

LOCAL RULES
UNITED STATES BANKRUPTCY COURT
FOR THE
WESTERN DISTRICT OF NORTH CAROLINA

RULE NO. 1

PERSONS WHO MAY PRACTICE

BEFORE THE BANKRUPTCY COURT

(a) Those persons who are admitted to practice before the United States District Court for the Western District of North Carolina will be allowed to practice law before this Court. For purposes of this Rule, "practice law" includes, but is not limited to, preparing complaints, preparing petitions, preparing applications, preparing motions, questioning witnesses in proceedings before the Judge, and pursuing any action of any nature in this Court (but does not include questioning debtors at a meeting of creditors or at other administrative hearings). All individuals, businesses, partnerships, and corporations that desire to appear in proceedings before this Court must be represented by a lawyer duly admitted to practice before this Court. Otherwise licensed attorneys may be permitted by the Court to appear on an ad hoc basis.

The following exceptions shall apply:

1. An individual may represent himself.
2. An individual may represent a non-incorporated business if said individual is the sole proprietor of said business.
3. An individual may represent himself or any other entity at a meeting of creditors; however, any objection or petition that must be formally pursued before the Court, although raised at a meeting of creditors, must be pursued by an attorney admitted to practice before this Court.

RULE NO. 2.

TIME LIMIT FOR AMENDING OR OBJECTING TO

EXEMPTION ELECTION

I. The debtor shall have up to and including the first day first set for the § 341 (a) meeting of creditors in which to amend his exemption election, after which the exemption election shall be final as against the debtor; provided, however, that the trustee and any party in interest shall have up to and including the thirtieth (30th) day following the day first set for the 341 (a) meeting of creditors in which to object to the debtor's exemption election.

II. Any amendments or objections to exemption elections other than as allowed in (I.) shall be with leave of Court only.

- IV. Structure of Fee Application
- (a) Each application must have attached a detailed statement of services, times, and charges that comprise the total requested. It should further show the nature of the service and why each particular service was necessary to the case. In addition, the application should disclose prior interim fees and expenses allowed and prior interim fees and expenses paid.
- V. Attendance at Hearing
- (a) The applying party is to be present in Court on the day and time set for hearing on the application and be prepared at that time to answer questions, on the record, concerning the activities for which fees are requested and the necessity for same.

RULE NO. 4

REQUIRED MATRIX AND NUMBER OF COPIES
OF PETITION AND OTHER DOCUMENTS

- I. Required number of copies of petitions and attached lists, schedules, statements, claims of exemption and subsequent amendments thereto:
- a) Chapter 7 or Chapter 13: The original document plus three copies
- b) Chapter 9 or Chapter 11: The original document plus five copies.
- II. Monthly Financial Reports for Debtors and Operating Trustees
- a) The original document plus two copies must be filed.
- III. Copies stamped FILED
- a) Any person requesting filed copies of documents for their office records must submit copies in addition to those required in I and II above along with a stamped, self-addressed envelope.
- IV. Requirement of Master Mailing Matrix
- a) As a requirement of filing, all bankruptcy petitions must be accompanied by an alphabetized matrix containing the names and addresses of all parties in interest, including the debtor, debtor's attorney, creditors and appropriate governmental agencies.
- b) The matrix shall be prepared according to the forms and instructions provided upon request by the Clerk's office.
- c) The matrix shall be certified as accurate by the filing attorney or party and such party shall be responsible for any errors in or omissions from the listings.

RULE NO. 6

PAYMENTS TO CREDITORS IN CHAPTER 13
INDIVIDUAL'S DEBT ADJUSTMENT CASES

Chapter 13 Standing Trustees are authorized to make payments to creditors in amounts smaller than \$15 without waiting for that creditor's dividends to accumulate to \$15. The decision as to whether to make smaller payments shall be made in each case by the Trustee and such decision shall be solely the Trustee's discretion as to the best administration of the individual estate.

RULE NO. 7

NOTICES REQUIRED TO BE SENT

BY CHAPTER 11 DEBTORS

In Chapter 11 proceedings, the debtor in possession shall be responsible for mailing the following notices and documents to creditors, after having their form and content approved by the Clerk's Office, and for filing a Certificate of Mailing with the Clerk's Office within five (5) days of the date of the mailing;

- 1) notice of the meeting of creditors
- 2) notice of the hearing on disclosure statement
- 3) the plan
- 4) the disclosure statement
- 5) notice regarding balloting and date for hearing on confirmation
- 6) any other notices as the Court or Clerk shall direct in a particular proceeding.

Court comment: This supplements Rule 3017.

RULE NO. 8

REQUIRED NUMBER OF COPIES OF

ORDERS OR JUDGMENTS TENDERED TO THE COURT

Any order or judgment that is tendered to the Court for consideration shall have attached a sufficient number of copies for service on all parties required to receive notice of such order or judgment. Orders tendered without sufficient copies will not be considered until such time as the required copies are also tendered.

RULE NO. 11

PROCEDURE FOR OBJECTING TO OR
CONFIRMING CHAPTER 13 PLANS

- I. Confirmation of Plans
- (a) It shall be the practice of this Court that following the 341(a) meeting of creditors, if the trustee recommends confirmation, the plan meets the requisite legal criteria, and there were no properly lodged objections to confirmation, an order of confirmation will be tendered to the Judge for consideration without further notice, unless an objection to confirmation is timely filed.
 - (b) The plan will be confirmed as of the date of filing the order of confirmation; however a supplemental order of confirmation will subsequently be entered which will not substantively change the plan but will set out the various aspects of the plan with more particularity.
- II. Objections to Confirmation
- (a) An objection to confirmation must be lodged in writing within five (5) days of the adjournment of the 341(b) meeting or it will not be considered by the Court.
 - (b) All properly lodged objections to confirmation shall be set for hearing by the Court upon proper notice. When a hearing is set on a properly lodged objection, the objecting creditor, the debtor and the debtor's attorney, and the trustee will be noticed.
 - (c) If an oral objection to confirmation is made at the 341(a) meeting, the objecting party must give in writing his name, address and phone number to the presiding officer who will note the objection on the memorandum of the meeting. Within five (5) days the objecting party must then file a formal written objection with the Court or a notice of withdrawal of objection. If neither is done, the objection will be rendered moot, and the case will continue as if no objection has been announced.
- III. The objecting party must serve a copy of the written objection on the debtor, the debtor's attorney and the trustee at the time of filing.

RULE NO. 14

FINAL HEARINGS ON REQUESTS

FOR RELIEF FROM STAY

The first scheduled hearing on a request for relief from stay shall be deemed to be the final hearing and all parties are to be prepared for trial at such time unless either party notifies the opposite party and the Court at least 24 hours in advance of the hearing that they wish the hearing treated as a preliminary hearing. Should such occur, at the preliminary hearing, the date for final hearing shall be set.

Court Comment:

This supplements Rule 4001(b).

RULE NO. 15

EXTENT OF AN ATTORNEY'S

DUTY TO REPRESENT

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 conjunction with the proceeding until the case is closed or the attorney is relieved upon application and Court order. In the event additional fees are required, they will be applied for in accordance with Rule 2016.