Rules of

Practice and Procedure

of the

United States Bankruptcy Court

for the

Western District of North Carolina

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PART I

COMMENCEMENT OF CASE; PROCEEDINGS RELATING TO PETITION AND ORDER FOR RELIEF

Local Rule 1002-1
Protection of Personal Privacy

a. **Retention/Destruction of Personally Identifiable Information.** Trustees are authorized in their discretion to destroy physically or otherwise dispose of any documents, or copies of such documents, in their possession, regardless of format or medium, that may contain any personally identifiable information, as that term is defined by 11 U.S.C. § 101(41A). This authorization includes, but is not limited to, the destruction or other disposition of income tax returns, social security identification cards, driver's licenses, identification cards, and payroll advices.

b. **Compliance.** Upon Court order limiting publication, counsel and the parties to a case have the sole responsibility for making the appropriate modifications to documents before filing them and otherwise complying with the order of the Court. The Clerk will not review documents filed for compliance with this Local Rule or otherwise undertake to ensure limited publication. Counsel and the parties to a case are cautioned that it is their responsibility to ensure that documents subject to a limitation on publication are in fact so limited and that failure to comply with the Court's order in this regard will result in publication of such documents.

c. **Transcripts.** Before the Court enters a transcript on the docket, it will allow five days for requests to redact personal identifiers including: social security numbers, financial account numbers, names of minor children, dates of birth, and home addresses of individuals. If the Court does not receive a request for redaction, it will docket the transcript in its entirety. Counsel or *pro se* parties who proffer a witness will be responsible for contacting the witness regarding the redaction of personal identifiers.

Local Rule 1002-2
Petition – General

a. **Electronic Filing.** Attorneys shall file electronically all documents unless leave of Court is granted. In filing electronically or non-electronically, attorneys shall comply with Local Rule 5005-1. Filing electronically shall constitute the signature of the attorney and debtor.

b. **Waiver Requirements.** Attorneys unable to file electronically may seek a waiver by motion and *ex parte* order.

c. **Joint Petitions.** When a joint petition is filed by a husband and wife who do not share the same surname, the debtors shall append to their petition a duly executed affidavit verifying that they are legally married at the time of filing of the petition. Petitions submitted without the required affidavit will be docketed by the Clerk, subject to dismissal in accordance with Local Rule 1007-1(b).

d. **Petition Filed by a Corporation, Partnership, Limited Liability Company, Limited Partnership, or Limited Liability Partnership.** When a corporation, partnership, limited liability company, limited partnership, or limited liability partnership files a voluntary bankruptcy petition, the original or a certified copy of the resolution of the debtor's board of directors, members, or general partners authorizing the filing of the bankruptcy petition shall be filed with the petition. Petitions submitted without the required resolution will be docketed by the Clerk, subject to dismissal three days after filing without notice or opportunity for hearing.

Local Rule 1002-3
Automatic Stay as to Rental Deposits Pursuant to
11 U.S.C. § 362(l)(1)

a. **Automatic Stay as to Rental Deposits.** The following procedures apply when a debtor proceeds under 11 U.S.C. § 362(l)(1):

1. Any deposit of rent made by or on behalf of a debtor must be in the form of a certified check, cashier's check, or money order payable to the lessor and delivered to the Clerk of Court at the time of the filing of the petition and certification under 11 U.S.C. § 362(l)(1)(A);

2. The debtor must file a copy of the judgment for possession at the time of filing of the petition; and

3. Upon receipt of the funds and a copy of the judgment for possession, the Clerk is directed to transmit the funds to the lessor by mail to the address listed on the petition.

Local Rule 1002-4
Chapter 11 First-Day Financing Orders

Guidelines. The Court has adopted certain guidelines for cash collateral orders for Chapter 11 cases, which are attached hereto as Appendix B.

Local Rule 1003-1
Involuntary Petitions

Corporate Disclosure. Any petitioning corporation, partnership, limited liability company, limited partnership, or limited liability partnership in an involuntary case shall file a statement identifying all of its parent corporations and listing any public company that owns ten percent (10%) or more of its stock.

Local Rule 1006-1
Filing Fee

a. **Failure to Pay Filing Fee in Installments.** When the debtor submits an application to pay the filing fee in installments and subsequently fails to pay the filing fee in installments pursuant to the terms allowed by order of this Court, the debtor's case will be subject to dismissal without further notice or opportunity for hearing.

b. **Refunding Filing Fees.** The following procedures apply to the refunding of filing fees:

1. Pursuant to the guidelines of the Bankruptcy Fee Compendium, the Clerk of Court is authorized to issue the following types of refunds:

   A. Fees collected without authority; and

   B. Duplicate credit card payments that occurred as a result of a failed Internet credit card process.

2. Refund requests for duplicate petitions shall be filed by motion or application accompanied by a notice of hearing.

3. All other requests for filing fee refunds require a judicial determination and should be filed either by motion or application and accompanied by tender of an *ex parte* order.

4. If the Court discovers an erroneous filing for which a fee has not yet been collected, the Court may correct the erroneous filing administratively and not collect the fee.

c. **Application to Proceed *In Forma Pauperis.*** Pursuant to 28 U.S.C. § 1930(b) and (c), when an application to proceed *in forma pauperis* (Local Form 6) is approved pursuant to 28 U.S.C. § 1930(f)(1-3), the waiver applies only to the filing fee for the petition. Waiver of additional filing fees will be considered only upon the filing of a motion and tender of an order. Such a motion and order should be tendered on an *ex parte* basis.

Local Rule 1007-1
Lists, Schedules, and Statements; Time Limits

a. **Chapter 11.** When Chapter 11 petitions, schedules, statements, and schedule deficiencies are filed, the filer is required to serve these documents upon the following:

1. U.S. Bankruptcy Administrator
   402 W. Trade Street
   Suite 200
   Charlotte, NC 28202

2. Securities & Exchange Commission
   Branch of Reorganization
   Suite 1000
   3475 Lennox Road, NE
   Atlanta, GA 30327-1323

3. Internal Revenue Service
   P.O. Box 21126
   Philadelphia, PA 19114

b. **Failure to File Lists, Schedules, Statements, or Other Documents.** In the event a bankruptcy petition is filed with the Clerk of Court without all of the lists, schedules, statements, or other documents required to be filed in conjunction with the filing of a bankruptcy petition by the Federal Rules of Bankruptcy Procedure or these Local Rules, the Clerk of Court shall immediately serve upon the debtor, the debtor's attorney, the trustee, and the petitioning creditors, if applicable, a Notice of Deficient Filing. This Notice notifies said parties that the specified documents were not filed with the petition and that the bankruptcy case will be subject to dismissal without further notice and opportunity for hearing. In the event of an involuntary petition or involuntary conversion of a case to a Chapter 7 case, the failure of the debtor to comply with this rule will not result in the automatic dismissal of the case. Rather, the Clerk will refer the matter to the Court for further consideration.

Local Rule 1007-2
Master Mailing Matrix

a. **Mailing Matrix.** Attorneys filing petitions electronically are required to download into the CM/ECF system a mailing matrix containing the complete mailing address, including zip codes, for the following:

1. All creditors listed in the petition and any other parties in interest entitled to notice pursuant to Bankruptcy Rule 2002 or other applicable law.

2. Taxing authority for each parcel of real estate in which the debtor holds an interest.

3. In Chapter 13 cases, creditors or contingent creditors to whom notice should be sent must be listed on the schedule of creditors as well as on the matrix.

4. In Chapter 11 cases, in addition to the entities listed above, attorneys are required to download into the CM/ECF system a mailing matrix containing the complete mailing address, including zip code, for the Bankruptcy Administrator, 402 W. Trade Street, Suite 200, Charlotte, NC 28202.

5. If the debtor is a corporation or limited liability company, the name and title of the managing agent.

6. If the debtor is a partnership, each member of the partnership.

The filing of the mailing matrix shall serve to certify its accuracy. The filer shall be responsible for any errors in or omissions from the listing.

b. **Mailing Matrices Filed Non-Electronically.** Attorneys who have been granted a waiver from the electronic filing requirement pursuant to Local Rule 1002-2, or debtors or non-attorneys filing non-electronically, shall submit to the Clerk of Court at the time the petition is filed a printed hard copy of the mailing matrix and/or a copy in the electronic format required by the Clerk.

Local Rule 1007-3
Compliance with Statement of Intention

Evidence of Compliance. Within 45 days of the first date set for the § 341(a) meeting of creditors, the debtor or debtor's counsel shall provide the trustee evidence of delivery of the collateral, of reaffirmation of the debt, or other evidence showing compliance with the debtor's Statement of Intention. If the debtor fails to comply with the Statement of Intention such that the automatic stay under 11 U.S.C. § 362(a) is terminated with respect to personal property of the estate or of the debtor, the Court may consider on a no-protest basis pursuant to Local Rule 9013-1, a motion confirming that the stay has been terminated. The motion and proposed order shall provide, with specificity, the basis of movant's belief that the stay has terminated.

Local Rule 1007-4
Payment Advices

Filing of Payment Advices. Pursuant to 11 U.S.C. § 521(a)(1)(B)(iv), copies of all payment advices or other evidence of payment received within 60 days before the date of the filing of the petition by the debtor from an employer of the debtor shall not be filed with the Court unless otherwise ordered. Nothing in this Local Rule alters the Trustee's right to request records in accordance with Local Rule 4002-1(d).

Local Rule 1007-5
Official Form 6, Summary of Schedules/Statistical Summary of Certain Liabilities and Related Data

a. **Official Form 6.** A completed Official Form 6 shall be attached to any amendments to Schedules A, B, D, E, F, I, or J.

b. **Official Form 6 Upon Conversion to Chapter 7.** When converting a case to a Chapter 7, if the Final Report and Schedule of Postpetition Debts Pursuant to Rule 1019(6) (the "1019 Report") lists: (1) additional unpaid debts incurred after commencement of the pre-conversion case; (2) after-acquired property; or (3) executory contracts entered into or assumed since the filing of the original case, the 1019 Report must be accompanied by a completed amended Official Form 6.

Local Rule 1014-1
Transfers of Venue Within District

a. **Notice and Motion.** A request to change divisional venue of a case, adversary proceeding, or contested matter shall be made as follows:

1. By filing a motion setting forth the reasons supporting the change and evidencing the approval or disapproval of the Bankruptcy Administrator;

2. By providing notice to all creditors and other parties in interest explaining the request with a 15-day opportunity for objections;

3. By providing a certificate of service of the notice by the movant evidencing service on all creditors and other parties in interest, including all parties the Court requires on a standard matrix; and

4. By tendering a proposed order after the objection period has expired.

b. **Rescheduling and Renoticing of First Meeting.** The moving party shall be responsible for rescheduling and renoticing the § 341(a) meeting of creditors and providing a certificate of service of the notice evidencing service on all creditors and other parties in interest, including all parties the Court requires on a standard matrix.

Local Rule 1015-1
Joint Administration and
Bifurcation of a Jointly-Administered Case

a. **Joint Administration.** Joint cases filed pursuant to 11 U.S.C. § 302(a) shall be combined for administrative purposes only. Pursuant to § 302(b), the bankruptcy estates of joint cases may only be substantively consolidated by order of the Court after notice and a hearing.

b. **Motion to Bifurcate a Jointly-Administered Chapter 13 Case.** A debtor seeking to bifurcate a jointly-administered case when both debtors are to remain in a Chapter 13 case shall file a motion to bifurcate. The motion shall list all of the claims in the joint case, including attorneys fees, and describe the intended treatment of each claim by the bifurcating debtor. The motion shall be served on all parties in interest and may be filed on a no protest basis pursuant to Local Rule 9013-1(f).

c. **Bifurcation and Conversion of One Debtor.** A motion to bifurcate is not required when an individual debtor in a joint case seeks conversion to a case under a different chapter. The debtor may convert the case by filing the appropriate notice of conversion or obtaining an order upon motion and paying the appropriate fee to bifurcate and convert the case.

d. **Filing Fees.**

1. Upon the bifurcation of a joint case, the appropriate fee shall be paid pursuant to 28 U.S.C. § 1930.

2. When a debtor seeks both to bifurcate and to convert a case, the debtor shall pay the appropriate conversion fee in addition to the fee to bifurcate the case.

Local Rule 1017-1
Grounds for Automatic Dismissal

a. **Automatic Dismissal of Chapter 7 Cases.** Except as provided in Local Rule 1007-1(b), a Chapter 7 case shall be subject to dismissal without further notice or opportunity for hearing if the debtor fails to appear at the § 341(a) meeting of creditors.

b. **Automatic Dismissal of Chapter 13 Cases.** The Chapter 13 Trustee may submit an order dismissing the case without further notice or opportunity for hearing for the debtor's failure to do any of the following:

1. Appear at the § 341(a) meeting of creditors;

2. Escrow the first plan payment within 30 days after the entry of the order for relief;

3. Escrow timely additional plan payments for each 30-day period after the due date of the first plan payment as described above, until confirmation;

4. Provide the Chapter 13 Trustee with a copy of the last filed federal income tax return that the debtor was required to file under applicable non-bankruptcy law pursuant to 11 U.S.C. § 521(e)(1);

5. Comply with the requirements for filing tax returns for the 4-year period prior to the filing of the petition pursuant to § 1308; or

6. Execute Local Form 7, Debtor(s) Certification and Affidavit – 341(a) Meeting, as required by Local Rule 4002-1(f)(6) by the date of the first scheduled § 341(a) meeting of creditors.

Local Rule 1071-1
Divisions - Bankruptcy Court

There shall be five divisions of the Court. The headquarters of each division and the counties comprising each division are as follows:

Name of Division	Clerk's Office	Counties
Asheville (Case prefix 1)	Asheville	Avery, Buncombe, Haywood, Henderson, Madison, Mitchell, Transylvania, Yancey
Bryson City (Case prefix 2)	Asheville	Cherokee, Clay, Graham, Jackson, Macon, Swain
Charlotte (Case prefix 3)	Charlotte	Anson, Gaston, Mecklenburg, Union
Shelby (Case prefix 4)	Charlotte	Burke, Cleveland, McDowell, Lincoln, Polk, Rutherford
Wilkesboro (Case prefix 5)	Charlotte	Alexander, Alleghany, Ashe, Caldwell, Catawba, Iredell, Watauga, Wilkes

Local Rule 1073-1
Assignment of Cases

Determination of Division for Assignment. In accordance with the divisions established in Local Rule 1071-1, the Clerk of Court shall assign all cases and proceedings to a division when the action is filed or removed. The place of filing shall be determined by the debtor's domicile, residence, principal place of business, or the location of the debtor's principal assets immediately preceding the filing of the bankruptcy case. In cases involving an affiliate, a general partner or partnership, related cases shall be assigned to the division where the original case was filed or is pending. In adversary proceedings when there is no pending bankruptcy case in this district, the division will be assigned at the discretion of the Clerk.

PART II

OFFICERS AND ADMINISTRATION; NOTICES; MEETINGS; EXAMINATIONS; ELECTIONS; ATTORNEYS AND ACCOUNTANTS; CHAPTER 13 CONFIRMATION HEARINGS

Local Rule 2002-1
Notice to Creditors and Service of Papers

a. **Amended or Supplemental Schedules.** If additional creditors are added after the debtor's initial filing, the debtor shall serve the notice required by 11 U.S.C. § 341 on the added creditors and promptly file a certificate of service with the Clerk of Court.

b. **Change of Address.** A creditor or party in interest with a change of name and/or address, whether for receipt of payments and/or notices, shall file Local Form 12 or an amended proof of claim with the Clerk in each case in which the change is to be noted. A change of name and/or address indicated by the filing of an amended proof of claim shall not constitute a change in the claim amount, unless specifically noted.

c. **Certificates of Service.** The party filing a pleading shall serve the pleading upon appropriate parties and file with the Clerk a certificate of service either with the pleading or promptly after service. Pursuant to Local Rule 9022-1, the party obtaining relief from the Court shall serve a copy of the filed order upon the appropriate parties who did not receive service through CM/ECF as provided in Local Rule 5005-1(e).

d. **Method of Service.** Service of all pleadings and orders shall be by first class mail or electronically, consistent with Local Rule 5005-1(e).

e. **Notice by Proponent.** The proponent shall prepare and mail notices required pursuant to Bankruptcy Rule 2002(a)(2) and (3) and Bankruptcy Rule 2002(f)(8).

f. **Papers Required to be Served by Chapter 11 Debtors.** In Chapter 11 cases, the debtor-in-possession shall be responsible for serving the following papers and for filing a certificate of service with the Clerk's Office within five days of the date of the mailing:

1. The debtor's plan;

2. The debtor's disclosure statement as approved by the Court;

3. The ballot;

4. Notice regarding balloting and the date for hearing on confirmation of the debtor's plan in a form approved by the Clerk's Office; and

5. Any other notices as the Court or Clerk shall direct in a particular case in a form approved by the Clerk.

g. **Service of Chapter 11 Fee Application and Notice of Hearing.** Copies of the full applications for compensation shall be served by the applicant pursuant to Local Rule 5005-1 or as otherwise allowed by law, on the debtor, the debtor's counsel, the Bankruptcy Administrator, and the trustee, if a trustee has been appointed. In all cases in which there is a Court appointed committee, a full copy of the fee application also shall be served on counsel for the committee, if such has been appointed, or if no counsel so serves, then on all members of that committee who have accepted appointment.

h. **Service of Chapter 13 Plan.** Within five (5) days of the filing of a plan or amended plan, the debtor shall serve copies of the Chapter 13 plan, and amended plan if applicable, prepared in conformance with the Court approved local form, on all parties in interest as provided herein and in conformance with Local Rule 4002-1(f)(4). The debtor shall file with the Court a certificate of service of the plan and/or amended plan. The certificate of service shall include a copy of the mailing matrix showing the parties served.

Local Rule 2002-2
Preferred Addresses Under 11 U.S.C. § 342(e) and (f) and National Creditor Registration Service

a. **Filing of Notice of Preferred Address.** The filing of a notice of preferred address pursuant to 11 U.S.C. § 342(f) by a creditor directly with the agency or agencies that provide noticing services for the Court will constitute the filing of such notice with the Court.

b. **Registration with National Creditor Registration Service.** Registration with the National Creditor Registration Service must be accomplished through the agency that provides noticing services for the Court. Forms and registration information are available at www.ncrsuscourts.com.

Local Rule 2002-3
Objection to Confirmation of Chapter 13 Plans

a. **Hearing on Confirmation.** Absent timely objection, the § 341(a) meeting of creditors shall be deemed to be the hearing on confirmation for purposes of 11 U.S.C. § 1324.

b. **Time for Objections to Confirmation.** Provided the Chapter 13 plan is served on all parties in interest as required by Local Rule 2002-1(h), objections to confirmation must be filed no later than 15 days from the conclusion of the § 341(a) meeting of creditors.

c. **Notice of hearing on Objection to Confirmation.** If an objection to confirmation is filed with the Court, the objecting party must provide written notice to affected parties in interest of the date, time, and location of the hearing on the objection. No hearing will be held unless an objection to confirmation is filed timely.

Local Rule 2016-1
Appointment of Professional Persons; Retainers Held by Professional Persons and Chapter 11 Attorney Fee Applications; Compensation of Chapter 13 Attorneys

a. **Professional Fee Guidelines.** Professionals seeking compensation are encouraged to refer to the Guidelines for Compensation which are attached hereto as Appendix A.

b. **Appointment of Professionals and Retainers.**

1. **Applications.** Absent extraordinary circumstances, attorneys and other professionals will not be appointed *nunc pro tunc*. Applications for appointment filed within 30 days of the filing of the petition or within 30 days of the date services commence, whichever occurs later, shall be considered timely.

2. **Retainers.** In a Chapter 11 case, a retainer held by a professional shall be maintained in a trust account. The professional shall not draw against the retainer postpetition except upon order of the Court.

c. **Security Interests.** Any agreements granting security interests in the debtor's property or in other property for the benefit of the debtor to the debtor's attorney or any other professional employed by the debtor to secure the payment of professional fees must be fully disclosed in the petition and/or schedules and must be approved by the Court. Any party receiving such an interest must make application to the Court within 15 days of the date of filing of the petition or the date of the agreement, whichever occurs later. Such application should be served on all parties in interest, including the trustee and the Bankruptcy Administrator, and may be filed on a no protest basis pursuant to Local Rule 9013-1(f).

d. **Chapter 13 Plan and Disclosure of Attorneys Fee Procedure.** In addition to filing the petition and schedules as required by the Official Bankruptcy Forms, the debtor shall file the Chapter 13 plan in conformance with Local Form 4 and shall file an executed Disclosure to Debtor(s) of Attorneys Fee Procedure in conformance with Local Form 3.

e. **Compensation of Attorneys in Chapter 13 Cases.**

1. Subject to paragraph (f)(4) below, the amount of the fee in cases and with respect to pleadings filed electronically shall be as follows:

   A. The presumptive base fee in a Chapter 13 case will not exceed $3,250 unless the Court orders otherwise.

   B. Any fee for non-base services that may be rendered to a Chapter 13 debtor must be applied for and approved by the Court. For fees and expenses less than $1,000, notice need only be sent to the debtor, the trustee, and the Bankruptcy Administrator. For fees and expenses of $1,000 or more, all parties in interest must be noticed. If a no protest notice is used, it shall be given using the form appended to these Local Rules as Local Form 1.

f. **Definition of Base Fee Services.**

1. The base fee shall be presumed to compensate the debtor's attorney for a level of services to the debtor that shall, at a minimum, include the following services:

   A. Providing the pre-filing notices required by the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005.

   B. Preparing and filing the petition, schedules, supplemental local forms, Chapter 13 plan, amended Chapter 13 plan, and matrix;

   C. Circulating a copy of the Chapter 13 plan to all creditors and interested parties as reflected in the case matrix; and service of amended plan if appropriate;

   D. Drafting and mailing letters to the debtor regarding attendance at the § 341(a) meeting of creditors, escrow of first money, and other responsibilities of the debtor;

E. Preparing for and attending the § 341(a) meeting of creditors;

F. Reviewing the confirmation order and periodic case status reports from the trustee;

G. Reviewing the Report of Trustee Claims Determination;

H. Maintaining custody and control of all case files with original documents for such periods as prescribed by law or Local Rule;

I. Serving orders on all affected parties;

J. Verifying the debtor's identity and social security number; furnishing to the Chapter 13 Trustee the debtor's IDs, tax return(s), and payment advices, if required;

K. Defending objection(s) to confirmation of the debtor's plan filed by the Chapter 13 Trustee; and

L. Preparing and filing Debtor's Motion for Entry of Discharge (Local Form 8) and Debtor's Disclosure of Information Regarding Domestic Support Obligations (Local Form 9).

2. The base fee also shall include the following services to the extent they are requested or reasonably necessary for effective representation of the debtor:

A. Preparing and filing proofs of claim on behalf of the debtor for a creditor;

B. Drafting and filing objections to scheduled and unscheduled proofs of claim;

C. Assuming and rejecting unexpired leases and executory contracts;

D. Preparing for and attending valuation hearings;

E. Motions to transfer venue;

F. Conferring with the debtor regarding obtaining postpetition credit, where no formal application is ultimately filed;

G. Drafting motions to avoid liens pursuant to § 522(f);

H. Calculating plan payment modifications, where no formal motion is ultimately filed;

I. Responding to creditor contacts regarding plan terms, valuation of collateral, claim amounts, and the like;

J. Responding to debtor contacts regarding job losses, changes in financial circumstances, address changes, and advising the Court and the trustee of the same when appropriate;

K. Communicating with the debtor, to a degree that is reasonable, regarding mortgage payment defaults, lease defaults, insurance coverage or the lack thereof, warranties, possible credit disability, life insurance coverage, and the like;

L. Obtaining and providing the trustee with copies of documents relating to lien perfection issues, such as recorded deeds of trust, purchase money security agreements, and the like;

M. Drafting and mailing letters to creditors upon entry of discharge regarding lien releases, turn over of clear title certificates, cancellation of deeds of trust and judgments, and the like;

N. Drafting and mailing certified letters to creditors regarding matters related to alleged violations of the automatic stay;

O. Drafting and mailing letters regarding voluntary turnover of property;

P. Reviewing documents in relation to the use or sale of collateral when no formal application is ultimately filed;

Q. Providing the debtor with a list of answers to frequently asked questions and other routine communications with the debtor during the pendency of the case; and

R. Requesting plan payoffs from the trustee.

3. The following services are presumed not to be covered by the base fee, and the Court may award additional compensation for the following services. Non-base fees may not be requested of the debtor or paid by the debtor or any other person, in trust or otherwise, without prior approval of the Court:

A. Abandonment of property post-confirmation;

B. Motion for moratorium;

C. Motion for authority to sell property;

D. Motion to modify plan;

E. Motion to use cash collateral or to incur debt;

F. Defense of motion for relief from stay or co-debtor stay;

G. Defense of motion to dismiss filed after confirmation of the debtor's plan;

H. Non-base fee requests;

I. Stay violation litigation, including amounts paid as fees by the creditor or other party;

J. Post-discharge injunction actions;

K. Adversary proceedings;

L. Wage garnishment orders;

M. Turnover adversaries;

N. Conversion to Chapter 7;

O. Motions to substitute collateral; and

P. Any other matter not covered by paragraph (f)(1) and (2) above.

4. In the Court's discretion, attorneys in a Chapter 13 proceeding may request, in open court, and without any further notice, non-base fees for the following services and in the amounts not exceeding those shown below. Without other notice, the debtor's attorney may also request the actual expenses of filing fees and of notice to creditors.

A.	Defense of motion to dismiss	$200
B.	Motion to modify and order (including motion for moratorium)	$350
C.	Substitution of collateral	$450
D.	Prosecution or defense of motion for relief from stay or co-debtor stay and order	$450
E.	Motion for authority to sell property and order	$450
F.	Motion to obtain credit	$450
G.	Permission from trustee to obtain credit, to be filed as an administrative proof of claim	$200
H.	Motion to continue or impose the automatic stay	$350

I. When substitute legal counsel is retained by a Chapter 13 debtor, such substituted counsel is entitled to a presumptive base fee of $500 without formal application to the Court, provided that the order allowing substitute counsel specifies both the amount of the fee and whether the fee is paid direct by the debtor or through the plan.

g. **Fees Exceeding the Presumptive and Non-Base Fees.**

1. If any fee retainer and/or agreement for payment is taken by an attorney for a Chapter 13 debtor in an

amount that is in excess of the presumptive base fee, within 30 days after the petition is filed, the attorney shall file an application for approval of the fee and notice the same for hearing.

2. These standard base and non-base fees are intended as a convention to reduce expense to the parties. Counsel may, alternatively, apply for non-base fees on a time and expenses basis in accordance with Local Rule 2016-1 and 11 U.S.C. § 330. In cases where the debtor and counsel elect this procedure, the election must be made within 30 days after the petition is filed, with notice and a hearing.

h. **Disclosure of Fee.** Every attorney for a Chapter 13 debtor must disclose to the debtor the procedures applicable to awards of attorneys fees in Chapter 13 cases in this district. This disclosure shall be made by reviewing with the debtor the Disclosure to Debtor(s) of Attorneys Fee Procedures for Chapter 13 Cases in the United States Bankruptcy Court for the Western District of North Carolina, Local Form 3, which is annexed to these Local Rules. Local Form 3 must be fully completed, executed as indicated, and the original must be filed with the Chapter 13 petition of the debtor. In addition, originally executed copies of Local Form 3 must be maintained by the attorney for a period of four (4) years after the closing of the case, and upon request of the Court, the filer must provide original documents for review.

i. **Payment of Attorneys Fees in Chapter 13 Cases.**

1. An attorney may accept an amount of compensation in advance of the filing of the Chapter 13 case up to the maximum $3,250 presumptive base fee on the following conditions:

   A. All Court filing fees must be paid in full at the time the case is filed (no installment fees to be applied for); and

   B. The debtor must appear at the time first set for the § 341(a) meeting of creditors having tendered to the trustee no less than all plan payments due.

2. If an attorney accepts a retainer and either (1)(A) or (1)(B) above is not met, the attorney must pay any unpaid Court fee.

3. The trustee is authorized to make a lump sum disbursement at confirmation in payment toward the debtor attorney's base fee balance if the trustee has preconfirmation debtor payments available that are not required to be used for adequate protection payments or for payment of the trustee's administrative fee.

4. To the extent that a balance remains owing on the debtor attorney's base fee after the application of all payments as set forth in paragraphs (1) and (3) above, the trustee shall make monthly disbursements on account of such fee balance on a *pro-rata* basis, along with the payments made to creditors holding allowed secured claims.

5. Any non-base fees and expenses awarded by the Court shall be paid by the trustee on a *pro-rata* basis, along with the payments made to creditors holding allowed secured claims.

j. **Disbursement of Base and Non-Base Fees by the Chapter 13 Trustee.**

1. The Chapter 13 Trustee shall pay allowed base fees in a Chapter 13 plan in the name of the attorney of record as specified in the debtor's filed, confirmed plan.

2. The Chapter 13 Trustee shall pay allowed non-base fees to the attorney as specified in the order allowing such non-base fees.

3. If there is a change in the professional association of a debtor's attorney during the pendency of a case which will require the trustee to redirect payment of fees, the affected attorney must file with the trustee a letter of agreement. If the form and execution of the agreement is satisfactory to the trustee, the trustee will redirect payment of fees in accordance with the letter of agreement.

4. These Local Rules do not prohibit the Chapter 13 Trustee or any attorney or law firm representing the

debtor from applying to the Court for an order directing the payment of allowed attorneys fees.

k. **Payment of Administrative Claims in Cases Dismissed Pre-Confirmation.** Pursuant to 11 U.S.C. § 1326(a)(2):

1. The Chapter 13 Trustee shall be allowed an administrative claim of $200 in cases dismissed prior to confirmation (the "set-up fee").

2. Unless otherwise ordered by the Court, in the event plan payments are made to the Chapter 13 Trustee prior to confirmation, upon dismissal of the case, the plan payment shall be distributed as follows:

   A. Adequate protection payments provided for in 11 U.S.C § 1326(a)(2) and Local Rule 3012-1; then

   B. The $200 trustee set-up fee; and then

   C. Unpaid debtor attorneys fees; and any other administrative claims allowed by 11 U.S.C. § 503(b); and then

   D. To the debtor.

Local Rule 2090-1
Representation of Business Entities

a. **Representation Required.** All partnerships, corporations, limited liability companies, trusts, associations, and other business entities that appear in cases or proceedings before this Court, not including the § 341(a) meeting of creditors or filing proofs of claim, must be represented by a lawyer duly admitted to practice before this Court. For purposes of this Local Rule, an appearance shall be defined as preparing and filing papers, such as complaints and answers, petitions, applications, and motions; questioning witnesses in proceedings before the Court; and pursuing any action in this Court.

b. **Sole Proprietorships Exempt.** This Local Rule does not apply to an individual conducting business as a sole proprietorship.

Local Rule 2090-2
Special Admissions

a. **Special Admission in this District.** Litigants appearing at a hearing, except counsel representing governmental agencies and parties appearing *pro se*, must be represented by at least one member of the bar of this Court or by an attorney admitted to practice by this Court pursuant to the Local Rule for Procedure and Practice 83.1 of the United States District Court for the Western District of North Carolina and this Local Rule. Any lawyer who is a member in good standing of the Bar of the Supreme Court of the United States or the Bar of the Supreme Court of any state in the United States, may, in the discretion of the judges of this Court, be permitted to appear in a particular case. If special admission is granted, and if a member of the bar of this Court is not associated, the specially admitted attorney and that attorney's client shall be deemed to have consented that service of all pleadings and notices may be made upon a deputy clerk in the appropriate division of this Court as process agent. The Court encourages out-of-state attorneys to associate a member of the bar of this Court in all cases, but will not require such association where the amount in controversy or the importance of the case do not appear to justify double employment of counsel. Special admission will be the exception and not the rule, and no out-of-state counsel will be permitted to practice frequently or regularly in this Court without the association of local counsel. Special admission granted by this Court constitutes admission to the United States District Court for the Western District of North Carolina.

b. **Filing Papers by Attorneys not Admitted in this District.** Where justice requires, the authorized deputy clerks in Asheville and Charlotte may permit the filing of papers at the request of out-of-state counsel; provided, however, that the further participation of out-of-state counsel shall be governed as provided in this Local Rule.

c. **Fee for Special Admission in this District.** All counsel, except those representing governmental agencies, must pay a fee as assessed by the District Court for each special admission or whenever *pro hac vice* admission is granted.

d. **Electronic Filing of Pleadings by Attorneys Not Admitted in this District.** The Clerk of Court may provide out-of-state counsel with an ECF login and password upon counsel's

representation that he/she (i) is a lawyer in good standing of the Bar of the Supreme Court of the United States or the Bar of the Supreme Court of any state in the United States, and (ii) has had prior ECF training before this or another Court. Without obtaining special admission to the Court, out-of-state counsel can use the ECF login and password to file any of the following documents:

(1) a notice of appearance/request for notices;
(2) a motion seeking *pro hac vice* admission without associating local counsel, pursuant to Local Rule 2090-2(a); and
(3) a response to a claim objection.

Issuance of an ECF login and password is not a substitute for admission to practice before this Court. Accordingly, the filing of further documents requires special admission to this Court in accordance with paragraph (a) above.

Local Rule 2090-3
Attorneys – Discipline

a. **Standards of Conduct.** In addition to applicable federal law, the Rules of Professional Conduct adopted by this Court are the Rules of Professional Conduct of the North Carolina State Bar adopted by the Supreme Court of North Carolina, as amended from time to time by that state court except as otherwise provided by a specific rule of this Court. Acts or omissions by an attorney practicing before this Court which violate the Rules of Professional Conduct adopted by this Court shall constitute misconduct and shall be grounds for discipline, whether or not the act or omission occurred in the course of an attorney-client relationship.

b. **Disciplinary Enforcement.** For misconduct as defined in these rules, and after notice and an opportunity to be heard, any attorney practicing before this Court may be suspended from practice in this Court, reprimanded, or subjected to such other disciplinary action as the circumstances may warrant.

c. **Duty to Inform the Clerk.** Any attorney practicing before this Court shall, upon being subjected to public discipline by any court or by the state bar of any state, promptly inform the Clerk of such action.

d. **Special Appearances.** Whenever an attorney appears in this Court for purposes of a particular proceeding, the attorney shall be deemed to have conferred disciplinary jurisdiction upon this Court for any alleged misconduct of that attorney arising in the course of or in the preparation for such proceeding.

e. **Jurisdiction.** Nothing contained in these rules shall be construed to deny to this Court such powers as are necessary for the Court to maintain control over proceedings conducted before it, such as proceedings for contempt or other such sanctions under the Federal Rules of Civil Procedure, these Local Rules, or other applicable law.

Local Rule 2091-1
Extent of Attorney's Duty to Represent

a. **Duty to Represent Debtor.** Any attorney who files a bankruptcy petition for or on behalf of a debtor shall remain the responsible attorney of record for all purposes, including the representation of the debtor in all matters that arise in the case and conversion to another Chapter, with the following exceptions:

1. In a Chapter 7 case, the attorney is not required to represent the debtor in an adversary proceeding so long as this exception is included in the attorney's fee contract with the debtor.

2. In a case involuntarily converted to a Chapter 7, the attorney shall make a diligent effort to prepare post-conversion schedules. Unless otherwise ordered, the duty to represent the debtor shall terminate at the conclusion of the first scheduled § 341(a) meeting of creditors. The attorney seeking to withdraw from representing the debtor must file a Notice of Withdrawal of Representation in order to terminate representation and serve a copy on the trustee and the debtor.

b. **Relief from Duty to Represent.** An attorney is automatically deemed relieved of the duty to represent the debtor when the debtor's case is closed or substitute counsel is appointed. Alternatively, an attorney may be relieved of the duty to represent the debtor only upon motion, and after notice and a hearing, on the order of this Court.

c. **Entry or Substitution of Legal Counsel.** By and with the consent of a debtor, an attorney may file a motion with the Court to become legal counsel for the debtor. If, at the time the motion is filed the debtor is without an attorney of record, such motion may be considered *ex parte*. If, at the time such motion is filed the debtor has an attorney, the motion shall be considered by the Court pursuant to Local Rule 9013-1(f).

An order allowing substitution of a debtor's attorney also may provide for the withdrawal of the debtor's previous attorney; otherwise, the prior attorney shall be relieved

of further duty to represent the debtor only as provided in paragraph (b) of this rule.

d. **Substitution of Legal Counsel by Any Other Party in Interest.** Substitution of legal counsel by any other party of interest shall be effective upon the filing of a Notice of Substitution of Counsel. The notice shall be served upon the debtor, debtor's attorney, trustee, the prior legal counsel of the party of interest, and any other party of interest if the substitution concerns a pending matter before the Court or reconsideration of a matter previously pending before the Court.

e. **Duty to Represent.** An attorney allowed by order of the Court to enter a case as attorney for a debtor shall have those duties as set forth in paragraph (a) above from the time stated in the order allowing entry into the case.

PART III

CLAIMS AND DISTRIBUTION TO CREDITORS AND EQUITY INTEREST HOLDERS; PLANS

Local Rule 3001-1
Claims and Equity Security Interests

a. **Where to File a Claim.**

1. In all cases, proofs of claim shall be filed by electronic means directly with the Clerk of Court according to those guidelines established and published by the Court.

2. When filing proofs of claim, the claimant shall comply with the requirements of Bankruptcy Rule 3001(c) and (d) regarding the attachment of documentation in electronic format sufficient to establish the validity and status of the claim asserted, pursuant to the Clerk's guidelines.

3. The filing of a proof of claim by electronic means directly with the Clerk shall constitute the filing claimant's approved signature by law, and the provisions of 11 U.S.C. § 152(f) shall apply to the filing of a proof of claim under this procedure.

4. The filing of a proof of claim by electronic means in accordance with the Clerk's procedures shall constitute entry of the proof of claim pursuant to Bankruptcy Rule 5003.

b. **Filing of Claims by Debtor or Trustee.** In Chapter 13 cases, if a creditor fails to file a proof of claim on or before the first date set for the § 341(a) meeting of creditors, the debtor or trustee may do so in the name of the creditor. If the debtor or trustee does file a proof of claim on behalf of a creditor, the creditor may file an amended proof of claim pursuant to Bankruptcy Rules 3002 or 3003(c), which shall supercede the proof of claim filed by the debtor or trustee.

c. **Change of Address.** See Local Rule 2002-1(b).

d. **Electronic Filing of Transfers of Claim.** Creditors shall adhere to the following procedures when filing transfers of claim:

1. In all cases filed under all chapters of the Bankruptcy Code, transfers of claim shall be filed by electronic means directly with the Clerk of Court according to those guidelines established and published by the Clerk.

2. The filing of a transfer of claim by electronic means directly with the Clerk shall constitute the filing claimant's approved signature by law, and the provisions of 18 U.S.C. § 152(4) shall apply to the filing of a transfer of claim under this procedure.

3. The filing of a transfer of claim shall require the attachment of Official Bankruptcy Form B210. Supporting documentation may be attached within the same filing.

4. The filing of a transfer of claim by electronic means in accordance with the Clerk's procedures shall constitute entry of the transfer of claim pursuant to Bankruptcy Rule 5003.

5. Any paper "hard copy" transfer of claim filed with the Clerk that has subsequently been scanned and docketed in CM/ECF may be destroyed at any time thereafter.

Local Rule 3001-2
Presumptive Interest Rates in Chapter 13 Cases

a. **The Formula Rate.** The presumptive interest rate for use in calculating the value of payments to secured creditors for the entire term of the Chapter 13 plan is the composite prime interest rate plus two percent (the "Formula Rate").

b. **Calculating the Formula Rate.** The composite prime interest rate as published on the first business day of the calendar month will be used as the basis for calculating the Formula Rate for all cases filed during the same calendar month, except that in the event that the first day of the calendar month falls on a Saturday, Sunday, or bank holiday, the composite prime interest rate effective for the last preceding business day shall be the basis for the Formula Rate in cases filed on those days.

c. **Determining Composite Prime Interest Rate.** The Court will provide appropriate links at its home website from which the composite prime interest rate can be determined.

d. **Application of Formula Rate.** Unless otherwise ordered, the Formula Rate generally applies to over secured, fully secured, and under secured claims.

e. **Contract Rate.** Where a claim is secured only by the debtor's principal residence and the contract rate is greater than the Formula Rate, the contract rate must be used.

f. **Formula Rate as Default Rate.** Paragraph (e) above notwithstanding, unless the proposed Chapter 13 plan provides specifically for the use of an interest rate other than the Formula Rate for any particular claim or claims, and specifically identifies that interest rate, the trustees are authorized to use the Formula Rate for all secured claims provided for by the plan.

g. **Otherwise Agreed Upon Interest Rate.** A different interest rate may be used if agreed upon by the debtor, the claimant, and the trustee.

h. **Departure from Contract/Formula Rate Conventions.** Notwithstanding the above, a party in interest may request an evidentiary hearing if a departure from the contract/Formula interest rate conventions, as set forth

herein, is warranted. Such request must be made by motion and notice and determined by hearing.

i. **Rate for Tax Claimants.** Any secured tax claimant desiring to invoke the provisions of 11 U.S.C. § 511(a) for payment of interest on its claim, shall expressly set out in its proof of claim the appropriate non-bankruptcy rate of interest to be used by the trustee in paying the value of its claim. Otherwise, the trustee is authorized to use the Formula Rate.

Local Rule 3002-1
Chapter 13 Trustee Treatment of Certain Tax Claims

a. **Administrative Modification of Plans for Tax Claims.** When a proof of claim is filed for a tax liability in excess of the estimated amount scheduled by the debtor, and if modification of a previously confirmed plan is required, the trustee may make the necessary plan modification and provide written notice to the debtor and the debtor's attorney.

b. **Chapter 13 Trustee Treatment of Tax Claims Filed Prior to Due Date or Penalty Date.**

1. The Clerk shall accept for filing properly-executed proofs of claim from any taxing authority even when such proofs of claim are filed prior to the due date for federal and state tax returns or the penalty date for local tax obligations.

2. The trustee shall not administer such proofs of claim until the due date or penalty date as described above has passed.

3. Following the passage of the applicable date, the taxing authority must file an amended proof of claim with the Clerk and serve the debtor's attorney and the Chapter 13 Trustee with notice that the taxing authority desires to have the debts included for payment by the trustee through the Chapter 13 plan.

4. Unless the taxing authority provides such timely written notice as set forth in subparagraph 3 above, the proofs of claim in question are deemed objected to by the trustee for the reason that the debts evidenced by the proofs of claim have been satisfied by direct payment, without prejudice to reconsideration.

Local Rule 3003-1
Chapter 11 Claims

Time for Filing Claims in a Chapter 11 Case. In a Chapter 11 case, a proof of claim shall be filed within 90 days after the date first set for the § 341(a) meeting of creditors, except as provided in Bankruptcy Rule 3003(c)(3) or otherwise extended by the Court.

Local Rule 3009-1
Processing Returned Creditor Overpayments in a Chapter 7 Case

Returned Creditor Overpayments. Following the final distribution to creditors in a Chapter 7 case, the trustee is authorized to process returned creditor overpayments as follows:

1. If the returned creditor overpayments total $500 or more in any case, the trustee shall disburse the overpayments to creditors pursuant to the previously filed final report, excluding the overpaid creditor's share, on a pro rata basis.

2. If the returned creditor overpayments total less than $500 in any case, the overpayments shall be deemed to be abandoned to the debtor, and the trustee may disburse the funds directly to the debtor.

Local Rule 3011-1
Disbursement of Unclaimed Funds

a. **Procedure for Collecting Unclaimed Funds.** The following procedure shall apply to the collection of unclaimed funds:

1. **Deposit of Unclaimed Funds into United States Treasury.** All unclaimed funds collected by the Court shall be deposited into the United States Treasury.

2. **Local Form 5.** Claimants shall use Local Form 5, Motion for Disbursement of Unclaimed Funds, to request disbursement of unclaimed funds, including the attached Notice of Hearing.

3. **Service of Local Form 5.** The claimant shall serve a copy of Local Form 5 on the United States Attorney, the Bankruptcy Administrator, and the case trustee at least fifteen (15) days prior to the hearing date.

4. **Individual Claimants.** An individual claimant may file Local Form 5 *pro se.* An individual claimant shall establish full proof of his or her right to the unclaimed funds by personally appearing at the hearing and presenting testimony in open court which convinces the Court of the claimant's right to the unclaimed funds.

   A Motion for Disbursement of Unclaimed Funds by an individual claimant must be accompanied by the following:

   A. Attached affidavit with the certificate of a notary public. Such affidavit shall bear the seal of the notary and explain the claimant's entitlement to the funds being requested.

   B. A copy of an unexpired passport or valid drivers license to establish identity;

   C. Last 4 digits of the claimant's social security number; and

   D. Any additional documentation that establishes full proof of the claimant's right to the unclaimed funds and evidences identity such as a

copy of a proof of claim or a copy of a utility bill from an old address.

5. **Waiver of Personal Appearance at Hearing by Individual Claimants.** In cases of extreme hardship, individual claimants may request a waiver of the requirement that they appear in person at the hearing on the Motion for Disbursement of Unclaimed Funds. Such requests will be considered by the Court on a case-by-case basis and must establish to the Court's satisfaction the claimants' identity and entitlement to the unclaimed funds.

6. **Non-individual claimants.** All non-individual claimants (such as partnerships, corporations, and governmental agencies) must be represented by an attorney who is a member in good standing of the North Carolina State Bar and who has been admitted to practice before the United States District Court for the Western district of North Carolina by taking the prescribed oath in open court, as set forth in Rule 83.1 of the Local Rules of the United States District Court for the Western District of North Carolina. A non-individual claimant shall establish full proof of its right to the unclaimed funds by having a designee personally appear at the hearing and present testimony in open court which convinces the Court of the claimant's right to the unclaimed funds. Alternatively, the non-individual claimant, in lieu of appearing in court, may file an affidavit of its designated officer, general or managing agent, stating the factual and legal basis for its claim to the funds in question, which affidavit must be presented to the Court by its attorney at the hearing on the Motion for Disbursement of Unclaimed Funds.

Local Rule 3012-1
Pre-Confirmation Adequate Protection Payments

Pre-Confirmation Adequate Protection Payments. All adequate protection payments required by 11 U.S.C. § 1326(a)(1) shall be paid as follows:

1. The debtor shall pay directly to the lessor all payments scheduled in a lease of personal property for that portion of the obligation that becomes due after the order for relief. Absent a timely objection to confirmation of the proposed plan, the debtor shall be presumed to have made such payments as required by § 1326(a)(1). Because the Chapter 13 plan shall provide that payments to lessors will be made directly by the debtor, there shall be no reduction in the Chapter 13 plan payment remitted to the trustee for these direct payments.

2. The Chapter 13 plan shall provide that adequate protection payments required by 11 U.S.C. § 1326(a)(1) shall be made by the Chapter 13 Trustee, unless the Court orders otherwise.

3. The debtor shall list in the Chapter 13 plan the name, address, and last four digits of the account number for each secured creditor entitled to receive adequate protection payments. For purposes of this provision, the trustee shall make such adequate protection payments to the address duly noted on the sworn proof of claim. The use of such address shall be deemed proper notice to the creditor for the purposes of adequate protection payments.

4. All adequate protection payments paid through the Chapter 13 Trustee shall be subject to an administrative fee in favor of the trustee equal to the trustee's statutory percentage commission then in effect, and the trustee shall collect such fee at the time of the distribution of the adequate protection payment to the claimant.

5. No adequate protection payment shall be disbursed until a properly-executed proof of claim is filed by electronic means with the Clerk and has been deemed allowed pursuant to 11 U.S.C. § 502(a) and the Chapter 13 plan has been confirmed.

6. The trustee shall not be required to make adequate protection payments on account of any claim for which the

secured value of said claim as provided in the plan is less than $2,000.

7. Unless otherwise ordered by the Court pursuant to § 1326(a)(3), the amount of the adequate protection payment(s) required to be made by the trustee shall be based on a monthly calculation of one percent (1%) of the lesser of (1) the plan value of the collateral securing the affected claim or (2) the total amount of the asserted claim.

Local Rule 3015-1
Dismissal or Conversion of Chapter 13 Cases

a. **Funds Held by the Trustee at Dismissal or Conversion.** In the event of the dismissal or conversion of a Chapter 13 case, the trustee shall dispose of any debtor funds in the trustee's custody as follows:

1. **Cases Dismissed Prior to Confirmation.** See Local Rule 2016-1(k).

2. **Cases Dismissed After Confirmation.** The trustee shall disburse any funds received prior to entry of the order of dismissal pursuant to the terms of the confirmed plan. Any funds received by the trustee subsequent to entry of the order of dismissal shall be refunded to the debtor in care of the debtor's attorney.

3. **Cases Converted to Another Chapter Prior to Confirmation.** Any funds received by the trustee prior to entry of the notice of conversion shall be distributed to:

   A. Adequate protection payments provided for in 11 U.S.C. § 1326(a)(2) and Local Rule 3012-1; then, and in the discretion of the trustee, to:

   B. The $200 trustee set-up fee as provided for in Local Rule 2016-1(k); then,

   C. If the remaining funds are less than $2,500; to the debtor in care of the debtor's attorney. If the remaining funds are $2,500 or more, to the Chapter 7 Trustee, or to the debtor-in-possession.

4. **Cases Converted to Another Chapter After Confirmation.** The trustee shall disburse any funds received prior to entry of the notice of conversion pursuant to the terms of the confirmed plan. Any funds received by the trustee subsequent to the notice of conversion shall be distributed as follows:

   A. If the remaining funds are less than $2,500; to the debtor in care of the debtor's attorney. If the remaining funds are $2,500 or more, to the Chapter 7 Trustee or to the debtor-in-possession.

b. **Trustee's Right to Seek Court Determination.** The provisions of paragraph (a) above are subject to the trustee's right to seek a Court determination of the disposition of funds in any particular case when, in the trustee's judgment, such a determination is appropriate.

Local Rule 3018-1
Chapter 11 Balloting

Filing with Clerk. Unless otherwise ordered, all original ballots must be filed with the Clerk of Court by the voting parties. Any proponent of a plan shall file a summary of ballots as they appear in the Court record. The summary shall be filed with the Clerk not later than three business days prior to the hearing on confirmation.

Local Rule 3021-1
Authorization of Pro-Rata Monthly Payments to Secured Creditors in Chapter 13 Cases

Payments to Secured Creditors. The debtor and the Chapter 13 Trustee shall be deemed to be in compliance with the requirements of 11 U.S.C. § 1325(a)(5)(B)(iii) as long as the trustee makes regular monthly payments to each affected secured creditor on a *pro-rata* basis in amounts that are sufficient to provide adequate protection.

Local Rule 3021-2
Processing Returned Creditor Overpayments
After Final Distribution in Chapter 13 Cases

a. **Returned Creditor Overpayments.** Following the final distribution to creditors in a Chapter 13 case, the trustee is authorized to process returned creditor overpayments as follows:

1. **Composition (or "Percentage") Plans.** The returned creditor overpayments shall be refunded to the debtor following the filing of the trustee's final report and account.

2. **Base (or "Pot") Plans.**

A. **Plans paying all claims in full.** The returned creditor overpayments shall be refunded to the debtor following the filing of the trustee's final report and account.

B. **Plans paying less than all claims in full.** If the returned creditor overpayments total $500 or more in any case, the trustee shall disburse the overpayments to creditors pursuant to the confirmed plan, with any excess funds then remaining to be refunded to the debtor following the filing of the trustee's final report and account.

If creditor overpayments total less than $500 in any case, the overpayments shall be deemed to be abandoned to the trustee upon the closing of the case for the purpose of deferring future costs of administration.

PART IV

THE DEBTOR: DUTIES AND BENEFITS

Local Rule 4001-1
Motions for Relief from Stay

a. **Motion Requirements.** In a motion for relief from stay, the following shall be included:

1. Amount of the movant's debt;

2. Brief description of security interest, if applicable, with copies of documents evidencing the security interest and perfection;

3. Description of the property encumbered by the stay, including serial number, vehicle identification number, legal description, physical address, lot and block number, and the like; failure to describe adequately the property may result in denial of the motion, even absent objection;

4. Basis for relief, i.e., property not necessary for reorganization, debtor has no equity, property is not property of the estate; or, if brought for cause, specific facts constituting cause;

5. Valuation of property and basis and date of valuation, e.g., appraisal, blue book, etc . . ., including applicable copies;

6. In Chapter 13 cases, when a creditor whose claim is secured by an interest in real property or personal property that is the debtor's principal residence, is seeking relief from stay on the grounds of post-petition default by the debtor, the creditor must include with the motion for relief from stay a statement of all postpetition account activity that is readable, reasonably understandable, and stated in plain English and substantially consistent with Local Form 10; and

7. In the event the debtor disputes the payment history, within five (5) days of the initial hearing, the debtor shall prepare and serve a postpetition account payment history in a form consistent with Local Form 11.

b. **Application of 11 U.S.C. § 362(e).** If a movant seeks application of the provisions of § 362(e), the movant must so state both in the caption and in the body of its motion. Otherwise, the movant will be deemed to have waived the application of § 362(e), and the stay shall remain effective notwithstanding the expiration of the 30-day period. Similarly, if the movant seeks application of § 362(e) but selects a hearing date outside the 30-day period of § 362(e), the movant will be deemed to have waived the application of § 362(e), and the stay shall remain effective at least until the Court considers the matter at the hearing and thereafter upon such terms as the Court orders. If the movant seeks application of § 362(e) and so notifies the Court and the adverse party, the Court will schedule the initial hearing within the applicable 30-day period.

c. **Standing Modification of the Automatic Stay.** The automatic stay provided in § 362(a) is modified in bankruptcy cases so as to authorize the Internal Revenue Service to:

1. Make income tax refunds, in the ordinary course of business, directly to debtors, unless otherwise ordered by the Court or otherwise instructed by the trustee.

2. Offset against any prepetition refund due a debtor any prepetition tax obligation owing by the debtor to the United States government.

d. **Proposed Orders.** Every proposed order granting any relief stemming from a motion for relief from stay shall:

1. Include a description of the property encumbered by the stay as described in Local Rule 4001-1(a)(3);

2. State whether the relief from stay is conditional or absolute;

3. If conditional, set-forth separately and with specificity each condition upon which relief is to be granted; and

4. State that the creditor has 120 days to file a deficiency claim from the time the subject

property is removed from the protection of the stay; however,

A. In the case where the subject property is real estate or manufactured housing, the deadline for filing a deficiency claim shall be 180 days; and

B. For good cause shown, an extension of time to file a deficiency claim may be granted by the Court so long as application therefore is made within the applicable deficiency filing period.

When an order terminating the automatic stay is entered or a notice of termination of automatic stay is filed, then the trustee is authorized to cease payments upon any and all claims in that case where any creditor holds a security interest in the same property.

e. **Secured Creditor Duties in All Title 11 Proceedings.**

1. A secured creditor shall send all payment coupons or statements of account that the creditor provides to its non-bankruptcy debtors to Chapter 7 debtors who have indicated, in their Statement of Intention, their intent to retain the secured creditor's collateral by complying with the terms of the contract, or to any debtor who so requests. The act of sending such payment coupons or statements of account shall not be considered a violation of the automatic stay or of the debtor's discharge injunction.

2. If a secured creditor does not provide payment coupons and statements of account referred to in paragraph (1) above, then upon request by the debtor, that secured creditor shall 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 referred to in paragraph (1) above.

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

4. The automatic stay provided in 11 U.S.C. § 326(a) is modified as follows: affected secured creditors may

contact the debtor about payment of property taxes due and the status of insurance coverage on property used as collateral. If there are direct payments to creditors, the creditor may contact the debtor in writing about any payment in default; and, if technically possible, shall send to the debtor statements, payment coupons, or other correspondence that the creditor sends to its non-debtor customers. See Local Rule 4001-2.

5. For escrowed loans, no less than once a year, each secured creditor shall provide written notice to the debtor and debtor's attorney of any and all amounts due or paid in that year or the coming year, if known, for all escrowed items. If such payment or advance results in a shortage in the escrow account, the creditor shall determine or analyze the amount necessary to cure that shortage and provide the debtor with written notice thereof. Should the analysis result in a payment change, then written notice of the payment change shall be provided to the debtor and debtor's attorney at least thirty (30) days in advance of the due date of the payment change. Direct contact by the creditor to the debtor under this provision shall not be a violation of the automatic stay.

6. For non-escrowed loans, and if allowed under non-bankruptcy law, should a creditor determine it will advance and pay entities for taxes and/or insurance to protect its security interest, then it shall provide at least thirty (30) days written notice thereof to the debtor and debtor's attorney before the funds are paid or advanced, unless the creditor suffers an immediate loss during the thirty (30) days. In such a case, notice to the debtor and debtor's attorney shall be given contemporaneously with the advance or payment. Said payment or advance shall be reimbursed to the creditor, as allowed under non-bankruptcy law or agreement. Should the creditor determine that it will thereafter escrow the loan as provided under the security instrument, note, contract, or deed of trust, then the creditor shall thereafter comply with the provisions of Local Rule 4001-1(e)(5).

Local Rule 4001-2
Limitations on Creditor Contact with Debtors

a. **Compliance with Non-Bankruptcy Law.** Any creditor contact with debtors must also comply with any applicable non-bankruptcy law.

b. **Creditor's Responses to Debtors.** A creditor may respond freely to any inquiry from a debtor on any subject matter.

c. **Secured Creditor Duties.** See the provisions of Local Rule 4001-1(e).

Local Rule 4002-1
Debtor Duties

a. **Debtor's Duties in General.** The duties of the debtor filing a petition pursuant to the United States Bankruptcy Code shall specifically include those listed in this Local Rule. These duties apply in addition to those imposed by law or regulation.

b. **Filing of Tax Returns.** Copies of debtor's tax returns shall not be filed with the Clerk of Court unless requested by the Court, Bankruptcy Administrator, or an interested party or otherwise ordered by the Court. If the debtor's tax returns are tendered to the Court other than pursuant to a proper request or Court order, then the Clerk's Office shall not accept the returns but shall return them to the debtor.

c. **Interpreters.** Should a debtor require interpreters, the following provisions apply:

1. **Language Interpreters.** The debtor must provide a competent language interpreter at any § 341(a) meeting of creditors in which the debtor will require language interpretation. If, in the trustee or the Bankruptcy Administrator's discretion, a disinterested language interpreter is required, the trustee or Bankruptcy Administrator will continue the meeting of creditors. The debtor must provide a qualified, disinterested language interpreter at the continued meeting of creditors.

2. **Interpreters for Hearing Impaired.** The Bankruptcy Administrator is required to provide interpretation services for hearing impaired interpretation at § 341(a) first meetings of creditors. The debtor's attorney should contact the Bankruptcy Administrator's office at least five business days prior to the date of the first meeting to arrange for hearing impaired interpretation.

3. **Oath.** The following oath shall be administered to the language interpreter or hearing impaired interpreter: *Do you solemnly swear that in the first meeting of creditors in the bankruptcy case of _____, you will translate the testimony of the debtor(s) from the _____ language into the English language, and the questions and instructions of all*

parties from the English language into the _____ language, and make such other translations as may be required, according to the best of your ability, so help you God?

d. **Duties of Chapter 7 Debtor.** A debtor filing a petition requesting relief under Chapter 7 of the Code shall comply with the following:

1. **Compliance with Trustee's Requests.** The debtor shall comply with any request by the trustee for turnover of property or production of documents within 15 days of the date of the request.

2. **Statement of Intention.** The debtor shall provide to the trustee evidence of compliance with the Statement of Intention as required by Local Rule 1007-3.

3. **Inventory or Equipment.** When a stock of goods or business equipment is listed in the debtor's schedules, immediately after the general description thereof, the debtor shall:

   A. List the assets in need of attention including the nature and value of such assets;

   B. Append a short explanation of the assets' exact location;

   C. List the name and address of the custodian thereof;

   D. State the protection being given such property and the amount and duration of fire and theft insurance, if any; and

   E. List whether the assets are subject to any environmental hazards or concerns.

4. **Need for Immediate Attention.** Where assets are in need of immediate attention, the debtor's attorney (or the debtor if *pro se*) shall immediately contact the Bankruptcy Administrator to ascertain the name of the trustee assigned to the case. If no trustee has been assigned, the attorney shall notify the Bankruptcy Administrator of the necessity for immediate assignment. Upon determining the assigned trustee, the attorney shall then contact the trustee and notify

the trustee of the need for immediate attention and of the items listed in paragraph (d)(3) above.

e. **Duties of Chapter 11 Debtor.** Unless otherwise ordered by the Court after proper notice and hearing, Chapter 11 debtors-in-possession shall comply with the following requirements:

1. **Monthly Reports.** In accordance with 11 U.S.C. §§ 704(8) and 1107(a) and Bankruptcy Rule 2015, the debtor-in-possession or, if applicable, the trustee in a Chapter 11 case, shall file with the Clerk, not later than the last day of each month, the written financial report for the preceding month in a format approved by the Bankruptcy Administrator. The report must be signed by the debtor or, if applicable, the trustee, and counsel for the debtor or trustee. The first report shall include the period between the date the petition was filed and the last day of the calendar month and shall be due within 30 days after entry of the Order for Relief. All subsequent reports shall be for the entire calendar month and shall be due within 30 days following the entry of the Order for Relief.

2. **Quarterly Fees.** Quarterly fees are due in all Chapter 11 cases filed on or after April 1, 2002. Information concerning these fees may be obtained from the Court's website, www.ncwb.uscourts.gov, or by contacting the Office of the Bankruptcy Administrator. These fees are due to the Bankruptcy Administrator and must be paid no later than the last day of the month immediately following the end of the calendar quarter for which they are due in accordance with 28 U.S.C. § 1930(a)(6). Payments must be mailed so as to ensure they are received by the due date. Payment shall be made to: Clerk, U.S. Bankruptcy Court, with payment verification made to the Bankruptcy Administrator. All plans of reorganization must provide for the payment of quarterly fees until the case is closed, dismissed, or converted.

3. **Insurance.** The debtor must provide to the Bankruptcy Administrator within 10 days of the date of the filing date, copies of the declaration pages for all insurance policies maintained by the debtor. At all times, the debtor must maintain adequate hazard and liability insurance on all of the debtor's property as

well as any other insurance required by applicable law or Court order, i.e., worker's compensation insurance and dram shop insurance. Within two business days, the debtor must notify the Bankruptcy Administrator of any changes in the terms of the policy(s), including cancellation or non-renewal.

4. **Tax Returns.** In cases involving individual Chapter 11 debtors, the debtor shall not file copies of tax returns with the Court unless requested to do so by the Court, the Bankruptcy Administrator, or an interested party, or otherwise ordered by the Court.

5. **Bank Accounts.** The debtor's prepetition bank accounts should be closed and new postpetition bank accounts opened as of the date of the filing of the petition. At a minimum, the debtor will maintain a general or operating account and a tax deposit account. The signature cards for the new accounts shall clearly indicate that the debtor is a Chapter 11 debtor-in-possession. The debtor shall use only federally insured banking institutions and shall immediately inform the Bankruptcy Administrator if the total deposits in any one bank at any time exceed the FDIC coverage of $100,000. Upon notification, the Bankruptcy Administrator shall ensure the posting of collateral or bonds to secure amounts exceeding the FDIC coverage.

6. **Books, Records, and Inspections.** The debtor shall close its prepetition books and records and open new books and records as of the petition filing date. The debtor shall permit the Bankruptcy Administrator, or designee, reasonable inspection of its business premises, properties, books, and records.

7. **Taxes.** The debtor shall segregate and hold in a separate bank account all taxes deducted and withheld from employees or monies collected under any law of the United States, or any state or subdivision thereof, and the state of North Carolina. The debtor shall pay all postpetition taxes timely. Evidence of payment of taxes shall be included in the Monthly Status Report for the period paid. The debtor shall file all delinquent tax returns within 90 days of the filing date. The debtor shall file all postpetition returns timely. The Internal Revenue Service and the North Carolina Department of Revenue are authorized to

contact the debtor to verify the deposit and payment of all taxes and the filing of all tax returns.

8. **Compensation and Compensation Plans.** The debtor may not increase compensation to management or insiders or modify compensation plans without prior Court order.

9. **Post Confirmation.** Following the entry of an order confirming a plan of reorganization, the debtor, pursuant to Bankruptcy Rule 2015(a), shall continue to file monthly operating reports until such time as the case is closed by the Clerk. These reports shall be in a form satisfactory to the Bankruptcy Administrator. The original and one copy of the report shall be filed with the Clerk. The debtor shall state in each report any action taken toward consummation of the plan. The debtor shall also, upon substantial consummation of the confirmed plan, as that term is defined in 11 U.S.C. § 1101(2), file with the Clerk a final report and accounting of the administration of the bankruptcy estate on the official form supplied by the Clerk. If this final report and accounting is not filed within sixty (60) days of the date of the Order in Aid of Consummation, the Court will conduct a status hearing to address issues pertinent to closing the case.

f. **Duties of Chapter 13 Debtor.** The debtor filing a petition requesting relief under Chapter 13 of the Code shall comply with the following:

1. **Disposition of Non-Exempt Property.** The debtor shall not dispose of non-exempt property having a fair market value of more than $2,500 by sale or otherwise without prior approval of the Court. This shall be a cumulative, rather than a per-transaction, dollar limitation over the life of the plan.

2. **Obtaining Credit.** The trustee may approve debtor requests to incur credit not to exceed $15,000 provided that the proposed credit transaction will be unsecured or secured only by personal property. All other debtor requests to incur credit must be approved by the Court.

3. **Domestic Support Obligations.** The debtor shall schedule, and provide for the payment as required, of all domestic support obligation claims, as the term is

defined by 11 U.S.C. § 101(14A), during the pendency of the case. In order for the trustee to comply with the noticing requirements of § 1302(b)(6), the debtor shall schedule the correct and complete mailing address and telephone number for each domestic support obligation claimant. If the debtor is unable to obtain the mailing address despite all reasonable efforts to do so, the trustee is authorized to send all required notices to the domestic support obligation claimant in care of the appropriate state child support enforcement agency.

4. **Pre-Confirmation Plan Modifications.** If it is determined at the meeting of creditors that a proposed plan must be modified prior to confirmation pursuant to 11 U.S.C. § 1323, the trustee shall continue the meeting for such period of time as is necessary for the debtor to file an amended plan and serve the amended plan on all affected parties in interest. The amended plan shall identify only those particular provisions that are the subject of the proposed modification(s) and shall conform substantially to Local Form 4A. The debtor shall be responsible for the proper service of the amended plan. This provision shall apply only to those proposed plan modifications that adversely affect the rights of a party in interest other than the debtor.

5. **Proof of Adequate Insurance for Debtors Engaged in Business.** If requested by the trustee, a debtor engaged in business as defined in 11 U.S.C. § 1304 shall obtain promptly and maintain continually in full force and effect a comprehensive business insurance policy with personal liability and physical damage coverage limits commensurate with the nature and scope of the debtor's business. The debtor shall list the trustee as a loss payee on such policy and provide the trustee with such written documentation of the required coverage as may be requested from time to time.

6. **Debtor Certification at § 341(a) Meeting of Creditors.** At the meeting of creditors, each debtor shall execute under penalties of perjury a written certification on Local Form 7 concerning, among others, the following matters:

A. That the debtor is current on the payment of all postpetition domestic support obligations, if any, as required by 11 U.S.C. § 1325(a)(8);

B. That the debtor has complied with all of the tax return filing requirements of 11 U.S.C. § 1308(a);

C. That the statement of the debtor's average income for the six-month period ending on the last day of the calendar month immediately preceding the date of the commencement of the case is consistent with the amount as reflected on all payment advices, payroll records, checks, deposits, and any other sources of income; and

D. That confirmation of the debtor's proposed plan shall be deemed a finding by the Court that the debtor has so complied with these documentation and certification requirements.

The trustee shall cause the executed Local Form 7 to be filed with the Court.

7. **Commencement of Payments.** The debtor shall commence payments to the Chapter 13 Trustee within the first 15 days after the filing of the petition, regardless of whether 11 U.S.C. § 1326 applies.

Local Rule 4003-1
Exemption Election

a. **Content of Exemption Election.** The exemption election must comply with the Official Bankruptcy Form and shall include the following:

   1. **Property Description.** Each item of property claimed as exempt, except clothing, shall be specifically and individually listed. Generic terms such as "household goods," "real property," and "jewelry," are not adequate descriptions of property. Real property shall be described by at least the full street address thereof, including the county and state. Vehicles shall be described by at least the make, model, year, and body type thereof. Vehicle descriptions should also include the approximate accumulated mileage as of the petition filing date, any optional equipment, vehicle identification number, and any other factors which should be considered by the Court in determining the value of the asset.

   2. **Statute or Law Creating Exemption.** Each item of property claimed as exempt shall be accompanied by a reference to the specific law providing for the exemption, including applicable subparagraphs of statutes.

b. **Time Limit for Amending or Objecting to Exemption Election.** The debtor shall have up to and including the day of the § 341(a) meeting of creditors in which to amend the exemption election. An amendment to the exemption election announced at the § 341(a) meeting of creditors and filed with the Court in writing no later than 10 business days thereafter, shall be deemed filed within the time set forth above. Any subsequent amendments, except those dealing with after-acquired property, shall be by motion and notice pursuant to Local Rule 9013-1.

c. **Exemption Election Respecting After Acquired Property.** A debtor may amend the exemption election to claim an allowable exemption interest in property (or interest therein) acquired postpetition. Such exemption claim shall be served upon the trustee who shall then have 30 days from the date of service to object thereto. The filing of an objection by the trustee shall be a contested matter as contemplated by these Local Rules.

Local Rule 4004-1
Discharge of Chapter 13 Debtor
in Cases Filed on or After October 17, 2005

a. **Chapter 13 Trustee's Report.** Upon receipt of the debtor's final plan payment by the Chapter 13 Trustee, the trustee will file with the Court a Report of Completion of Plan Payments (the "Chapter 13 Trustee's Report"). The trustee will serve the Chapter 13 Trustee's Report on the debtor and the debtor's attorney.

b. **Debtor's Motion for Entry of Discharge and Certification Regarding Plan Completion.** Unless the debtor is not entitled to a discharge, the filing of the Chapter 13 Trustee's Report will constitute notice that each debtor must file, under penalties of perjury, Local Form 8, Debtor's Motion for Entry of Discharge and Certification Regarding Plan Completion. Local Form 8 must be signed, filed, and served on all creditors and other parties in interest included on the Clerk's mailing matrix within 60 days of the date of filing of the Chapter 13 Trustee's Report. Failure to file timely Local Form 8 may result in the closing of the case without the entry of a discharge.

c. **Debtor's Disclosure of Information Regarding Domestic Support Obligations.** Within the same 60 day period, if applicable, the debtor must file Local Form 9, Debtor's Disclosure of Information Regarding Domestic Support Obligations, which will provide the trustee with the necessary information to give notice of the discharge to all holders of domestic support obligations pursuant to 11 U.S.C. § 1302(d).

d. **Verifications In Local Form 8.** Local Form 8 shall include verifications by the debtor regarding satisfaction of plan requirements, entitlement to a discharge and, if applicable, the status of all domestic support obligations. Local Form 8 will also verify that the debtor is not disqualified by the provisions of 11 U.S.C. § 1328(h) from receiving a discharge.

e. **Entry of the Debtor's Discharge.** Notice of the filing of Local Form 8 shall be provided in accordance with Bankruptcy Rules 9006 and 9007 and Local Rule 9013-1. Unless an objection to discharge is filed with the Court within eighteen (18) days after service of notice of the filing of Local Form 8 - and provided that the debtor is

otherwise entitled to receipt of a discharge - the Court will enter the debtor's discharge. Entry of the discharge without objection constitutes a finding that 11 U.S.C. § 1328(h) has been satisfied by the debtor. If the provisions of 11 U.S.C. § 522(q) are applicable to the debtor, notice of Local Form 8 shall be given in accordance with Interim Bankruptcy Rules 1007(b)(8) and 4004(c)(3).

f. **Hardship Discharge.** In the event the debtor seeks a hardship discharge pursuant to 11 U.S.C. § 1328(b), the debtor's motion shall include certifications regarding the status of Domestic Support Obligations and that the debtor is not disqualified by the provisions of 11 U.S.C. § 1328(h) from receiving a discharge. Notice shall be given as set forth in paragraph (e) above. The trustee will not file the "Chapter 13 Trustee's Report."

g. **Trustee's Final Report and Account.** As soon as possible after the final distribution to creditors has been made and all checks processed, the Chapter 13 Trustee will file a Final Report and Account which certifies that the case has been fully administered and requests release from liability and bond in the case. Thereafter, the Clerk of Court will enter the Final Decree.

Local Rule 4004-2
Closing Individual Chapter 11 Cases Prior to Discharge

Closing Individual Chapter 11 Cases. In a Chapter 11 case involving an individual debtor, after the effective date of a confirmed Chapter 11 plan, the debtor may, upon motion and opportunity for hearing, close the Chapter 11 case; provided, however, that the debtor's case shall not be closed if any related adversary proceeding remains pending. Upon satisfaction of the requirements of 11 U.S.C. § 1141(d)(5), the debtor may move to reopen the Chapter 11 case and request a discharge. The requirements of Local Rule 4002-1(e)(1) and (2) shall be suspended while the debtor's case is closed.

Local Rule 4008-1
Reaffirmation Agreements

a. **Official Form B240.** Parties are directed to file Official Form B240 relative to reaffirmation agreements. If the contents of a nonstandard form do not comply with Official Form B240, the Court will set the matter on for hearing.

b. **Electronic Filing of Reaffirmation Agreements.** In all cases filed under all chapters of the Bankruptcy Code, reaffirmation agreements shall be filed by electronic means directly with the Clerk of Court according to the guidelines established and published by the Clerk. The filing of a reaffirmation agreement by electronic means shall constitute the filing claimant's approved signature by law, and the provisions of 18 U.S.C. § 152(4) shall apply to the filing of a reaffirmation agreement under this procedure. The filing of a reaffirmation agreement by electronic means shall also constitute the entry of the reaffirmation agreement pursuant to Bankruptcy Rule 5003. Any paper "hard copy" reaffirmation agreement filed with the Clerk that has subsequently been scanned and reduced to an electronic image may be destroyed at any time thereafter.

c. ***Pro Se* Debtors.** All reaffirmation agreements involving *pro se* debtors will be set for hearing. The debtor must appear in person at the hearing.

d. **Debtors Represented by Counsel.** Because reaffirmation agreements are routine in Chapter 7 cases, the Court expects the debtor's counsel to represent their clients regarding reaffirmation agreements, completing the necessary paperwork, and if the attorney can do so in good conscience and within the bounds of Bankruptcy Rule 9011, making the attorney certifications required by 11 U.S.C. § 524(k)(5).

When a debtor is represented by counsel, the Court will consider a proposed reaffirmation agreement on the pleadings and no hearing will be necessary, provided:

1. The reaffirmation agreement has been completed in its entirety and meets the requirements of 11 U.S.C. § 524(k);

2. All necessary attorney certifications have been made pursuant to § 524(k)(5); and

3. No presumption of undue hardship exists under 11 U.S.C. § 524(m).

Subject to paragraph (e) below, in all other cases in which a debtor is represented by counsel, the Court will conduct a hearing. Both the debtor and debtor's counsel are required to attend that hearing. Counsel for the debtor shall promptly submit an order to the Court following the hearing on the reaffirmation agreement. The Court will not await entry of the order on the reaffirmation agreement to issue the discharge and close the case.

e. **Hearings on Reaffirmation Agreements Where Presumption of Undue Hardship Arises.** In cases where a debtor is represented by counsel, if a reaffirmation agreement pursuant to 11 U.S.C. § 524(c) is filed with the Court and a presumption of undue hardship arises pursuant to 11 U.S.C. § 524(m)(1), the Court will schedule a hearing. The presumption of undue hardship may be rebutted by the debtor filing a Representation of Ability to Pay (Local Form 2). Local Form 2 shall be filed at least seven (7) business days prior to the hearing scheduled by the Court. Upon review of Local Form 2, the Court may enter an order finding that the presumption is rebutted by Local Form 2 and that a hearing is not necessary. Upon docketing of this order, the parties may submit an order approving the reaffirmation agreement. If the Court does not enter such an order prior to the hearing, the Court will conduct the hearing on the reaffirmation agreement, and debtor's counsel may present Local Form 2 in lieu of the debtor's appearance. The Court may require the debtor's appearance at a future hearing if Local Form 2 is not satisfactory to the Court.

PART V

COURTS AND CLERKS

Local Rule 5001-1
Clerk - Office Hours

a. **Charlotte Office.** The Charlotte Clerk's Office shall be open to the public from 8:30 a.m. until 4:30 p.m. on all days except Saturdays, Sundays, and the legal holidays listed in the FED. R. CIV. P. 6(a), or as otherwise directed.

b. **Asheville Office.** The Asheville Division Clerk's Office shall be open to the public during the same operating hours as the Charlotte Office; however, this Office shall be closed daily from 12:30 p.m. until 1:30 p.m.

c. **Access to Electronic Filing System.** Authorized filers may file documents at any time through the Court's official CM/ECF filing system.

Local Rule 5001-2
Clerk's Entries

a. **Orders Entered by Clerk.** Pursuant to the provisions of FED. R. CIV. P. 77(c), the Clerk of Court and designated deputy clerks at the Charlotte and Asheville Offices are authorized to grant and enter the following orders and judgments without further direction by the Court:

   1. Judgments of default as provided for in FED. R. CIV. P. 55(a) and 55(b)(1) and Bankruptcy Rule 7055.

   2. Entry of *ex parte* order granting an additional 30 days within which to answer or respond to a complaint pursuant to Bankruptcy Rule 7012.

b. **Suspension, Alteration, or Rescission by the Court.** Any such action may be suspended, altered, or rescinded by the Court for good cause shown.

Local Rule 5005-1
Electronic Case Filing

a. **Electronic Filing.** The Court authorizes registered users to file petitions, motions, and submit documents to the Court through the use of the official Case Management/ Electronic Case Filing System (CM/ECF).

b. **Attorney Signatures.** The electronic filing of a petition, pleading, motion, claim, or other papers by an attorney who is a registered participant in CM/ECF shall constitute the signature of that attorney under Bankruptcy Rule 9011. Use of a login and password also shall constitute certification by the registered participant in CM/ECF, and any agent authorized by the registered participant, that: (1) all persons indicated to have signed the document have actually executed the original or a copy of the original prior to electronic filing; and (2) the registered participant has authorized the electronic filing of the executed document.

c. **Passwords.** No attorney shall knowingly permit or cause to permit his/her password to be utilized by anyone other than an authorized employee of his/her law firm.

d. **Official Court Record.** CM/ECF shall constitute the official Court record in electronic form. The electronic filing of a pleading or other paper in accordance with CM/ECF procedures shall constitute entry of the same on the docket kept by the Clerk pursuant to Bankruptcy Rule 5003. The Court will not maintain case files with the following exceptions:

   1. Documents filed under seal.

   2. *Pro se* debtor's petition, lists, schedules, statements, amendments, pleadings, affidavits, and other documents which contain the signature of a *pro se* debtor.

e. **Notice and Service.** If the recipient of notice or service is a registered participant in CM/ECF, service by electronic notification shall be the equivalent of service of the pleading or other papers by first class mail, postage pre-paid pursuant to Bankruptcy Rules 9006(f) and 9022, and FED. R. CIV. P. 5(b), 6(e), and 77(d). Participation in CM/ECF and receipt of a password shall constitute agreement to receive notice and service electronically.

f. **Orders.** Any order signed electronically by a judge shall have the same force and effect as if the judge had signed a paper copy of the order.

g. **Original Documents.** When an attorney files a pleading (electronically or non-electronically) with the debtor's original signature or any notarized affidavit, the attorney will thereafter maintain the original document for a period ending four years after the case is closed. Original documents so maintained shall be presented to the Court upon request.

h. **Electronic Filings and Paper Documents.** In the event a paper petition, pleading, motion, claim, or other paper document is filed contemporaneously with an electronic version which contains the same data, the data received electronically will supersede the paper version.

Local Rule 5009-1
Trustee's Duty to File Final Report

Final Report for Dismissed or Converted Cases. In the event a Chapter 7, 11, 12, or 13 case is dismissed or converted to a case under a different chapter of the Code, the trustee in the original case will not be required to file a Final Report unless funds or assets are received by the trustee.

Local Rule 5011-1
Abstention

a. **Adversary Proceedings.** In adversary proceedings, any motion for abstention pursuant to 28 U.S.C. § 1334(c) shall be filed no later than the time allowed for a response or answer to the complaint.

b. **Contested Matters.** In contested matters, any motion for abstention pursuant to 28 U.S.C. § 1334(c) shall be filed no later than the time allowed for response or objection.

c. **Where to File.** Whether the requested abstention is mandatory or discretionary, motions to abstain pursuant to 28 U.S.C. § 1334(c), shall be directed to the Bankruptcy Court. However, motions to abstain in cases involving claims within 28 U.S.C. § 157(b)(5) shall be directed to the United States District Court.

PART VI

COLLECTION AND LIQUIDATION OF THE ESTATE

Local Rule 6005-1
Auctioneers

a. **Employment Without Application to the Court.** In a Chapter 7 case where the gross sales proceeds of an auction conducted pursuant to this rule are reasonably anticipated by the trustee to be less than $50,000, the trustee may elect to employ an auctioneer without application to the Court and shall be authorized to pay the auctioneer a commission of up to 15 percent of gross sales of the auction.

b. **Conditions Precedent to Employment.** The trustee may employ and compensate an auctioneer without application to the Court if the following conditions are satisfied in advance:

   1. The auctioneer must be licensed and in good standing with the North Carolina Auctioneer's Commission consistent with N.C. GEN. STAT. § 85-B-3 and 4 or in such other jurisdiction where the auctioneer's services are to be performed;

   2. The auctioneer must execute and deliver to the trustee the same affidavit that would be required in support of an application for employment of auctioneer otherwise filed with the Court; and

   3. The affidavit executed by the auctioneer must affirmatively set out compliance with the conditions above.

c. **Auctioneer's Report of Sale.** An auctioneer employed to conduct a sale on behalf of the bankruptcy estate shall submit a report of sale to the trustee within 20 days following the conclusion of any sale in the format as prescribed by the Bankruptcy Administrator.

d. **Trustee's Report of Sale.** The trustee shall prepare a report of sale that includes fees paid to the auctioneer, and it shall be accompanied by the auctioneer's affidavit. The trustee shall file such report of sale with the Clerk and serve it upon the Bankruptcy Administrator.

PART VII

ADVERSARY PROCEEDINGS

Local Rule 7003-1
Adversary Proceeding Cover Sheet

Cover Sheet. All complaints initiating adversary proceedings in bankruptcy cases shall be accompanied by an Adversary Proceeding Cover Sheet, Official Bankruptcy Form 104.

Local Rule 7007-1
Motion Practice in Adversary Proceedings

a. **General Requirements.** All motions in adversary proceedings shall state with particularity the facts supporting the motion and shall state the relief requested. Any brief or memorandum in support of the motion shall state the relief requested and shall be filed in accordance with Local Rule 9013-2.

b. **Responses to Motions.** Any party in interest may file a written response to any motion within 15 days after service of the motion unless otherwise ordered by the Court or prescribed by the applicable Federal Rules of Bankruptcy Procedure. The response may be accompanied by affidavits or other supporting documents. Briefs, if any, shall be filed in accordance with Local Rule 9013-2. In the event no response is filed, the Court may proceed to rule on the motion without further notice or opportunity to be heard.

c. **Hearings on Motions.** Hearings shall be scheduled so that opposing counsel has an opportunity to respond to the motion in accordance with this Local Rule. Each motion shall be accompanied by a separate notice of the time, date, and place of the hearing on the motion in accordance with Local Rule 9013-1.

Local Rule 7016-1
Pretrial Procedures

Pretrial Orders. In adversary proceedings, the Court will enter an Initial Pretrial Order setting certain requirements and deadlines. At the conclusion of the period for discovery, the Court will send a Notice of Pretrial Conference that schedules a pretrial conference between the Court and the parties. If a date is selected for trial at the pretrial conference, the Court will enter a Final Pretrial Order and Notice of Trial which will require supplementation of disclosure and discovery, exchange of exhibits, identification of witnesses, and which will set a time certain for trial. After entry of that Order, continuances will be granted only for compelling circumstances. If a date is not selected for trial at the pretrial conference, the Court will continue the matter so the parties can select a trial date at the continued hearing.

Local Rule 7016-2
Trials

a. **Opening Statements.** At the beginning of the trial, each party, beginning with the party having the burden of proof on the first issue, may, without argument and in such reasonable time as the Court allows, state to the Court the following:

1. The substance of the claim, counterclaim, cross claim, or defense; and

2. What counsel contends the evidence will show.

Parties not having the burden of proof on the first issue may elect to make an opening statement immediately prior to presenting evidence, rather than at the beginning of the trial.

b. **Witnesses.** Counsel may not release a person from a subpoena without notice to opposing counsel and leave of Court. A party objecting to the release of a witness shall bear all costs incident to the witness which arise subsequent to the request for release. The Court, in its discretion and in the interest of justice, may permit a party to call and examine a witness not listed in accordance with the Final Pretrial Order.

c. **Exhibits.** Exhibits shall be presented as follows:

1. All exhibits shall be marked in advance with numbers.

2. Copies of all exhibits, properly bound, shall be provided to the Court at the beginning of the trial. Copies of exhibits shall be provided to opposing counsel prior to the trial consistent with the Final Pretrial Order or other order of the Court.

3. The original exhibit shall bear a number. After receipt into evidence, it shall remain in the custody of the courtroom deputy, except when being used by a witness.

4. Copies of all exhibits shall bear the like number of the exhibit.

5. At the discretion of the Court, exhibits will be returned to the tendering party upon the conclusion of

the trial. It is the responsibility of the retrieving attorney and/or law firm to maintain the referenced exhibits for purposes of appeal.

d. **Closing Argument.** The Court will set the times for closing argument after consultation with parties. Unless otherwise ordered by the Court, the party with the burden of proof shall open and close the arguments. The opening argument may be waived.

Local Rule 7026-1
Discovery - General

a. **Procedures for Handling Discovery Materials.** The following materials shall not be filed with the Clerk except by order of the Court or when used in a proceeding:

   1. Transcripts of depositions upon oral examination and interrogatories;

   2. Requests for production of documents;

   3. Requests for admissions; and

   4. Answers and responses thereto.

b. **Preservation and Delivery.** The party taking a deposition or obtaining any material through discovery is responsible for its preservation and delivery to the Court if needed or so ordered.

Local Rule 7041-1
Dismissal of Actions for Lack of Prosecution

a. **When Action May be Dismissed.** Except where a complaint objecting to a discharge has been filed, an adversary proceeding may be dismissed by the Court for lack of prosecution as follows:

1. Where no service of process has been made and certified to the Court within 30 days after the filing of the complaint;

2. Where no responsive pleadings have been filed and plaintiff has not moved for entry of default within 30 days after the time for filing responsive pleadings has expired;

3. Where there has been no activity in the adversary proceeding for four months; or

4. Where the parties have failed to tender a final judgment or order.

b. **Dismissal Without Prejudice.** Dismissal pursuant to this Local Rule shall be without prejudice unless the delay has resulted in prejudice to an opposing party.

Local Rule 7067-1
Deposit and Investment of Funds Held by Clerk

a. **Clerk's Review of Proposed Orders.** Parties seeking a Court order to have the Clerk of Court deposit funds in an interest-bearing account shall personally submit the proposed order to the Clerk or financial deputy who will inspect the proposed order for proper form and content and compliance with this Local Rule prior to the proposed order being submitted to the judge for whom the order was prepared.

b. **Required Provisions.** Any order obtained by a party or parties in an action that directs the Clerk to invest, in an interest-bearing account or instrument, funds deposited in the registry of the Court pursuant to 28 U.S.C. § 2041 shall include the following:

1. The amount to be invested;

2. The name of the depository approved by the Treasurer of the United States as a depository in which funds may be deposited;

3. A designation of the type of account or instrument in which the funds shall be invested; and

4. Wording which directs the Clerk to deduct from the income earned on the investment the fee authorized by law, not exceeding that authorized by the Judicial Conference of the United States and set by the Director of the Administrative Office whenever such income becomes available for deduction in the investment so held and without further order of the Court.

c. **Clerk's Retention of Funds.** In the event that a depository intended by the Court to receive registry funds is not able to pledge sufficient collateral for receipt of those funds immediately upon the Court's receipt of the said funds, the Clerk may, in the Clerk's discretion, temporarily retain such funds or direct the party tendering such funds to temporarily retain them as necessary to arrange for their deposit in an interest-bearing registry account.

PART VIII

APPEALS TO DISTRICT COURT

Local Rule 8001-1
Notice of Appeal

Service of Notice of Appeal. An appellant shall file a notice of appeal electronically and serve the same on all appellants and appellees. In compliance with Bankruptcy Rule 8004, the Clerk shall serve notice of the filing of the notice of appeal by mailing a copy of the docketed notice of appeal.

Local Rule 8006-1
Record on Appeal

a. **Designation of Items for Record on Appeal.** For appeals to the District Court, any designation of items to be included in a record on appeal filed by an appellant or a designation of additional items to be included in the record made by an appellee shall reference the docket numbers for the items so designated, the date such item was entered on the docket, and the name of the designated docket entry.

b. **Providing Copies of Designated Items to the Clerk.** For appeals to the District Court, filing of the designation of items for the record on appeal and, if applicable, any designation of additional items to be included in the record on appeal in conformance with this Local Rule shall constitute providing the Clerk with a copy of the record on appeal as required by Bankruptcy Rule 8006.

PART IX

GENERAL PROVISIONS

Local Rule 9006-1
Time Limits

a. **Shortening of Notice.** The Court will consider shortening prescribed notice for a hearing on contested matters upon the following conditions:

1. The request to shorten notice must be made by written motion which states the reasons why shortened notice is necessary, identifies the parties affected by the request, and describes the service of notice of the request on interested parties.

2. The movant shall serve and provide notice of the motion 24 hours in advance of submitting an order shortening notice. Service and notice for the purpose of this Local Rule is accomplished upon actual delivery of the motion to the office of the party served, and service must be made upon the following parties or their counsel:

   A. In a consumer case, the trustee, Bankruptcy Administrator, debtor, and any party with a direct interest in the matter; and

   B. In a non-consumer case, the debtor, the trustee, Bankruptcy Administrator, examiner, and any official committee.

3. The movant may be excused from the requirement of 24 hours advance notice of the request to shorten notice upon demonstration of an emergency not of the movant's own creation and the inability to notify affected parties in advance.

b. **Objection to Timing of Hearing on Shortened Notice.** If, at or before the hearing on the substantive motion, any opposing party objects to the shortened notice, the moving party shall have the burden of demonstrating good cause for the shortened notice or the Court shall grant a continuance.

c. **Adversary Proceedings-Extensions of Time to Respond to Complaint.** Any motion for an extension of time to respond

to a complaint shall be filed prior to the expiration of the initial period for filing the answer. The responding party is entitled to one extension of up to 30 days from the expiration of the original deadline. The Clerk may enter an *ex parte* order granting an additional 30 days within which to answer or respond. Any other extension shall be for cause shown with notice to the opposing party.

Local Rule 9013-1
Motion Practice

a. **Service on Trustee and Attorney for Debtor-in-Possession.** Any and all filings, except claims, in all proceedings and cases must be served on the trustee for the debtor, including the standing Chapter 13 Trustee, whether or not the trustee is a party to the proceeding. In Chapter 11 cases, the attorney for the debtor-in-possession is to be served in like manner. Service upon the Chapter 13 Trustee shall be by electronic means only.

b. **Service on Bankruptcy Administrator.** Any and all filings, except claims, in Chapter 7 and Chapter 11 cases must be served on the Bankruptcy Administrator.

c. **Certificate of Service.** Each pleading or document to be served on any party shall have attached a certificate reflecting that service has been made on that party. The certificate of service shall indicate the names and addresses of the specific parties served.

d. **Corporate Disclosure.** Any corporation, partnership, limited liability company, limited partnership, or limited liability partnership that is a party to any contested matter which arises in any pending bankruptcy case shall file a statement identifying all of its parent corporations and listing any public company that owns ten percent (10%) or more of its stock.

e. **Hearings.** Information about the Court's hearing schedules can be found at its website, www.ncwb.uscourts.gov, at the CALENDARS designation in the legend on the homepage. *Weekly Calendars* displays weekly Court calendars in pdf format for each judge. First Meeting calendars are displayed at the same location. *Monthly Calendars* displays a 12-month grid; each month is a hyperlink to first meeting and judges' hearing schedules, including chapter and location. *Dispositions of Hearings* directs reporting of dispositions of matters already set on calendars to an e-mail address at the Court.

The Court will post notices of any changes to these schedules on its website. Motions may be set on other days with advance permission of the Court. The Court may set matters on its own initiative.

f. **Negative Notice Motions.** A hearing on those motions listed in (1) through (26) below may be noticed by no protest notice upon notice to the parties as required by the Bankruptcy Rules. The no protest notice must specifically advise any interested party that it must file and serve any response, including an objection or request for a hearing, within the 15-day period from service of the notice, and that if no hearing is requested, the Court may decide the matter on the record before it. A hearing shall be requested by filing and serving a response, including an objection and request for hearing, within 15 days of the date of the service of the notice. Any response must specify exactly what motion is contested, and the response should comply with this Local Rule. The following is the exclusive list of motions which may be noticed by the use of no protest notices and determined by the Court without a hearing unless a hearing is specifically requested:

1. Motions to use, sell, or lease property pursuant to 11 U.S.C. § 363(b)(1), except for sales of all or substantially all of the assets in a Chapter 9, 11, or 13 case.

2. Subject to the provisions of Bankruptcy Rule 6007, motions to abandon property of the estate by the trustee or debtor-in-possession pursuant to § 554.

3. Motions to assume executory contracts or leases pursuant to § 365, if the other parties to the contract or lease stipulate to the assumption.

4. Motions pursuant to § 365 to reject executory contracts or leases, except collective bargaining agreements pursuant to § 1113.

5. Motions to avoid liens pursuant to § 522(f).

6. Motions for relief from stay pursuant to § 362, except that notices thereof shall state a specific hearing date in the event a hearing is requested.

7. Applications to pay compensation of professional persons, including applications pursuant to § 506(b).

8. Motions to change venue of a case or proceeding to another division within this district.

9. Motions to obtain postpetition credit in Chapter 13 cases.

10. Objections to claims. Pursuant to Bankruptcy Rule 3007, the minimum time period for notice of a hearing on an objection to claim is 30 days.

11. Motions for relief from the co-debtor stay provided in §§ 1201 and 1301.

12. Motions for approval of final report and account of trustee, application for commission and reimbursement of trustee expenses, application to disburse funds of the estate, application to abandon, and to discharge trustee.

13. Motions to modify Chapter 13 plans without a request for other relief.

14. Motions or applications to approve security interests as set forth in Local Rule 2016-1(c).

15. Motions for moratoriums in Chapter 13 cases.

16. Motions to reopen bankruptcy cases.

17. Motion to amend exemption elections.

18. Motions to approve settlements.

19. Motions to substitute counsel.

20. Motions for exemption from credit counseling and declarations of exemption from credit counseling.

21. Motions for continuation of the automatic stay and requests for confirmation that the automatic stay has been terminated under §§ 362(c)(3)(B) and 362(j).

22. Motions to redeem.

23. Motions to bifurcate.

24. Motions to extend time to object to discharge and dischargeability.

25. Motions to extend time to object to exemption elections.

26. Motions to close Chapter 11 cases of individual debtors pending satisfaction of § 1141(d)(5).

27. Motions for entry of discharge in Chapter 13 cases.

g. ***Ex Parte* Motions.** The motions listed below may be determined, at the discretion of the Court, on an *ex parte* basis. Upon entry of an order granting any relief requested on an *ex parte* basis, the movant shall promptly thereafter provide notice in accordance with the Bankruptcy Rules of the entry of the order. In addition to advising of the entry of the *ex parte* relief, such notice must specifically advise any interested party that it may object to the relief granted by filing a request for hearing or objection within 15 days of service of the notice. Any request or objection must specify the relief that is contested and comply with the provisions of this Local Rule. Any party shall be entitled to request a hearing or to request that the Court reconsider any *ex parte* relief upon a request filed within 15 days of service of notice of the entry of *ex parte* relief.

1. Motions that may be considered on an *ex parte* basis pursuant to the Bankruptcy Rules, including motions for enlargement of time pursuant to Bankruptcy Rule 9006(b) and Local Rule 9006-1(c).

2. Motions to reopen a case without additional relief requested unless the relief requested is to file the financial management certificate and obtain issuance of the discharge.

3. Motions for an additional 30 days within which to answer or respond to a complaint pursuant to Bankruptcy Rule 7012 and Local Rule 9006-1.

4. Motions to waive the electronic filing requirement pursuant to Local Rule 1002-2(b).

5. Motions for substitution of counsel pursuant to Local Rule 2091-1(c).

6. Motions to refund a filing fee pursuant to Local Rule 1006-1(b)(3).

7. Motions to waive additional filing fees pursuant to Local Rule 1006-1(c).

Local Rule 9013-2
Briefs in Adversary Proceedings and Contested Matters

a. **Requirements.** Briefs filed in adversary proceedings or contested matters shall include:

1. A concise statement of the facts of the case;

2. All admissions and stipulations, if applicable;

3. A summary of the points of law involved, citing authorities in support thereof; and

4. Any anticipated evidentiary problems, if applicable.

b. **When to File.** Unless otherwise ordered, briefs shall be filed with the Clerk and received by opposing counsel at least three business days prior to the hearing. Reply briefs, if any, shall be filed with the Clerk and received by opposing counsel at least one business day prior to the hearing. A certificate of service must be filed with the original brief verifying the required service.

Local Rule 9014-1
Contested Matters

a. **Requirements of Motion.** A motion shall be accompanied by all exhibits and attachments referred to in the motion, together with a notice of motion and certification of service. The notice of motion shall give notice of the filing of the motion and allow for a specific response time to the motion.

b. **Time for Response.** A response and accompanying affidavits, if any, to any motion shall be filed within 15 days from the date of the service of the motion, unless otherwise ordered or provided in the Bankruptcy Rules or these Local Rules.

c. **Service of Motion.** The moving party shall serve copies of the motion, together with all exhibits and attachments, accompanied by a notice of the motion in the manner prescribed in Bankruptcy Rule 7004 contemporaneously with the filing of the motion, notice, and certificate of service with the Court. Bankruptcy Rule 7004, particularly subsections (b) and (h), and other applicable rules or law set forth special service requirements. Unless special service rules apply, general service on creditors shall be made to addresses contained on the most recent mailing matrix maintained by the Clerk. Service may be accomplished electronically by complying with Local Rule 5005-1(e).

d. **Response.** Any party against whom relief is sought may file a written response to the motion. The response may be accompanied by affidavits and other supporting documents and shall be served on all interested parties and service shall be certified to the Court.

e. **Content of Response.** All responses shall contain sufficient information to reasonably disclose the basis for the party's position and what specific issues are contested.

f. **Hearing on Motion.** The provisions of Local Rule 9013-1 apply to contested matters.

g. **Disclosure Requirements Inapplicable.** The disclosure requirements imposed by Bankruptcy Rule 7026(a) are inapplicable to contested matters.

h. **Corporate Disclosure.** Any corporation, partnership, limited liability company, limited partnership, or limited liability partnership that is a party to any adversary proceeding shall file a statement identifying all of its parent corporations and listing any public company that owns ten percent (10%) or more of its stock.

Local Rule 9019-1
Settlements of Adversary Proceedings

a. **Filing of Documents.** All documents settling adversary proceedings shall be filed in each adversary proceeding at issue regardless of whether the adversary proceeding is pending or closed.

b. **Service.** All creditors and interested parties in the base case and the adversary proceeding shall be served with notice of settlement that should be accompanied by a certificate of service. The notice of settlement and the certificate of service should be filed in the adversary proceeding.

c. **Notice.** Settlements in adversary proceedings may be noticed by the use of no protest notices as set forth in Local Rule 9013-1.

Local Rule 9021-1
Tender of Judgments and Orders

a. **No Protest Orders.** When applicable any no protest response periods plus three mailing days shall pass before a proposed order or judgment is submitted to the Court.

b. **Consent Orders.** Consent orders will not be entered unless also signed by the trustee in the case. For purposes of this rule, a signature shall be defined as any mark, letter or writing, physical or electronic, the intention of which is to bind or constitute acceptance of the terms of the order. Consent orders shall be signed by the method designated by the party to be bound and such signature shall be maintained of record by the party submitting the consent order. The submitting party shall present the documents evidencing all parties acceptance of the terms of the consent order upon request of the Court.

c. **Orders submitted electronically.** Orders submitted electronically shall be served electronically upon the tendering party. Electronic transmission of the Notice of Electronic Filing constitutes the notice required by Bankruptcy Rule 9022 and constitutes service of the document to registered participants in CM/ECF.

Local Rule 9022-1
Certificate of Service for Orders

Service of Orders. When a submitting party receives a signed order from the Court, the submitting party shall immediately serve a copy of the order upon the appropriate parties who did not receive service pursuant to Local Rule 5005-1(e) and file a certificate of service with the Court.

Local Rule 9028-1
Disqualification of Judges

a. **Disqualification Procedure.** Pursuant to 28 U.S.C. § 455 and Canon 3C of the Code of Conduct for United States Judges, the Court has adopted procedures for administration of cases in which a judge is disqualified for any reason. Any circumstance that requires disqualification of the assigned judge should be brought to the Court's attention at the earliest opportunity by the filing and service of a motion seeking disqualification, except that no motion is required with respect to events listed in paragraph (c) of this Local Rule.

b. **Contested Matters.** In any contested matter where the Court is aware of an event requiring disqualification or is made aware of such an event by any party, the Court will reassign the matter to another judge. Where the disqualification applies only to an isolated contested matter, reassignment of the base case is not necessary. The Court will determine whether reassignment shall apply to the contested matter only or to the entire case.

c. **Disqualification Events.** Judge Hodges does not hear contested matters involving General Electric or its subsidiaries.

d. **Uncontested Settlements and Consent Orders.** Approval of uncontested settlements and agreed orders in cases which would otherwise require disqualification will not require reassignment.

e. **Orders in Reassigned Matters.** Orders in contested matters that are reassigned may end up with the signature of the disqualified judge even though the matter was reassigned and heard by another judge. In such event, the order is in fact the order of the reassigned judge who determined the matter.

Local Rule 9029-1
Telephonic Appearance at Hearings

a. **Consent.** Counsel who are unable to attend hearings in person may appear before the Court by telephone only with the consent of the Court and opposing counsel and provided that arrangements are made in advance.

b. **Arrangements.** The attorney requesting permission to appear by phone shall make all necessary conference call arrangements, shall communicate with the Court as to calling instructions, and shall initiate the call. The Court may set a time-certain for any telephonic hearing requested so as to avoid delaying other matters on the hearing calendar.

c. **Assumption of Risk.** The risk of poor reception is borne by the attorney requesting and initiating the telephone hearing.

d. **Limits on Availability.** Telephonic appearances are not permitted for matters scheduled for hearing in Shelby and Wilkesboro. In addition, telephonic appearances are not allowed in evidentiary hearings.

Local Rule 9035-1
Service of Papers on the Bankruptcy Administrator

a. **Service Required.** All parties are required to serve upon the Bankruptcy Administrator, by electronic service, regular mail, hand delivery, overnight courier, or facsimile, the papers specified in this Local Rule which are filed with the Bankruptcy Court or an appellate court. Appropriate certificates of service shall be filed.

b. **Documents that Must be Served:**

1. **Chapter 11.** All papers in Chapter 11 cases and in related adversary proceedings, except exhibits to be used at trials or hearings.

2. **Bankruptcy Rule 2002 Requests.** All papers in cases and adversary proceedings in which the Bankruptcy Administrator has filed a request for notice pursuant to Bankruptcy Rule 2002(i).

3. **Appointment and Removal of Trustee or Examiner.** All papers related to the appointment or removal of a trustee or examiner.

4. **Compensation Applications.** Applications for compensation in all cases and adversary proceedings.

5. **Fraud or Criminal Activity.** All papers in any case or adversary proceeding in which fraud or criminal activity is alleged on the part of any party.

6. **Chapter 7 Trustee Filings.** All papers filed in cases and adversary proceedings by Chapter 7 Trustees, except as the Bankruptcy Administrator may from time to time otherwise direct by notice to the trustees on an *ad hoc* basis.

7. **Conversions.** All orders relating to conversions of a case to a case under another Chapter.

APPENDICES

APPENDIX A

Guidelines for Compensation and Expense Reimbursement of Professionals

United States Bankruptcy Court for the Western District of North Carolina

Introduction

Congress has established the **standard** for professional compensation to be: "reasonable compensation for actual, necessary services" and "reimbursement for actual, necessary expenses." 11 U.S.C. § 330(a)(1). Congress also has established relevant factors for the courts to use in determining the amount of reasonable compensation in § 330(a)(3) as follows:

> 3. In determining the amount of reasonable compensation to be awarded, the Court shall consider the nature, the extent, and the value of such services, taking into account all relevant factors, including—
>
> A. the time spent on such services;
>
> B. the rates charged for such services;
>
> C. whether the services were necessary to the administration of, or beneficial at the time at which the service was rendered toward the completion of, a case under this title;
>
> D. whether the services were performed within a reasonable amount of time commensurate with the complexity, importance, and nature of the problem, issue, or task addressed;
>
> E. with respect to a professional person, whether the person is board certified or otherwise has demonstrated skill and experience in the bankruptcy field; and
>
> F. whether the compensation is reasonable based on the customary compensation charged by comparably skilled practitioners in cases other than cases under this title.

11 U.S.C. § 330(a)(3).

The purpose of these Guidelines is to assist parties in providing information necessary for the Court to make the determination of reasonable compensation as outlined by Congress. These Guidelines are **NOT** requirements for the Court or parties. Following these Guidelines should reduce, if not eliminate, objections as to the form or format of the application. The Guidelines are also intended to assist parties in addressing their respective burdens of proof with respect to an application for compensation.

Narrative

A narrative explanation of the status of the case and the professional's contribution to the estate is useful to the Court. The degree of detail included in the narrative is in the discretion of the applicant as a proponent/advocate of the application. "Boilerplate" narratives are of no use to the Court. However, the use of a "boilerplate" curriculum vitae is permitted.

The narrative portion of the application provides an opportunity for the applicant to persuade the Court that the compensation requested is reasonable. The applicant should describe and highlight particular problems that were present and what was done to resolve those problems. The benefits to the estate of the services rendered should be reported in detail. Any extraordinary problems or benefits should be described in the narrative. Describe the anticipated development and progression of any litigation. For example, has all of the work to date been in preparation of lawsuits, but none has been filed? Has a substantial amount of time been spent in settlement negotiations and what were the results of the negotiations? Any time entries discounted or "written-down" should be specifically identified. For interim applications it is especially helpful to provide a case history, projected future activity, and a statement of the actions necessary to conclude the case.

Billing Summary

Summary of time and expenses applied for in this and prior applications.

Rates

This part of the application should show the hourly rates charged by each professional and include the background and experience of the professional. Unless the applicant specifically states otherwise, the rate shown is the actual rate charged the client and was the rate in effect at the time the service was rendered.

Time Increments

The applicant should use discretion in determining the increment. Generally, a "safe harbor" for the applicant is to charge an increment no greater than that generally accepted in the market (currently .1 hour). The applicant should be prepared to demonstrate that any greater increment does not operate to inflate the time billed.

Time Entries

Generally, time entries should be sufficiently descriptive to enable the Court and third parties to determine the nature and extent of the service rendered. At a minimum, the time entry should describe who provided the service, when the service was provided, where (if travel is involved), and what service was provided. To the extent the applicant believes that detailed descriptions will violate the attorney-client privilege or other applicable privilege, the applicant must assert the privilege specifically. Even where a privilege is asserted, the time entry should reflect the general topic area as specifically as possible without violating the privilege.

Even when tasks are performed on the same day or time block, separate tasks should be set forth in separate time entries. When different tasks are included in the same time entry, the Court cannot make a proper determination under 11 U.S.C. § 330. Any significant amount of time spent on adversary proceedings should be set out separately from the base application. The applicant should segregate time entries in adversary proceeding litigation such that the Court can evaluate the results obtained and benefit to the estate of the services as related to the costs incurred. Time entries which are not adequately descriptive or are "lumped" are subject to disallowance.

Conferences and Multiple Professionals

All conferences should identify the purpose, all attendees, and the nature of the matters discussed or accomplished. Because of the opportunity for "double-teaming," explanations should be given whenever more than one professional attends a conference, hearing or meeting.

Office Tasks

"Secretarial" tasks performed by professionals should be demonstrated to be both necessary and expeditious.

Travel Time

Time entries billed for non-working travel time and for work done during travel time should be identified separately. Compensation for travel time alone (where no other work was accomplished for the client), should be highlighted and explained. Travel time should not be billed when substantive work was simultaneously performed and billed. Travel time should be categorized with the category best reflecting the purpose of the travel.

Request for Compensation Other than Time Billed x Hourly Rate

The Court is not adverse to considering methods of compensation other than time billed times hourly rate charged. Any requests for compensation other than hourly rate times hours billed must be set forth clearly and conspicuously so the Court can determine the basis for the compensation request and the reasonableness thereof.

Burdens of Proof and Objections

The burden of persuasion is on the movant. The burden of going forward with the evidence begins with the movant, shifts to the objector, then back to the movant who must, in the final analysis, show the reasonableness of the compensation. Objections should be factual and should demonstrate specific objectionable time.

Project Categories

The Court may require categorization of time entries in certain cases, and where required, will do so by order. The Court encourages the use and designation of the following

categories even in the absence of an order. When used, these categories should be imbedded as codes into each time entry, such that the Court can use the codes to sort and review the time entries in an automated fashion. An applicant may substitute the number of the category instead of the full title of the category. Where project categories are used and the application's time entries are submitted on computer diskette, the Court will expedite the review of the fee application.

1. **Asset Transactions**: Identification and review of potential assets including causes of actions, sales, leases and abandonment.

2. **Case Administration and Business Operations**: Issues related to the debtor-in-possession business and activities related to case administration including schedules, financial reports, creditor contacts, § 341(a) meetings of creditors and employee relations.

3. **Fee Proceedings**: Preparation of fee applications and review and objections to fee applications.

4. **Financing and Relief from Stay Proceedings**: Matters pertaining to debtor-in-possession financing and relief from stay motions.

5. **Litigation**: Matters pertaining to litigation.

6. **Plan and Disclosure**: Matters pertaining to the formulation, presentation, confirmation, compliance and closing of a plan.

7. **Claims Administration**: Analysis, bar date motions, objection and allowance of claims.

8. **Other**: The application should include an explanation of the specific type of project or category for time entries included under this category.

EXPENSES

The general practice is to find as reasonable and necessary those expenses and expense billing practices that are accepted in the relevant market. Expense items should be set out separately and should reflect the actual cost. Even when using the actual cost, certain items must be justified as necessary, such as overnight delivery, messenger service and meals. Any

conventions used, i.e. per page charge for copying, should be identified and explained. Certain "safe harbors" for expense conventions are listed below.

Copies

In-house copies billed at $.25 or less are presumed reasonable. For copies prepared by a copying service, the actual billed amount should be listed.

Air Travel

The actual cost of the ticket at coach fare.

Auto Travel

The mileage rate set by the Internal Revenue Service at the time of the travel is presumed reasonable.

APPENDIX B

CHAPTER 11 INFORMATION

GUIDELINES FOR CONSENSUAL CASH COLLATERAL ORDERS: PROVISIONS THAT SHOULD BE INCLUDED

The Court has determined that these Guidelines for Consensual Cash Collateral Orders would be useful to the bar in improving the content of first-day debtor-in-possession financing orders. The following is a general description of those factual findings and decretal provisions that the Court will ordinarily approve on an *ex parte* basis in connection with an emergency showing of the necessity for the use of cash collateral. At the end of these guidelines, there is a list of provisions that the Court will not ordinarily approve without prior notice and an opportunity for objection. For purposes of these guidelines, *ex parte* means without notice to all creditors and parties in interest. The Court expects that every effort will be made to provide notice to the Bankruptcy Administrator and any creditor directly affected by any relief sought on an emergency basis.

Findings of Fact. The following findings of fact are generally appropriate for inclusion in an emergency debtor-in-possession financing order:

- That there has been compliance with all applicable service requirements, including an attempt to notify the Bankruptcy Administrator, other secured creditors, and the 20 largest unsecured creditors.

- That the secured creditor asserts a priority lien in cash collateral, together with a specific identification of the assets that are or will generate cash collateral, i.e., cash on hand, proceeds of inventory sales, etc., and that amount of the indebtedness allegedly secured.

- That the debtor has an immediate need for the use of cash collateral to preserve its assets, fund its business operations, purchase inventory, etc.

- That the debtor reaffirms the existing terms and conditions of existing financing documents with secured creditors.

Decretal Provisions. The following decretal provisions are generally appropriate for inclusion in a debtor-in-possession financing order:

- Grant and define adequate protection to secured creditor, and its successors and assigns, pursuant to 11 U.S.C. §§ 361 and 363, including monthly adequate protection payments, if appropriate.

- Grant secured creditor replacement liens in postpetition assets to the same extent and priority as existed prepetition.

- Grant secured creditor super-priority administrative claim to the extent that adequate protection proves inadequate.

- Provide for creation of a segregated DIP account into which cash collateral shall be deposited.

- Restrict use of cash collateral to pay specified categories of operating expenses, per budgets to be attached to the order or subsequently filed with the Court.

- Require that the debtor maintain insurance.

- Require submission of periodic (e.g., weekly, bi-weekly, monthly) reports regarding use of cash, aging of accounts receivable, etc.

- Provide equality of treatment for carve-outs as between professionals for the debtor and professionals for the Committee of Unsecured Creditors, and limiting the use of carve-outs to exclude the pursuit, but not investigation, of claims against the secured creditor providing financing.

- Provide that the order is sufficient and conclusive evidence of the priority and validity of the security interest in and liens, including replacement liens, on the debtor's assets granted to secured creditor without the necessity of filing, recording, or serving any financing statements or other documents which may otherwise be required under federal or state law in any jurisdiction or the taking of any action to validate or perfect the security interests and liens granted to secured creditor, but provided secured creditor may, in its discretion, file such financing statements or other documents with respect to such security interests and liens and that the debtor is

authorized and directed to execute, or cause to be executed, all such financing statements or other documents upon secured creditor's reasonable request and the filing, recording, or service.

- Identify the time period to which the order is applicable and provide that, even if authorization to use cash collateral expires, adequate protection/liens will continue to be effective unless or until otherwise modified by the Court.

- Set a final hearing date and set a deadline by which the documents relied upon by the secured creditor in asserting a perfected security interest be filed with the Clerk.

Inappropriate Provisions. The following provisions should not be included on an emergency basis:

- Stipulations which reduce the time period within which parties in interest may challenge the perfection, validity, priority, or amount of secured claims to less than 60 days from the engagement of counsel for the Committee of Unsecured Creditors, or, if no counsel or Committee is appointed, less than 90 days after the case is filed.

- Stipulations as to the perfection, validity, or priority of secured claims that are binding on any party other than the debtor, without affording other interested parties a reasonable time to challenge the same.

- In cases where the secured creditor asserts liens on accounts receivable pursuant to asset based revolving credit facilities, provisions which re-characterize the "use of cash collateral" as "postpetition advance," without regard to whether the "postpetition advance" is a new loan or the use of a prepetition receivable.

- Provisions which release potential claims or causes of action by the estate against the lender, without the passage of the time periods identified above.

- Provisions which grant automatic relief from stay upon a material default under the cash collateral order; however, the secured creditor's entitlement to an emergency hearing in the event of a material default could be recognized.

- Provisions which grant cross collateralization on unencumbered assets, absent extraordinary circumstances.

- Provisions that grant a postpetition lien on avoidance actions.

The foregoing limitations are not designed to limit the provisions of financing orders that may be presented to the Court after notice and with an opportunity for a hearing. Rather, these limitations apply to orders that are presented on a first day, emergency basis, without notice to all creditors and parties in interest.

APPENDIX C

LOCAL FORMS

Local Form 1 – No Protest Hearing Notice

Local Form 2 – Representation of Ability to Pay

Local Form 3 – Chapter 13 Attorney Fee Disclosure

Local Form 4 – Chapter 13 Plan

Local Form 4A – Amendment to Chapter 13 Plan

Local Form 5 – Motion for Disbursement of Unclaimed Funds and Notice of Hearing

Local Form 6 – Application for Waiver of Fee

Local Form 7 – Chapter 13 Certification and Affidavit

Local Form 8 – Ch. 13 – Debtor's Motion for Entry of Discharge and Certification

Local Form 9 – Ch. 13 – Debtor's Disclosure Re: Domestic Support Obligations

Local Form 10 – Motion for Relief from Stay Postpetition Transaction History – Creditor Form

Local Form 11 – Motion for Relief from Stay Postpetition Transaction History – Debtor Form

Local Form 12 – Change of Name and/or Address

Local Form 1 **Revised 2002**

UNITED STATES BANKRUPTCY COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
_____ DIVISION

IN RE:	)	Case No.:
	)	Chapter:
	)	
	)	
	)	**NOTICE OF**
	)	**OPPORTUNITY FOR HEARING**
	)	(No-Protest Notice: No
	)	Hearing Will Be Held Unless
	)	Request For Hearing Is Filed)
	)	
Tax I.D. No.	)	
Debtor(s)	)	
_____	)	

TAKE NOTICE that [name of moving party] has filed papers with the Court to [relief sought in motion or objection]. A copy of these paper(s) is included with this Notice or copied on the reverse side of this Notice.

Your rights may be affected. You should read these papers carefully and discuss them with your attorney, if you have one in this bankruptcy case. If you do not have an attorney, you may wish to consult one.

If you do not want the Court to order [relief sought in motion or objection], or if you want the Court to consider your views on the [motion] [objection], then on or before **[DATE RESPONSE DUE]** from the date of this Notice, you or your attorney must do three (3) things:

1. **File with the Court a written response requesting that the Court hold a hearing and explaining your position. File the response at:**

   U.S. Bankruptcy Court
   [Courtroom #]
   [Address]

If you mail your request to the Court for filing, you must mail it early enough so the Court will **receive** it on or before the date stated above.

2. **On or before the date stated above for written responses, you must also mail or fax a copy of your written request to:**

   [Name/address/fax # of movant's attorney]

   [Name/address/fax # of other parties to be served]

3. **Attend the hearing scheduled for [date], [year], at [time] a.m./p.m.** in Courtroom [#], United States Bankruptcy Court, [Court address].

If you or your attorney do not take these steps, **A HEARING WILL NOT BE HELD,** and the Court may decide that you do not oppose the relief sought in the motion or objection and may enter an order granting that relief.

Date: _____. _____.
[Attorney Name]
[Address]
[Telephone/Fax #s]
[State Bar #]

Local Form 2 **July 2007**

UNITED STATES BANKRUPTCY COURT
WESTERN DISTRICT OF NORTH CAROLINA

IN RE:	)	Chapter
	)	
	)	Case No.
	)	
Debtor(s).	)	
_____	)	

REPRESENTATION OF ABILITY TO PAY

The undersigned debtor(s) in the above referenced case hereby represents to the Court that the debtor(s) has the ability to make the payments prescribed by the Reaffirmation Agreement with _____. The source of additional funds and/or changed circumstances permitting the debtor(s) to make the agreed upon payments is:

_____

_____

Subject to Court approval, this Representation may serve to rebut any presumption of undue hardship arising pursuant to 11 U.S.C. § 524(m)(1) and may be filed by the debtor(s) before, with, or after the relevant Reaffirmation Agreement.

_____ _____
(Debtor) Date

Local Form 3 **July 2007**

Debtor(s) _____

DISCLOSURE TO DEBTOR(S) OF ATTORNEYS FEE PROCEDURE
FOR CHAPTER 13 CASES IN THE UNITED STATES BANKRUPTCY COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA

After consultation with the undersigned attorney, you have decided to file a petition for relief under Chapter 13 of the United States Bankruptcy Code. Accordingly, you are hereby given notice that pursuant to the local rules of the Bankruptcy Court, the base fee for a Chapter 13 case is established at $_____. Payment of all or part of this fee is included in your payments to the Trustee. The attorney's services included in the base fee are those normally contemplated in a Chapter 13 case. They are as follows:

(a) Providing the pre-filing notices required by the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005
(b) Preparation and filing of your petition, schedules, supplemental local forms, Chapter 13 Plan, and mailing matrix.
(c) Drafting and mailing notice to creditors advising of filing of case, including a copy of your Chapter 13 Plan.
(d) Drafting and mailing to you a letter regarding your attendance at the Section 341 meeting and your other responsibilities.
(e) Preparation for and attendance at Section 341 meeting.
(f) Review of order confirming plan and periodic reports.
(g) Review of Trustee's report of allowance of claims.
(h) Maintaining custody and control of case files.
(i) Service of orders on all affected parties.
(j) Verification of your identity and social security number
(k) Defending objections to confirmation of your Chapter 13 Plan filed by the Trustee.
(l) Preparing and filing Local Form 8 and Local Form 9.

The base fee shall also include the following services to the extent they are requested or reasonably necessary for your effective representation:

(a) Preparation and filing of proofs of claim on your behalf for your creditors.
(b) Drafting and filing objections to scheduled and unscheduled proofs of claim.
(c) Assumptions and rejections of unexpired leases and executory contracts.
(d) Preparation for and attendance at valuation hearings.
(e) Motions to transfer venue.
(f) Consultation with you regarding obtaining postpetition credit (no motion filed).
(g) Motions to avoid liens.
(h) Calculation of plan payment modifications (no motion filed).
(i) Responding to written creditor contacts regarding plan terms, valuation of collateral, claim amounts, and the like.
(j) Responding to your contacts regarding changes in your financial and personal circumstances and advising the Court and the Trustee of the same.
(k) Communicating with you regarding payment defaults, insurance coverage, credit disability, and the like.
(l) Obtaining and providing the Trustee with copies of documents relating to lien perfection issues.
(m) Notifying creditors of entry of discharge.
(n) Notifying creditors by certified mail of alleged violations of the automatic stay.
(o) Drafting and mailing letters regarding voluntary turnover of property.
(p) Defense of objection to confirmation filed by any party other than the Trustee.
(q) Review of documents in relation to the use or sale of collateral (no motion filed).
(r) Providing you with a list of answers to frequently asked questions and other routine communications with you.

In some Chapter 13 cases, legal services which are beyond those normally contemplated must be performed. These legal services are not covered by the base fee. These "non-base" services include the following:

(a) Abandonment of property post-confirmation.
(b) Motion for moratorium.
(c) Motion for authority to sell property.
(d) Motion to modify plan.
(e) Motion to use cash collateral or to incur debt.
(f) Defense of motion for relief from stay or co-debtor stay.
(g) Defense of motion to dismiss filed after confirmation of your plan.
(h) Non-base fee requests.
(i) Stay violation litigation, including amounts paid as fees by the creditor or other party.
(j) Post-discharge injunction actions.
(k) Adversary proceedings.
(l) Wage garnishment orders.
(m) Turnover adversaries.
(n) Conversion to Chapter 7.
(o) Motions to substitute collateral.
(p) Any other matter not covered by the base fee.

For such "non-base" services you will be charged on the basis of attorney's time expended at the rate of $ per hour plus the amount of expenses incurred (such as court fees, travel, long distance telephone, photocopying, postage, etc.). Such "non-base" fees are chargeable only after the same are approved by the Bankruptcy Court. Except as set forth below, before any such fees are charged you will receive a copy of my motion filed in the Court requesting approval of any such "non-base" fees as well as a notice explaining your opportunity to object if you do not agree with the fee applied for. Any fees awarded for "non-base" services will be paid to the undersigned attorney from your payments to the Trustee in the same way as payment of "base" fees. **It is possible that "non-base" fees approved by the Court may cause your payment to the Trustee to be increased, or the term of your Chapter 13 plan extended**. Whether or not a payment increase or an extension will be necessary depends upon the facts of your case. If a payment increase is necessary because of a court- approved "non-base" fee, the Trustee will notify you of the amount of the increase.

In the Court's discretion, a debtor's attorney in a Chapter 13 proceeding may request, in open court, and without any other notice, "non-base" fees for the following services in amounts not exceeding those shown below. Without other notice, the debtor's attorney may also request up to $1.00 for each item noticed to creditors as expense for postage, copying, and envelopes. These fees may be adjusted (increased) by the Court at a later date, and, if so, those adjusted fees will then be charged.

(a)	Defense of motion to dismiss.	$200
(b)	Motion to modify and order, including motion for moratorium.	$350
(c)	Substitution of collateral.	$450
(d)	Prosecution or defense of motion for relief from stay or co-debtor stay and order.	$450
(e)	Motion for authority to sell property and order.	$450
(f)	Motion to obtain credit	$450
(g)	Permission from trustee to obtain credit, to be filed as an administrative proof of claim	$200
(h)	Motion to continue or impose the automatic stay	$350
(i)	When substitute legal counsel is retained by a Chapter 13 debtor, such substituted counsel is entitled to a presumptive base fee of $500 without formal application to the Court, provided that the order allowing substitute counsel specifies both the amount of the fee and whether the fee is paid direct by the debtor or through the plan.	

ACKNOWLEDGMENT

I hereby certify that I have read this notice and that I have received a copy of this notice.

Dated: _____ _____
Debtor's Signature

Dated: _____ _____
Spouse's Signature

I hereby certify that I have reviewed this notice with the debtor(s) and that the debtor(s) have received a copy of this notice.

Dated: _____ _____
Attorney

LOCAL FORM 4 **JULY 2007**

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
[insert correct division name] DIVISION

In re:	)	Case No. - - -
	)	
	)	Chapter 13
	)	
	)	
Debtor(s)	)	

CHAPTER 13 PLAN INCLUDING NOTICE AND MOTION(S) FOR VALUATION; MOTION(S) TO AVOID CERTAIN LIENS; MOTION(S) FORASSUMPTION AND REJECTION OF EXECUTORY CONTRACTS AND UNEXPIRED LEASES. NOTICE OF OPPORTUNITY FOR HEARING ON CONFIRMATION OF THE PLAN INCLUDING ALL MATTERS AS SET FORTH IN THE PLAN
***FOR* CASES FILED ON OR AFTER JULY 2, 2007**

The following is the Chapter 13 plan proposed by the above-named debtor(s). The plan may also include in its provisions certain motions to avoid liens, motions for valuation of collateral securing claims, and motions to assume or reject executory contracts and unexpired leases. (Check the motions applicable to this plan.)

( ) Motion to Value Liens Includes Valuation of Property Securing A Claim
( ) Motion to Value Liens includes Valuation of Property Securing A Claim in an Amount Less than the Amount of the Claim
( ) Motion to Avoid Liens §522(f)
( ) Motion to Assume Executory Contract(s) and Unexpired Leases
( ) Motion to Reject Executory Contract(s) and Unexpired Leases
( ) No Motions Applicable to this Plan

TAKE NOTICE: Your rights may be affected. You should read the plan carefully, including any motions contained in the plan, and discuss them with your attorney, if you have one. If you do not have an attorney, you may wish to consult one.

If you do not want the Court to confirm the proposed plan of the debtor(s), including any of the motions included in the plan, or if you want the court to consider your views on these matters, then you or your attorney must file with the Court a written objection to confirmation and request for hearing on confirmation at one of the following addresses:

Cases filed in the **Charlotte, Shelby or Wilkesboro** Divisions:
Clerk, U.S. Bankruptcy Court, P.O. Box 34189, Charlotte, N.C. 28234-4189

Cases filed in the **Asheville or Bryson City** Divisions:
Clerk, U.S. Bankruptcy Court, Room #112, 100 Otis Street, Asheville, N.C. 28801

Your objection to confirmation and request for hearing must include the specific reasons for your objection, and must be filed with the Court no later than fifteen (15) days following the conclusion of the Section 341(a) meeting of creditors. If you mail your objection to confirmation to the Court for filing, you must mail it early enough so that the Court will receive it on or before the deadline stated above. You must also serve a copy of your objection to confirmation on the debtor(s), the attorney for the debtor(s), and the Chapter 13 trustee at their addresses as they are listed in the notice of the meeting of creditors. If any objections to confirmation are filed with the Court, the objecting party will provide written notice of the date, time and location of the hearing on the objection. No hearing will be held unless an objection to confirmation is filed.

If you or your attorney do not take these steps, the Court may decide that you do not oppose the proposed plan of the debtor(s), including any motions contained in the plan, and may enter an order confirming the plan and granting the motions. **Any creditor's failure to object to confirmation of the proposed plan shall constitute the creditor's acceptance of the treatment of its claim as proposed, pursuant to 11 U.S.C. Section 1325(a)(5)(A).**

STANDING STAY MODIFICATION: The automatic stay provided in 11 U.S.C. § 362(a) is modified in Chapter 13 cases as follows: Affected secured creditors may contact the debtor about the status of insurance coverage on property used as collateral. If there are direct payments to creditors, affected secured creditors may contact the debtor in writing about any payment in default; and shall send to the debtor statements, payment coupons or other correspondence that the creditor sends to its non-debtor customers. Such actions do not constitute violations of 11 U.S.C. § 362(a).

PLAN PAYMENTS; ADMINISTRATIVE COSTS; PROOFS OF CLAIM

1. a. The base plan proposes payments of $_____ per month for _____months (estimated percent payment to general unsecured creditors_____%) or

b. The percentage plan proposes payments of $_____per month for _____% (percentage) payment to general unsecured creditors.

c. If applicable, the plan will also be funded by:_____

_____

2. Administrative Costs

a. Attorney's Fees. The attorney for the debtor(s) has received $_____ of the total base attorney fee of $_____. The remainder of the base fee shall be paid through the plan by the trustee on a pro rata basis with required monthly payments to allowed secured claimants.

b. Trustee's Costs. The trustee shall be entitled to reimbursement of fees and costs up to the statutory maximum on each disbursement made by the trustee, regardless of whether it is paid prior to or following confirmation.

3. Filing of Proofs of Claim

a. The trustee shall only distribute payments, including adequate protection payments, to creditors who have actually filed proofs of claim (including adequate proof of security) with the Court that are deemed allowed pursuant to 11 U.S.C. Section 502(a). However, if a creditor does not file a timely proof of such creditor's claim, then either the debtor(s) or the trustee may file such a claim as provided for by 11 U.S.C. Section 501(c) and in that event such claim shall be deemed the claim for all purposes under the plan.

b. The trustee shall mail payments and provide notices to the address provided on the filed proof of claim or amended proof of claim or filed name or address change or assignment or transfer of claim filed with the Court

CLASSIFICATION AND TREATMENT OF CLAIMS

4. PRIORITY CLAIMS. All claims entitled to priority under 11 U.S.C. Section 507 and 1322 shall be paid in full in deferred cash payments, except for priority claims under Section 507(a)(1)(B), unless the holder of the particular claim agrees to a different treatment of such claim.

a. Domestic Support Obligations ("DSOs")

All postpetition DSOs, including postpetition DSOs assigned to a governmental unit, will be paid directly to the holder by the debtor(s) or to the assignee of the claim and not through the Chapter 13 Trustee unless otherwise specified under the "Special Terms" section of the plan.

i. [ ] None

ii. The name, address and phone number including area code of the holder of any DSO as defined in 11 U.S.C. Section 101(14A). Pursuant to 11 U.S.C. Section 112, the names of minor children should not be disclosed. Include in this list all DSOs as defined by the statute, notwithstanding the fact that the debtor may believe the obligation to be voluntary or contingent in nature.

Name	Address (incl. city, state, zip code)	Telephone
1.		
2.		

b. DSO Prepetition Arrearages Owed to DSO Holders Under 11 U.S.C. Section 507(a)(1)(A), or assigned to a governmental unit, to be paid in full through the Chapter 13 plan on a pro-rata basis after payment of secured claims and the attorney fee and prior to payment of any non-DSO priority claim, unless a different treatment is proposed under the "Special Terms" section of the plan:

i. [ ] None

ii.

Name of holder	Amount of Arrearage
1.	
2.	

c. Priority Claims Other Than DSOs

All priority claims other than DSOs shall be paid in full on a pro rata basis after the payment in full of all DSO priority claims.

i. [ ] None

ii. The names and amounts of all claims entitled to priority under 11 U.S.C. Section 507, other than DSOs:

Name	Claim Amount
1.	
2.	

5. SECURED CLAIMS

Other than secured claims that are to be paid as long-term debts pursuant to 11 U.S.C. Section 1322(b)(5), or that are to be paid directly by the debtor(s), the trustee shall pay the value of all allowed secured claims, on a pro rata basis in monthly amounts sufficient to provide adequate protection.

a. For purposes of the plan, the treatment of each claim is specified below. Treatment shall be one of the following: (1) Direct payment by the debtor(s): "**Direct**";

(2) Payment in full by the Chapter 13 Trustee through the plan where Section 506(a) does not apply: "**910/365**"; (3) Payment of the value of the collateral by the Chapter 13 Trustee through the plan where Section 506(a) does apply: "**As valued"**; (4) Debtor(s) will surrender the collateral: "**Surrender**", or (5) File proceeding to determine validity of lien: "**Avoidance**."

Creditor	Collateral	Value of Coll.	Claim Amt.	Treatment	Int. Rate
1.					
2.					
3.					
4.					

To the extent that any of the claims referred to above are secured by mortgage loans on real property, and such claims are scheduled to be paid by the Trustee, then and in that event the Debtors will no longer be making any mortgage payments to any of the designated mortgage servicers and/or their successors and assigns and all such entities are hereby authorized to provide account information to the Chapter 13 Trustee.

b. For secured claims to be paid directly by the debtor(s), state below the amount of prepetition arrearages to be paid through the Chapter 13 Trustee:

Creditor	Collateral	Pre-pet. arrearage	Int. Rate.
1.			
2.			
3.			

If the treatment option for secured claims is "**Surrender**", the debtor(s) surrenders any interest in the collateral securing the claims of the specified creditors. Upon confirmation, the automatic stay will be deemed lifted for the collateral and the creditor need not file a motion for relief from stay in order to repossess, foreclose upon or sell the collateral. Nothing herein is intended to lift any applicable co-debtor(s) stay, or to abrogate the debtor(s)' state law contract rights.

c. For claims secured by improved real property or motor vehicles, state below requested insurance information, vehicle mileage, and vehicle identification number.

Collateral	Insurance Agent and Address	Vehicle Mileage	VIN.
1.			
2.			
3.			

6. General Unsecured Claims Not Separately Classified. General unsecured claims shall be paid on a pro rata basis with payments to commence after the payment of all administrative, secured and priority unsecured claims in full.

7. Special Terms

a. [ ] None

b. Special Treatment of Unsecured Claims

c. Other Direct Payments to Creditors Other than Section 5.

d. Other Special Terms

8. Plan Motions:

Motion to Value All Liens in Paragraph #5a

The debtor(s) hereby moves the Court to value the collateral of each of the creditors described in paragraph 5a. (except those creditors whose claims are classified to be paid directly or to be paid in full by the Chapter 13 Trustee where Section 506(a) does not apply) at the collateral value stated. To the extent that the amount of the debt of any such creditor exceeds the stated collateral value, the debtor(s) hereby moves the Court that said difference be treated in the Chapter 13 plan as a general unsecured claim without priority. The debtor(s) further moves the Court that the lien of each creditor listed upon the collateral listed hereinabove be satisfied upon payment of the collateral value and the issuance of the debtor(s) discharge.

Motion to Avoid Non-Possessory, Non-Purchase Money Security Interests in Household Goods and Personal Items

The debtor(s) is indebted to the following creditors in the amounts stated. As security for the debt, each such creditor insisted upon, and the debtor(s) executed, a waiver of exemption of certain property, and a security agreement granting said creditors a non-possessory, non-purchase money security interest in household goods which is property delineated by 11 U.S.C. Section 522(f)(2) and which is held primarily for the personal, family or household use of the debtor(s) or a dependent of the debtor(s). The debtor(s) believes that a financing statement may have been properly filed evidencing each such creditor's security interest and liens:

Creditor	Last 4 Digits of Account/I.D.	Debt Amount	Description of Property
1.			
2.			

The debtor(s)' interest in any item of property referred to above does not exceed the value claimed as exempt. The money borrowed from each such creditor does not represent any part of the purchase money of any of the items covered by each such creditor's security agreement. The existence of each such creditor's lien on the debtor(s)' household goods and personal items impairs the exemptions to which the debtor(s) would be entitled under Section 1C-1601 of the North Carolina General Statutes or as otherwise applied under applicable state law. The debtor(s) moves the Court for the cancellation and avoidance of the security interest of each such creditor in the debtor(s)' personal and household goods, effective upon discharge.

Motion to Avoid Judicial Liens

Judgments were obtained by the creditors listed below in cases before the General Court of Justice of the State of North Carolina, and said judgments have been recorded in the Public Registry as follows:

Creditor	Judgment Book And Page	Registry	Judgment Date	Judgment Lien Amount
1.				
2.				

The above-stated judgments created liens on the real property in which the debtor(s) has an interest, which real property is more specifically described as _____. The value of the debtor(s)'s interest in this real property is $_____. The aforesaid liens constitute judicial liens under 11 U.S.C. Section 522(f)(1). The property which this judicial lien encumbers is property which the debtor(s) is entitled to exempt under 11 U.S.C. Section 522 and the claimed amount of this exemption is $_____. The existence of this judicial lien impairs the exemption to which the debtor(s) is entitled under Section 1C-1601 of the North Carolina General Statutes or as otherwise applied under applicable state law.

The debtor(s) respectfully moves the Court to issue an order compelling the above-stated creditors to cancel and avoid their judicial liens upon the real property described herein, effective upon discharge.

Motion to Assume or Reject Executory Contracts and Unexpired Leases

a. The debtor(s) moves to assume or reject the following executory contracts and unexpired leases. If assumed, payments due after the filing of the case will be paid directly by the debtor(s) rather than by the trustee.

b. Unless otherwise provided, the debtor(s) proposes to promptly cure any pre-bankruptcy defaults on the assumed leases or contracts over a period of _____months, with said payments to be made by the trustee.

Creditor	Assume or Reject	If Assumed, Amount of Arrearage paid in Plan
1.		
2.		

General Provisions

1. To receive payment from the trustee, either prior to or following confirmation, a secured creditor must file a proof of claim. Secured claims which are not filed within the time period required by Federal Bankruptcy Rule 3002(c) may be disallowed or subordinated to other claims upon further order of the Court.

2. Confirmation of this plan does not bar a party in interest from objecting to a claim which is not filed in accordance with Federal Bankruptcy Rules 3001 or 3002.

3. Unless otherwise ordered, any creditor holding a claim secured by property which is removed from the protection of the automatic stay, whether by judicial action, voluntary surrender, or through operation of the plan, will receive no further distribution from the trustee, unless an itemized proof of claim for any deficiency is filed within one-hundred twenty (120) days (or such other period as the Court orders) after the removal of the property from the protection of the automatic stay. For purposes hereof, the removal date shall be the date of the entry of the order confirming the plan, modifying the plan, or granting relief from stay. This also applies to creditors who may claim an interest in, or lien upon, property which is removed from the protection of the automatic stay of another lien holder or release to another lien holder.

4. If a claim is listed in the plan as secured and the creditor files a proof of claim as an unsecured creditor, the creditor shall be treated as unsecured for purposes of distribution and for any other purpose under the plan.

5. Property of the estate includes all of the property specified in 11 U.S.C. Section 541 and all property of the kind specified in such section acquired by the debtor(s) after commencement of the case but before the case is closed, dismissed or likewise converted to one under another chapter of the Code. All property of the debtor remains vested in the estate until completion of the plan.

6. Confirmation of the plan shall impose a duty on the holders and/or servicers of claims secured by liens on real property to apply the payments received from the trustee on the prepetition arrearages, if any, only to such arrearages; to deem the prepetition arrearages as contractually cured by confirmation; to apply the direct mortgage payments, if any, paid by the trustee or by the debtor(s) to the month in which they were

made under the plan or directly by the debtor(s), whether such payments are immediately applied to the loan or placed into some type of suspense account; to notify the trustee, the debtor(s) and the attorney for the debtor(s) of any changes in the interest rate for an adjustable rate mortgage and the effective date of the adjustment; to notify the trustee, the debtor(s) and attorney for the debtor(s) of any change in the taxes and insurance that would either increase or reduce the escrow portion of the monthly mortgage payment; and to otherwise comply with 11 U.S.C. Section 524(i). See Local Rule 4001-1(e).

7. All contractual provisions regarding arbitration or alternative dispute resolution are rejected in connection with the administration of this Chapter 13 case.

I declare under penalty of perjury that the information provided in the Chapter 13 Plan, including Motion(s) for Valuation; Motion(s) to Avoid Certain Liens; and Motion(s) for Assumption and Rejection of Executory Contracts and Unexpired Leases; as to all matters set forth herein are true and correct.

Dated_____ _____
Debtor's Signature

Dated_____ _____
Debtor's Signature

I hereby certify that I have reviewed this document with the debtor(s) and that the debtor(s) have received a copy of this document.

Dated_____ _____
Attorney for the Debtor(s)

Local Form 4A **July 2007**

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
[insert correct division name] DIVISION

In re:	)	Case No. - - -
	)	
	)	
	)	Chapter 13
	)	
	)	
Debtor(s)	)	

AMENDMENT TO:

CHAPTER 13 PLAN, INCLUDING NOTICE OF MOTION(S) FOR VALUATION; MOTION(S) TO AVOID CERTAIN LIENS; MOTION(S) FOR ASSUMPTION AND REJECTION OF EXECUTORY CONTRACTS AND UNEXPIRED LEASES; AND NOTICE OF OPPORTUNITY FOR HEARING ON CONFIRMATION OF THE PLAN INCLUDING ALL MATTERS AS SET FORTH IN THE PLAN, FOR CASES FILED ON OR AFTER JULY 2, 2007

Check for motions applicable to this plan amendment:

( ) Motion to Value Liens Includes Valuation of Property Securing A Claim
( ) Motion to Value Liens includes Valuation of Property Securing A Claim in an Amount Less than the Amount of the Claim
( ) Motion to Avoid Liens §522(f)
( ) Motion to Assume Executory Contracts(s) and Unexpired Leases
( ) Motion to Reject Executory Contract(s) and Unexpired Leases
( ) No motions applicable to this plan amendment

The Chapter 13 Plan, including certain motions and other provisions, is hereby **amended** as follows:

TAKE NOTICE: Your rights may be affected. You should read this amendment to the Chapter 13 Plan carefully, including any motions contained in the amended plan, and discuss them with your attorney, if you have one, in this bankruptcy case. If you do not have an attorney, you may wish to consult one.

If you do not want the Court to confirm the proposed plan of the debtor(s) as amended, including any of the motions included in the amended plan, or if you want the court to consider your views on these matters, then you or your attorney must file with the Court a written objection to confirmation and request for hearing on confirmation at the following addresses:

Cases filed in the **Charlotte, Shelby or Wilkesboro** Divisions:

Clerk, U.S. Bankruptcy Court, P.O. Box 34189, Charlotte, N.C. 28234-4189.

Cases filed in the **Asheville or Bryson City** Divisions:

Clerk, U.S. Bankruptcy Court, Room #112, 100 Otis Street, Asheville, N.C. 28801

Your objection to confirmation and request for hearing must include the specific reasons for your objection, and must be filed with the Court no later than fifteen (15) days following the conclusion of the Section 341(a) meeting of creditors, or within fifteen (15) days of service of the amendment, whichever is later. If you mail your objection to confirmation to the Court for filing, you must mail it early enough so that the Court will receive it on or before the deadline stated above. You must also serve a copy of your objection to confirmation on the debtor(s), the attorney for the debtor(s), and the Chapter 13 trustee at their addresses as they are listed in the notice of the meeting of creditors. If any objections to confirmation are filed with the Court, the objecting party will provide written notice of the date, time and location of the hearing. No hearing will be held unless an objection to confirmation is filed.

If you or your attorney do not take these steps, the Court may decide that you do not oppose the proposed plan of the debtor(s) as amended, including any motions contained in the amended plan, and may enter an order confirming the amended plan and granting the motions. **Any creditor's failure to object to confirmation of the proposed plan as amended shall constitute the creditor's acceptance of the treatment of its claim as proposed, pursuant to 11 U.S.C. Section 1325(a)(5)(A).**

I declare under penalty of perjury that the information provided in the **Amendment** to Chapter 13 Plan, including Notice of Motion(s) for Valuation; Motion(s) to Avoid Certain Liens; and Motion(s) for Assumption and Rejection of Executory Contracts and Unexpired Leases; as to all matters set forth herein are true and correct.

Dated_____ _____
Debtor's Signature

Dated_____ _____
Debtor's Signature

I hereby certify that I have reviewed this document with the debtor(s) and that the debtor(s) have received a copy of this document.

Dated_____ _____

Attorney for the Debtor

Local Form 5 **July 2007**

UNITED STATES BANKRUPTCY COURT
WESTERN DISTRICT OF NORTH CAROLINA
_____ Divison

In re:	)	Case No.:
	)	
	)	Chapter:
	)	
	)	
	)	
	)	
Debtor(s)	)	
_____	)	

MOTION FOR DISBURSEMENT OF UNCLAIMED FUNDS

_____ hereby moves the Court for an order
(Claimant(s) Name)

directing the United States Bankruptcy Court to disburse the sum of $_____
(Enter amount of claim)

from the Court's registry fund, payable to _____, representing
(Claimant(s) Name)

unclaimed funds previously deposited with the Court.

Date _____

Supporting documentation attached ____yes ____no

I understand that pursuant to 11 U.S.C. §§ 152 and 3571, I may be fined up to $500,000, imprisoned for up to 5 years or both if I have knowingly and fraudulently made any false statements in this document or provided false and fraudulent documentation as part of this application.

_____
Signature of Claimant

_____
Typed or printed name of Claimant

_____
Address of Claimant

_____
Daytime Telephone Number of Claimant

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
_____ DIVISION

In re:	)	Case No.:
	)	
	)	
	)	Chapter:
	)	
Debtor(s).	)	
	)	

NOTICE OF HEARING AND CERTIFICATE OF SERVICE

NOTICE IS HEREBY GIVEN that the Court will conduct a hearing on _____

at _____ (a.m./p.m.) in Courtroom number _____ located at _____

to consider the Motion for Disbursement of Unclaimed Funds filed by _____.
(Claimant(s) Name)

NOTICE IS FURTHER GIVEN to the Court that on _____, the
(Enter date parties served)

United States Attorney, the case trustee, and the Bankruptcy Administrator were served a copy

of the Motion for Disbursement of Unclaimed Funds and this Notice of Hearing by U. S. Mail.

_____
Signature of Claimant(s)

_____
Typed or printed name of Claimant(s)

Date _____

Local Form 6

UNITED STATES BANKRUPTCY COURT
Western District of North Carolina

Instructions for Filing an
Application for Waiver of the Chapter 7 Filing Fee for Individuals Who Cannot Pay the Filing Fee in Full or in Installments

The fee for filing a case under chapter 7 of the Bankruptcy Code is $299.

If you cannot afford to pay the fee either in full at the time of filing or in installments, then you may request a waiver of the filing fee by completing this application (NCWD Local Form 6) and filing it with the Clerk of Court.

A judge will decide whether you have to pay the fee. By law, the judge may waive the fee **only if** your income is less than 150 percent of the official poverty line applicable to your family size and you are unable to pay the fee in installments. **The poverty guidelines for 2007 are attached.** You may obtain additional information about the poverty guidelines at the United States Department of Health and Human Services website at http://aspe.hhs.gov/poverty.

Required information. All items in the application and attached requested schedules must be answered in order for a proper determination to be made regarding allowance of your waiver of fee. If the question does not apply; write in not applicable or **n/a.** If the amount is zero or none use: **zero, -0-, none**. Sign the application on the last page. If you and your spouse are filing a joint bankruptcy petition, each of you must provide information as requested and sign the application. Your failure to timely comply with these requirements may result in the application being **denied.**

If your application is denied, an order will be entered directing the payment of the filing fee in installments.

2007 HHS Poverty Guidelines

Persons in Family or Household	48 Contiguous States and D.C.	Alaska	Hawaii	150%
1	$10,210	$12,770	$11,750	15,315
2	13,690	17,120	15,750	20,535
3	17,170	21,470	19,750	25,755
4	20,650	25,820	23,750	30,975
5	24,130	30,170	27,750	36,195
6	27,610	34,520	31,750	41,415
7	31,090	38,870	35,750	46,635
8	34,570	43,220	39,750	51,855
For each additional person, add	3,480	4,350	4,000	5,220

SOURCE: *Federal Register*, January 24, 2007.

January 2007

Local Form 6 **Feb. 2006**

UNITED STATES BANKRUPTCY COURT
Western District of North Carolina

In re:

Chapter 7

Debtor(s). Case No._____

Application for Waiver of the Chapter 7 Filing Fee for Individuals Who Cannot Pay the Filing Fee in Full or in Installments

Part A. Family Size and Income

1. Including yourself, your spouse, and dependents you have listed or will list on **Schedule I, Current Income of Individual Debtors**, how many people are in your family? (Do not include your spouse if you are separated AND are not filing a joint petition.)

   Number of people in family: _____

2. Restate the following information that you provided, or will provide, on **Line 16 of Schedule I, Current Income of Individual Debtor**. Attach a completed copy of Schedule I, if it is available.

   Total Combined Monthly Income (line 16 of Schedule I): $_____

3. State the monthly net income, if any, of dependents included in Question 1 above. Do not include income already reported in Question 2. If none, enter $0.

   Monthly net income of dependants: $_____

4. Add the "Total Combined Monthly Income" reported in Question 2 to your dependents' monthly net income from Question 3.

   Total of amounts in question 2 and question 3: $_____

5. Do you expect the amount in Question 4 to increase or decrease by more than 10% during the next 6 months?

   Yes ____ No _____ If yes, explain: _____

   _____

Part B. Monthly Expenses

6. EITHER (a) attach a completed copy of Schedule J (Schedule of Monthly Expenses), and state your total monthly expenses reported on Line 18 of that Schedule, OR (b) if you have not yet completed Schedule J, provide an estimate of your total monthly expenses.

   Total monthly expenses from Schedule J or estimate: $_____

7. Do you expect the amount in Question 6 to increase or decrease by more than 10% during the next 6 months?

   Yes ____ No _____ If yes, explain: _____
   _____

Part C. Real and Personal Property

Either (1) attach completed copies of Schedule A (Real Property) and Schedule B (Personal Property), OR (2) if you have not yet completed those schedules, answer the following questions.

8. State the amount of cash you have on hand: $_____

9. State below any money you have in savings, checking, or other accounts in a bank or other financial institution.

Name of Financial Institution	Type of Account	Amount
_____	_____	$_____
_____	_____	$_____

10. State below the assets owned by you. **Do not list ordinary furnishings and clothing**.

Home Address:

_____ Value: $_____

_____ Amount owed on mortgages and liens: $_____

Other real estate address:

_____ Value: $_____

_____ Amount owed on mortgages and liens: $_____

Motor Vehicle Model/year: _____ Value: $_____

Amount Owed: $_____

Motor Vehicle Model/year: _____ Value: $_____

Amount Owed: $_____

Other (Describe):_____ Value: $_____

_____ Amount Owed: $_____

11. State below any person, business, organization, or governmental unit that owes you money and the amount that is owed.

Name of Person, Business, or Organization that Owes You Money Amount Owed:

_____ $_____

_____ $_____

Part D. Additional Information

12. Have you paid an attorney any money for services in connection with this case, including the completion of this form, the bankruptcy petition, or schedules?

    Yes _____ No _____ If yes, how much have you paid? $_____

13. Have you promised to pay or do you anticipate paying an attorney in connections with your bankruptcy case?

    Yes _____ No _____

    If yes, how much have you promised to pay or do you anticipate paying?
    $_____

14. Have you paid **anyone other than an attorney** (such as bankruptcy petition preparer, paralegal, typing service, or other person) any money for services in connection with this case, including the competition of this form, the bankruptcy petition, or schedules?

    Yes _____ No _____ If yes, how much have you paid? $_____

15. Have you promised to pay **anyone other than an attorney** (such as bankruptcy petition preparer, paralegal, typing service, or other person) any money for services in connection with this case, including the competition of this form, the bankruptcy petition, or schedules?

    Yes _____ No _____

    If yes, how much have you promised to pay or do you anticipate paying?
    $_____

16. Has anyone paid an attorney or other person or service in connection with this case, on your behalf?

    Yes _____ No _____

    If yes, explain: _____

    _____

17. Have you previously filed for bankruptcy relief during the past eight years?

Yes _____ No _____

Case Number (If known)	Year filed	Location of filing	Did you obtain a discharge? (if known)
_____	_____	_____	Yes___ No_____ Don't know _____
_____	_____	_____	Yes ___ No ____ Don't know _____

18. Please provide any other information that helps to explain why you are unable to pay the filing fee in full or in installments.

19. I (we) declare under penalty of perjury that I (we) cannot currently afford to pay the filing fee in full or in installments and that the foregoing information is true and correct.

Executed on: _____ _____
Date Signature of Debtor

_____ _____
Date Signature of Debtor

Declaration and Signature of Bankruptcy Petition Preparer (See 11 U.S.C. §110)

I declare under penalty of perjury that: (1) I am a bankruptcy petition preparer as defined in 11 U.S.C. §110; (2) I prepared this document for compensation and have provided the debtor with a copy of this document and the notices and information required under 11 U.S.C. §§ 110(b), 110(h), and 342(b); and (3) if rules or guidelines have been promulgated pursuant to 11 U.S.C. §110(h) setting a maximum fee for services chargeable by bankruptcy petition preparers, I have given the debtor notice of the maximum amount before preparing any document for filing for a debtor or accepting any fee from the debtor, as required under that section.

_____
Printed or Typed Name and Title, if any, of Bankruptcy Petition Preparer

_____
Social Security No. (Required by 11 U.S.C. §110).

If the bankruptcy petition preparer is not an individual, state the name, title (if any), address, and social security number of the officer, principal, responsible person, or partner who signs the document.

_____

_____
Address

x_____ _____
Signature of Bankruptcy Petition Preparer Date

Names and Social Security numbers of all other individuals who prepared or assisted in preparing this document, unless the bankruptcy petition preparer is not an individual:

If more than one person prepared this document, attach additional signed sheets conforming to the appropriate Official Form for each person.

A bankruptcy petition preparer's failure to comply with the provisions of title 11 and the Federal Rules of Bankruptcy Procedure may result in fines or imprisonment or both. 11 U.S.C. § 110; U.S.C. § 156

Local Form 7 **July 2007**

UNITED STATES BANKRUPTCY COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
***[insert correct division name]* DIVISION**

IN THE MATTER OF:	)	
	)	
	)	Case Number_____
	)	
SSN: xxx-xx-_____	)	
SSN: xxx-xx-_____	)	

Debtor(s)

DEBTOR(S) CERTIFICATION AND AFFIDAVIT – 341(a) MEETING

The undersigned, being the Debtor(s) referenced above, do hereby certify under oath administered by the Standing Trustee at the 341 meeting of creditors conducted on the date noted below, the following (Check the appropriate option, filling in the information requested as needed.)

DOMESTIC SUPPORT OBLIGATION CERTIFICATION

Male Female

1. ( ) ( ) I am not presently required by any judicial or administrative order or statute to pay any domestic support obligation (as defined in 11 U.S.C. Section 101(14A)); or,

2. ( ) ( ) I am required to pay under a domestic support order, and the full information as required by law as to the identity of the holder of this claim is already included in my petition, including the name and full mailing address of the holder, and ages and custodian of any children relating to the support order, and,

3. ( ) ( ) As of the date of this affidavit, I am current under any obligation created therein; and I agree to notify my trustee should I miss any payments due or otherwise become delinquent under any support obligation from this day until my confirmation order is entered.

4. ( ) ( ) I am presently in arrears as of the date of this Affidavit as follows:

( ) I have only those arrears as listed in my petition, and, I am current postpetition through today; or,

( ) In addition to any arrears listed in my petition, I have incurred the following postpetition arrearage:

_____

_____

TAX RETURN CERTIFICATION

Male Female

1. ( ) ( ) I was not required to file any Federal, State or local tax returns for the 4-year period ending on the date of the filing of my Chapter 13 petition for the following reason(s):

_____

_____.

2. ( ) ( ) I was not required to file Federal, State or local tax returns for the following years during the 4-year period ending on the date of the filing of my Chapter 13 petition for the following reason(s):

_____

_____.

3. ( ) ( ) I was required to file Federal, State and local tax returns for the 4-year period ending on the date of the filing of my Chapter 13 petition and I have filed all of the returns that I was required to file during that 4-year period.

4. ( ) ( ) I was required to file Federal, State and local tax returns for the 4-year period ending on the date of the filing of my Chapter 13 petition but I have not filed the following required return(s):

_____

_____.

CERTIFICATION OF WAGES

Male Female

1. ( ) ( ) My Chapter 13 petition contains valid and accurate information as regards the payment of wages to me by my employer for the 60-day period ending on the date of the filing of my petition, and my petition contains valid and accurate information as to my average income for the six-month period ending on the last day of the calendar month immediately preceding the filing of my petition; or,

2. ( ) ( ) The information as contained in my petition has changed as follows:

_____

_____

By signing this affidavit, I acknowledge that all of the statements contained herein are true and accurate, and the Trustee and Court may rely on these statements for purposes of determining if confirmation of my proposed Plan is allowed under the provisions of the Bankruptcy Code. Any inaccuracy in this affidavit may be grounds for revocation or denial of my confirmation.

Dated this the _____ day of _____, 200__.

_____
Male Debtor

_____
Female Debtor

Local Form 8 **July 2007**

UNITED STATES BANKRUPTCY COURT
WESTERN DISTRICT OF NORTH CAROLINA

IN RE:	)	
	)	Chapter 13
Debtor(s)	)	Case No.

DEBTOR'S MOTION FOR ENTRY OF DISCHARGE and CERTIFICATION REGARDING PLAN COMPLETION, and Interim Rule 1007(b)(8) Statement

The debtor makes the following certifications regarding the completion of the plan:

1. I have satisfied all plan requirements.

2. _____ I am not required to pay any Domestic Support Obligations.

   _____ I am required to pay Domestic Support Obligations and all amounts payable under such obligations are paid as of this date, including amounts that were due before the petition was filed, to the extent provided for by the plan.

3. The provisions of 11 U.S.C. §522(q)(1) are not applicable to me.

4. There is not pending a proceeding in which I may be found guilty of a felony of the kind described in Section 522(q)(1)(A) or liable for a debt of the kind described in Section 522(q)(1)(B).

5. I am entitled to a discharge under 11 U.S.C. §1328.

I declare under penalty of perjury that the information provided in this certification and motion is true and correct and move the Court to enter a discharge in this case.

Dated:_____ _____
Debtor

UNITED STATES BANKRUPTCY COURT
WESTERN DISTRICT OF NORTH CAROLINA

IN RE:	)	
	)	Chapter 13
	)	Case No.
Debtor(s)	)	

NOTICE OF OPPORTUNITY FOR HEARING on DEBTOR'S MOTION FOR ENTRY OF DISCHARGE and CERTIFICATION REGARDING PLAN COMPLETION,
[Notice of Interim Bankruptcy Rule 1007(b)(8) Statement Given Pursuant to Interim Bankruptcy Rule 2002(f)(11)]

To: [all creditors on the Court's mailing matrix]:

PLEASE TAKE NOTICE that the debtor has filed a Motion for Entry of Discharge and Certification Regarding Plan Completion. A copy of said pleading is attached hereto.

Any objection must be filed in writing with the Bankruptcy Court and a copy served on the debtor and the attorney for the debtor within 15 days of the date of this notice. If no objections are filed and served in a timely manner, the Court will enter a discharge.

A hearing on any objections filed and served in a timely manner will be held on _____, the _____ day of _____, 2006 at 9:30 a.m. in _____.

Dated:

Attorney Name	or	Pro Se Debtor
Attorney Address		Debtor address
Attorney Tel. No.		(if debtor has
Attorney Bar No.		no attorney)

CERTIFICATE OF SERVICE

This is to certify that I have this day served a copy of this pleading on the attorneys, creditors, and interested parties of record included on the most recent version of the Clerk's mailing matrix, a copy of which is attached hereto. Non-ECF users were served by depositing a copy of same in a properly addressed envelope with first class postage thereon. ECF users were served electronically.

Dated:

Attorney for Debtor/Pro Se Debtor

Local Form 9 **November 2006**

UNITED STATES BANKRUPTCY COURT
WESTERN DISTRICT OF NORTH CAROLINA

IN RE:	)	
	)	Chapter 13
Debtor(s)	)	Case No.

DEBTOR'S DISCLOSURE OF INFORMATION REGARDING DOMESTIC SUPPORT OBLIGATIONS

Pursuant to 11 U.S.C. §1302(d), the Chapter 13 debtor provides the following information to the Chapter 13 Trustee:

Debtor's Current Address:_____

Debtor's Current Employer:_____

Debtor's Current Employer's Address:_____

_____

List of debts not discharged under Paragraph 2 or 4 of 11 U.S.C. §523(a):_____

List of debts reaffirmed under 11 U.S.C. §524(c):_____

_____

I disclose under the penalties of perjury that the information provided in this disclosure is true and accurate.

Dated:_____ _____
Debtor

LOCAL FORM 10

MOTION FOR RELIEF FROM STAY – POSTPETITION TRANSACTION HISTORY
CREDITOR FORM
(MAY BE PREPARED IN SPREADSHEET FORMAT)

DEBTOR NAME: **DATE:**
BANKRUPTCY CASE NO.: **MORTGAGEE** **PREPARED BY:**
DATE CASE FILED **LOAN #**

PMT. DUE DATE (Beg. 1st post-pet pmt due)	P & I	TAX ESCROW	INS. ESCROW	PMI	L/C TOTAL	AMOUNT RECEIVED	DATE POSTED

LOCAL FORM 11

MOTION FOR RELIEF FROM STAY – POSTPETITION TRANSACTION HISTORY
DEBTOR FORM
(MAY BE PREPARED IN SPREADSHEET FORMAT)

DEBTOR NAME: DATE:
BANKRUPTCY CASE NO.: MORTGAGEE PREPARED BY:
DATE CASE FILED LOAN #

AMOUNT PAID	MONEY ORDER/CHECK DATE	MONEY ORDER/CHECK NUMBER

LOCAL FORM 12 **DECEMBER 2007**

UNITED STATES BANKRUPTCY COURT
WESTERN DISTRICT OF NORTH CAROLINA

In re:	)	
	)	Case No.
	)	Chapter
	)	
Debtor(s)	)	
	)	

NOTICE OF CASE SPECIFIC NAME AND/OR ADDRESS CHANGE PURSUANT TO 11 U.S.C. § 342(e) AND LOCAL RULES 2002-1 and 3001-1

Pursuant to 11 U.S.C § 342(e) and Local Rules 2002-1 and 3001-1, (creditors name) files this notice of address to be used to provide notice in the above-captioned case. (Creditors name) is aware that, pursuant to 11 U.S.C. § 342(e)(2), any notice in this case required to be provided to the creditor by the debtor or the court will not be provided to the address designated herein until after five (5) days following receipt of this notice of address change by the court and the debtor(s).

Current creditor name and address:

Name: _____
Address 1: _____
Address 2: _____
Address 3: _____
Address 4: _____
City, State, Zip _____

Revised address:

[ ] for payment purposes only
[ ] for notice purposes only
[ ] for both payment and notice purposes

Name: _____
Address 1: _____
Address 2: _____
Address 3: _____
Address 4: _____
City, State, Zip _____

Authorization: Under penalty of perjury, I, the undersigned, affirm that I am authorized to request this address change.

Name and position: _____
(Print or Type)

Signature: _____

Date: