific rule of the court. Acts or omissions by an attorney practicing before the court that violate these rules of professional conduct constitute misconduct and will be grounds for discipline, whether or not they occurred in the course of an attorney-client relationship.

(b) Disciplinary Enforcement.

After notice and an opportunity for hearing, any attorney practicing before the court may be suspended from practice, reprimanded, subjected to monetary sanctions, or subjected to such other disciplinary action as the circumstances may warrant for misconduct as defined in these rules.

(c) Duty to Inform the Clerk.

Any attorney practicing before the court must promptly inform the clerk upon being subjected to public discipline by any court or by the state bar of any state.

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) Signature. The electronic filing of a proof of claim or a transfer of claim constitutes the filing claimant's approved signature by law. Without limitation, the provisions of 18 U.S.C. § 152 apply to such filing.
- (2) Claims Register. 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, 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. The debtor must 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;
- (2) “Claimant” is the party entitled to payment of the unclaimed funds and the party to whom the funds will be distributed (the Applicant and Claimant may be the same). The Claimant may be the original payee entitled to the funds appearing in the records of the court or a successor to the original payee that is entitled to the funds as a result of assignment, purchase, merger, acquisition, succession, or other means;
- (3) “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.
- (4) “U.S. Attorney” is the United States Attorney for the Middle District of North Carolina;
- (5) “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); and

(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 must submit a properly completed Form 1340, as may be revised and published on the court’s website, www.ncmb.uscourts.gov, 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 all supporting documentation and information as described in subsection (c)(2), a certificate of service as described in subsection (c)(3), and a proposed order in substantial conformance with the court’s standard order granting an application for payment of unclaimed funds, which may be found on the court’s website, www.ncmb.uscourts.gov. The application and supporting documentation and information should not be submitted through the court’s CM/ECF System.
- (2) Supporting Documentation and Information. The Claimant’s identity and right to the funds must be shown through supporting documentation and information. If there are joint Claimants, supporting documentation and information must be provided for both Claimants. Supporting documentation and information includes:
 - (A) Payee Documentation. The Claimant’s social security or tax identification number must be provided to the court on either:

- (i) a completed AO-213P or Form W-9 signed by the Claimant, if the Claimant is a U.S. person; or
- (ii) a completed 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-213P.

(B) **Individual Claimant Documentation and Information.** If the Claimant is a living individual, then the Applicant must provide:

- (i) proof of the Claimant's identity;
- (ii) the Claimant's notarized signature (incorporated into Form 1340);
- (iii) if the Claimant is the original payee entitled to the funds appearing in the records of the court, a brief statement explaining why the original check was not received or negotiated and proof of any name change since the funds were deposited with the court; and
- (iv) if the Claimant is a successor to the original payee, a brief statement explaining how the Claimant acquired the rights as holder of the claim and documentation sufficient to establish the chain of ownership of the claim.

(C) **Business or Government Entity Claimant Documentation and Information.** If the Claimant is a business or government entity, then the Applicant must provide:

- (i) proof of identity of the authorized representative who signs Form 1340 for and on behalf of the business or government entity;
- (ii) a notarized statement of the signing representative's authority;
- (iii) if the Claimant is the original payee entitled to the funds appearing in the records of the court, a brief statement explaining why the original check was not received or negotiated and proof of any name change since the funds were deposited with the court; and
- (iv) if the Claimant is a successor to the original payee, (1) a notarized power of attorney signed by an authorized representative of the successor entity, if applicable; (2) a brief statement explaining how the Claimant acquired the rights as holder of the claim; and (3) documentation sufficient to establish the chain of ownership of the claim, including, if applicable, proof of sale of the entity, identification of prior and new owners of the entity, and a copy of the terms of any purchase agreement

or stipulation by the prior and new owners as to the Claimant's right of ownership to the unclaimed funds.

- (D) Estate Documentation and Information. If the Applicant is a representative for the estate of a deceased Claimant, then the Applicant must provide:
- (i) proof of identity of the estate representative who signs Form 1340;
 - (ii) certified copies of probate documents or other documents authorizing the representative to act on behalf of the decedent or the decedent's estate in accordance with applicable state law; and
 - (iii) documentation sufficient to establish the deceased Claimant's identity and entitlement to the funds.
- (E) Claimant Representative Documentation and Information. If the Applicant is the Claimant's attorney or other representative not otherwise covered by subsection (c)(2)(D), 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; and
 - (iv) documentation and information sufficient to establish the Claimant's identity and entitlement to the funds, as required by subsections (B) and (C).

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 and all supporting documentation and information on the U.S. Attorney. The Applicant must also serve a copy of Form 1340 on the bankruptcy administrator, the trustee (if any), the debtor, and the debtor's attorney (if any). If the Applicant is a successor to the original payee or a representative for the successor, the Applicant must further serve a copy of Form 1340 on the original payee and all other previous owner(s) of the claim at their current address or submit a statement explaining why the Applicant is not able to do so or why doing so is not necessary. A certificate reflecting proper service must be submitted with the application. Failure to serve the 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 and served within 21 days after the application is served on all parties listed in subsection (c)(3). If no timely objection is filed and served, 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 service of the first plan or within such later time as the court may fix prior to expiration of such period.

LOCAL RULE 3015-1

CHAPTER 13 - PLAN

Chapter 13 Form Plan.

In a case under chapter 13, any plan or amended plan must be proposed using Local Form 1302 without alteration. Local Form 1302, adopted under Rule 3015.1 of the Federal Rules of Bankruptcy Procedure and as amended from time to time, is available from the clerk's office and maintained on the court's website, www.ncmb.uscourts.gov.

LOCAL RULE 3018-1

BALLOTS - VOTING ON PLANS

(a) Ballots.

All ballots must be filed.

(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 that the creditor has 120 days for personal property or 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
- (4) 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) Secured Creditor Duties in All Cases.

- (1) **Payment Coupons or Statements.** 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-debtor 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) **Access to Account Information.** If a secured creditor does not provide the payment coupons or statements of account referred to in subsection (d)(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) **Requests for Account Information.** A secured creditor must respond promptly to a trustee's or debtor's reasonable requests for account information.

(e) Modification of Automatic Stay and Discharge Injunction.

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

- (1) 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;
- (2) if there are direct payments to a creditor, the creditor may contact the debtor in writing about any payment in default; and
- (3) 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 (d)(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 prepetition 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 (Official Form 106C) 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 (Official Form 106C).

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 indicating a perfected, non-avoidable lien on the personal property.

(b) Supporting Documentation.

If the debtor's attorney signs an affidavit under subsection (a), documentation indicating 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).

LOCAL RULE 5005-4

ELECTRONIC FILING

Use of Administrative Guide to CM/ECF.

These rules should be read in conjunction with the "Administrative Guide to CM/ECF." The guide is available from the clerk's office and maintained on the court's website, www.ncmb.uscourts.gov.

LOCAL RULE 5005-4(1)

ASSIGNMENT TO CM/ECF SYSTEM & OFFICIAL COURT RECORD

(a) Assignment.

All cases and proceedings are assigned to the court's Case Management/Electronic Case Filing System ("CM/ECF System"). A "Filing User" is defined as a person who has been approved as a filer in the court's CM/ECF System under Local Rule 5005-4(2)(a).

(b) Official Court Record.

The court's CM/ECF System constitutes the official court record.

LOCAL RULE 5005-4(2)

ELIGIBILITY, REGISTRATION & PASSWORDS

(a) Eligibility and Registration.

Attorneys admitted to practice before the court and those described in Local Rule 2090-1(b) and (c), bankruptcy administrators and their assistants, trustees, and others as the court deems appropriate may register as Filing Users. Registration must be requested via the Public Access to Court Electronic Records website.

(b) Protection of Login Information.

Filing Users agree to protect the security of their login information and to immediately notify the clerk's office if they learn that their login information has been compromised. Filing Users may be subject to sanctions for failure to comply with this provision.

(c) Use of Login Information.

No Filing User may knowingly permit or cause to permit a Filing User's login information to be used in the court's CM/ECF System by anyone other than the Filing User and the Filing User's authorized agents.

(d) Termination of Participation.

- (1) **Withdrawal.** A Filing User may withdraw from participation in the court's CM/ECF System by providing written notice of withdrawal to the clerk.
- (2) **Suspension.** After notice and a hearing, the court may, for cause, suspend a Filing User from participating in the court's CM/ECF System.

LOCAL RULE 5005-4(3)

CONSEQUENCES OF ELECTRONIC FILING; DEADLINES

Deadlines Unchanged by Electronic Filing.

A paper submitted electronically is deemed filed as of the date and time stated on the “Notice of Electronic Filing” transmitted by the clerk. Filing a paper electronically does not alter the filing deadline for that paper; the paper must be filed before 12:00 midnight, Eastern Time, to be considered timely filed that day.

LOCAL RULE 5005-4(4)

ENTRY OF COURT ORDERS

Signature of Judge or Clerk.

All orders, judgments, and decrees will be filed electronically by the court or court personnel in accordance with these rules, which will constitute entry on the docket kept by the clerk. Orders may be issued as “text-only” entries on the docket, without an attached document. Any order, judgment, or decree filed electronically has the same force and effect as if the judge had signed a paper copy of the order, judgment, or decree, and it had been entered on the docket in a conventional manner.

LOCAL RULE 5005-4(5)

ORIGINAL SIGNATURES, CERTIFICATION & RETENTION REQUIREMENTS

(a) Authorized Forms of Original Signatures.

The following constitute original signatures on a paper filed electronically through the court’s CM/ECF System under these rules and the Federal Rules of Bankruptcy Procedure, including Rule 9011:

- (1) for non-Filing Users:
 - (A) a wet ink signature, with a printed or typed name provided below; or
 - (B) an image with a digital signature from a software product that uses encryption and/or multi-factor authentication to create a secure electronic signature that uniquely identifies the signer and ensures that the signature is authentic and has not been altered or repudiated, with a printed or typed name included or provided below;
- (2) for Filing Users, in addition to the provisions of Rule 5005(a)(2)(C) of the Federal Rules of Bankruptcy Procedure:
 - (A) a printed or typed signature of a Filing User other than the one who files the paper, consisting of that person’s name on a signature block, provided that person has provided written authorization to the filer to affix a signature on the paper; or

(B) any of the signature forms listed in subsection (a)(1).

(b) Original Signature of Non-Filing User Required.

Papers that require an original signature from a non-Filing User include:

- (1) any paper that is required to be verified by a non-Filing User under Rule 1008 of the Federal Rules of Bankruptcy Procedure or that contains an unsworn declaration as provided in 28 U.S.C. § 1746 (e.g., petitions, lists, schedules, statements, or amendments);
- (2) any declaration, affidavit, pleading, or other paper in which a non-Filing User verifies, certifies, affirms, or swears under oath or penalty of perjury the truth of the matters set forth in that paper; and
- (3) any consent order or proposed settlement under Rule 9019 of the Federal Rules of Bankruptcy Procedure that imposes binding terms or obligations on a non-Filing User.

(c) Printed or Typed Signature of Non-Filing User.

A Filing User may file a paper containing a printed or typed signature of a non-Filing User that consists of that person's name on a signature block, provided the Filing User or that Filing User's law firm or employer retains the paper with the original signature of that person in accordance with subsection (e).

(d) Certification.

Use of the court's CM/ECF System to electronically file a paper constitutes certification by the Filing User who files the paper and any agent authorized by the Filing User, under oath or penalty of perjury, that:

- (1) all parties indicated to have signed the paper have executed original signatures under one of the approved methods described in subsection (a);
- (2) all Filing Users for whom a printed or typed signature appears (e.g., consent order) have given the filer written authorization to affix their signatures, and the filer or that filer's law firm or employer has retained evidence of such authorization in accordance with subsection (e); and
- (3) the Filing User has authorized the electronic filing of the signed paper.

(e) Retention.

(1) Retention of Original Signatures.

- (A) **Wet Ink Signatures.** In the case of an electronically filed paper containing a wet ink signature of any person who is not a Filing User, the Filing User who files the paper or that Filing User's law firm or employer must retain the paper containing the original wet ink signature until four years after the closing of the case or proceeding in which the paper is filed.
- (B) **Digital Signatures.** In the case of an electronically filed paper containing a digital signature as described in subsection (a)(1)(B), the Filing User who files the paper

or that Filing User's law firm or employer must retain, in electronic format, the paper containing the digital signature in a manner that retains all data necessary to ensure the authenticity of the electronic signature until four years after the closing of the case or proceeding in which the paper is filed.

- (C) Printed or Typed Signatures. In the case of an electronically filed paper containing a printed or typed signature of a person other than the filer, the Filing User who files the paper or that Filing User's law firm or employer must retain the following until four years after the closing of the case or proceeding in which the paper is filed:
 - (i) for a non-Filing User, the paper containing the original signature; and
 - (ii) for another Filing User, the written authorization to affix that other Filing User's printed or typed signature on the paper.
- (2) Review upon Request. Upon a request from the court, a Filing User or that Filing User's law firm or employer, as appropriate, must provide an original signature for review.
- (3) Filing User Departure from Law Firm or Employer. If a Filing User departs the Filing User's law firm or employer, whoever at that time has custody or control over the records required to be retained under subsection (e)(1) is solely responsible for retention of those records in the form and manner required.

LOCAL RULE 5011-1

WITHDRAWAL OF REFERENCE

(a) Form of Request; Place for Filing.

A request to withdraw, in whole or in part, the reference of a case or proceeding referred to the court, other than a sua sponte request by the court, must be made by motion, filed with the clerk of the bankruptcy court. All such motions must be accompanied by the proper filing fee and must clearly and conspicuously state that "RELIEF IS SOUGHT FROM A UNITED STATES DISTRICT COURT JUDGE."

(b) Designation of Record.

With a motion to withdraw the reference, the movant must file with the clerk of the bankruptcy court and serve on all parties in interest a designation of those portions of the record that the movant believes will reasonably be necessary or pertinent to the district court's consideration of the motion. Within 14 days after service of such designation of the record, any other party in interest may serve and file a designation of additional portions of the record for review. If the record designated by a party includes a transcript of any hearing or trial, or any part thereof, that party must, immediately after filing the designation, deliver to one of the court authorized transcription services and file with the clerk of the bankruptcy court a written request for the transcript and make satisfactory arrangements for the payment of its cost. A list of the court authorized transcription services is maintained on the court's website, www.ncmb.uscourts.gov. All parties must take any action necessary to enable the clerk of the bankruptcy court to assemble and transmit the record.

(c) Responses to Motion to Withdraw Reference; Reply.

Parties opposing a motion to withdraw the reference must file with the clerk of the bankruptcy court and serve on all parties in interest their written responses to the motion within 14 days after service of the motion. The movant may file and serve a reply within 14 days after service of a response.

(d) Transmittal to and Proceedings in District Court.

When the record is complete for purposes of transmittal, but without awaiting the filing of any transcripts, the clerk of the bankruptcy court must promptly transmit to the clerk of the district court the motion and those portions of the record designated for review. Once a case has been opened in the district court, papers pertaining to the matter under review must be filed with the clerk of the district court and papers relating to other matters in the bankruptcy case or proceeding must be filed with the clerk of the bankruptcy court.

LOCAL RULE 5020-1

CORPORATE DISCLOSURE

(a) Disclosure of Corporate Parent

In addition to the disclosure requirements for nongovernmental corporate parties in adversary proceedings under Rule 7007.1 of the Federal Rules of Bankruptcy Procedure, the following nongovernmental corporate parties must file a statement identifying any parent corporation and any publicly held corporation that owns 10% or more of its stock:

- (1) a corporate debtor filing a petition in a voluntary case;
- (2) a petitioning corporate creditor in any involuntary case; and
- (3) a corporate party serving on a creditors' committee.

(b) Time for Filing.

Any such party must file the statement upon the filing of the petition or within 14 days after being appointed to a creditors' committee. The party must supplement the statement within a reasonable time after any change in the information.

LOCAL RULE 5071-1

CONTINUANCE

(a) Hearing or Trial.

A request to continue a hearing or trial (whether consensual or not) will not be effective unless approved by the court.

(b) Meeting of Creditors.

A request to continue a chapter 12 or chapter 13 meeting of creditors must be made to the appropriate chapter 12 or chapter 13 standing trustee's office; a request to continue any other meeting of creditors must be made to the bankruptcy administrator's office.

LOCAL RULE 5073-1

PHOTOGRAPHY, RECORDING DEVICES & BROADCASTING

Permission Required.

All photographic, recording, and broadcasting equipment is prohibited from the courtrooms and their environs unless allowed by leave of the court.

LOCAL RULE 5081-1

FEES - FORM OF PAYMENT

Acceptable Methods of Payment.

Required fees must be paid through the court's CM/ECF System or by cash, check, or money order. Checks and money orders must be made payable to: "Clerk, U.S. Bankruptcy Court." Exact payment is required. The clerk's office will not accept personal checks from debtors.

LOCAL RULE 7007-1

MOTION PRACTICE (in APs)

(a) General Requirements.

A written motion in an adversary proceeding must:

- (1) state with particularity the facts supporting the motion;
- (2) clearly convey the relief requested in separately numbered paragraphs;
- (3) cite any statutes or rules of procedure relied upon as a basis for the relief requested; and
- (4) be served on the parties affected by the motion and in accordance with the requirements of the Federal Rules of Bankruptcy Procedure and these rules.

(b) Response to Motion.

A party in interest may file and serve a response to a written motion in an adversary proceeding within 14 days after service of the motion, unless otherwise directed by the court or otherwise provided in the Federal Rules of Bankruptcy Procedure or these rules. The response may be a memorandum of law and may be accompanied by affidavits and other supporting documents. If a

response is not timely filed, the court may, in its discretion, rule on the motion without further notice or opportunity to be heard.

(c) Brief or Memorandum of Law.

Unless otherwise directed by the court or provided in these rules, a brief or memorandum of law in support of a written motion in an adversary proceeding is optional but must be filed and served contemporaneously with the motion. Unless otherwise directed by the court or provided in these rules, a brief or memorandum of law in opposition to a written motion in an adversary proceeding is optional but must be filed and served within the earlier of 14 days after service of the motion or 3 business days prior to any hearing that may be scheduled on the motion. Each brief or memorandum of law in support of a motion, or in opposition thereto, is limited in length to 20 pages. Page limitations may be exceeded only by leave of the court.

(d) Ruling on Papers and Briefs.

All written motions in adversary proceedings will be considered and decided by the court on the pleadings, admissible evidence in the record, and motion papers and briefs, without hearing or oral argument, unless the court directs otherwise. Special considerations warranting a hearing or oral argument may be raised in a motion or response.

LOCAL RULE 7055-1

DEFAULT - FAILURE TO PROSECUTE

(a) Clerk's Notice.

If, upon the expiration of 6 months after the filing of the last pleading, it appears to the clerk that no significant activity has since occurred in an adversary proceeding and there is no scheduled hearing or stay of the proceeding in place, the clerk will send written notice to all parties to the proceeding that it will be dismissed without prejudice unless, within 30 days after the date of the notice, a party presents good and sufficient cause in writing why the dismissal should not be ordered.

(b) Court Action.

If a response is not timely filed to the clerk's notice, the court may enter an order dismissing the proceeding without prejudice.

LOCAL RULE 7056-1

SUMMARY JUDGMENT

(a) Time for Filing of Motion.

A motion for summary judgment must be filed in accordance with the deadlines set forth in the pre-trial order in the case or proceeding.

(b) Brief or Memorandum of Law in Support and Statement of Undisputed Material Facts.

Each motion for summary judgment must be accompanied by (1) a brief or memorandum of law in support of the motion, and (2) a separate and concise “Statement of Undisputed Material Facts.” Each fact in a Statement of Undisputed Material Facts must be set forth in a separately numbered paragraph and must be supported by reference to the particular portions of the record relied upon to establish that fact. Pertinent excerpts of evidentiary documents cited must be filed contemporaneously with the motion.

(c) Brief or Memorandum of Law in Opposition and Statement of Disputed Material Facts.

Within 21 days after service of a motion for summary judgment, a party opposing such motion must file and serve (1) a brief or memorandum of law in opposition to the motion, and (2) a separate and concise “Statement of Disputed Material Facts.” Each fact in a Statement of Disputed Material Facts must be set forth in a separately numbered paragraph that corresponds to the numbered paragraph in the movant’s Statement of Undisputed Material Facts and must be supported by reference to the place in the record that supports the existence of a genuine dispute of such fact. Pertinent excerpts of evidentiary documents cited must be filed contemporaneously with the response. All facts set forth in a movant’s Statement of Undisputed Material Facts will be deemed admitted for the purpose of a motion for summary judgment unless specifically controverted by the opposing party in a Statement of Disputed Material Facts.

(d) Brief or Memorandum of Law in Reply.

A brief or memorandum of law in reply may be filed and served within 14 days after service of a brief or memorandum of law in opposition.

(e) Limitations on Length of Briefs and Memorandum of Law and Statements of Facts.

Each brief or memorandum of law in support of a motion for summary judgment, or in opposition thereto, is limited in length to 20 pages, and a brief or memorandum of law in reply is limited in length to 10 pages. Each statement of facts is limited in length to 10 pages. Page limitations may be exceeded only by leave of the court.

(f) Failure to File Brief or Memorandum of Law or Statement of Facts.

Failure to file a brief or memorandum of law or statement of facts within the times specified in this rule will constitute waiver of the right to file such papers, except upon a showing of excusable neglect. A motion for summary judgment unaccompanied by a required brief or memorandum of law and statement of facts may, in the discretion of the court, be summarily denied. A response unaccompanied by a required brief or memorandum of law and statement of facts may, in the discretion of the court, be disregarded, and the pending motion may be considered and decided as an uncontested motion. If a party opposing a motion for summary judgment fails to file a response within the time required by this rule, the motion may be considered and decided as an uncontested motion.

(g) Evidentiary Objections.

A party opposing a motion for summary judgment must file and serve any written objections to evidence cited in the motion no later than the date specified in subsection (c) of this rule. A movant must file and serve any written objections to evidence cited in a response to the movant’s motion no later than the date specified in subsection (d) of this rule. Objections must be in

separate documents and must (1) state with particularity the evidence to which objection is made, including citation to the record, and (2) describe the legal basis for the objection. Failure to timely object to evidence cited may be deemed a waiver of objection for purposes of summary judgment.

LOCAL RULE 7065-1

INJUNCTIONS

Form of Request for Temporary Restraining Order or Injunction.

A prayer for a temporary restraining order or injunction set forth in a pleading will not bring forth the issue to the court before the time for trial. A party seeking relief before trial must file and serve a separate motion in compliance with Rule 7065 of the Federal Rules of Bankruptcy Procedure and these rules, accompanied by (1) a proposed order or injunction, and (2) a supporting declaration or affidavit.

LOCAL RULE 7067-1

REGISTRY FUND

(a) Receipt of Funds.

- (1) Order Required. No money, other than unclaimed or undistributed dividends, may be sent to the court or its officers for deposit into the court's registry without an order of the court.
- (2) Deposit with Treasurer. Unless otherwise directed, all registry funds in pending or adjudicated cases must be deposited with the treasurer of the United States in the name and to the credit of the court pursuant to 28 U.S.C. § 2041, through depositories designated by the United States Department of the Treasury to accept such deposits on its behalf.
- (3) Providing Order Permitting Deposit. A party or attorney making a deposit or transferring funds to the court's registry must provide the order permitting the deposit or transfer to the clerk, chief deputy, or financial manager.

(b) Investment of Registry Funds.

- (1) Authorized Investment Mechanism. If the court orders that funds on deposit with the court must be placed in some form of interest-bearing account or invested in a court-approved, interest-bearing instrument in accordance with Rule 67 of the Federal Rules of Civil Procedure, the Court Registry Investment System ("CRIS"), administered by the Administrative Office of the United States Courts under 28 U.S.C. § 2045, will be the only investment mechanism authorized.

- (2) **Interpleader Funds.** Interpleader funds deposited under 28 U.S.C. § 1335 meet the IRS definition of a “Disputed Ownership Fund” (“DOF”), a taxable entity that requires tax administration. Unless the court orders otherwise, interpleader funds must be deposited in the DOF established within the CRIS and administered by the Administrative Office of the United States Courts, which will be responsible for meeting all DOF tax administration requirements.
- (3) **Custodian of Funds.** The director of the Administrative Office of the United States Courts is designated as the custodian for all CRIS funds. The director or the director’s designee must perform the duties of custodian. Funds held in the CRIS remain subject to the control and jurisdiction of the court.
- (4) **Pooling of Funds.** Funds deposited in the CRIS must be pooled together with funds deposited to the credit of other courts in the CRIS and used to purchase Government Account Series securities through the Bureau of Public Debt, which will be held at the United States Department of the Treasury, in an account in the name and to the credit of the director of the Administrative Office of the United States Courts. The pooled funds will be invested in accordance with the principles of the CRIS Investment Policy as approved by the Registry Monitoring Group.
- (5) **Procedure for Distributing Income from Funds.** An account will be established in the CRIS Liquidity Fund titled in the name of the case giving rise to the deposit invested in the fund. Income generated from fund investments will be distributed to each case based on the ratio each account’s principal and earnings has to the aggregate principal and income total in the fund after the CRIS fee, described in subsection (c) of this rule, has been applied. Reports showing the interest earned and the principal amounts contributed in each case will be prepared and distributed to each court participating in the CRIS and made available to parties and/or their attorneys.
- (6) **Procedure for Distributing Income from Funds in Interpleader Case.** For each interpleader case, an account must be established in the CRIS DOF, titled in the name of the case giving rise to the deposit invested in the fund. Income generated from fund investments will be distributed to each case after the DOF fee, described in subsection (c) of this rule, has been applied and tax withholdings have been deducted from the fund. Reports showing the interest earned and the principal amounts contributed in each case will be available through the FedInvest/CMS application for each court participating in the CRIS and made available to parties and/or their attorneys. On appointment of an administrator authorized to incur expenses on behalf of the DOF in a case, the case DOF funds should be transferred to another investment account as directed by court order.

(c) Fees and Taxes.

- (1) **Deduction of CRIS Fee.** The custodian is authorized and directed by this rule to deduct the CRIS fee of an annualized 10 basis points on assets on deposit for all CRIS funds, excluding the case funds held in the DOF, for the management of investments in the CRIS. According to the Bankruptcy Court Miscellaneous Fee Schedule, the CRIS fee is assessed from interest earnings to the pool before a pro rata distribution of earnings is made to court cases.

- (2) Deduction of DOF Fee. The custodian is authorized and directed by this rule to deduct the DOF fee of an annualized 20 basis points on assets on deposit in the DOF for the management of investments and tax administration. According to the Bankruptcy Court Miscellaneous Fee Schedule, the DOF fee is assessed from interest earnings to the pool before a pro rata distribution of earnings is made to court cases. The custodian is further authorized and directed by this rule to withhold and pay federal taxes due on behalf of the DOF.

LOCAL RULE 9004-1

PAPERS - REQUIREMENTS OF FORM

Form of Certificate of Service.

Whenever the Federal Rules of Civil Procedure, the Federal Rules of Bankruptcy Procedure, or these rules require proof of service, the proof of service must include the following information:

- the recipient to whom service was addressed;
- the method of delivery by which service was effectuated;
- if service was made other than electronically through the court's CM/ECF System or by hand delivery, the address to which service was sent; and
- the identity of the person who effectuated service.

LOCAL RULE 9006-1

TIME PERIODS

(a) Request to Reduce Notice Period.

A request to reduce a notice period must be made by separate written motion. The motion must state with specificity all grounds for reducing the notice and identify all parties who may be affected by the relief requested.

(b) Proposed Order Reducing Notice Period.

Upon filing a motion to reduce a notice period, the movant must submit a proposed order stating that the movant must: (1) serve a copy of the underlying motion, the motion to reduce notice, and the order reducing notice on all parties in interest, the trustee (if any), and the bankruptcy administrator; and (2) file a certificate of service evidencing such service. If a hearing is to be held within less than 7 days after entry of the order reducing notice, service of the underlying motion, the motion to reduce notice, and the order reducing notice must be effectuated immediately by hand delivery, overnight delivery, facsimile, or electronic transmission.

(c) Objection to Reduced Notice Period.

Any objection to a reduced notice period should be communicated telephonically to the movant prior to the hearing if the objecting party does not have sufficient time to file a formal objection.

(d) Business Day Defined.

The term “business day” refers to any day that is not a Saturday, Sunday, or “legal holiday,” as that term is defined under Rule 9006(a) of the Federal Rules of Bankruptcy Procedure.

LOCAL RULE 9007-1

GENERAL NOTICE AND SERVICE PROVISIONS

(a) Designation of Parties to Provide Notice.

The clerk is authorized to designate the parties who must provide notice to creditors and parties in interest as may be required under the Federal Rules of Bankruptcy Procedure and these rules.

(b) Service Required on Trustee.

In a case where a trustee has been appointed, all pleadings and papers (except proofs of claim) filed in the case and in any related proceedings must be served on the trustee, whether or not the trustee is a party to the proceeding.

(c) Service Required on Bankruptcy Administrator.

In chapter 7, 11, and 12 cases, the bankruptcy administrator must be served with all pleadings and papers required to be filed with the clerk’s office and any other papers specifically requested by the bankruptcy administrator. In chapter 13 cases, the bankruptcy administrator must be served with fee applications, motions to dismiss with prejudice, responses to papers filed by the bankruptcy administrator, and any other papers specifically requested by the bankruptcy administrator.

LOCAL RULE 9011-1

ATTORNEYS - DUTIES

(a) Duties of Attorney for Debtor.

Except as provided in subsection (b), an attorney who represents a debtor in a case must serve as the responsible attorney for the debtor, for all purposes, until the case is closed, or the attorney is relieved from representation on motion and order. The attorney must:

- (1) analyze the debtor’s financial situation and render advice and assistance to the debtor in determining whether to file a petition;
- (2) prepare and file the debtor’s petition, all schedules, the statement of financial affairs, and all other required papers, including any necessary amendments to the schedules; and
- (3) represent the debtor at the meeting of creditors.

(b) Attorney for Debtor in Chapter 7 Case.

An attorney who represents a debtor in a chapter 7 case must, to the extent reasonable and necessary, represent the debtor in core matters before the court, including motions to avoid non-

purchase money security interests and judicial liens, reaffirmation agreements, redemption actions, motions for relief from the automatic stay, and all contested matters. The attorney is not required to represent the debtor in adversary proceedings, except as may be agreed upon by the debtor and the attorney.

LOCAL RULE 9011-2

PRO SE PARTIES

Business Entities.

All partnerships, corporations, and other business entities (other than individuals conducting businesses as sole proprietorships) that appear in a case or proceeding before the court must be represented by an attorney duly admitted to practice before the court, except in the following instances:

- a business entity employed as a professional under 11 U.S.C. § 327 may file an interim or final fee application pro se;
- a business entity may file a proof of claim pro se;
- a business entity may appear at a meeting of creditors under 11 U.S.C. § 341 pro se; and
- a business entity may file a response to a notice transferring the entity's proof of claim pro se.

LOCAL RULE 9011-4

SIGNATURES

Signature Block.

An attorney's state bar number must appear on every paper filed by the attorney as part of the attorney's signature block. An attorney's telephone number and email address should also appear on every paper filed by the attorney as part of the attorney's signature block.

LOCAL RULE 9013-1

MOTION PRACTICE

(a) Motion Defined.

For the purposes of this rule, a "motion" includes any request for relief, proposed action, or application in a case. A motion does not include a petition, a proof of claim, an objection to a proof of claim, or a proposed order. A letter received by the court need not be considered a motion.

(b) Form of Motion.

- (1) Required Information. A written motion must:
 - (A) state with particularity the facts supporting the motion;
 - (B) clearly convey the relief requested in separately numbered paragraphs;
 - (C) cite any statutes or rules of procedure relied upon as a basis for the relief requested; and
 - (D) be served on the parties affected by the motion and in accordance with the requirements of the Federal Rules of Bankruptcy Procedure and these rules.
- (2) Optional Information. A written motion may:
 - (A) include authorities and arguments; and
 - (B) be accompanied by affidavits; declarations complying with 28 U.S.C. § 1746, to the extent they contain admissible evidence from competent witnesses with personal knowledge; and other supporting documents.
- (3) Supporting Documents. Any documents in support of a motion must be filed and served contemporaneously with the motion.

(c) Combining Multiple Requests for Relief.

- (1) When Combined Requests Are Allowed. Except as provided in subsection (c)(2), multiple requests for relief may be combined in a single written motion if those requests are based on identical facts or arise out of the same transaction or series of transactions; however, if the requests require different noticing procedures, the clerk may require the requests to be filed as separate motions before proceeding with applicable noticing procedures.
- (2) When Combined Requests Are Not Allowed. Multiple requests to (i) avoid judicial liens with respect to the same property, or (ii) determine the secured claim amounts of governmental units with respect to the same property may not be combined in a single motion. Multiple requests for relief not based on identical facts or not arising out of the same transaction or series of transactions also may not be combined in a single motion.

(d) Response to Motion.

Unless otherwise directed by the court or otherwise provided in the Federal Rules of Bankruptcy Procedure or these rules, a party in interest may file and serve a response to a motion (1) by the date indicated in the notice issued by the clerk's office, or, if no date is indicated in the notice, (2) within the earlier of 14 days after service of the motion or 3 business days prior to the date of the hearing on the motion. The response may be accompanied by affidavits; declarations complying with 28 U.S.C. § 1746, to the extent they contain admissible evidence from competent witnesses with personal knowledge; and other supporting documents. Any such documents in support of a response must be filed and served contemporaneously with the response. At a minimum, a response must contain sufficient information to reasonably disclose the basis for the party's

position and any specific issues contested; if a response does not comply with this provision, the court may, in its discretion, resolve the matter without a hearing.

(e) Brief or Memorandum of Law.

Unless otherwise directed by the court or provided in these rules, a brief or memorandum of law in support of a motion is optional but must be filed and served contemporaneously with the motion. Unless otherwise directed by the court or provided in these rules, a brief or memorandum of law in opposition to a motion is optional but must be filed and served within the earlier of 14 days after the service of the motion or 3 business days prior to any hearing that may be scheduled on the motion.

(f) Hearing on Motion.

Unless the court orders otherwise, the clerk will set all hearing dates and provide notice or designate other parties to do so in accordance with Local Rule 9007-1.

(g) Disclosure Requirements Inapplicable.

Unless the court orders otherwise, the disclosure requirements imposed by Rule 26(a) of the Federal Rules of Civil Procedure are inapplicable to contested matters.

LOCAL RULE 9014-1

CONTESTED MATTERS

Admission of Direct Evidence Through Declarations.

For all contested matters not otherwise governed by Local Rule 9013-1 and under the authority of Rule 611 of the Federal Rules of Evidence, direct evidence may be offered by declarations complying with 28 U.S.C. § 1746, to the extent the declarations contain admissible evidence from competent witnesses with personal knowledge and the declarant is made available for cross examination at the time the direct evidence is offered into the record.

LOCAL RULE 9015-1

JURY TRIAL

Demand.

In any scheduling memorandum submitted to the court, a party must indicate whether the party expressly consents to the entry of a final order or judgment by the court with respect to all matters, issues, or claims for relief, and, therefore, waives the right, if any, to a jury trial. If a party does not consent to the entry of a final judgment or order for any matter, issue, or claim for relief, this must also be indicated in the scheduling memorandum, along with any specific demands for a jury trial. A non-consenting party will have 30 days from the first entry of a scheduling order by the court to file a motion to determine whether the court may enter a final judgement or order with respect to any matter, issue, or claim for relief. The

failure to timely move to determine whether the court may enter a final judgement or order with respect to any matter, issue, or claim for relief will constitute a waiver of any right to a jury trial.

LOCAL RULE 9018-1

SEALED DOCUMENTS

(a) Contents of Motion.

Prior to filing a paper in a case or proceeding, a filer may apply by motion for an order allowing the paper to be filed under seal as provided by 11 U.S.C. § 107 or as authorized by law. The motion must provide a non-confidential description of the paper to be sealed and must:

- (1) state the reasons why sealing is necessary;
- (2) state the reasons why less drastic alternatives to sealing the paper will not afford adequate protection;
- (3) address the factors governing the sealing of papers as reflected in governing case law; and
- (4) state whether permanent sealing is sought, and, if not, state how long the paper should remain under seal and how the paper should be handled upon unsealing.

(b) Submitting Proposed Order; Providing and Filing Paper.

- (1) Submitting Proposed Order. If a movant is represented by a Filing User, the movant must submit a proposed order with any motion to file a paper under seal.
- (2) Providing Copy of Paper to Court. A movant must promptly provide a copy of a paper requested to be filed under seal to the court. The paper must not be filed electronically with a motion and proposed order.
- (3) Filing Paper. Following entry of an order authorizing the filing of a paper under seal:
 - (A) if the movant is represented by a Filing User, the movant must electronically file the paper using the proper event code in the court's CM/ECF System to automatically restrict access to the paper; or
 - (B) if the movant is an individual not represented by an attorney, the clerk's office will electronically file the paper using the proper event code in the court's CM/ECF System to automatically restrict access to the paper.

LOCAL RULE 9019-2
ALTERNATIVE DISPUTE RESOLUTION (ADR)

(a) Order for Mediated Settlement Conference.

- (1) Order By Court. The court may require parties and their representatives to attend a pre-trial mediated settlement conference in any adversary proceeding or contested matter and in such other instances where the court determines that alternative dispute resolution procedures may be helpful to the parties and the court.
- (2) Motion to Dispense with Mediated Settlement Conference; Response. Within 14 days after entry of an order requiring attendance at a mediated settlement conference, any party may file a motion to dispense with the conference. Within 14 days after service of the motion, any party may file a response to the motion. Thereafter, the court may rule on the motion without a hearing.
- (3) Motion to Authorize Use of Other Settlement Procedures. Within 14 days after entry of an order requiring attendance at a mediated settlement conference, any party may move the court to authorize the use of some other alternative dispute resolution procedure in lieu of a mediated settlement conference conducted under these rules. The motion must be consensual.

(b) Selection of Mediator.

- (1) Selection of Mediator by Agreement of Parties. The parties may select a mediator by filing a Designation of Mediator notice form within 21 days after entry of an order requiring attendance at a mediated settlement conference, or within such other time as the court may direct. The notice must state:
 - the name, address, and telephone number of the mediator selected;
 - the rate of compensation of the mediator; and
 - that the mediator and the parties have agreed upon the selection and rate of compensation.
- (2) Appointment of Mediator by Court. If the parties cannot agree on the selection of a mediator within the time provided in subsection (b)(1), the court may appoint a mediator.
- (3) Mediator Information Directory. To assist the parties in the selection of a mediator, the clerk will collect and maintain a central directory of all mediators who wish to mediate cases in this district on the court's website, www.ncmb.uscourts.gov. The directory will indicate whether each person listed is certified as a mediator, and, if so, the certifying body.

(c) The Mediated Settlement Conference.

- (1) Where Conference Is to Be Held. Unless all parties and the mediator agree otherwise, a mediated settlement conference must be held in the United States Bankruptcy Courthouse in Greensboro, the United States Bankruptcy Courthouse in Winston-Salem, or another public or community building in this district. The mediator is responsible for reserving a location, making all other arrangements for the conference, and giving timely notice of the conference to all attorneys, unrepresented parties, and other persons and entities required to attend.
- (2) When Conference Is to Be Held. The mediator must make a good faith effort to schedule the conference at a time that is convenient to all participants, attorneys, and the mediator. In the absence of agreement, the mediator will select the date for the conference.
- (3) Mediated Settlement Conference Will Not Delay Other Matters. Unless the court orders otherwise, a mediated settlement conference will not be cause for the delay of other matters in a case or proceeding, including the completion of discovery, the filing or hearing of motions, or a trial.

(d) Duties of Parties, Representatives, and Attorneys.

- (1) Attendance. Unless excused by the court or the mediator with the approval of all parties, the following persons must physically attend an entire mediated settlement conference until an agreement is reduced to writing and signed as provided by subsection (d)(3) or an impasse has been declared:
 - (A) parties:
 - (i) all individual parties;
 - (ii) an officer, employee, or agent of any party that is not a natural person or governmental agency who is not such party's outside counsel and has been authorized to decide on behalf of such party whether and on what terms to settle the subject matter of the mediation; and
 - (iii) an employee or agent of any party that is a governmental agency who is not such party's outside counsel and has the authority to decide on behalf of such party whether and on what terms to settle the subject matter of the mediation; provided that, if under applicable law, the proposed settlement terms can be approved only by a board, the representative must have authority to negotiate on behalf of the governmental agency and make a recommendation to that board;
 - (B) insurance company representatives: a representative of each liability insurance carrier, uninsured motorist insurance carrier, and underinsured motorist insurance carrier that may be obligated to pay all or part of any claim that is the subject matter of the mediation. Each representative must be an officer, employee, or agent, other than the carrier's outside counsel, who has the authority to make a decision on behalf of the carrier or has been authorized to negotiate on behalf of the carrier and can promptly communicate during the conference with persons who have decision making authority;

- (C) attorneys: at least one attorney of record for each party or other participant whose attorney has appeared in the action.
- (2) Notifying Interest Holders. Any party or attorney who has received notice of a lien or other interest asserted in property that may be affected by the mediated settlement conference must notify the claimant of the date, time, and location of the mediated settlement conference and must request that the claimant attend the conference or make a representative available with whom the parties can communicate during the conference.
- (3) Finalizing Agreement. Upon reaching an agreement during a conference but before the conference concludes, the mediator must write a draft of the settlement terms. The parties and others with settlement authority and their respective attorneys (if required to be present at the conference) must sign the draft. Upon reaching agreement, either before or during the conference, the parties and others with settlement authority must provide a copy of a formal, executed, written agreement to the mediator within 7 days of the settlement. The mediator must attach a copy of the formal agreement to the Report of Mediator submitted pursuant to subsection (f)(2)(C). Failure of the parties to provide a copy of the formal agreement to the mediator on a timely basis may result in sanctions.

(e) Sanctions and Failure to Attend.

The court may impose an appropriate monetary sanction, whether sua sponte or on written request from another party, if any person required to attend a mediated settlement conference fails to attend without good cause. Sanctions may include but are not limited to the payment of fines, attorney's fees, mediator fees, and expenses and losses of earnings incurred by persons attending the conference.

(f) Authority and Duties of Mediator.

- (1) Authority of Mediator.
 - (A) Control of Conference. The mediator has the authority to control the conference and the procedures to be followed.
 - (B) Private Consultation. The mediator may meet and consult privately with any participant or attorney during the conference.
- (2) Duties of Mediator.
 - (A) Generally. In addition to scheduling and giving notice of the conference, the mediator must define and describe the following to the participants at the beginning of the conference:
 - (i) the process of mediation;
 - (ii) the difference between mediation and other forms of dispute resolution;
 - (iii) the costs of the mediated settlement conference;
 - (iv) that the mediated settlement conference is not a trial, the mediator is not a judge, and the parties retain their right to trial (as applicable) if they do not reach a settlement;

- (v) the circumstances under which the mediator may meet and communicate privately with any of the parties or with any other person;
 - (vi) whether and under what conditions communications with the mediator will be held in confidence during the conference;
 - (vii) that evidence of conduct and settlements is not admissible under applicable rules of evidence;
 - (viii) the duties and responsibilities of the mediator and the participants; and
 - (ix) the fact that any agreement reached must be reached by mutual consent.
- (B) Disclosure. The mediator has a duty to be impartial and to advise all participants of any circumstances bearing on possible bias, prejudice, or partiality.
- (C) Reporting Results of Conference. The mediator must submit a Report of Mediator within 14 days after the conclusion of the conference (if no agreement reached), or upon the receipt of a copy of a formal settlement agreement. The mediator's report must state whether any party, attorney, or insurance representative was absent from the conference without permission. If an agreement was reached, the report must also (i) state how the matter will be concluded or has been resolved (e.g., withdrawal, consent judgment, voluntary dismissal), (ii) identify the persons designated to file any necessary papers to conclude the matter, and (iii) attach a copy of the formal settlement agreement as required by subsection (d)(3).
- (3) Failure to Comply with Rule. The court may withhold future appointments and prohibit the selection of any mediator who does not fully comply with the requirements of this rule.

(g) Compensation of Mediator.

- (1) By Agreement. When the mediator has been selected by the parties, the parties and the mediator must agree on the mediator's compensation.
- (2) By Court Order. When the mediator has been appointed by the court, the mediator will be compensated by the parties at an hourly rate set by the court.
- (3) Payment of Compensation by Parties. Unless the parties agree or the court orders otherwise, the parties must pay the costs of the mediated settlement conference in equal shares. For purposes of this subsection, multiple parties will be considered one party when they are represented by the same counsel. Parties obligated to pay a particular share of the costs must pay that share equally unless the court orders otherwise.
- (4) Sanctions for Failure to Pay Mediator's Compensation. Unless a party has been excused by these rules or an order of the court, the court may impose sanctions for the party's failure to pay its share of the mediator's compensation at the conclusion of the conference.

LOCAL RULE 9072-1

ORDERS - PROPOSED

(a) Submission of Proposed Orders.

- (1) When Tentative Hearing Is Set. When a tentative hearing date and objection deadline are set for a motion or other request for relief, and no objection is filed by such deadline, the movant must submit a proposed order in the form described in subsection (b), at the latest, within 5 days after the deadline has passed.
- (2) When Hearing is Held. Unless otherwise directed by the court or otherwise provided in the Federal Rules of Bankruptcy Procedure or these rules, the party that prevails at a hearing must submit a proposed order in accordance with the court's oral ruling and in the form described in subsection (b) within 10 days after the court's oral ruling.

(b) Form of Proposed Orders.

A proposed order must:

- (1) contain the title "ORDER" in capital letters and may have a subtitle describing the relief granted or denied;
- (2) have 3 inches of blank space at the top of the first page and contain the words "END OF DOCUMENT" in capital letters one line below the last paragraph on the last page of the proposed order;
- (3) if a tentative hearing date was set and no objections were filed, so state;
- (4) if a hearing was held, state that a hearing was held and list the appearance of attorneys and other parties in interest present at the hearing;
- (5) describe the relief granted or denied; and
- (6) include a list of parties to be served on a separate page.

(c) Failure to Timely Submit Proposed Orders.

If a proposed order is not submitted within 10 days after the time set forth in subsection (a), the court may prepare and enter such order as it deems appropriate, including an order directing the movant or prevailing party to appear before the court and show cause why the motion or other request for relief should not be denied, disapproved, or overruled, as the case may be, for failure to prosecute.