

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 1002-2
Petitions

- (a) **Electronic Filing.** Attorneys shall file all documents electronically unless leave of the 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 on an *ex parte* basis.
- (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 of Court and will be 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, an executed 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.

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

- (a) **Automatic Stay as to Rental Deposits.** The following procedures apply when a debtor proceeds under 11 U.S.C. § 362(1)(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, or no later than one business day after filing of the petition and certification under 11 U.S.C. § 362(1)(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.
- (b) **Debtor's Failure to Follow Procedures.** If a debtor who is required to follow the procedures of 11 U.S.C. § 362(1)(1) and Local Rule 1002-3(a) does not do so, the lessor may move the Court for an order confirming the exception to the automatic stay pursuant to 11 U.S.C. § 362(b)(22). Such a motion may be filed on a no protest basis pursuant to Local Rule 9013-1(e).

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 A.

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) All requests for filing fee refunds require a judicial determination and may be filed on an *ex parte* basis.
 - (3) 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 11 U.S.C. § 1930(b) & (c), when an application to proceed *in forma pauperis* is approved pursuant to 11 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. Where assets become available in an *in forma pauperis* case, the Clerk of Court shall include the waived filing fee in the Notice of Fees Due provided to the Chapter 7 Trustee.

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 (i) the U.S. Bankruptcy Administrator, (ii) the Securities & Exchange Commission, and (iii) the Internal Revenue Service. Current addresses for the governmental agencies are maintained on the Court's website (www.ncwb.uscourts.gov).
- (b) **Failure to File Lists, Schedules, Statements, or Other Documents.** Failure to timely file lists, schedules, statements, or other documents as required by the Federal Rules of Bankruptcy Procedure, Court order, these Local Rules, or other applicable law may result in dismissal without further notice or 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 of Court will refer the matter to the Court for further consideration, and the case will be subject to dismissal without further notice or hearing.

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 Fed. R. Bankr. P. 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) If the debtor is a corporation or limited liability company, the name and title of the managing agent.
 - (5) If the debtor is a partnership, limited partnership, or limited liability 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(b), 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
Filings Upon Conversion

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

- (b) **Official Form 6 Upon Conversion to Chapter 13.** When converting a case to a Chapter 13, the debtor must file Local Form 4 ("Chapter 13 Plan), Local Form 13 ("Authorization to Release Information to the Chapter 13 Trustee Regarding Mortgage Claim Being Paid by the Trustee"), a Fed. R. Bankr. P. 2016(b) Attorney's Fee Disclosure, and update other applicable forms, including Schedules A, B, C, I, and J if appropriate. Any amended schedules must be accompanied by an amended Official Bankruptcy Form 6 as required by Local Rule 1007-5.

- (c) **Fed. R. Bankr. P. 2016 Fee Disclosure Statement.** A fee disclosure statement shall be filed in all conversions reflecting the attorney's fee charged for the conversion of the case.

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 a trustee's right to request records in accordance with Local Rule 4002-1.

Local Rule 1007-5

**Amendments: Filing Summary of Schedules/Statistical Summary of
Certain Liabilities and Related Data**

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

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 14-day opportunity for objections;
 - (3) By providing a certificate of service of the notice by the movant evidencing service on all parties on the matrix; and
 - (4) By tendering a proposed order after the objection period has expired.
- (b) **Rescheduling and Renoticing of First Meeting.** If made necessary by a change of venue, the moving party shall be responsible for rescheduling and renoticing the § 341 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, Substantive Consolidation, and Bifurcation

(a) **Joint Administration:**

- (1) Joint cases filed pursuant to 11 U.S.C. § 302(a) shall be combined for administrative purposes only.
- (2) The bankruptcy estates of related cases may be jointly administered only by order of the Court after notice and a hearing. The motion should be filed in each case that is to be jointly administered. The motion should indicate which case is to be the lead case and how the case is to be captioned.

(b) **Substantive Consolidation.** The bankruptcy estates of joint or related cases may be substantively consolidated only by order of the Court after notice and a hearing.

(c) **Motion to Bifurcate a Jointly-Administered Chapter 13 Case.** A debtor seeking to bifurcate a jointly-administered case, including joint cases, when both debtors are to remain in Chapter 13 shall file a motion to bifurcate. The motion shall list all of the claims in the jointly-administered case, including attorney's 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(e).

(d) **Bifurcation and Conversion of One Debtor.** A motion to bifurcate is not required when an individual debtor in a jointly-administered 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.

(e) **Filing Fees.**

- (1) Upon the bifurcation of a jointly-administered 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 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 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 11 U.S.C. § 1308; or
 - (6) Execute Local Form 7 ("Chapter 13 Debtor's Certification and Affidavit-§ 341 Meeting"), as required by Local Rule 4002-1(e)(6), by the date of the first scheduled § 341 meeting of creditors.
- (c) The Chapter 13 Trustee may extend the time to make the first plan payment up to 30 days. Thereafter, further extensions of time to make that payment may be made only upon motion by the debtor providing at least 7 days' notice to the Chapter 13 Trustee with a hearing at the next term of the Court. Nothing in this Local Rule relieves the debtor of the requirement to make payments every 30 days after filing.

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 a party in interest, other than a debtor, with a change of name and/or address, whether for receipt of payments and/or notices, shall file Local Form 12 ("Change of Address") or an amended proof of claim with the Clerk of Court 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. A creditor may file a change of address on the Court's website (www.ncwb.uscourts.gov).
- (c) **Certificates of Service.** The party filing a pleading shall serve the pleading upon appropriate parties and file with the Clerk of Court a certificate of service either with the pleading or promptly after service.
- (d) **Method of Service.** Service of all pleadings and orders shall be by first-class mail or electronically, consistent with Local Rule 5005-1(d).
- (e) **Notice by Proponent.** The proponent shall prepare and mail notices required pursuant to Fed. R. Bankr. P. 2002(a)(2), 2002(a)(3), & 2002(f)(8).
- (f) **Chapter 11.** In Chapter 11 cases, the debtor-in-possession or plan proponent shall be responsible for serving the following papers and for filing a certificate of service with the Court within 7 days of the date of service:
 - (1) The plan;

- (2) Notice and Order Setting Hearing on the Disclosure Statement;
 - (3) Orders approving the Disclosure Statement, fixing time for filing acceptances or rejections of the plan, and setting a hearing on the confirmation of the plan.
 - (4) The Disclosure Statement as approved by the Court;
 - (5) The ballots; and
 - (6) Any other notices as the Court or Clerk of Court 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 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, a trustee (if a trustee has been appointed), and any Court-appointed committee.
- (h) **Service of Chapter 13 Plan.** Within 7 days of the filing of a plan or amended plan, the debtor shall serve copies of the Chapter 13 plan or amended plan, 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(e)(4); however, the Chapter 13 Trustee shall be served electronically. 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 2002-3
Objection to Confirmation of Chapter 13 Plans

- (a) **Hearing on Confirmation.** Absent timely objection, the § 341 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 14 days following the conclusion of the § 341 meeting of creditors. Objections to confirmation of amended plans must be filed within 14 days following the conclusion of the § 341 meeting of creditors or within 14 days of filing of the plan amendment, whichever is later.

- (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 a timely objection to confirmation is filed.

Local Rule 2004-1
Depositions and Examinations

- (a) **Required Conference.** Before giving notice of a deposition or requesting an *ex parte* order for a Fed. R. Bankr. P.2004 exam, the party giving notice of the deposition or requesting the examination must confer, or make a good-faith attempt to confer, with the adverse party to set a mutually agreeable date.

- (b) **Motion.** A motion for a Fed. R. Bankr. P. 2004 examination must include a certification either:
 - (1) Stating the party presenting the order has conferred with the adverse party and obtained agreement on the date for the examination; or

 - (2) Describing the steps taken in a good-faith attempt to confer with the adverse party about a mutually agreeable date.

- (c) **Minimum Notice.** Except for good cause shown, or unless the parties otherwise agree, Fed. R. Bankr. P. 2004 examinations or depositions must be set no less than 14 days after the motion is filed.

Local Rule 2014-1
Appointment of Professional Persons

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.

Local Rule 2016-1
Retainers Held by Professional Persons and Chapter 11 Attorney's
Fee Applications

- (a) **Professional Fee Guidelines.** Professionals seeking compensation are encouraged to refer to the Guidelines for Compensation which are posted on the Court's website (www.ncwb.uscourts.gov).
- (b) **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 post-petition except upon order of the Court approving such fees and expenses.
- (c) **Fees Up to Confirmation.** Fees through confirmation should be applied for within 30 days of the end of the month in which the confirmation order is entered unless otherwise provided in the Plan or confirmation order. Such fees may be the subject of an application for final determination or approval, notwithstanding the possibility that further post-confirmation fees may require approval from the Court.
- (d) **Security Interests.** Any agreements granting security interests in the debtor's property or in other property for the benefit of 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 schedules and must be approved by the Court. Retainers and security interests in non-cash assets must be approved by the Court after notice and a hearing.

**Local Rule 2016-2
Compensation of Chapter 13 Attorneys**

(a) **Definitions.**

- (1) "Debtor" is the Chapter 13 Debtor.
- (2) "Real Property Creditor" is the entity holding an allowed secured claim, by virtue of a mortgage, note, deed of trust, or other consensual lien on the real property that is the principal residence of the Debtor, that is to be provided for in the Debtor's Chapter 13 plan pursuant to 11 U.S.C. § 1322(b) (5).
- (3) "Fixed Fee" is the amount of the flat non-hourly fee agreed to by the Real Property Creditor and an attorney admitted to practice law before this Court who is providing professional services.

(b) **Chapter 13 Plan and Disclosure of Attorney's 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 ("Chapter 13 Plan") and an executed Local Form 3 ("Chapter 13 Attorney Fee Disclosure "). These Local Forms must have margins of at least one inch at the top of each page in order to be compatible with CM/ECF.

(c) **Compensation of Attorneys in Chapter 13 Cases.**

- (1) Subject to paragraph (d)(4) below, the amount of the attorney's 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 \$3,900 unless the Court orders otherwise; and
 - (B) Any fee for non-base services that may be rendered to a Debtor must be applied for and approved by the Court. For fees and expenses totaling less than \$1,000, notice need only be sent to the Debtor, the Chapter 13 Trustee, and the Bankruptcy Administrator. For fees and expenses totaling \$1,000 or more, all parties in interest must be noticed.

(d) **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(s) if appropriate;
 - (D) Drafting and mailing letters to the Debtor regarding attendance at the § 341 meeting of creditors, escrow of first money, and other responsibilities of the Debtor;
 - (E) Preparing for and attending the § 341 meeting of creditors;
 - (F) Reviewing the confirmation order and periodic case status reports from the Chapter 13 Trustee;
 - (G) Reviewing the Motion of Trustee for Determination of Status of Claims in Confirmed Plans;
 - (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 and furnishing the Debtor's identification card(s), tax returns, and payment advices to the Chapter 13 Trustee, if required;
 - (K) Defending objection(s) to confirmation of the Debtor's plan filed by the Chapter 13 Trustee; and

- (L) Preparing and filing Local Form 8 ("Chapter 13 Debtor's Motion for Entry of Discharge") or Local Form 8HD ("Chapter 13 Debtor's Certifications in Support of Motion for Hardship Discharge").
- (2) The base fee shall also 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 payment to a creditor;
 - (B) Objecting to scheduled and unscheduled proofs of claim;
 - (C) Assuming and rejecting unexpired leases and executory contracts;
 - (D) Preparing for and attending valuation hearings;
 - (E) Defending motions to transfer venue;
 - (F) Conferring with the Debtor regarding obtaining post-petition credit, where no formal application is ultimately filed;
 - (G) Avoiding liens pursuant to 11 U.S.C. § 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 communications from the Debtor regarding job losses, changes in financial circumstances, address changes, and advising the Court and the Chapter 13 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 Chapter 13 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 Chapter 13 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) Motions for moratorium;
 - (C) Motions for authority to sell property;
 - (D) Motions to modify plan;

- (E) Motions to use cash collateral or to incur debt;
 - (F) Defense of motions for relief from stay or co-debtor stay;
 - (G) Defense of motions to dismiss filed after confirmation of the Debtor's plan;
 - (H) Stay violation litigation, including amounts paid as fees by the creditor or other parties;
 - (I) Post-discharge injunction actions;
 - (J) Adversary proceedings;
 - (K) Motions to turnover property;
 - (L) Conversions to Chapter 7;
 - (M) Motions to substitute collateral; and
 - (N) Any other matter not covered by paragraph (d) (1) & (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 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

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| (F) | Motion to obtain credit; | \$450 |
| (G) | Permission from the Chapter 13 Trustee to obtain credit; | \$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 to be paid directly by the Debtor or through the plan; | \$500 |
| (J) | Preparation and filing of a conduit mortgage claim with a recorded deed of trust, Official Bankruptcy Form B 10A, and Local Form 14; | \$350 |
| (K) | Objection to the proof of claim of a Real Property Creditor; | \$450 |
| (L) | Consent to an amended proof of claim in lieu of an objection to a motion to modify stay or to an amended proof of claim where the Debtor has failed to make post-petition payments; | \$450 |
| (M) | Motion to incur debt related to the approval of a loan modification with a real property creditor; and | \$450 |
| (N) | Motion to declare a mortgage current. | \$450 |

(e) **Fees Exceeding the Presumptive and Non-Base Fees.**

- (1) If any advance fee deposit 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 this Local Rule 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.
- (f) **Disclosure of Fee.** Every attorney for a Chapter 13 Debtor must disclose to the Debtor the procedures applicable to awards of attorney's fees in Chapter 13 cases in this district. This disclosure shall be made by reviewing Local Form 3 ("Chapter 13 Attorney Fee Disclosure") with the Debtor. 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 years after the closing of the case, and upon request of the Court, the filer must provide original documents for review.
- (g) **Payment of Attorney's 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 \$3,900 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 meeting of creditors having tendered to the Chapter 13 Trustee no less than all plan payments due.
- (2) If an attorney accepts an advance fee deposit and either (1)(A) or (1)(B) above is not met, the attorney must pay any unpaid Court fee and/or plan payment.
- (3) The Chapter 13 Trustee is authorized to make a lump sum disbursement in the first regular, post-confirmation plan disbursement toward payment of the Debtor attorney's base fee balance to the extent that the Trustee is then holding Debtor payments that are

not required to be used for adequate protection payments or for payment of the Chapter 13 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 Chapter 13 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 Chapter 13 Trustee on a *pro rata* basis, along with the payments made to creditors holding allowed secured claims.

(h) **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 individual 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 that will require the Chapter 13 Trustee to redirect payment of fees, the affected attorney must file a letter of agreement with the Trustee. 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 attorney's fees.

(i) **Procedure for Fixed Fee Allowance of Fees and Costs Incurred by Real Property Creditors.**

- (1) In lieu of filing a detailed summary of time and expenses for reasonable fees and expenses arising under the mortgage loan documents and applicable bankruptcy and non-bankruptcy law, the Real Property Creditor may seek Court approval for the assessment of fees in the following manner:
 - (A) For fees and costs incurred pre-petition - by describing the fees and costs in a proof of claim that complies with the Federal Rules of Bankruptcy Procedure;
 - (B) For attorney's fees and costs incurred reviewing a Chapter 13 plan and filing a proof of claim - by describing the fees and costs in a proof of claim that complies with the Federal Rules of Bankruptcy Procedure;
 - (C) For fees, expenses, and charges incurred on the Debtor's mortgage account after the petition was filed (other than amounts previously itemized in a notice or ruled on by the Court) - by filing an Official Bankruptcy Form B 10S2 ("Notice of Post-petition Mortgage Fees, Expenses, and Charges");
 - (D) For fees and costs incurred filing a pleading for which fees and costs are recoverable - by including a request for the allowance of fees and costs in such pleading; or
 - (E) By filing an application for the allowance of fees and costs as allowed under the Bankruptcy Code and Rules for determination after notice and a hearing.
- (2) In all matters herein, if the actual Fixed Fee between the parties is less than the maximum allowed amount listed below, then the attorney for the Real Property Creditor may only apply for the Fixed Fee pursuant to the contract with the Real Property Creditor.
- (3) Any motion or application seeking approval of fees and costs or any claim filed with the Chapter 13 Trustee requesting payment of a Fixed Fee shall include an affidavit or affirmation from the attorney of record stating that the attorney is duly admitted to practice law before this Court, that the attorney was retained directly by the Real Property Creditor, that no part of the fee has been shared with and no agreement to share any part of the fee has been entered into with any third party, and that there is equity in the real property

greater than the amount due to the Real Property Creditor.

- (4) No provisions set forth herein or in any administrative order of the Court shall be construed to limit the rights of a creditor or other party in interest from filing an application for the allowance of fees and costs which are in excess of those set forth in this Local Rule for determination by the Court after a notice and a hearing.
- (5) Presumed Legal Fees in Chapter 13 cases for Attorneys admitted to practice law before this Court representing Real Property Creditors:

| Fee Task | Maximum Fee Allowable Under Local Rule 2016-2(1) (a) |
|--|--|
| Review of the petition, plan, and loan information plus filing a proof of claim and legal advice or counseling to the Real Property Creditor or the servicer on its treatment in the case and or allowance of the proof of claim | \$350 |
| Responding to an objection to claim, including attending one hearing if necessary, and responding to basic discovery | \$450 |
| Objection to Confirmation of Plan regarding the amount of the pre-petition arrears or the treatment of the Real Property Creditor, including attending one hearing if necessary | \$450 |
| Motion to Incur Debt to allow a loan modification agreement or other similar workout between the Debtor and the Real Property Creditor | \$450 |
| Motion for Relief from Stay or Adequate Protection | \$450 (plus the filing fee) |
| Amended proof of claim in lieu of a Motion for Relief from Stay or Adequate Protection | \$450 |
| Consent Order/Judgment to an adversary proceeding that is not contested* | \$350 |

| | |
|---|----------|
| Objection to a motion to declare mortgage obligations current upon completion of plan, including one court appearance | \$450 |
| Amended proof of claim | \$150.00 |
| Post-petition payment change notice filed by an attorney for a Real Property Creditor | \$50.00 |
| Notice of Post-petition Mortgage Fees, Expenses, and Charges (Official Bankruptcy Form B 10S2) | \$50.00 |

*A matter is contested where a motion to dismiss or a motion for summary judgment has been filed or where the trial has been held.

- (6) All pre-confirmation fixed fees for the attorney for the Real Property Creditor or the servicer are subject to a maximum cap of \$1,200.00 regardless of the services rendered unless the Court orders otherwise. In connection therewith, an objection to an original proof of claim of the Real Property Creditor or the servicer would be deemed a pre-confirmation service.
- (7) In all other litigation between the Chapter 13 Trustee, the Debtor, and the servicer/owner of the mortgage note or the Real Property Creditor, the decision regarding whether to award any legal fees and expenses will be in the discretion of the Court and will be based on the traditional substantive body of law and rules heretofore adopted by the Court.

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 attending § 341 meetings of creditors or filing notices of appearance, changes of address, or 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
Attorney Admission and Eligibility

- (a) **Eligibility for Regular Admission.** Any lawyer who is a member in good standing of the North Carolina State Bar is eligible for admission to practice before the United States District Court for the Western District of North Carolina and this Court upon motion of a member of the Bar of the District Court, which admission shall be granted as a matter of course upon payment of all admission fees and upon taking the prescribed oath.

Attorneys already admitted to the Bars of either the United States District Court for the Eastern District of North Carolina or the United States District Court for the Middle District of North Carolina may be admitted to the Bar of the District Court for the Western District of North Carolina upon tendering the application and fees required by this rule, together with a copy of the order or certificate of admission admitting the attorney to practice in either of the aforementioned districts.

Counsel representing governmental or tribal agencies who are members in good standing of the Bar of a United States District Court, the Bar of the highest court of any state, or the District of Columbia, are neither required to associate local counsel nor required to pay an attorney admission fee. By making an appearance, such attorney agrees to abide by the Local Rules, the North Carolina Rules of Professional Conduct, and to submit themselves to this Court for the enforcement of such rules.

- (b) **Other Types of Admissions.** In addition to regular admission, an attorney may be admitted to practice before the Bar of this Court under the following types of admission:

- (1) **Pro Hac Vice Admissions.** A *pro hac vice* admission is defined as an admission to the Bar of this Court in a particular case by an attorney who is a member in good standing of the Bar of a United States District Court, the Bar of the highest court of any state, or the District of Columbia Bar. Such a candidate for admission must associate local counsel and be accompanied by local counsel at all hearings unless otherwise permitted by the Court.

- (2) **Special Admissions.** A special admission is defined as a conditional admission to the Bar of this Court in a particular case without association of local counsel. The Court will not require the association of local counsel 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.
 - (3) **Nunc Pro Tunc Admissions.** A *nunc pro tunc* admission is defined as retroactive admission to the Bar of this Court. A *nunc pro tunc* admission is normally allowed at the time of a hearing or trial on behalf of an attorney who for cause shown failed to be admitted to this Bar by regular, special, or *pro hac vice* admission. *Nunc pro tunc* admission is only temporary admission and must be followed up by seeking admission in one of the manners set forth above.
- (c) **Procedures and Forms Applicable to Special, Pro Hac Vice, and Nunc Pro Tunc Admissions.**
- (1) Except in the case of special admissions, a motion seeking admission under this Local Rule shall be filed electronically by local counsel who must be registered to file electronically, and the motion shall be accompanied by a District Application Fee plus the National Admission Fee established by the Judicial Conference of the United States.
 - (2) Upon admission by the Court, the *pro hac vice* or special admission attorney will be added to the docket. The *pro hac vice* or special admission attorney will receive electronic notices from the Clerk of Court after establishing a CM/ECF account.
 - (3) The Clerk of Court may permit the pre-admission filing of papers at the request of non-admitted counsel where justice requires; provided, however, the further participation of such counsel is subject to compliance with the admission practices of this Court.
- (d) **An ECF Account Must Be Established After Admission.** Any attorney admitted to practice before this Court must

establish an ECF account with the Clerk of Court prior to filing any documents or cases in this district. To establish an ECF account, an attorney must complete ECF training made available in this district or certify that they have completed training in another federal district.

- (e) **Electronic Filing of Pleadings by Attorneys Not Admitted in this District without Court Appearance.** 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, or (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) Notices of appearance/request for notices;
- (2) Motions seeking special admission pursuant to Local Rule 2090-2(b)(2);
- (3) Responses to claim objections;
- (4) Reclamation demands;
- (5) Notices of address changes;
- (6) Notices of transfers of claims pursuant to Local Rule 3001-1(d);
- (7) Reaffirmation agreements; and
- (8) Proofs of claims.

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 admission to this Court as described in paragraphs (a) and (b) above.

Local Rule 2090-3
Attorney 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, 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 of Court.** 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 Court of such action.
- (d) **Special Appearances.** Whenever an attorney appears in this Court, the attorney shall be deemed to have conferred disciplinary jurisdiction upon this Court for any alleged attorney misconduct arising in any proceeding in this Court.
- (e) **Jurisdiction.** Nothing contained in these Local 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 final scheduled § 341 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(e).

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.** Except as required by the Bankruptcy Code, the Federal Rules of Bankruptcy Procedure, or these Local Rules, 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. A creditor may file a proof of claim electronically at the Court's website (www.ncwb.uscourts.gov).
- (2) When filing proofs of claim, the claimant shall comply with the requirements of Fed. R. Bankr. P. 3001(c) & (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 18 U.S.C. § 152(4) 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 Fed. R. Bankr. P. 5003.

(b) **Filing of Claims by Debtor or Chapter 13 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 meeting of creditors, the debtor or the Chapter 13 Trustee may do so in the name of the creditor. If the debtor or the Trustee files a proof of claim on behalf of a creditor, the creditor may file an amended proof of claim pursuant to Fed. R. Bankr. P. 3002 or 3003(c) that will supersede the proof of claim filed by the debtor or the 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. A creditor may file a transfer of claim electronically at the Court's website (www.ncwb.uscourts.gov).
- (3) The filing of a transfer of claim shall require the attachment of Official Bankruptcy Form B 210. 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 Fed. R. Bankr. P. 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 Till 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 "Till Rate"). *Till v. SCS Credit Corp.*, 541 U.S. 465 (2004).
- (b) **Calculating the Till 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 Till 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 Till Rate in cases filed on those days.
- (c) **Determining Composite Prime Interest Rate.** The Court will provide appropriate links at its website (www.ncwb.uscourts.gov) from which the composite prime interest rate can be determined.
- (d) **Application of Till Rate.** Unless otherwise ordered, the Till Rate generally applies to oversecured, fully secured, and undersecured claims.
- (e) **Contract Rate.** Where a claim is secured only by the debtor's principal residence and the contract rate is different from the Till Rate, the contract rate must be used.
- (f) **Till 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 Till Rate for any particular claim or claims, and specifically identifies that interest rate, the Chapter 13 Trustee is authorized to use the Till Rate for all secured claims provided for by the plan.

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 Chapter 13 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 of Court 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 Chapter 13 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 Chapter 13 Trustee through the Chapter 13 plan.
 - (4) Unless the taxing authority provides such timely written notice as set forth in paragraph (3) above, the proofs of claim in question are deemed objected to by the Chapter 13 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
Procedures for the Disbursement of Conduit Mortgage Payments

(a) **Definitions.**

- (1) "Debtor" is the Chapter 13 Debtor.
- (2) "Conduit Creditor" is the entity holding or owning an allowed secured claim by virtue of a mortgage, deed of trust, or other consensual lien on the real property of the Debtor that is the principal residence of the Debtor but does not include a loan that is also secured by other property in addition to the principal residence, a loan upon which the final contractual payment shall become due before the stated completion date for the Chapter 13 plan, or a loan that is classified as a home equity line of credit with variable monthly payments of principal and interest.
- (3) "Conduit Mortgage Payments" are those mortgage payments that are paid by the Debtor to the Conduit Creditor through the Chapter 13 Trustee. Conduit Mortgage Payments shall be equal to the post-petition monthly contractual payments due pursuant to the note or contract.
- (4) "Pre-petition Arrearage" is the total amount past due on the Conduit Creditor's claim as of the date the case was filed.
- (5) "Administrative Arrearage" is the total amount of three full post-petition Mortgage Payments.
- (6) "Post-petition Claim Payments" shall mean those payments disbursed by the Chapter 13 Trustee on claims of the Conduit Creditor that have been added to the case post-confirmation or pursuant to orders entered by the Court that modify the monthly payment.

(b) **Disbursement of Required Conduit Mortgage Payments.** All Conduit Mortgage Payments owed by a Debtor to a Conduit Creditor as defined in this Local Rule shall be made by the Debtor to the Chapter 13 Trustee for disbursement to the Conduit Creditor by the Chapter 13 Trustee as Conduit Mortgage Payments unless the Court orders otherwise.

(c) **Duties of the Debtor.**

- (1) The Debtor may be excused from complying with any of the provisions of this Local Rule only upon the showing of good cause and extraordinary circumstances sufficient to warrant such an exception and the entry of an order of the Court allowing the same. The burden of proof shall be on the Debtor to establish such good cause and extraordinary circumstances. The Debtor must file a motion and notice of hearing, with service on all parties in interest, within 7 days after the petition is filed. The § 341 meeting of creditors shall be continued if an order allowing or disallowing the motion has not been entered by the first scheduled § 341 meeting date. The additional cost associated with the Chapter 13 Trustee's statutory commission charged for disbursing the Conduit Mortgage Payments shall not, by itself, constitute good cause and extraordinary circumstances for seeking an exception from the mandatory Conduit Mortgage Payment rules.
- (2) The Debtor must complete and sign a Local Form 13 ("Authorization to Release Information to the Chapter 13 Trustee Regarding Mortgage Claim Being Paid by the Trustee") for each Conduit Creditor's claim for which the Conduit Mortgage Payments are to be disbursed by the Chapter 13 Trustee as provided for herein and must file such document with the Court together with the Schedules and Statements.
- (3) Post-confirmation plan modification motions to temporarily exclude conduit payments pending the completion of trial mortgage loan modification periods must include the following information:
 - (A) The calendar months that will be included in the trial period;
 - (B) The proposed modified monthly plan payment during the trial period;
 - (C) The amount of the modified monthly mortgage payment to be made by the Debtor directly during the trial period;
 - (D) If an existing mortgage arrearage claim provided for by the plan is to be included in the proposed

modified mortgage loan, specify the treatment of the arrearage claim by the Chapter 13 Trustee pending completion of the trial period. Options include directing the Chapter 13 Trustee to: (i) continue to disburse cure payments; (ii) reserve cure payments; (iii) close the claim without reserve; or (iv) other treatment;

- (E) Whether *ad valorem* tax claims provided for by the plan are to be paid in the proposed mortgage modification or they will continue to be paid by the Chapter 13 Trustee;
- (F) The calendar month for which the Chapter 13 Trustee is to resume making conduit payments and the amount of such modified monthly conduit payment; and
- (G) The amount of the monthly plan payment following completion of the trial period.

(d) **Duties of the Chapter 13 Trustee.**

- (1) The Chapter 13 Trustee shall include for payment under the Debtor's plan an allowed Administrative Arrearage claim as defined in paragraph (a)(2) of this Local Rule for each Conduit Creditor for which he shall disburse Conduit Mortgage Payments. The Administrative Arrearage claim shall be paid on a *pro rata* basis with non-conduit secured claims.
- (2) The Chapter 13 Trustee will not make payment to the Conduit Creditor on any claim until such time as the Conduit Creditor or the Debtor has filed a proof of claim, including all necessary supporting documentation, with the Court and the Debtor's plan has been confirmed. If no proof of claim has been filed by, or on behalf of, the Conduit Creditor by the deadlines set forth in Fed. R. Bankr. P. 3002(c) & 3004, the Chapter 13 Trustee is authorized to release any funds then being reserved on account of such claim for general disbursement pursuant to the terms of the confirmed plan.
- (3) If a proof of claim is filed either by the Conduit Creditor or the Debtor without all required forms properly completed and attached, the Chapter 13

Trustee, at confirmation, may determine the monthly post-petition Conduit Mortgage Payment to be the amount provided by the Debtor on Local Form 4 ("Chapter 13 Plan") at paragraph 2(c). The Chapter 13 Trustee may use such monthly Conduit Mortgage Payment amount throughout the plan term unless and until a properly conforming proof of claim is subsequently filed by the Conduit Creditor or the Debtor. If a properly conforming amended proof of claim is subsequently filed, the amount of the Conduit Mortgage Payment shall be deemed to be the amount as set forth in the amended proof of claim; provided, however, that any Conduit Mortgage Payments made prior to the filing of such amended proof of claim are deemed to have been disbursed in the proper amounts and accepted by the Conduit Creditor. In addition, if a properly conforming amended proof of claim is not filed prior to confirmation, the amount of the pre-petition arrearage will be determined by the amount provided by the Debtor on Local Form 4 at paragraph 2(b), unless and until a properly conforming amended proof of claim is filed.

- (4) Unless the Court orders otherwise, if the Debtor makes a partial payment during any month of the plan, the Chapter 13 Trustee shall disburse all funds received from the Debtor (less the Trustee's statutory commission) to the Conduit Mortgage Payment(s). No payment may be distributed to any other claimant until all Conduit Mortgage Payment(s) are current through the month of that distribution. Such disbursements by the Chapter 13 Trustee shall not impair the right of any other claimant to take any lawful action as a result of the failure to receive timely monthly disbursements on its claim.
- (5) The Chapter 13 Trustee shall have at least 28 days following the effective date of the formal transfer of a Conduit Creditor's claim pursuant to Fed. R. Bankr. P. 3001(e)(2) to begin making disbursements to the new, substituted claimant of record.

(e) **Duties of the Conduit Creditor.**

- (1) All Conduit Creditors shall credit the first Conduit Mortgage Payment disbursed by the Chapter 13 Trustee to the calendar month and year as set forth in the

Order Confirming Plan. Should any Conduit Creditor object to the commencement date for the credit of Conduit Mortgage Payments as designated in the Order Confirming Plan, it shall file such objection with the Court within 14 days following the entry of the Order Confirming Plan and serve copies on the Chapter 13 Trustee, the Debtor, and the attorney for the Debtor. A hearing, with appropriate notice, shall be held on any objections.

- (2) In addition to complying with the proof of claim filing requirements of Fed. R. Bankr. P. 3001(c)(1) & (2), the Conduit Creditor shall attach to its proof of claim a fully executed Local Form 14 ("Addendum to Chapter 13 Proof of Claim for Conduit Creditor"). If the Conduit Creditor does not timely file a properly conforming proof of claim and the Debtor files a claim with all the requisite forms fully completed and attached, the proof of claim filed by the Debtor shall establish the correct and valid claim in the Chapter 13 proceeding and shall be the effective proof of claim for purposes of the Federal Rules of Bankruptcy Procedure, unless otherwise ordered by the Court.
- (3) At least 21 days prior to the effective date of any change in the name of the Conduit Creditor or its servicer and/or the Conduit Creditor's or its servicer's disbursement mailing address, the Conduit Creditor or its servicer shall file with the Court a fully executed Local Form 12 ("Change of Address") or an amended proof of claim setting forth the requested changes as required by Local Rule 2002-1(b).

(f) **Effect of Plan Completion.**

- (1) The Chapter 13 Trustee shall provide the Debtor, the attorney for the Debtor, the Conduit Creditor, and the attorney for the Conduit Creditor, if any, with a notice of completion of required Conduit Mortgage Payments under the plan and file such notice with the Court.
- (2) If the Debtor's plan pays all the required Conduit Payments, Pre-petition Arrearages, post-petition arrearages, and all other mortgage-related claims as specified in the plan as confirmed and with any post-confirmation amendments, then all pre-confirmation and

post-confirmation defaults shall be deemed cured and the mortgage loan, together with the note and any other loan documents or amended loan documents, will be deemed current at least as of the date of the disbursement of the final plan payment or such later date as ordered by the Court. Such completion of the plan shall extinguish any right of the Conduit Creditor or its servicer to recover any amount alleged to have arisen since the date of confirmation or to declare a default of the note, mortgage, deed of trust, or other loan documents based upon any and all pre-confirmation or post-confirmation events.

- (3) If the Debtor has made all of the post-petition payments required under a Conduit Mortgage Payment plan, the Chapter 13 Trustee shall file the notice and motion required by Fed. R. Bankr. P. 3002.1(f) & (h). The notice and motion shall be combined into one consolidated pleading and served on the Conduit Creditor, the Debtor, and the attorney for the Debtor on a no protest notice basis. The Chapter 13 Trustee shall provide at least 45 days' notice of the date, time, and location of any hearing that may be requested by an affected party in interest.
- (4) If post-petition payments to a real property creditor have been made directly by the Debtor, rather than by the Chapter 13 Trustee, the Debtor may file the notice and motion required by Fed. R. Bankr. P. 3002.1(h).

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, a trustee is authorized to process returned creditor overpayments as follows:

- (a) 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.

- (b) 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

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

- (a) **Deposit of Unclaimed Funds into United States Treasury.** All unclaimed funds collected by the Court shall be deposited into the United States Treasury.
- (b) **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.
- (c) **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 trustee at least 14 days prior to the hearing date.
- (d) **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:

- (1) An affidavit explaining the claimant's entitlement to the requested funds and bearing the seal and certificate of a notary public;
 - (2) A copy of an unexpired passport or valid driver's license to establish identity;
 - (3) Last four digits of social security number or tax identification number; and
 - (4) 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.
- (e) **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 claimant's identity and entitlement to the unclaimed funds.

- (f) **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. 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. In lieu of appearing in court, the non-individual claimant may file an affidavit of its designated officer or general/managing agent stating the factual and legal basis for its claim to the funds in question.
- (g) **All claimants.** Pursuant to the Vendor Administration and 1099 Issuance Procedures, the Court requires the claimant (the rightful owner of record) to complete a Vendor Administration and 1099 Issuance Form that includes the claimant's social security number or tax identification number and signature. This form can be found on the Court's website (www.ncwb.uscourts.gov) and should be returned to the Court by U.S. or electronic mail; this form should not be filed in CM/ECF. **FAILURE TO COMPLETE, SIGN, AND RETURN THIS FORM MAY RESULT IN NON-PAYMENT.**

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:

- (a) 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 11 U.S.C. § 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 Chapter 13 Trustee for these direct payments.
- (b) 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.
- (c) In the Chapter 13 plan the debtor shall list 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 Chapter 13 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.
- (d) 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.
- (e) No adequate protection payment shall be disbursed until a properly executed proof of claim is filed by electronic means with the Clerk of Court and has been deemed allowed pursuant to 11 U.S.C. § 502(a) and the Chapter 13 plan has been confirmed.

- (f) The Chapter 13 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.

- (g) Unless otherwise ordered by the Court pursuant to 11 U.S.C. § 1326(a)(3), the amount of the adequate protection payments required to be made by the Chapter 13 Trustee shall be based on a monthly calculation of one percent of the lesser of (i) the plan value of the collateral securing the affected claim or (ii) the total amount of the asserted claim.

Local Rule 3015-1

Disposition of Funds in Dismissed or Converted Chapter 13 Cases

- (a) **Chapter 13 Trustee's Administrative Set-Up Fee.** Pursuant to 11 U.S.C. § 1326(a)(2) the Chapter 13 Trustee shall be allowed an administrative claim of \$200 in cases dismissed or converted prior to confirmation.

- (b) **Funds Received by the Chapter 13 Trustee Pre-Confirmation and Prior to Conversion or Dismissal.** Unless otherwise ordered by the Court, the funds shall be distributed in the following sequence:
 - (1) Adequate protection payments provided for in 11 U.S.C. § 1326(a)(2) and Local Rule 3012-1;
 - (2) The \$200 Chapter 13 Trustee set-up fee;
 - (3) Unpaid debtor attorney's fees and any other administrative claims allowed by 11 U.S.C. § 503(b); and
 - (4) To the debtor in care of the debtor's attorney; however, if the Chapter 13 case has been converted to another chapter and the remaining funds under this paragraph are in excess of \$2,500, the distribution will be sent in care of either the Chapter 7 Trustee or the successor debtor-in-possession.

- (c) **Post-confirmation.** Unless otherwise ordered by the Court, any funds held by the Chapter 13 Trustee will be distributed pursuant to the confirmed plan.

- (d) **Funds Received by the Chapter 13 Trustee After the Conversion or Dismissal.** Unless otherwise ordered by the Court, any funds received by the Chapter 13 Trustee after the date of conversion or dismissal of the case will be returned to the party who sent the funds.

Local Rule 3018-1
Ballot Report

Contents and Filing of a Ballot Report. Any proponent of a plan shall file a Ballot Report that tabulates acceptances and/or rejections of the plan. Copies of all ballots should be attached as an exhibit to the Ballot Report. The Report shall be filed with the Clerk of Court not later than three business days prior to the hearing on confirmation. If ballots are filed on the Clerk's docket, the Ballot Report shall indicate the docket number of each ballot.

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 Chapter 13 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 Chapter 13 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 Chapter 13 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 Chapter 13 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 Chapter 13 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

The Automatic Stay and Secured Creditor Duties

- (a) **Motion Requirements.** In a motion for relief from stay, the following shall be included. Failure to include any of the following may result in denial of the motion, even without an objection:
- (1) Amount of the movant's debt, both as of the petition date and the time of the motion;
 - (2) Brief description of the 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, etc.;
 - (4) Basis for relief (e.g., 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, basis of valuation (e.g., appraisal, blue book, etc., including applicable copies), and date of valuation;
 - (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 post-petition account activity that is readable, reasonably understandable, stated in plain English, and substantially consistent with Local Form 10 ("Motion for Relief from Stay Post-petition Transaction History - Creditor Form"); and
 - (7) In the event the debtor disputes the payment history, the debtor shall prepare and serve a post-petition

account payment history in a form consistent with Local Form 11 ("Motion for Relief from Stay Post-petition Transaction History - Debtor Form") at least 7 days prior to the initial hearing.

- (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 a 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 11 U.S.C. § 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 a trustee; and
 - (2) Offset against any pre-petition refund due a debtor any pre-petition 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 a 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 a motion is made within the applicable deficiency filing period.

When an order terminating the automatic stay is entered or a notice of termination of the automatic stay is filed, 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 who is receiving direct payments from a debtor shall send all payment coupons or statements of account that the creditor provides to its non-bankruptcy borrowers to bankruptcy debtors who have indicated, in their Statement of Intention or Chapter 13 Plan, 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. § 362(a) is modified as follows:
 - (A) Secured creditors may contact the debtor about payment of property taxes due and the status of insurance coverage on property used as collateral;
 - (B) If there are direct payments to creditors, the creditor may contact the debtor in writing about any payment in default;
 - (C) If there are direct payments to a creditor, the creditor shall send statements, payment coupons, or other correspondence to the debtor that the creditor sends to its non-debtor borrowers; and
 - (D) The situations discussed in 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 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 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 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
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) **Contact Regarding Loss Mitigation.** A secured creditor may contact any debtor for the purpose of offering to the debtor the opportunity to apply for, procure, negotiate, or respond to a request from either party for a workout, loan modification, surrender, deed-in-lieu, or other matters concerning loss mitigation. Such contact shall cease if so requested by the debtor.
- (d) **Secured Creditor Duties.** See Local Rule 4001-1(e).

Local Rule 4002-1
Debtor Duties

- (a) **Filing of Tax Returns.** Copies of a debtor's tax returns shall not be filed with the Clerk of Court unless a request has been filed by a party in interest. If the debtor's tax returns are tendered to the Court other than pursuant to a proper request or Court order, the Clerk's Office will not accept the returns and will return them to the debtor.
- (b) **Interpreters.** Should a debtor require an interpreter, the following provisions apply:
- (1) **Interpreters for § 341 Meetings.** The Bankruptcy Administrator is required to provide interpretation services for hearing impaired and language interpretation at § 341 meetings of creditors. The debtor's attorney should access the Bankruptcy Administrator's website (www.ncwba.uscourts.gov) and use the "Request Interpreter for 341 Meeting" link at least 7 days prior to the date of the first meeting to arrange for interpretation.
- (2) **Oath.** The following oath shall be administered to the language interpreter or hearing impaired interpreter: *Do you solemnly swear or affirm 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?*
- (c) **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 Chapter 7 Trustee for turnover of property or production of documents within 14 days of the date of the request.
- (2) **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.
- (3) **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 Chapter 7 Trustee assigned to the case and notify the Trustee of the need for immediate attention and of the items listed in paragraph (c)(2) above. In the event the Trustee is unavailable, the debtor's attorney (or the debtor if *pro se*) shall contact the Bankruptcy Administrator's Office to comply with this Local Rule.

(d) **Duties of Chapter 11 Debtor.**

- (1) **Pre-confirmation.** The Court routinely enters Chapter 11 operating orders. The Bankruptcy Administrator and the Chapter 11 debtor-in-possession may agree upon an amendment to the operating order and submit a proposed amended operating order to the Court for its consideration.
- (2) **Post-confirmation.** Following the entry of an order confirming a plan of reorganization, the debtor, pursuant to Fed. R. Bankr. P. 2015(a), shall continue to file monthly operating reports until such time as the case is closed by the Clerk of Court. These reports shall be in a form satisfactory to the Bankruptcy Administrator. 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 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.

(e) **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 of the Estate.** The debtor shall not dispose of non-exempt property of the estate having a fair market value of more than \$2,500 by sale or otherwise without prior notice to the Chapter 13 Trustee of such disposition. This shall be a cumulative, rather than a per-transaction, dollar limitation over the life of the plan.
- (2) **Obtaining Credit.** The Chapter 13 Trustee may approve debtor requests to incur credit not to exceed \$25,000 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 Chapter 13 Trustee to comply with the noticing requirements of 11 U.S.C. § 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 Chapter 13 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 Chapter 13 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 ("Amendment to Chapter 13 Plan"). 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 Chapter 13 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 Chapter 13 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 Meeting of Creditors.** At the meeting of creditors, each debtor shall execute under penalties of perjury a written certification on Local Form 7 ("Chapter 13 Debtor's Certification and Affidavit—§ 341 Meeting") concerning, among others, the following matters:
- (A) That the debtor is current on the payment of all post-petition 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 Chapter 13 Trustee shall file the executed Local Form 7 with the Court.

**Local Rule 4003-1
Exemption Election**

- (a) **Content of Exemption Election.** The exemption election must comply with Official Bankruptcy Form B 6C ("Schedule C") 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, including the county and state. Vehicles shall be described by at least the make, model, year, and body type. Vehicle descriptions should also include the approximate accumulated mileage as of the petition filing date, any optional equipment, the vehicle identification number, and any other factors that 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.
 - (3) In a joint case, Schedule C shall indicate the interest each debtor has in each item of property and the dollar amount of exemption each debtor claims in each item. In a case where the scheduled property is owned jointly with a non-filing party, Schedule C shall indicate the interest the debtor has in each item of jointly owned property and the dollar amount of exemption the debtor claims in each jointly-owned item.
- (b) **Time Limit for Amending or Objecting to Exemption Election.** The debtor shall have up to and including the day of the § 341 meeting of creditors to amend the exemption election. An amendment to the exemption election announced at the § 341 meeting of creditors and filed with the Court in writing no later than 14 days thereafter shall be deemed filed within the time set forth above. All subsequent amendments shall be by motion and notice pursuant to Local Rule 9013-1.

Local Rule 4004-1
Discharge of Chapter 13 Debtors

- (a) **Chapter 13 Trustee's Report.** Upon receipt of the debtor's final plan payment by the Chapter 13 Trustee, the Chapter 13 Trustee will file with the Court a Report of Completion of Plan Payments ("Chapter 13 Trustee's Report"). The Chapter 13 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 penalty of perjury, a Local Form 8 ("Chapter 13 Debtor's Motion for Entry of Discharge"). Local Form 8 must be signed, filed, and served on all creditors and other parties in interest included on the Clerk of Court'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) **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.
- (d) **Entry of the Debtor's Discharge.** Notice of the filing of Local Form 8 shall be provided in accordance with Fed. R. Bankr. P. 9006 & 9007 and Local Rule 9013-1. If no objections are filed and the debtor is otherwise entitled to 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 Fed. R. Bankr. P. 1007(b)(8) & 4004(c)(3).
- (e) **Hardship Discharge.** In the event the debtor seeks a hardship discharge pursuant to 11 U.S.C. § 1328(b), the debtor's motion for hardship discharge 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. These certifications shall be made on Local Form 8HD ("Chapter 13 Debtor's Certifications in Support of Motion for Hardship Discharge") and attached to the motion for hardship discharge. The debtor's motion for hardship discharge and Local Form 8HD must be signed, filed, and served on all creditors and other parties in interest included on the Clerk of Court's mailing matrix. The Chapter 13 Trustee will not file the "Chapter 13 Trustee's Report."

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. If the debtor wishes to seek waiver of the reopening fee, the debtor should request that relief in the motion to reopen. The requirements of Local Rule 4002-1(d)(1) & (2) shall be suspended while the debtor's case is closed.

Local Rule 4008-1
Reaffirmation Agreements

- (a) **Official Form B240A.** Parties are directed to file Official Bankruptcy Form B240A relative to reaffirmation agreements. If the contents of a nonstandard form do not comply with Official Bankruptcy Form B240A, 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 Fed. R. Bankr. P. 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 Fed. R. Bankr. P. 9011, making the attorney certifications required by 11 U.S.C. § 524(k)(5).

When a debtor is represented by counsel, the Court may consider a proposed reaffirmation agreement on the pleadings and without a hearing, 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 debtor may attempt to rebut the presumption of undue hardship by completing and filing a statement in support of the reaffirmation agreement explaining how the debtor will make the required payments. The debtor's statement in support shall be filed at least seven days prior to the hearing scheduled by the Court. Upon review of the debtor's statement, the Court may enter an order finding that the debtor has rebutted the presumption and that a hearing is not necessary. 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 the debtor's statement in lieu of the debtor's appearance. The Court may require the debtor's appearance at a future hearing if the statement is not satisfactory to the Court.

PART V

COURTS AND CLERKS

**Local Rule 5005-1
Electronic Case Filing**

- (a) **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 Fed. R. Bankr. P. 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: (i) all persons indicated to have signed the document have actually executed the original or a copy of the original prior to electronic filing; and (ii) the registered participant has authorized the electronic filing of the executed document.
- (b) **Passwords.** No attorney shall knowingly permit or cause to permit his/her password to be utilized by anyone other than an authorized member or employee of his/her organization.
- (c) **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 of Court pursuant to Fed. R. Bankr. P. 5003. The Court will not maintain case files with the exception of documents that contain the signature of a *pro se* debtor.
- (d) **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 Fed. R. Bankr. P. 9006(f) & 9022 and Fed. R. Civ. P. 5(b), 6(e), & 77(d). Participation in CM/ECF and receipt of a password shall constitute agreement to receive electronic notice and service.
- (e) **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.

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) **Conditions Precedent to Employment.** A trustee may employ and compensate an auctioneer 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 & -4 or in such other jurisdiction where the auctioneer's services are to be performed;
 - (2) The auctioneer must provide the trustee and the Bankruptcy Administrator with a bond in favor of the United States sufficient to cover 100% of the estimated sales proceeds;
 - (3) The auctioneer must maintain adequate insurance for loss to the estate; and,
 - (4) The affidavit included with the application to employ shall be executed by the auctioneer and must affirmatively set out compliance with the conditions above.
- (b) **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 and for reimbursement of expenses of up to 10 percent of gross sale proceeds. Where employment is without application under this paragraph, the auctioneer's affidavit referred to above shall be delivered to the trustee and the Bankruptcy Administrator in lieu of filing with the Court.
- (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 21 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 of Court 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 Official Bankruptcy Form B104 ("Adversary Proceeding Cover Sheet").

Local Rule 7007-1
Motion Practice in Adversary Proceedings

- (a) **General Requirements.** All motions in adversary proceedings, unless made in a hearing or trial, 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) **Objection to Entry of Final Orders and Judgments by the Bankruptcy Court.** Not later than 14 days before the earlier of the date set for the pre-trial conference or hearing on dispositive motions, each party objecting to the entry of final orders or judgments by the Court on any issue in this proceeding, whether or not designated as "core" under 28 U.S.C. § 157(b), shall file with the Court a motion requesting that this Court determine whether this proceeding is a core proceeding or otherwise subject to the entry of final orders or judgments by this Court. Any such motion shall be treated as an objection to the entry of final orders or judgments by this Court. **FAILURE OF ANY PARTY TO FILE A MOTION ON OR BEFORE THE DEADLINE PROVIDED IN THIS PARAGRAPH SHALL CONSTITUTE CONSENT BY SUCH PARTY TO THIS COURT ENTERING ALL APPROPRIATE FINAL ORDERS AND JUDGMENTS IN THIS PROCEEDING.** Nothing in this paragraph limits the Court's ability to determine *sua sponte* whether a proceeding is a core proceeding under 28 U.S.C. § 157(b)(3) or otherwise subject to entry of final orders or judgments by this Court.
- (c) **Time Frames for the filing of Responses to Motions, Replies, and Surreplies.** Responses to a motion, if any, shall be filed at least 7 days prior to the hearing on such motion unless required earlier pursuant to Court order. A reply to the response to the motion, if any, shall be filed at least 3 days prior to the hearing on the motion. Surreplies, if any, shall be filed at least 24 hours prior to the hearing. These time frames shall not apply to no protest notice motions pursuant to Local Rule 9013-1(e) or emergency motions. Briefs, if any, shall be filed in accordance with Local Rule 9013-2.
- (d) **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 7007-2
Corporate Disclosure

- (a) **Disclosure of Corporate Parent.** Any nongovernmental corporate party identified as follows shall file a statement on Local Form 16 ("Corporate Ownership Statement") containing the information described in Fed. R. Bankr. P. 7007.1:
- (1) Corporate debtor filing a petition in a voluntary case;
 - (2) Foreign representative filing a petition for recognition under Chapter 15;
 - (3) Petitioning corporate creditor in any involuntary case;
 - (4) Entity responding to an involuntary petition or the petition for recognition of a foreign proceeding; and
 - (5) Corporate party to any adversary proceeding.
- (b) **Timing of Disclosure.** A party shall file the statement with its first appearance, pleading, motion, response, or other request addressed to the Court. A party shall supplement the statement within a reasonable time of any change in the information.

Local Rule 7016-1
Pre-trial Procedures

Pre-trial Orders. In adversary proceedings, the Court will enter an Initial Pre-trial Order setting certain requirements and deadlines. At the conclusion of the period for discovery, the Court will send a Notice of Pre-trial Conference that schedules a pre-trial conference between the Court and the parties. If a date is selected for trial at the pre-trial conference, the Court will enter a Final Pre-trial 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 pre-trial 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, crossclaim, 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 the Court. A party objecting to the release of a witness shall bear all costs incident to the witness that 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 Pre-trial 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 Pre-trial 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; and

- (5) At the discretion of the Court, exhibits may 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

- (a) **Procedures for Handling Discovery Materials.** The following materials shall not be filed with the Clerk of Court except by order of the Court or when used in a proceeding:
- (1) Transcripts of depositions upon oral examination and recordings of Fed. R. Bankr. P. 2004 examinations;
 - (2) Requests for production of documents and requests for interrogatories;
 - (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 the Clerk of Court

- (a) **Required Provisions.** Any order obtained by a party or parties in an action that directs the Clerk of Court to invest funds deposited in the registry of the Court in an interest-bearing account or instrument 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 that directs the Clerk to deduct the fee authorized by law from the income earned on the investment, 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.
- (b) **Clerk of Court's Retention of Funds.** In the event that a depository intended by the Court to receive registry funds is unable to pledge sufficient collateral for receipt of those funds immediately upon the Court's receipt of the funds, the Clerk of Court 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 Fed. R. Bankr. P. 8004, the Clerk of Court 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.

If an item that has been designated is not part of the Court record (such as exhibits from a hearing that were admitted into evidence but not retained by the Court), the item shall be filed with the Bankruptcy Court and made part of the Court record.

- (b) **Providing Copies of Designated Items to the Clerk of Court.** 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 of Court with a copy of the record on appeal as required by Fed. R. Bankr. P. 8006.

PART IX

GENERAL PROVISIONS

**Local Rule 9006-1
Time Limits**

- (a) **Shortening of Notice.** When seeking shortened notice the movant should meet the following conditions:
- (1) The request to shorten notice must be made by written motion stating the reasons why shortened notice is necessary, identifying the parties affected by the request, and describing the service of notice of the request on interested parties and the efforts to coordinate the hearing with the opposing party;
 - (2) Service and notice for the purpose of this Local Rule shall be accomplished by using the method best calculated to provide timely notice to the parties served. Such methods may include U.S. mail, electronic transmission, or physical delivery. Service must be made upon the trustee, the Bankruptcy Administrator, the debtor, the debtor's attorney, the examiner, any official committee, and any party with a direct interest in the matter; and
 - (3) Unless otherwise ordered, responses to the substantive motion may be filed at any time prior to the hearing.
- (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 may grant a continuance.

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) **Hearings.** Information about the Court's hearing schedules can be found on its website (www.ncwb.uscourts.gov) at the "Calendars" link on the homepage. The "Monthly Court Calendars" page displays a 12-month grid; each month is a hyperlink to first meeting and hearing schedules, including chapter and location. The Court will post notices of any changes to these schedules on its website. The "E-mail the Court" link allows parties to report the dispositions of matters already set on calendars to an e-mail address at the Court. The "Weekly Court Calendars" page displays weekly Court calendars in PDF format for each judge. First Meeting calendars are displayed at the same location.

Parties may choose a hearing date from the monthly calendars posted on the Court's website in accordance with the appropriate judge and bankruptcy chapter. However, parties must obtain from the Court a special setting for hearings on motions that may take longer than 30 minutes. The Court may set matters on its own initiative.

Once noticed, a hearing may not be unilaterally rescheduled without permission of the Court. The Court freely grants continuances, provided that the consent of all affected parties has been obtained and the Court is notified in a timely fashion.

(e) **No protest Motions.** A hearing on those motions listed below may be noticed by no protest notice upon notice to the parties as required by the Federal Rules of Bankruptcy Procedure. 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 14-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. The notice should be substantially consistent with Local Form 1 ("No Protest Hearing Notice"). A hearing shall be requested by filing and serving a response, including an objection and request for hearing, within 14 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 that 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 Fed. R. Bankr. P. 6007, motions to abandon property of the estate by a trustee or debtor-in-possession pursuant to 11 U.S.C. § 554;
- (3) Motions to assume executory contracts or leases pursuant to 11 U.S.C. § 365, if the other parties to the contract or lease stipulate to the assumption;
- (4) Motions pursuant to 11 U.S.C. § 365 to reject executory contracts or leases, except collective bargaining agreements pursuant to 11 U.S.C. § 1113;
- (5) Motions to avoid liens pursuant to 11 U.S.C. § 522(f);
- (6) Motions for relief from stay pursuant to 11 U.S.C. § 362;
- (7) Applications to pay compensation of professional persons, including applications pursuant to 11 U.S.C. § 506(b);

- (8) Motions to change venue of a case or proceeding to another division within this district;
- (9) Motions to obtain post-petition credit in Chapter 13 cases;
- (10) Objections to claims. Pursuant to Fed. R. Bankr. P. 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 11 U.S.C. §§ 1201 & 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. Pursuant to Fed. R. Bankr. P. 5009, the minimum time period for notice of a hearing on this type of motion is 30 days;
- (13) Motions to modify Chapter 13 plans;
- (14) Motions or applications to approve security interests as set forth in Local Rule 2016-1(d);
- (15) Motions for moratoriums in Chapter 13 cases;
- (16) Motion to amend exemption elections;
- (17) Motions to approve settlements;
- (18) Motions to substitute counsel;
- (19) Motions for continuation of the automatic stay and requests for confirmation that the automatic stay has been terminated under 11 U.S.C. § 362(c)(3)(B) & 362(j);
- (20) Motions to redeem;
- (21) Motions to bifurcate;
- (22) Motions to extend time to object to discharge and dischargeability;

- (23) Motions to extend time to object to exemption elections;
- (24) Motions for entry of discharge in Chapter 13 cases;
- (25) Motion of Chapter 13 Trustee to set liability of debtor(s) to pay claims; and
- (26) Motion of Chapter 13 Trustee for Determination of Claims.

(f) **Ex Parte Motions.** The following is a non-exhaustive list of motions that may be brought, subject to 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 of the entry of the order in accordance with the Federal Rules of Bankruptcy Procedure. 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 14 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 Federal Rules of Bankruptcy Procedure, including motions for enlargement of time pursuant to Fed. R. Bankr. P. 9006(b);
- (2) Motions to reopen a case so long as the relief requested is limited to (i) reopening the case; (ii) reopening the case in order to file a financial management certificate and obtain issuance of a discharge; or (iii) reopening the case and waiving the filing fee where the motion is in aid of the debtor's discharge;
- (3) Motions for an additional 30 days within which to answer or respond to a complaint pursuant to Fed. R. Bankr. P. 7012;
- (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);

- (7) Motions to waive additional filing fees pursuant to Local Rule 1006-1(c);
- (8) Applications to employ professionals, including applications to employ an attorney or an accountant filed on behalf of a trustee or debtor-in-possession;
- (9) Motions to seal unredacted documents pursuant to Local Rule 9037-1;
- (10) Motions for a Fed. R. Bankr. P. 2004 Examination pursuant to Local Rule 2004-1;
- (11) Motions for exemption from credit counseling and declarations of exemption from credit counseling; and
- (12) Motions to close Chapter 11 cases of individual debtors pending satisfaction of 11 U.S.C. § 1141(d)(5).

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

- (a) **Requirements.** The page limit for any brief is 25 pages, the font size is a minimum of 12 point, the text must be double-spaced, margins must be one inch on all sides, and each page must be numbered, unless otherwise ordered by the Court. All briefs 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 of Court and received by opposing counsel at least 5 days prior to the hearing on the motion. A reply brief, if any, shall be filed at least 3 days prior to the hearing on the motion and should be limited to a discussion of matters newly raised in the response. A surreply, if any, shall be filed at least 24 hours prior to the hearing on the motion and should be limited to a discussion of matters newly raised in the reply.

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) **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 Fed. R. Bankr. P. 7004, contemporaneously with the filing of the motion, notice, and certificate of service with the Court. Fed. R. Bankr. P. 7004, particularly subdivisions (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 of Court. Service may be accomplished electronically by complying with Local Rule 5005-1(d).

- (c) **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.

- (d) **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.

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

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(e).

Local Rule 9019-2
Mediated Settlement Conference

- (a) **Time for Proceeding.** The Court permits the use of mediated settlement conferences for the efficient and orderly resolution of adversary proceedings and contested matters. The Court may, by written order, require parties and their representatives to attend a pre-trial mediated settlement conference in any adversary proceeding or contested matter pending in the Bankruptcy Court.
- (b) **Rules Governing Mediation.** Mediated settlement conferences shall be governed by the *Rules Governing Mediated Settlement Conferences in Superior Court Civil Actions* promulgated by the North Carolina Supreme Court pursuant to N. C. Gen. Stat. § 7A-38 ("Mediation Rules") and by the supplemental rules set forth herein.
- (1) **Interpretation of State Court Terms.** Wherever the Mediation Rules refer to "Senior Resident Superior Court Judge" and "Administrative Office of the Court," they shall mean "Bankruptcy Judge" and "Clerk of Court" of this Court, respectively.
- (2) **Appropriate Facilities.** Rule 3(a) of the Mediation Rules is modified to permit the mediated settlement conference to be held in an appropriate facility anywhere agreed to by the parties or allowed by the Court.
- (c) **Supplemental Rules for Mediated Settlement Conferences.** In addition to the Mediation Rules, the following rules shall also apply to mediated settlement conferences:
- (1) **Telephonic Attendance.** All mediated settlement conferences shall be conducted in person, unless leave is otherwise granted by the mediator with the consent of the parties;
- (2) **Mediator's Report of Outcome.** The mediator's report required by the Mediation Rules shall be issued within 7 days of the conclusion of the Mediated Settlement Conference. The mediator may submit the report on Local Form 17 ("Report of Mediator") or by using his or her own letterhead or individually developed mediation report form. Such report may be filed by

the mediator electronically or by conventional means unless otherwise directed by the Court; and

- (3) **Payment of Mediator's Fee.** A trustee or debtor-in-possession shall have authority to pay any required portion of the mediator's fee without further order of the Court, as long as the estate's portion of the fee is less than \$5,000.
- (d) **Exceptions to Rules.** The Court may, either *sua sponte* or on motion of any party, permit exceptions or deviations from this Local Rule.
- (e) **Judicial Settlement Conference.** The Court may, at any time, order the parties to participate in a settlement conference to be convened by the Court. Any party may also request a judicial settlement conference.
 - (1) **Mandatory Attendance by Representatives with Full Authority to Effect Settlement.** A person with full authority to settle all pending claims must be present at the settlement conference and, for purposes of this rule, the "person with full authority to settle" shall not be the attorney. Such rule is not applicable to government attorneys and federal agency parties. Government attorneys are required to bring as much binding authority to settle as is feasible under the circumstances.
 - (2) **Presiding Judge.** Any bankruptcy judge of this district, other than the judge to whom the case is assigned for disposition, may preside over a judicial settlement conference convened by the Court.
- (f) **Impact on Federal Law.** Nothing in this Local Rule shall be deemed to override any provision of federal law, including the United States Bankruptcy Code or the Federal Rules of Bankruptcy Procedure.

Local Rule 9021-1
Tender of Judgments and Orders

- (a) **No Protest Orders.** When applicable pursuant to Fed. R. Bankr. P. 9006(f), the moving party shall wait three mailing days after the conclusion of a no protest notice period prior to submitting a proposed order or judgment to the Court.

- (b) **Consent Orders.** If a trustee may assert an interest in property of the bankruptcy estate, consent orders will not be entered as to any such property unless also signed by the trustee. For purposes of this rule, a signature shall be defined as any mark, letter, or writing, physical or electronic, made with the intention 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 Fed. R. Bankr. P. 9022 and constitutes service of the document to registered participants in CM/ECF.

- (d) **Review period for orders.** Where time permits, parties shall afford opposing counsel three business days to review and comment on the form of any proposed order before such order is submitted to the Court.

Local Rule 9022-1
Service of Orders

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

Local Rule 9028-1
Disqualification of Judges

- (a) **Disqualification Procedure.** 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.

- (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 applies to the contested matter only or to the entire case.

- (c) **Uncontested Settlements and Consent Orders.** Approval of uncontested settlements and agreed orders in cases that would otherwise require disqualification will not require reassignment.

- (d) **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 and/or Video Appearance at Hearings

- (a) **Consent.** Counsel who are unable to attend hearings in person may appear before the Court by telephonic and/or video appearance 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 telephonic and/or video shall make all necessary arrangements with the judge's chambers and shall initiate the contact. The Court may set a time certain for any telephonic and/or video appearance hearing requested so as to avoid delaying other matters on the hearing calendar.
- (c) **Assumption of Risk.** The risk of poor reception or other problems is borne by the attorney requesting and initiating the telephonic and/or video appearance.
- (d) **Limits on Availability.** Not all divisional offices support telephonic appearances. Refer to the Court's website (www.ncwb.uscourts.gov) for availability.
- (e) **Evidentiary Hearings.** Telephonic and/or video appearances are not allowed in evidentiary hearings.
- (f) **Telephonic and/or Video Appearances at Hearings Before the Judge.** Counsel who wish to appear by telephonic or video means in any Court hearing must follow and comply with the applicable rules for such appearances as may be posted on the Court's website (www.ncwb.uscourts.gov).
- (g) **Telephonic and/or Video Appearances at Meetings of Creditors.** Counsel appearing with their clients at § 341 meetings of creditors have the option of requesting appearances via video conferencing if the trustee has implemented such a policy. Arrangements for such appearances must be made with the trustee at least 30 days prior to the meeting date, and the procedures set by the trustee for the conduct of the meeting shall be followed; provided, however, that the trustee in his or her sole discretion may approve a shorter period of time for such arrangements to be made. Trustees offering video conferencing appearances at § 341 meetings of creditors shall nevertheless continue to offer the traditional option of in-person appearances by the debtors and counsel.

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

- (a) **Service Required.** In addition to any other requirements, 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 that are filed with the this 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 complaints and answers in related adversary proceedings. To the extent exhibits to be used at trials or hearings are served in advance, they shall also be served on the Bankruptcy Administrator;
 - (2) **Fed. R. Bankr. P. 2002 Requests.** All papers in cases and adversary proceedings in which the Bankruptcy Administrator has filed a request for notice pursuant to Fed. R. Bankr. P. 2002;
 - (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 Chapter 7 and 11 cases and adversary proceedings, unless otherwise requested;
 - (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.** Papers filed in cases and adversary proceedings by Chapter 7 Trustees when requested by the Bankruptcy Administrator; and
 - (7) **Conversions.** All orders relating to conversions of a case to Chapter 11.

Local Rule 9037-1
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.** It is the sole responsibility of counsel and the parties to ensure that personal identifiers are redacted from documents filed with the Court pursuant to Fed. R. Bankr. P. 9037. The Clerk of Court will not review documents filed for compliance with this Local Rule or otherwise attempt to ensure limited publication.
- (c) **Ex Parte Motions to Redact Personal Information.** If a party submits documents to be docketed that contain information that should be redacted from public access pursuant to Fed. R. Bankr. P. 9037, the party shall file an *ex parte* motion requesting an order directing the Clerk of Court to restrict the unredacted document and the party shall thereafter tender separately a proposed order granting the same. Simultaneous with the filing of the *ex parte* motion, the party shall file an amended redacted document. The Clerk may restrict public access to the unredacted document pending entry of an order granting the *ex parte* motion. If the case has been closed, the movant shall file a motion to reopen the case for a limited time solely for the purpose of filing the redacted document after which the case will be re-closed. The movant shall pay the required fee to reopen the case.
- (d) **Transcripts.** Before the Court enters a transcript on the docket, it will provide notice to the relevant parties and allow 7 days for requests to redact personal identifiers, including social security numbers, financial account numbers, names of minor children, and dates of birth. 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.

APPENDICES

APPENDIX A

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 & 363, including monthly adequate protection payments, if appropriate.
- Grant secured creditor replacement liens in post-petition assets to the same extent and priority as existed pre-petition.
- 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 of Court.

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 "post-petition advance," without regard to whether the "post-petition advance" is a new loan or the use of a pre-petition 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 post-petition 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 B

LOCAL FORMS

- Local Form 1 - No Protest Hearing Notice
- 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 7 - Chapter 13 Debtor's Certification and Affidavit-
§ 341 Meeting
- Local Form 8 - Chapter 13 Debtor's Motion for Entry of Discharge
- Local Form 8HD - Chapter 13 Debtor's Certifications in Support of Motion for Hardship Discharge
- Local Form 10 - Motion for Relief from Stay Post-petition Transaction History - Creditor Form
- Local Form 11 - Motion for Relief from Stay Post-petition Transaction History - Debtor Form
- Local Form 12 - Change of Address
- Local Form 13 - Authorization to Release Information to the Chapter 13 Trustee Regarding Mortgage Claim Being Paid By Trustee
- Local Form 14 - Addendum to Chapter 13 Proof of Claim for Real Property Creditor
- Local Form 16 - Corporate Ownership Statement
- Local Form 17 - Report of Mediator

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 #]

Debtor(s) _____

**DISCLOSURE TO DEBTOR OF ATTORNEY'S FEES 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 \$ 3,900. Payment of all or part of this fee may be included in your payments to the Chapter 13 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; | (g) Chapter 13 Trustee; Reviewing the Motion of Trustee for Determination of Status of Claims in confirmed plan; |
| (b) Preparation and filing of your petition, schedules, supplemental local forms, Chapter 13 Plan, and mailing matrix; | (h) Maintaining custody and control of all case files with original documents for such periods as prescribed by law or Local Rule; |
| (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; | (i) Serving orders on all affected parties; |
| (d) Drafting and mailing letters to you regarding your attendance at the § 341 meeting of creditors, escrow of first money, and your other responsibilities; | (j) Verifying your identity and social security number and furnishing to the Chapter 13 Trustee your IDs, tax returns, and payment advices, if required; |
| (e) Preparing for and attending the § 341 meeting of creditors; | (k) Defending objections to confirmation of your Chapter 13 Plan filed by the Chapter 13 Trustee; and |
| (f) Reviewing the confirmation order and periodic case status reports from the | (l) Preparing and filing Local Form 8 or Local Form 8HD. |

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

- | | |
|---|--|
| (a) Preparing and filing proofs of claim on your behalf for your creditors; | warranties, possible credit disability, life insurance coverage, and the like; |
| (b) Drafting and filing objections to scheduled and unscheduled proofs of claim; | (l) Obtaining and providing the Chapter 13 Trustee with copies of documents relating to lien perfection issues, such as recorded deeds of trust, purchase money security agreements, and the like; |
| (c) Assuming and rejecting unexpired leases and executory contracts; | (m) Drafting and mailing letters to creditors upon entry of discharge regarding lien releases, turnover of clear title certificates, cancellation of deeds of trust and judgments, and the like; |
| (d) Preparing for and attending valuation hearings; | (n) Drafting and mailing of certified letters to creditors regarding matters related to alleged violations of the automatic stay. |
| (e) Motions to transfer venue; | (o) Drafting and mailing letters regarding voluntary turnover of property. |
| (f) Conferring with you regarding obtaining post-petition credit where no formal application is ultimately filed; | (p) Reviewing documents in relation to the use or sale of collateral when no formal application is ultimately filed. |
| (g) Drafting motions to avoid liens pursuant to § 522(f); | (q) Providing you with a list of answers to frequently asked questions and other routine communications with you during the pendency of the case. |
| (h) Calculating plan payment modifications, where no formal motion is ultimately filed; | (r) Requesting plan payoffs from the Chapter 13 Trustee. |
| (i) Responding to creditor contacts regarding plan terms, valuation of collateral, claim amounts, and the like; | |
| (j) Responding to your contacts regarding job losses, changes in your financial circumstances, address changes, and advising the Court and the Chapter 13 Trustee of the same when appropriate; | |
| (k) Communicating with you, to a degree that is reasonable, regarding mortgage payment defaults, lease defaults, insurance coverage or the lack thereof, | |

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) Motions for moratorium;
- (c) Motions for authority to sell property;
- (d) Motions to modify plan;
- (e) Motions to use cash collateral or to incur debt.
- (f) Defense of motions for relief from stay or co-debtor stay;
- (g) Defense of motions to dismiss filed after confirmation of your plan;
- (h) Stay violation litigation, including amounts paid as fees by the creditor or other parties;
- (i) Post-discharge injunction actions;
- (j) Adversary proceedings;
- (k) Motions to turnover property;
- (l) Conversions to Chapter 7;
- (m) Motions to substitute collateral; and
- (n) 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 Chapter 13 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 Chapter 13 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 Chapter 13 Trustee will notify you of the amount of the increase.

In the Court's discretion, your 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, your attorney may also request [the actual expenses of filing fees and of notice to creditors.] OR [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 Chapter 13 Trustee to obtain credit (to be filed as an administrative 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. | |
| (j) | Preparation and filing of conduit mortgage claim with recorded deed of trust, Official Bankruptcy Form B 10A, and Local Form 14 (to be filed as an administrative claim) | \$350 |
| (k) | Objection to proof of claim of a Real Property Creditor | \$450 |
| (l) | Consent to an amended proof of claim in lieu of an objection to a motion to modify stay or to an amended proof of claim where the debtor has failed to make post-petition payments | \$450 |
| (m) | Motion to incur debt related to the approval of a loan modification with a real property creditor | \$450 |
| (n) | Motion to declare mortgage current | \$450 |

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: _____

Debtor'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

**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))

**DETAILS OF CHAPTER 13 PLAN
FOR CASES FILED ON OR AFTER MARCH 1, 2013**

The following information supplements and details the specific provisions of the debtor(s) plan, are incorporated therein, and should be read together with the attached Chapter 13 plan.

APPLICABLE MOTIONS

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

PLAN PAYMENTS, PAYMENT INCREASES, ATTORNEY FEES

1. a. The plan proposes to pay \$____ per month for ____ months (est. payout to unsecureds ____%) **OR** for ____% payout to unsecureds.
- b. If applicable, the plan will also be funded by: _____
- c. The attorney for the debtor(s) has received \$_____ of the total base attorney fee of \$_____.

CLASSIFICATION AND TREATMENT OF CLAIMS

2. Secured Claims

a. Treatment of Secured Claims [using treatment terms shown in ¶ 4a of the Plan attached]:

| Creditor | Collateral | Value of Coll. | Claim Amt. | Treatment | Int. Rate (numeric) |
|----------|------------|----------------|------------|-----------|------------------------|
|----------|------------|----------------|------------|-----------|------------------------|

b. Monthly Conduit Payment

| Creditor | Monthly Conduit Payment |
|----------|-------------------------|
|----------|-------------------------|

c. Pre-petition arrearage, if any, to be paid through the Chapter 13 Trustee:

| Creditor | Collateral | Pre-petition arrearage |
|----------|------------|------------------------|
|----------|------------|------------------------|

d. Pay interest on mortgage arrearage? Yes____ No____ If yes, interest rate: ____%

e. Insurance information for all secured claims (real property or motor vehicles)

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) FOR ASSUMPTION
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 MARCH 1, 2013

The following is the Chapter 13 plan proposed by the above-named debtor or debtors ("Debtor").
THE DETAILS OF THIS PLAN ARE SET FORTH IN THE PLAN DETAILS (AND ANY AMENDMENT
THERE TO) ATTACHED TO THIS PLAN AND ARE INCORPORATED HEREIN. 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.

The Motions Applicable To This Plan Are Noted on Page 1 of the Plan Details

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, 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, 401 West Trade Street, Room 111, Charlotte, N.C. 28202

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 14 days following the conclusion of the § 341
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 at the address listed in the notice of the meeting of
creditors. The attorney for the Debtor and the Chapter 13 Trustee will be served electronically. 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, 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. § 1325(a)(5)(A).**

STANDING STAY MODIFICATION: The automatic stay provided in 11 U.S.C. § 362(a) is modified in Chapter 13 cases to permit affected secured creditors to contact the Debtor about the status of insurance coverage on property used as collateral and, if there are direct payments to creditors, to allow affected secured creditors to contact the Debtor in writing about any payment in default, and to require affected secured creditors to send statements, payment coupons, or other correspondence to the Debtor 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. The Proposed Plan Payments Are Set Forth in Paragraph 1 of the Plan Details

2. Administrative Costs

- a. Attorney's Fees. The total base attorney fee and the amount the attorney has received are set forth in paragraph 1(c) of the Plan Details. The remainder of the base fee shall be paid through the plan by the Chapter 13 Trustee on a *pro rata* basis with required monthly payments to allowed secured claimants.
- b. Chapter 13 Trustee's Costs. The Chapter 13 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 Chapter 13 Trustee shall only distribute payments, including adequate protection and conduit mortgage 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. § 502(a). However, if a creditor does not file a timely proof of such creditor's claim, then either the Debtor or the Chapter 13 Trustee may file such a claim as provided for by 11 U.S.C. § 501(c) and, in that event, such claim shall be deemed the claim for all purposes under the plan.
- b. The Chapter 13 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. Secured Claims

Other than conduit mortgage payments or secured claims that are to be paid directly by the Debtor, the Chapter 13 Trustee shall pay the value of all allowed secured claims on a *pro rata* basis in monthly amounts sufficient to provide adequate protection, pursuant to the following treatment classifications:

- a. For purposes of the plan, the treatment of each claim is specified in paragraph 2(a) of the Plan Details. Treatment shall be one of the following: (i) Mortgage payment through Chapter 13 Trustee: "**Conduit**"; (ii) Direct payment by the Debtor: "**Direct**" (include a

brief comment in “Special Terms” of Plan Details as to why this treatment is proposed; if the claim is a residential mortgage, direct payments must be authorized by the Court); (iii) Payment in full by the Chapter 13 Trustee through the plan where § 506(a) does not apply: “**910/365**”; (4) Payment of the value of the collateral by the Chapter 13 Trustee through the plan where § 506(a) does apply: “**As valued**”; (5) Debtor will surrender the collateral: “**Surrender**”; or (6) Debtor will file a proceeding to determine the validity of a lien: “**Avoidance.**”

- b. For secured claims to be paid directly by the Debtor or secured claims paid through the Chapter 13 Trustee, the amount of pre-petition arrearages shown in paragraph 2(c) of the Plan Details, if any, to be paid through the Chapter 13 Trustee.
- c. Monthly Conduit Payment – details are shown in paragraph 2(b) of the Plan Details.

If the treatment option for secured claims is “**Surrender**,” the Debtor 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 stay or to abrogate the Debtor’s state law contract rights.

- d. For claims secured by improved real property or motor vehicles, information regarding insurance, vehicle mileage, and vehicle identification number are shown in paragraph 2(e) of the Plan Details.

5. Priority Claims

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

- a. Section 507(a)(2–10) Priority Claims

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. Such priority claims, if any, are listed in paragraph 3(a) of the Plan Details.

- b. Section 507(a)(1) Domestic Support Obligations (“DSOs”)

All post-petition DSOs, including post-petition DSOs assigned to a governmental unit, will be paid directly to the holder by the Debtor or to the assignee of the claim and not through the Chapter 13 Trustee unless otherwise specified under the “Special Terms” portion of the plan. Domestic Support Obligations, if any, are listed on paragraph 3(b) of the Plan Details.

All DSO arrearages (pre-petition or post-petition) owed to DSO holders under 11 U.S.C. § 507(a)(1)(A), or assigned to a governmental unit, will be paid in full by the Debtor to the holder of the claim and not through the Chapter 13 Trustee unless a different treatment is proposed under the “Special Terms” portion of the plan (as noted in paragraph 3(b) of the Plan Details). If paid through the Chapter 13 plan, payment will be on a *pro-rata* basis after payment of secured claims and the attorney fee and prior to payment of any non-DSO priority claim.

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 are presented in paragraph 4 of the Plan Details.

8. Plan Motions are presented in paragraph 5 of the Plan Details.

Motion to Value All Liens in paragraph 2(a)

The Debtor hereby moves the Court to value the collateral of each of the creditors described in paragraph 2(a) of the Plan Details (except those creditors whose claims are classified as conduit; to be paid directly; or to be paid in full by the Chapter 13 Trustee where § 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 hereby moves the Court that said difference be treated in the Chapter 13 plan as a general unsecured claim without priority. The Debtor further moves the Court that the lien of each creditor upon the collateral listed herein 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 is indebted to certain designated creditors listed in paragraph 5(a) of the Plan Details, in the amounts stated. As security for the debt, each such creditor insisted upon, and the Debtor 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. § 522(f)(2) and which is held primarily for the personal, family, or household use of the Debtor or a dependent of the Debtor. The Debtor believes that a financing statement may have been properly filed evidencing each such creditor's security interest and liens:

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 would be entitled under § 1C-1601 of the North Carolina General Statutes or as otherwise applied under applicable state law. The Debtor 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 certain designated creditors listed in paragraph 5(b) of the Plan Details 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 indicated in paragraph 5(b) of the Plan Details.

The judgments noted in paragraph 5(b) of the Plan Details created liens on the real property in which the Debtor has an interest. The real property, its value, and the exemption claimed by the Debtor are more specifically described in paragraph 5(b) of the Plan Details.

The aforesaid liens constitute judicial liens under 11 U.S.C. § 522(f)(1). The property that these judicial liens encumber is property that the Debtor is entitled to exempt under 11 U.S.C. § 522, and the Debtor has claimed an exemption in the stated amount. The existence of these judicial liens impairs the exemption to which the Debtor is entitled under § 1C-1601 of the North Carolina General Statutes or as otherwise applied under applicable state law.

The Debtor respectfully moves the Court to issue an order compelling the above-stated creditors to cancel their judicial liens upon the real property described herein upon discharge.

Motion to Assume or Reject Executory Contracts and Unexpired Leases

The Debtor moves to assume or reject the executory contracts and unexpired leases as listed in paragraph 5(c) of the Plan Details. If assumed, payments due after the filing of the case will be paid directly by the Debtor rather than by the Chapter 13 Trustee.

Unless otherwise provided, the Debtor proposes to promptly cure any pre-bankruptcy defaults on the assumed leases or contracts over the period of months stated, with said payments to be made by the Chapter 13 Trustee.

General Provisions

1. To receive payment from the Chapter 13 Trustee, either prior to or following confirmation, a secured creditor must file a proof of claim. Secured claims that are not filed within the time period required by Fed. R. Bankr. P. 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 for good cause shown.
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 Chapter 13 Trustee, unless an itemized proof of claim for any deficiency is filed within 120 days (or 180 days if the property is real estate or manufactured housing), 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 that is removed from the protection of the automatic stay of another lien holder or released 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. § 541 and all property of the kind specified in such section acquired by the Debtor after commencement of the case but before the case is closed, dismissed, or 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. All arrearages paid under the provisions of the plan will either accrue interest at the interest rate set forth in the plan under paragraph 2(d) of the Plan Details or will accrue no interest if the plan so designates this treatment under the same paragraph. "Administrative Arrearages" is defined as the total amount of three full post-petition mortgage payments, which for purposes of distribution will be included as a separate arrearage claim for payment by the Chapter 13 Trustee or added to any pre-petition arrearage claim.
7. Confirmation of the plan shall impose a duty on Conduit Creditors and/or servicers of such Creditors, with respect to application of mortgage and mortgage-related payments, to comply with the provisions of 11 U.S.C. § 524(i), Local Rule 3003-1, and Local Rule 4001-1(e) relating to Arrearages, Administrative Arrearages, Mortgage Payments, and Conduit Mortgage Payments. The terms and conditions of Local Rule 3003-1 are specifically incorporated herein by this reference as if completely set

forth with respect to the acceptance and application of all funds pursuant to the Conduit Mortgage Payment Rule. As a result, all Conduit Creditors and/or servicers for such creditors shall have an affirmative duty to do the following upon confirmation of the Plan:

- A. To apply all post-petition payments received from the Chapter 13 Trustee and designated to the pre-petition arrearage claim and the administrative arrearage claim only to such claims;
- B. To apply all post-petition payments received from the Chapter 13 Trustee and designated as Conduit Mortgage Payments beginning with the calendar month and year designated for payment by the Court in the Order Confirming Plan;
- C. To apply all post-petition payments received directly from the Debtor in a non-conduit mortgage plan only to post-petition payments unless otherwise ordered by the Court;
- D. To refrain from assessing or adding any additional fees or charges to the loan obligation of the Debtor based solely on the pre-petition default;
- E. To refrain from assessing or adding any additional fees or charges to the loan obligation of the Debtor (including additional interest, escrow, and taxes) unless notice of such fees and charges has been timely filed pursuant to the applicable Federal Rule of Bankruptcy Procedure and a proof of claim has been filed and has not been disallowed upon objection of the Chapter 13 Trustee or the Debtor;
- F. To the extent that any post-confirmation fees or charges are allowed pursuant to the said applicable Federal Rule of Bankruptcy Procedure and are added to the Plan, to apply only payments received from the Chapter 13 Trustee and designated in payment of such fees and charges to such fees and charges; and
- G. To the extent that any post-confirmation fees or charges are allowed pursuant to the applicable Federal Rule of Bankruptcy Procedure and are NOT added to the Plan, to apply only payments received directly from the Debtor and designated in payment of such fees and charges to such fees and charges.

8. If the periodic Conduit Mortgage Payment changes due to either changed escrow requirements or a change in a variable interest rate, or if any post-petition fees or expenses are added to the plan, and an increase in the plan payment is required as a result, the Debtor shall thereafter make such increased plan payment as is necessary. Provided, however, that the Conduit Creditor shall have complied with the requirements of the applicable Federal Rule of Bankruptcy Procedure for the allowance of such Conduit Mortgage Payment change or addition of such fees and expenses. The Chapter 13 Trustee shall file notice of the required plan payment increase with the Court and serve a copy of such notice on the Debtor and the attorney for the Debtor.

9. 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; are true and correct as to all matters set forth herein.

Dated _____

Debtor's Signature

Dated _____

Debtor's Signature

I hereby certify that I have reviewed this document with the Debtor and that the Debtor has received a copy of this document.

Dated _____

Attorney for the Debtor

CERTIFICATE OF SERVICE

This is to certify that I have this day served each party or counsel of record indicated on the list attached hereto in the foregoing matter with a copy of this Chapter 13 Plan by depositing in the United States mail a copy of same in a properly addressed envelope with first class postage thereon. Attorneys were served electronically

This the day of , 20 .

Attorney Name and Address
N.C. State Bar No.

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 MARCH 1, 2013

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 or debtors ("Debtor") 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, 401 West Trade St., Room 111, Charlotte, N.C. 28202

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 14 days following the conclusion of the § 341 meeting of creditors, or within 14 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 at the address listed in the notice of the meeting of creditors. The Debtor's attorney and the Chapter 13 Trustee will be served electronically. 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 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. § 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; are true and correct as to all matters set forth herein.

Dated _____

Debtor's Signature

Dated _____

Debtor's Signature

I hereby certify that I have reviewed this document with the Debtor and that the Debtor has received a copy of this document.

Dated _____

Attorney for the Debtor

[Attach Certificate of Service if Served on Creditor(s)]

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

In re: _____)
)
)
)
)
)
)
 Debtor(s))
 _____)

Case No.:

Chapter:

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 18 U.S.C. §§ 152 & 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

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

IN THE MATTER OF:)
)
) Case Number _____
)
) Debtor(s))

CHAPTER 13 DEBTOR'S CERTIFICATION AND AFFIDAVIT—§ 341 MEETING

The undersigned, being the Debtor(s) referenced above, do hereby certify under oath administered by the Chapter 13 Trustee at the § 341 meeting of creditors conducted on the date noted below, the following (check the appropriate option and fill in the information requested as needed):

DOMESTIC SUPPORT OBLIGATION CERTIFICATION

Male Female

- 1. () () I am not presently required by any voluntary agreement, judicial or administrative order, or statute to pay any domestic support obligation (as defined in 11 U.S.C. § 101(14A)); or,
2. () () I am required to pay under a voluntary agreement or 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,
a. () () As of the date of this affidavit, I am current under any obligation created therein, and I agree to notify the Chapter 13 Trustee should I miss any payments due or otherwise become delinquent under any support obligation from this day until my confirmation order is entered.
b. () () 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 post-petition through today; or,
() In addition to any arrears listed in my petition, I have incurred the following post-petition 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 Chapter 13 Trustee and the 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 _____, 20____.

Male Debtor

Female Debtor

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

IN RE:
Debtor(s)

Chapter 13
Case No.

CHAPTER 13 DEBTOR'S MOTION FOR ENTRY OF DISCHARGE AND
CERTIFICATIONS REGARDING PLAN COMPLETION, DOMESTIC SUPPORT
OBLIGATIONS, AND SECTION 522(q)

Pursuant to 11 U.S.C. § 1328(a) the debtor makes the following certifications regarding the completion of the plan:

- 1. I have satisfied all plan requirements.
2. I owed no Domestic Support Obligation when I filed my Chapter 13 petition, and I have not been required to pay any such obligation since then.
3. I am or have been required to pay a Domestic Support Obligation. I have paid all such amounts that my Chapter 13 plan required me to pay. I have also paid all such amounts that became due between the filing of my Chapter 13 petition and today.
3a. If you checked paragraph 3 above, you must provide the information below:
My current address is:
My current employer and my employer's address:
Debts not discharged under 11 U.S.C. § 523(a)(2) or (4):
Debts reaffirmed under 11 U.S.C. § 524(d):
4. I have not claimed an exemption pursuant to § 522(b)(3) and state or local law in property that I or a dependent of mine uses as a residence, claims as a homestead, or acquired as a burial plot, as specified in § 522(p)(1), that exceeds \$146,450* in value in the aggregate.
5. I have claimed an exemption in property pursuant to § 522(b)(3) and state or local law that I or a dependent of mine uses as a residence, claims as a homestead, or acquired as a burial plot, as specified in § 522(p)(1), that exceeds \$146,450* in value in the aggregate.
6. I am entitled to receive 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

*Amounts are subject to adjustment on 4/1/13 and every 3 years thereafter with respect to cases commenced on or after the date of adjustment.

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

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

**NOTICE OF OPPORTUNITY FOR HEARING ON
CHAPTER 13 DEBTOR'S MOTION FOR ENTRY OF DISCHARGE AND
CERTIFICATIONS REGARDING PLAN COMPLETION, DOMESTIC SUPPORT
OBLIGATIONS, AND SECTION 522(q)**

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, Domestic Support Obligations, and Section 522(q). 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 14 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 _____, 20__ at _____ in _____

Date:

| | |
|-------------------|--------------------------------|
| Attorney Name or | |
| Attorney Address | <i>Pro Se Debtor</i> |
| Attorney Tel. No. | Debtor address |
| Attorney Bar No. | (if debtor has 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 of Court'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.

Date:

Attorney for Debtor/*Pro Se Debtor*

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

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

CHAPTER 13 DEBTOR'S CERTIFICATIONS IN SUPPORT OF
MOTION FOR HARDSHIP DISCHARGE REGARDING DOMESTIC
SUPPORT OBLIGATIONS AND SECTION 522(q)

Pursuant to 11 U.S.C. § 1328(b) the debtor makes the following certifications and attaches the same to the Motion for Hardship Discharge.

- 1. I owed no Domestic Support Obligation when I filed my Chapter 13 petition, and I have not been required to pay any such obligation since then.
2. I am or have been required to pay a Domestic Support Obligation. I have paid all such amounts that my Chapter 13 plan required me to pay. I have also paid all such amounts that became due between the filing of my Chapter 13 petition and today.
2a. Because I checked paragraph 2 above, I am providing the information below:
My current address is:
My current employer and my employer's address:
Debts not discharged under 11 U.S.C. § 523(a)(2) or (4):
Debts reaffirmed under 11 U.S.C. § 524(d):
3. I have not claimed an exemption pursuant to § 522(b)(3) and state or local law in property that I or a dependent of mine uses as a residence, claims as a homestead, or acquired as a burial plot, as specified in § 522(p)(1), that exceeds \$146,450* in value in the aggregate.
4. I have claimed an exemption in property pursuant to § 522(b)(3) and state or local law that I or a dependent of mine uses as a residence, claims as a homestead, or acquired as a burial plot, as specified in § 522(p)(1), that exceeds \$146,450* in value in the aggregate.

I declare under penalty of perjury that the information provided in this certification is true and correct.

Dated:
Debtor

*Amounts are subject to adjustment on 4/1/13 and every 3 years thereafter with respect to cases commenced on or after the date of adjustment.

LOCAL FORM 10

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

DEBTOR NAME:
BANKRUPTCY CASE NO.:
DATE CASE FILED

MORTGAGEE
LOAN #

DATE:
PREPARED BY:

PMT. DUE DATE
(Beg. 1st post-pet pmt due)

P & I
ESCROW

TAX
ESCROW

INS.

PMI

L/C TOTAL

AMOUNT
RECEIVED

DATE
POSTED

March 2013

LOCAL FORM 11

**MOTION FOR RELIEF FROM STAY – POST-PETITION TRANSACTION HISTORY
DEBTOR FORM
(MAY BE PREPARED IN SPREADSHEET FORMAT)**

**DEBTOR NAME:
BANKRUPTCY CASE NO.:
DATE CASE FILED**

**MORTGAGEE
LOAN #**

**DATE:
PREPARED BY:**

AMOUNT PAID

MONEY ORDER/CHECK DATE

MONEY ORDER/CHECK NUMBER

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

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

NOTICE OF CASE SPECIFIC ADDRESS PURSUANT TO
11 U.S.C. § 342(e) AND
LOCAL RULES 2002-1 AND 3003-1

Pursuant to 11 U.S.C § 342(e) and Local Rules 2002-1 & 3003-1, (creditor's name) files this notice of address to be used to provide notice in the above-captioned case. (Creditor's 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 7 days following receipt of this notice of address change by the Court and the debtor(s).

Current address to be changed (if applicable):

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

New 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: _____

**AUTHORIZATION TO RELEASE INFORMATION TO THE CHAPTER 13 TRUSTEE
REGARDING MORTGAGE CLAIM BEING PAID BY THE TRUSTEE**
(to be filed with the Court)

() Not Applicable

Debtor Name(s) _____ Case No. _____

The Debtor(s) in the above captioned bankruptcy case does/do hereby authorize any and all lien holders on real property of the bankruptcy estate to release information to the standing Chapter 13 Trustee upon request.

The information to be released includes, but is not limited to, the amount of the post-petition monthly installment payments, the annual interest rate and type of loan, the loan balance, the escrow account(s), the amount of the contractual late charge, and the mailing address for payments. This information will only be used by the Chapter 13 Trustee and his/her staff in the administration of the bankruptcy estate and may be included in motions brought before the Court.

Debtor's Signature

Joint Debtor's Signature

Date

Date

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

IN RE:

Debtor(s)) Case No:
)
) Chapter
)
)
)

REPORT OF MEDIATOR

1. **Convening of Mediation.** The mediated settlement conference ordered in this case:

- was held on _____.
- was NOT held because _____.

2. **Attendance.** No objection was made on the grounds that any required attendee was absent.

3. **Outcome.** The mediation resulted in:

- Complete settlement of the case
- Partial settlement of the case
- Recess (i.e., mediation to be resumed at later date)
- Impasse
- Other disposition. Specify: _____.

4. **Settlement Filings**

- a. The document(s) to be filed to effect the settlement are: _____.
- b. The person responsible for filing the document(s) is: _____.
- c. The agreed deadline for filing the document(s) is: _____.

I have submitted this completed report within 14 days after conclusion of the conference.

Signature of Mediator

Date